

OPTU5G

Submission in response to

**2020-21 Pre-Budget
Submission Process**

Public Version

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INTRODUCTION

1. Optus welcomes the opportunity to provide a submission to the Treasury as part of their 2020-21 Pre-Budget planning process.
2. Optus is the second largest telecommunications company in Australia and was established in 1991 as a competitor to the formerly Government-owned network operator. Our commitment to delivering Australians with competition and choice has underpinned Optus' success since our establishment.
3. Optus is part of the Singtel Group, a leading global communications technology group of companies with over 690M mobile customers across 21 countries. This affords Optus significant advantages in its operations in Australia particularly in relation to global perspectives and depth of investment. Indeed, since 2001 Optus has invested over \$22 billion in its mobile network, including more than \$6 billion since 2015.
4. Optus' mobile subscriber base of over 10.2 million mobile customers is supported by a network that covers 98.5 per cent of the Australian population. Optus directly employs more than 8000 staff nationwide, and indirectly employs thousands of Australians through our vendor and sales engagements. Our importance to the day-to-day lives of Australians is clear, as a provider of essential connectivity services. In fact, on a typical day, our network handles 51.3 million mobile calls and 51 million SMS messages.
5. Optus has identified policy opportunities within the telecommunications sector for the Government to consider as part of the 2020-21 Budget process that will ultimately bring material benefits to Australian consumers and productive improvements to the economy more broadly. These include:
 - (a) Accelerating the introduction of the Universal Service Guarantee, ensuring contemporary protections exist for remote Australians whilst freeing up investment capital for carriers to commit to increased and targeted regional infrastructure;
 - (b) Continued funding of regional infrastructure programs such as the Mobile Black Spot Program and Regional Connectivity Program, with certain changes that promote infrastructure collaboration amongst carriers to ensure competition and choice are delivered to consumers whilst ensuring the most efficient use of taxpayer funds;
 - (c) Continued refinement and review of the NBN business model, to ensure that the full benefits of high-speed connectivity are realised;
 - (d) Changes to spectrum allocation processes to ensure efficient and competitive use; and
 - (e) Deregulation measures to rectify current legislative models that limit investment opportunities or create an imbalanced and less competitive market.
6. Optus considers that these initiatives would generate continued investment in Australia and drive greater economic growth. We would welcome the opportunity to discuss these issues in more detail.

REGIONAL INVESTMENT AND THE UNIVERSAL SERVICE GUARANTEE

7. Optus remains committed to partnering with the Government to enhance our regions through greater connectivity. To date, we have been successful in being awarded 264 Federal and State Mobile Black Spot Program sites under various rounds of programs. We have also delivered a comprehensive, competitive bid for the upcoming fifth round of the Federal program, as well as provided feedback to the Department of Communications and the Arts on the proposed Regional Connectivity Program.
8. Optus observes that a future \$80 million round 6 of the Mobile Black Spot Program has been announced by the Government, and we look forward to participating in that process. Optus submits greater focus should be placed on network solutions that deliver real coverage improvements to regional Australia — this means greater use of satellite-based mobile solutions.
9. Optus is the only operator in Australia that provides terrestrial mobile service and operates our own fleet of satellites. Using these assets, Optus is the only carrier able to deliver 100 per cent geographic coverage across the country. Our satellite solutions provide voice and data connectivity, broadcast services and communication access for international businesses.
10. Optus' satellites operate in the Ku band, which provide it with greater stability than that experienced over the NBN Sky Muster service, which utilises the Ka band. Optus has been providing mobile services via satellite since early 2000s; across remote temporary congestion or emergency services occurrences such as cyclones and floods and continues to provide connectivity more generally across Australia for business, government and consumers in terrestrial black spots.
11. Optus has successfully deployed mobile small cell satellite technology in remote locations, providing coverage for several square kilometres around the cell itself. The cost of a small cell is a fraction the cost of a macro cell (in the order of tens of thousands of dollars rather than hundreds of thousands) and can be deployed over a few days assuming local planning approvals are in place. Optus observes that these solutions are a cost-effective way of providing coverage to remote locations and strongly submits that future Government programs should examine how this capability can be maximised.
12. For mobility purposes, Optus offer satellite sleeves which turn a standard smart phone into a satellite phone with 100 per cent coverage of the Australian landmass. We have also delivered a mobile satellite small cell that can be located on the back of a vehicle that provides a “moving cell of coverage”:
 - (a) Optus recently partnered with the NSW State Emergency Service to attach an antenna to a 4WD vehicle, delivering “always on” data and mobile connectivity.
 - (b) Optus has also provided a flat panel satellite antenna to the SES that can be deployed in minutes from the back of a truck to deliver “front of fire” connectivity and expanding the Government Radio Network.
13. Optus contends that these innovative solutions should be considered as part of any Commonwealth response to improving emergency service agency connectivity, particularly noting the ferocity of the current disaster season. They should also be meaningful considered in the design and delivery of the Universal Service Obligation (USO).

