

NOTICE OF LODGMENT

AUSTRALIAN COMPETITION TRIBUNAL

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL and has been accepted for lodgment pursuant to the Practice Direction dated 3 April 2019. Filing details follow and important additional information about these are set out below.

Lodgment and Details

Document Lodged: Affidavit

File Number: ACT 1 of 2022

File Title: APPLICATIONS BY TELSTRA CORPORATION LIMITED AND TPG TELECOM LIMITED

Registry: VICTORIA – AUSTRALIAN COMPETITION TRIBUNAL



A handwritten signature in blue ink, consisting of a stylized 'A' followed by a 'U'.

REGISTRAR

Dated: 27/02/2023 7:58 PM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.



Affidavit

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Applications by Telstra Corporation Limited and TPG Telecom Limited

Review of Australian Competition and Consumer Commission Merger Authorisation
Determination MA1000021

Affidavit of: **Simon John Muys**
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000
Occupation: Solicitor
Date: 27 February 2023

This document contains confidential information which is indicated as follows:
[Confidential to Telstra] [...] for Telstra Corporation Limited and its related bodies corporate
[Confidential to Optus] [...] for Singtel Optus Pty Limited and its related bodies corporate

Contents

Document number	Details	Paragraph	Page
1.	Affidavit of Simon John Muys in support of application for directions from the Tribunal pursuant to r 22(1)(a) of the <i>Competition and Consumer Regulations 2010</i> (Cth) sworn on 24 February 2023	-	-
2.	Annexure "SJM-1", being copy of the joint media release issued by Telstra and TPG publicly disclosing the Proposed Transaction	8	4
3.	Annexure "SJM-2", being a confidential copy of STO.5001.0005.3365	9(a)	4

Filed on behalf of (name & role of party) Telstra Corporation Limited
 Prepared by (name of person/lawyer) Simon John Muys (Partner)
 Law firm (if applicable) Gilbert + Tobin
 Tel (03) 8656 3312 Fax (03) 8656 3400
 Email smuys@gtlaw.com.au

Address for service Level 25, 101 Collins Street, Melbourne VIC 3000
 (include state and postcode)

Document number	Details	Paragraph	Page
4.	Annexure "SJM-3", being a confidential copy of 71760.005.027.1380	17	6
5.	Annexure "SJM-4", being a confidential copy of 71760.006.022.0001	18	6
6.	Annexure "SJM-5", being confidential copies of 71760.006.003.0025 and 71760.006.008.0001	20	7
7.	Annexure "SJM-6", being a copy of a confidential letter and attachment from Gilbert + Tobin to the AGS dated 13 February 2023	28	8
8.	Annexure "SJM-7", being a confidential letter from AGS to Gilbert + Tobin dated 16 February 2023	29	8
9.	Annexure "SJM-8", being confidential copies of 71760.005.003.0157 and 71760.005.030.0001	39	11
10.	Annexure "SJM-9", being a confidential copy of STO.5001.0004.9334	44	13
11.	Annexure "SJM-10", being a confidential copy of STO.5000.0003.0001	46	14
12.	Annexure "SJM-11", being a confidential copy of STO.5001.0005.2438	47	14
13.	Annexure "SJM-12", being a confidential copy of STO.5001.0006.2321	52	16
14.	Annexure "SJM-13", being a confidential extract of 71760.009.002.0499 at T:88-96	61(a)	19
15.	Annexure "SJM-14", being a confidential extract of 71760.009.002.0499 at T:53-55	61(b)	19
16.	Annexure "SJM-15", being a confidential extract of 71760.009.002.0499 at T:83-87	61(b)	19
17.	Annexure "SJM-16", being a confidential extract of 71760.009.002.1128 at T:65-66	61(b)	19
18.	Annexure "SJM-17", being a confidential extract of 71760.009.002.1128 at T:69-71	61(b)	19
19.	Annexure "SJM-18", being a confidential extract of 71760.009.003.0075 at T:127-131	61(c)	20
20.	Annexure "SJM-19", being a confidential extract of 71760.009.002.0499 at T:148-156	61(c)	20
21.	Annexure "SJM-20", being a confidential extract of 71760.009.002.1128 at T:96-111	61(c)	20

