

Proposed radio access network joint venture: 2degrees and One NZ

Submission on the Statement of Preliminary Issues

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He mihi

E ngā mana, e ngā reo, e ngā karangamaha o te wā, tēnā koutou katoa.

Ngā mate o te wā, haere, haere atu rā. Ki a tātou te hunga ora, tēnā tātou katoa.

Ki te Komihana Tauhokohoko, tēnei te reo aumihi o Tū Ātea e mihi atu ki a koutou katoa.

We thank the Commission for the opportunity to submit on the Statement of Preliminary Issues (SoPI) on the proposal by 2degrees and One NZ (the Parties) to combine their radio access network (RAN) assets in a joint venture, RANCo.

Sharing radio access networks offers benefits to the Parties. We recognise those benefits, while acknowledging that RANCo will significantly reduce demand for our network build services. This will erode our revenue and limit our ability to deliver the outcomes the Crown committed to advancing through its initial and future allocations of spectrum rights to Māori.

Our position also reflects our role as the only Māori telecommunications Group. All three mobile network operators (MNOs) have already moved their towers into tower companies built to host multiple tenants. RANCo takes the next layer, the active radio network, into a company owned by two operators. This consolidation makes access to shared infrastructure increasingly important to our commercial future.

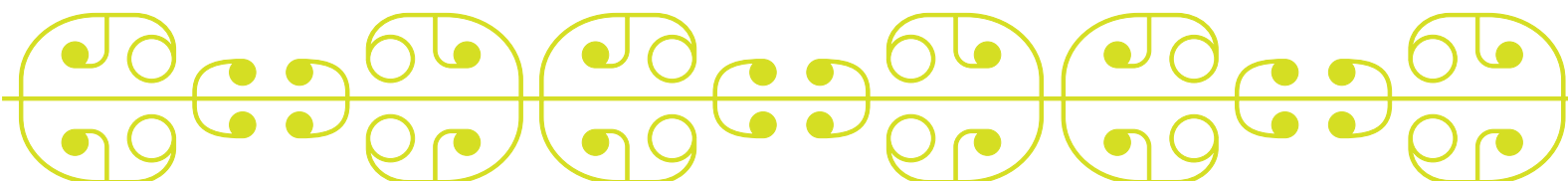
Access to RANCo's network on workable terms will directly affect our ability to put those rights to productive use, compete in the market and generate enduring value for Māori.

We set out four points we ask the Commission to test, and offer our engineers to support the Commission's work.

Nāku noa, nā

Mike Jenkins

Pou Matua, Interim CEO
Tū Ātea



Submission summary

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3. We ask the Commission to test four points with the Parties. Each goes to whether RANCo could make it harder for others to obtain RAN-related services on competitive terms (SoPI paragraphs 20.3, 26.3 and 33):
 - a. **Wholesale independence.** Each Party stays free to supply MVNO, MOCN and hybrid wholesale services on its own decision, including services that need RAN configuration, without RANCo's or the other Party's consent.
 - b. **Information walls.** A Party's wholesale customer information and third-party access requests do not reach the other Party through RANCo.
 - c. **Third-party hosting.** RANCo can host third parties through MORAN or MOCN, including connecting a third party's own core network, with a clear process for considering requests on their merits, and backhaul at RANCo sites does not become a barrier.
 - d. **Neutral host freedom.** Each Party stays free to take part in third-party neutral host and in-building solutions. That decision does not sit with RANCo.
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Ko wai mātou: Tū Ātea

7. We are guided by our kaupapa 'Ara tūroa, ara mutunga kore', where Māori thrive for collective success.¹
8. Tū Ātea holds spectrum for Māori.² Our holdings include 2x10 MHz of 2100 MHz, 25 MHz of 2300 MHz and 100 MHz of 3.5 GHz band. The Crown has also committed to allocate 20% of future commercial spectrum to Māori, so our share of New Zealand's mobile spectrum will grow with each allocation. We carry forward decades of advocacy for Māori spectrum rights and te reo Māori, including the Wai 776 claim.
9. By deliberate Crown initiative, New Zealand has a fourth holder of mobile spectrum whose purpose is to take part in this market.
10. We build and run networks. Our Group designs, builds and maintains telecommunications infrastructure and networks, operates a nationwide network of transmission sites, and provides wholesale connectivity services. We have

¹ 'Ara tūroa, ara mutunga kore': an enduring pathway, a pathway without end.