14. More broadly, given the cost effectiveness of satellite technology deployment, matched with the targeted delivery of such deployments where it is uncommercial for mobile carriers to extensively deploy services, Optus submits that any discussion around regional and remote coverage in the Budget context should consider both terrestrial mobile and satellite-based mobile technologies.
15. Optus submits that further rounds of mobile blackspot funding should focus on providing competitive alternatives to Telstra in regional areas. Focusing Government targeted programs on competitive infrastructure and satellite-based technology will deliver material consumer benefits and will maximise the efficiency and social return of the Government's investment.

USO Reform

16. Optus also considers that a key issue overshadowing any discussion of regional connectivity is the USO, which is rooted in principles more applicable to the analogue era of telecommunications.
17. While Optus notes that the Government has announced an updated Universal Service Guarantee to replace the USO in coming years, it considers that more can be done in the short term to better use the \$330 million per year that is paid to Telstra to maintain out-of-date services in regional Australia — of which \$100 million is funded direct from Government revenue and \$230 million obtained from industry. Optus' annual liability of more than \$50 million is money we could otherwise invest directly into regional infrastructure and communities.
18. Optus notes that the Government has committed to using some of the Regional Connectivity Program funding to undertake trials of voice services. Optus considers there are a range of options available to government in demonstrating capability including an exercise whereby carriers are asked to provide solutions to a range of regional scenarios or detailed testing of the various Optus satellite solutions outlined above. Optus remains committed to assisting the Government in this regard.
19. Optus has previously committed to redirecting our \$50 million annual USO payment to the expansion of regional services as part of any reform process which could take the form of greater mobile coverage or new satellite services across the entire Australian landmass. Optus contends that this will allow a more flexible, targeted and efficient approach to addressing connectivity gaps in regional Australia.
20. In addition, as a significant contributor to the USO Optus contends that there should be greater transparency in how advertising revenue is considered in the Telecommunications Industry Levy.
21. By way of example, Optus observes that Telstra has hosted Telstra-specific advertising on the existing fleet of payphones across the country since 2005, and that media commentary estimates that each upgraded payphone generates \$8,000 per week in advertising revenue for Telstra. Optus submits that this revenue stream should instead be accounted for in the broader levy to reduce cost to Government and industry or be re-invested in regional connectivity outcomes. Optus remains concerned over the lack of transparency with regard to Telstra's receipt of industry and Government money. At the minimum, Telstra should publicly report on how the \$330 million in funding each year is spent on regional infrastructure and how this investment is used to promote *competitive* outcomes.

VAST

22. Optus is proud to have been providing television and radio services to regional and remote Australians, no matter where they live, for over 30 years. Services are

currently delivered via the satellite-based VAST platform and were previously delivered by the HACBSS and RABS remote area broadcast services.

