



Australian Government

Department of Infrastructure, Transport, Regional Development and Communications

Mr Jason Lange
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Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
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24-January 2022

Dear Mr Lange

Regulation Impact Statement - *Telecommunications Amendment (Local Access Lines-Class Exemptions) Regulations 2022* - Second Pass Final Assessment

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for the *Telecommunications Amendment (Local Access Lines-Class Exemptions) Regulations 2022*.

I am satisfied that the revised RIS addresses the concerns raised in your letter of 29 November 2021. Specifically, the revised RIS:

- includes additional contextual background on the policy problem that would be addressed by the proposed instrument
- provides additional detail on the consequences of not increasing the class exemption threshold to 12,000 residential customers, particularly the impacts on end-users and telecommunications infrastructure providers
- elaborates on the need to increase the class exemption in terms of meeting the Government's objective of increasing competition in the broadband infrastructure provider market
- expands upon the implications of each options, including an outline of the ACCC's rationale for agreeing to increase the class exemption threshold to 12,000 residential customers should Government regulations permitting this be made
- expands upon the expected impacts of each option on consumers, in particular by highlighting the breadth of consumer protections that will prevent vertically integrated operators from advantaging themselves over their retail competitors
- acknowledges that the Department of Infrastructure, Transport, Regional Development and Communications consulted with the Australian Competition and Consumer Commission (ACCC) on the RIS, and

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- outlines the measures of success of the proposed regulations, and describes the implementation risks and how these will be addressed.

It is worth highlighting that the ACCC agreed that competition will continue to be safeguarded by: Part 8 of the *Telecommunications Act 1997*, the Minister's Statutory Infrastructure Provider powers, and the ongoing deployment of 5G that will provide a competitive constraint on fixed-line network operators. The ACCC agreed that 12,000 customers is the minimum level of services required to profitably offer a wholesale service and therefore represents a low risk upper bound for the exemption. Importantly, the ACCC agreed that increasing the threshold to 12,000 residential customers will promote the long-term interests of end-users on a similar basis as the exemption granted by the ACCC for networks with up to 2,000 customers

As outlined in my previous letter of 22 November 2021 and notwithstanding the general preference for the RIS to contain at least three genuine viable options, after discussions with your office, we have decided to put forward only two options. The two options that have been considered are:

- the status quo, whereby the class exemption would continue to apply to providers with 2,000 or less customers, and
- increasing the class exemption to providers with up to 12,000 customers.

Assuming the 19 known current providers with less than 12,000 residential customers took advantage of the proposed class exemption, this would provide regulatory savings of between \$25.35 million to \$31.01 million per year.

Accordingly, I am satisfied that the RIS is now consistent with the six principles for Australian Government policy makers as specified in the *Australian Government Guide to Regulatory Impact Analysis*.

I submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely



Richard Windever
Deputy Secretary, Communications and Media
Department of Infrastructure, Transport, Regional Development and Communications

Encl: *Draft Regulation Impact Analysis: Telecommunications Amendment (Local Access Lines-Class Exemptions) Regulations 2022*