I, Simon John Muys, say on oath:

1. I am a Partner at Gilbert + Tobin, the solicitors for the Applicant, Telstra Corporation Limited (**Telstra**). I have carriage of this matter and am authorised to make this affidavit on Telstra's behalf.
2. I have personal knowledge of the facts and matters referred to in this affidavit, except where otherwise indicated. Where I refer to information that is not within my personal knowledge, I identify the source of the information and I believe it to be true.
3. I make this affidavit in support of an application to the Australian Competition Tribunal (**Tribunal**) filed on 24 February 2023 (**Application**), which seeks:
 - (a) a direction by the Tribunal pursuant to regulation 22(1)(a) of the *Competition and Consumer Regulations 2010* for production of two categories of documents by Singtel Optus Pty Limited (**Optus**), not previously the subject of production by Optus to the Australian Competition and Consumer Commission (**ACCC**) (or therefore to the Applicants); and
 - (b) the issuing of a summonses by the Tribunal pursuant to s 105(2) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) to three Optus executives, to answer questions at the hearing of this matter.
4. I am not authorised to waive privilege and nothing in this affidavit ought to be construed as involving a waiver of privilege. To the extent that anything in this affidavit may be construed as involving a waiver of privilege, I withdraw and do not rely on that part of this affidavit.
5. Parts of this affidavit and its annexures are subject to confidentiality claims in accordance with the Confidentiality Regime set out in the Directions of the Acting President of the Tribunal, Justice O'Bryan, dated 24 January 2023 (**24 January Directions**). The parts of this affidavit and annexures which are the subject of such claims are identified in the "Confidential" version of this affidavit and are redacted in the "Public" version of this affidavit.
6. Where not otherwise defined in this affidavit, capitalised terms have the meaning given to them in Telstra's Concise Statement of Facts, Issues and Contentions filed on 13 February 2023 (**Telstra SoFIC**).
7. This affidavit is divided into the following sections:



Section	Paragraphs
A. OPTUS' INVOLVEMENT IN THE ACCC REVIEW	8 – 23
A.1 Optus engagement with the ACCC prior to filing of the Authorisation Application	8 – 9
A.2 Optus engagement with the ACCC after filing of the Authorisation Application	10 – 16
A.3 Oral submissions and meetings with the ACCC	17 – 18
A.4 Witness Statements	19
A.5 Section 155 notice and examinations	20 – 21
A.6 Optus intervention in Tribunal proceeding	22 – 23
B. CONCERNS REGARDING OPTUS DOCUMENT PRODUCTION	24 – 52
B.1 Production of Optus Documents to the Applicants	24 – 29
B.2 Analysis of documents produced in response to the Optus Notice	30 – 33
B.3 Concerns with the Optus Notice	34 – 52
C. FURTHER DOCUMENTS THAT WOULD ASSIST TO CLARIFY EVIDENCE BEFORE THE TRIBUNAL	53 – 55
C.1 Proposed categories	53
C.2 Reasonableness of the request	54 – 55
D. FURTHER QUESTIONS FOR OPTUS WITNESSES THAT WOULD ASSIST TO CLARIFY EVIDENCE BEFORE THE TRIBUNAL	56 – 62

A. OPTUS' INVOLVEMENT IN THE ACCC REVIEW

A.1 Optus engagement with the ACCC prior to filing of the Authorisation Application

8. The Applicants publicly announced the Proposed Transaction on 21 February 2022. Annexed to this affidavit and marked **SJM-1** is a copy of the joint media release issued by Telstra and TPG Telecom Limited (**TPG**) publicly disclosing the Proposed Transaction.

9. Based on my review of Optus documents served on Telstra by the ACCC pursuant to Direction 6 of the 24 January Directions, I understand that:

- (a) **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

(b) [REDACTED]

I am aware of this meeting from correspondence with the Australian Government Solicitor (**AGS**), being solicitors for the ACCC, referred to at paragraphs 28 and 29 below.