23. The VAST service has been an outstanding success in delivering reliable tv and radio services across 100 per cent of mainland Australia and Tasmania. There are currently over 300,000 VAST subscribers in Australia, and this is increasing consistently.
24. Optus notes that the Government released a review of the VAST service in January 2019 which found that the VAST services is effective and fit for purpose in providing a metropolitan television service equivalent, and that there are opportunities to optimise aspects of the program.
25. Importantly, the review found that no viable alternative services is available now or in the near future that offers an equivalent service, and that the current delivery model should be continued for the next 5 years. Optus strongly supports the review's findings and requests the Government provide urgent certainty to the industry and users regarding the proposed future pathway for the VAST service to ensure that no future enhanced capabilities are foregone.

NBN PRICING AND BUSINESS MODEL

26. The NBN was conceived by Government to achieve several objectives for the community; universally available broadband services were — and are — considered the foundation for a future connected, competitive economy and social progress. These benefits, however, flow from the use of broadband services which the NBN will make available. Access to the network alone is not enough.
27. To deliver on these objectives, the NBN should support the future demand of consumers for high speed broadband. This, in turn, means that usage of the network should be affordable and the overall business model of NBN Co should be designed to promote such usage.

NBN Pricing

28. The NBN's greatest advantage over legacy technologies is its ability to handle very large amounts of data throughput at low additional cost. The continual reliance on CVC to grow revenue undermines this advantage. The two-part pricing structure of the NBN is a unique and flawed experiment. It is not reflective of wholesale arrangements in other jurisdictions nor does it reflect retail pricing or consumer expectations.
29. While Optus welcomes the recent moves by NBN Co regarding new pricing plans, the number and frequency of minor changes to NBN pricing since 2017 indicates that the reforms to date have not yet addressed the core issue. It is time to stop tinkering and embrace more holistic structural reform that unleashes the benefits of the NBN.
30. Optus has long called for changes to the structure of the NBN product and the removal of the CVC component. Optus supports fundamental structural price reform taking into account that:
 - (a) The CVC charge should be removed, or at a minimum the included CVC within each bundle be at least doubled and any overage charges removed;
 - (b) Any growth in ARPU should come from value-added components offered by NBN Co not the provision of basic bandwidth. Best efforts TC-4 CVC is not a value-add since it is the basic product and should not be directly charged.

- (c) Whilst the standard service should provide good quality access for all households' needs, there is potential to provide value-adding committed information rate (CIR) services which would provide guaranteed bandwidth and very low latency during peak periods for those who require it.

31. In addition to these changes, NBN Co should adopt additional rebate structures that reimburse RSPs for compensation paid to customers as a result of NBN access issues – such as underperforming FTTN lines; congestion in the FW network and in HFC nodes.

RBS Levy

32. More broadly, Optus notes that the initial NBN scope was targeted at a gap in the market relating to residential broadband services. Optus appreciates the challenges that NBN Co has faced in delivering services to regional areas where it is not economic to do so.
33. In this regard, while Optus is supportive of the policy intentions that underpinned the Regional Broadband Guarantee (RBS) regarding provision of services to all Australians no matter where they live, Optus does not consider it appropriate to apply the levy to business services for a number of reasons.
34. Optus believes that the RBS will create an unfair advantage to NBN Co, which was never meant to have monopoly protection over a contestable market such as business services. Optus does not object to NBN Co competing in this space, but it should do so in a manner consistent with the long-established principles of competitive neutrality. The RBS legislation is likely to provide further advantages to NBN Co due to its status as a GBE, inconsistent with competitive neutrality principles. Optus is concerned that this would likely damage existing competition in the market.
35. While Optus observes that the RBS legislation is at a finalised form, it considers that this example shows a fundamental need to re-examine the underlying objectives of the NBN business model.