² Memorandum of Understanding: Māori Spectrum Agreement, between the Crown and the Māori Spectrum Working Group (February 2022), clauses 3.1(a), 9 and 9.1: <https://www.mbie.govt.nz/dmsdocument/18702-memorandum-of-understanding-maori-spectrum-agreement>

invested extensively in our own mobile packet cores capable of supporting 4G/5G including 5G standalone, so we can carry customers on our own network identity and spectrum. We run a commercial private 5G network for CentrePort and provide neutral host coverage at Motairehe Marae in Aotea (Great Barrier Island).

11. The Application describes Tū Ātea as an entity that “sells or licences its spectrum holdings to third parties” and “typically license[s] its spectrum for use by the MNOs and WISPs”. It says the Parties are not aware of any intention by Tū Ātea to use its spectrum more widely.³ That picture is incomplete, and on our intentions it is not correct.
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12. RANCo bears on our mahi in five ways:

a. **As a spectrum holder.** The value of our spectrum to Māori depends on the routes available to generate value, including social, cultural and commercial outcomes.

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d. **As a buyer of RAN assets.** We buy RAN equipment and services for our private 5G and neutral host deployments, as the Application notes at footnote 12. RANCo is likely to have a significant impact on the vendor market which in turn could affect smaller buyers such as Tū Ātea.

e. **As a builder of cell sites.** Our network services company, Tū Ātea Network Services (formerly Broadtech), designs, stages and builds cell towers alongside the tower companies. We are Fortysouth’s primary strategic build partner building a significant proportion of the new towers. We also provide build services to Connexa. Sharing RAN directly reduces the number of new cell sites needed. Build revenue funds our workforce programmes, which create Māori jobs across field services, proactive maintenance and managed services.

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Where the market is heading

14. The SoPI (paragraph 15) records the three national markets proposed by the Parties: retail mobile services, wholesale mobile services, and the acquisition of active mobile infrastructure assets and services. We do not take issue with that framing. [

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³ Application, paragraphs 78, 122(a) and 287(b). The Application does acknowledge our CentrePort private 5G network and our intention to grow that service (footnote 67).

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What RANCo changes for third parties

21. The SoPI asks whether RANCo would increase the ability or incentive to foreclose rivals (paragraphs 20.3 and 33), and whether it could make it harder for a new entrant to obtain RAN-related services on competitive terms. This is where our interest sits. We do not suggest the Parties intend to exclude anyone. Our point is that the Application does not yet show how third-party access would work.

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27. Today, if 2degrees or One NZ agrees to supply one of these services, it can implement it on its own network. With RANCo, it would need RANCo to implement it. That raises two practical questions:

- a. **Who decides.** Whether a Party could still agree such an arrangement on its own, or whether RANCo or the other Party would have a say.
- b. **Who knows.** Whether the other Party would learn, through RANCo, the identity and requirements of its competitor's wholesale customers.

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RANCo hosting third parties

31. The Parties say RANCo will be able to enter network sharing arrangements with third parties (paragraph 183), and identify MOCN and MORAN arrangements with RANCo as routes available to Tū Ātea (paragraph 287(b)). We welcome this.

32. The principles that would govern third-party arrangements are redacted, so the public version does not show how a third-party request would be considered. The non-discrimination obligation described in the Application applies between the two Parties: RANCo “will operate on a non-discriminatory basis, with both Parties able to request additional or customised services and products” (paragraph 248(c)).
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Neutral hosting and in-building coverage

40. A neutral host solution, whether for a building, a venue or a remote marae, only works if the MNOs agree to connect to it and carry their customers on it. MNO participation is the essential input for any independent neutral host provider.

41. Shared active infrastructure in New Zealand has so far developed mainly among the MNOs themselves. RCG, which all three jointly own, is currently the only shared network carrying all three MNOs, and the Parties already share active equipment at a significant proportion of sites (SoPI paragraph 25.1.3). RANCo adds a further MNO-owned shared network, and RAN decisions for 2degrees and One NZ would sit largely with RANCo.

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Working with the Commission

43. We would welcome the chance to take the Commission's team through any of these points, including a technical briefing on network sharing models and confidential detail on our discussions with MNOs. We will engage constructively with the Parties on commercial arrangements that address them.

Publication and contact

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I roto i ngā mihi