NBN and 5G

36. Optus notes that a key challenge for NBN Co will be ensuring that the technology is delivering adequate bandwidth to end users once the rollout is complete. Indeed, Optus observes recent media commentary that some NBN lines are unable to meet customer expectations.
37. Optus has launched a 5G fixed wireless access service which is delivering peak speeds of over 400 Mbps and average speeds of 164 Mbps. Optus submits that utilisation of this technology as an upgrade path would maintain the affordability of the NBN, which will inevitably need to upgrade large parts of the network where speeds are limited by the underlying copper or cable.
38. Optus would be willing to partner with Government and NBN Co to assess options to use current and future 5G spectrum holdings to offer a 5G fixed wireless service into homes where existing service capability is likely to be limited. A public/private partnership where NBN Co could lease capacity from a retailer to serve homes in this way would allow NBN Co to meet speed expectations and reinstall confidence in the network.

SPECTRUM ALLOCATION

39. Spectrum is a critical component in the delivery of mobile services, but it is also a finite resource. The availability of spectrum has a material impact on the competitiveness of the telecommunications industry – which will only be exacerbated by the increasing expectations regarding connectivity and bandwidth.
40. Past commercial and policy decisions have created a situation where there is currently a significant imbalance in the spectrum holdings for low-band spectrum (sub-1 GHz) across mobile carriers. This spectrum range is particularly important in the Australian market due to its propagation characteristics which make it ideal for providing wide area coverage and capacity. It is extremely challenging to commercially deploy a national mobile network without access to sufficient low band spectrum.
41. The relative holdings are significant because high-traffic growth is creating material capacity constraints on national 4G networks (primarily use 700 MHz spectrum) and recent developments have opened up the opportunity to utilise low-band spectrum to provide national 5G coverage — current high band 5G spectrum is suited to metro and urban areas only.
42. Optus contends that recent market developments provide a sound policy basis for the Government to review the competitive allocation process for spectrum, particularly in low bands.
43. Consumers currently benefit from competing national networks with significant network and spectrum investments made over the past decade. Optus observes that there is a significant imbalance in low band spectrum holdings across carriers and submits that there should be a prioritisation of this valuable band to ensure an efficient transition to 5G.
44. The ACCC has noted that an “asymmetry of spectrum holdings between operators leads to issues with operators constrained by lack of spectrum being unable to add capacity or services as quickly as spectrum-rich competitors.” Optus considers this is a very real threat to the competitive deployment of 5G in Australia.
45. Finally, Optus would submit that the greatest value of spectrum comes from its efficient allocation and use, rather than from the purchase of expensive licences that provide a short-term boost to Government revenue. In 2017-18 alone the mobile industry supported \$22.9 billion in economic activity, and this is only set to increase in coming years.

DEREGULATION MEASURES TO INCREASE INVESTMENT

46. Optus note the Government’s commitment to furthering the deregulatory agenda during 2020-21. Optus supports this commitment and highlights that deregulation in the telecommunications sector should be a priority due to the economy-wide impact that telecommunications investment has. Telecommunications is an enabler of wider economic activity, while direct impact is significant with Deloitte Economics estimating that the telecommunications industry contributed \$51.5 billion directly to Australia’s GDP in 2017-18, the productivity benefits of the industry are even larger.¹ Deloitte’s estimate that as a result of the productivity benefits from the use of telecommunications services the Australian economy is 6.5% larger, or \$126 billion,

¹ <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-connected-nation-141119.pdf>

in 2019 than it would be without the impact of telecommunications — equivalent to \$5,000 per Australian.

47. Optus submits telecommunications deregulation should be a priority of the Government.

Foreign Investment

48. The industry has the second highest investment rate in the economy, with 70.5% of total industry value added invested in 2017-18 — this high rate of investment is higher than 92 other industries, including electricity supply and agriculture.² Foreign investment is vital to the ongoing success of the industry — with three out of the top four carriers being fully or partly foreign owned.
49. To that end, Optus has identified unintended consequences with the *Foreign Acquisition and Takeovers Act 1975* with impacts directly the ability of Optus to invest more in Australia.
50. Optus observes that legislative changes in 2015 to the *Foreign Acquisition and Takeovers Act 1975* have unintentionally created a significant regulatory and associated financial burden for foreign-owned telecommunications providers in Australia.
51. While the 2015 amendments sought to strengthen the integrity of Australia's foreign investment framework and were originally targeted towards foreign acquisition of agricultural land by foreign private investors, the changes have meant that organisations such as Optus are required to disclose any acquisition of an 'interest in land' in the ordinary course of business. This interest includes leases to host telecommunications infrastructure.
52. As Optus operates a significant number of sites in Australia (~ 7800) and must continue to acquire 'interests in land' to continue to operate a telecommunications network and in particular to deploy 5G technology to Australian consumers, this additional regulatory burden and associated financial costs imposed upon Optus ultimately impacts our ability to compete and reduces downstream benefits for over 10 million Australian consumers. The legislation as it currently applies penalises Optus in the conduct of its ordinary course of business, stifles investment and planning forecasts and ultimately creates an imbalance in the telecommunications market given Optus is the only major carrier to be captured under this legislation.
53. While Optus recognises the importance of a strong foreign investment framework, Optus recommends that the government consider exempting telecommunications infrastructure from the operation of this legislation to ensure Australia remains a welcoming investment environment, particularly for those organisations that provide an essential role in providing competition and diversity to Australian consumers. Such an approach would also be complementary to the Government's pursuit of a Digital Economy Agreement with Singapore.

Privacy Measures

54. Despite the increased digital competition in Australia with the rollout of the National Broadband Network and the rise of over-the-top (OTT) players like Google and Facebook, traditional telecommunications carriers continue to be subject to legacy regulation that creates an uneven playing field.

² <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-connected-nation-141119.pdf>, p.8

55. Optus observes that the ACCC's Digital Platforms Inquiry raised issues concerning the market power of OTT players and the impact on advertisers, new media business and consumers.
56. Optus agrees with the report's focus on addressing the market power of digital platforms and supported recommendations that related to their abuse of dominant market positions but did not support recommendations relating to the implementation of economy-wide changes to address market abuses.
57. Optus contends that communications regulations should apply consistently across both Australian-based carrier and service providers, and global digital providers. As a traditional carrier, Optus is required to comply with numerous items of sector-specific regulatory obligations (*Telecommunications Act, Consumer Protection and Service Standards Act, Interception and Access Act, Competition and Consumer Act, Radiocommunications Act, Emergency Call Service Determination*) in addition to various Industry Guidelines.
58. Conversely, OTT providers are not subject to any sector-specific obligations – despite offering similar services (phone call, messaging and video calling) to traditional carriers. They hold minimal regulatory obligations in Part 15 of the Telecommunications Act (relating to requests by security agencies), the Privacy Act and the Competition and Consumer Act. Ultimately, this material regulatory imbalance and consumer protection inconsistencies gives rise to an uneven playing field between digital platforms and communications businesses.
59. Optus therefore supports a review of obligations in Part 13 of the *Telecommunications Act 1997* (Part 13) which could occur in parallel with the Government's planned 2020-21 review and consultation on the privacy law framework. These obligations, relating to onerous record-keeping rules and compliance reporting that the OTT players are not subject to, are outdated and not aligned with the existing telecommunications environment, nor legislative framework.
60. Optus considers that Part 13 has played an important role in protecting the confidentiality of information relating to the contents of communications, the services supplied by carriers, or the personal particulars of end users. However, as these obligations were first designed in 1946, we consider that some elements are no longer relevant when compared with existing protections in other legislation (such as the Privacy Act).
61. Optus contends that a repeal of Part 13 would reduce regulatory overlap between multiple regulators and ensure there is a streamlined, single point of contact for industry, government and end users to address data privacy concerns.
62. This would level the playing field for Australian-based carriers in competing against OTT providers, ultimately benefiting end users and the economy more broadly.

[ENDS]