A.2 Optus engagement with the ACCC after filing of the Authorisation Application

10. The Authorisation Application was lodged by the Applicants on 23 May 2022.
11. Over the course of the ACCC process, Optus submitted a substantial amount of material in connection with the Authorisation Application, including submissions, expert reports and signed statements made by Optus executives or executives of its parent entity, Singapore Telecommunications Ltd (**Singtel**).
12. The ACCC issued a market inquiries letter in relation to the Authorisation Application on 31 May 2022 seeking market feedback. In response to the market inquiries letter, Optus submitted to the ACCC:
 - (a) a submission dated on or around 29 June 2022 (**Optus Submission**);
 - (b) a report of HoustonKemp Economists (**HoustonKemp**) dated 28 June 2022;
 - (c) a report of Analysys Mason Limited (**Analysys Mason**) dated 27 June 2022; and
 - (d) a report of Cambridge Economic Policy Associates Pty Ltd (**CEPA**) dated 24 June 2022.
13. Optus submitted a further report of CEPA dated 26 September 2022 regarding specific spectrum matters.
14. On 30 September 2022, the ACCC released its Statement of Preliminary Views (**SOPV**). In response to the SOPV, Optus submitted to the ACCC:

- (a) Optus' response to the ACCC's SOPV dated 26 October 2022 (**Optus Supplementary Submission**), accompanied with the report of Analysys Mason (comprising two separate reports) dated 24 October 2022;
 - (b) a report of AlixPartners UK LLP (**AlixPartners**) dated 25 October 2022; and
 - (c) a report of HoustonKemp dated 26 October 2022.
15. On 16 November 2022, Optus provided a further submission to the ACCC in response to two proposed s 87B Undertakings proposed by the Applicants. Optus' submission was accompanied by a further report of AlixPartners dated 16 November 2022.
16. On 5 December 2022, Optus provided another submission to the ACCC in response to a letter and annexures that had been submitted by the Applicants in response to Optus' response to the SOPV. This response was also accompanied by another report of AlixPartners dated 4 December 2022.

A.3 Oral submissions and meetings with the ACCC

17. Optus and the ACCC held a meeting on or around 22 July 2022. Attendees at this meeting for Optus included Andrew Sheridan, Benjamin White, Luke Van Hooft and Matt Williams. ACCC attendees at the meeting included Mick Keogh (Deputy Chair), Liza Carver (Commissioner), Anna Brakey (Commissioner) and Peter Crone (Commissioner). Annexed to this affidavit and marked **SJM-3** is a confidential copy of the record of oral submissions made by Optus at the meeting on 22 July 2022, with the document ID 71760.005.027.1380.
18. A further meeting between Optus and the ACCC took place on or around 27 September 2022. Attendees at this meeting for Optus included Kelly Bayer Rosmarin, Yuen Kuan Moon and Paul O'Sullivan, and for the ACCC, Mick Keogh, Liza Carver and Anna Brakey. Annexed to this affidavit and marked **SJM-4** is a confidential copy of oral submissions made by Optus at the meeting on 27 September 2022, with the document ID 71760.006.022.0001.

A.4 Witness Statements

19. Following the publication by the ACCC of the SOPV, Optus also submitted to the ACCC six witness statements from the following senior executives:
- (a) Kanagaratnam Lambotharan, statement dated 18 October 2022;
 - (b) Kelly Bayer Rosmarin, statement dated 19 October 2022;
 - (c) Yuen Kuan Moon, statement dated 19 October 2022;
 - (d) Paul O'Sullivan, statement dated 19 October 2022;

- (e) Benjamin White, statement dated 19 October 2022; and
- (f) Steve Turner, statement dated 20 October 2022.

A.5 Section 155 notice and examinations

- 20. On or around 19 July 2022, the ACCC issued a notice under s 155(1)(b) of the CCA to Optus in relation to the Proposed Transaction seeking the production of documents (**Optus Notice**). The ACCC issued a variation to the Optus Notice on 9 August 2022. Annexed to this affidavit and marked **SJM-5** is a confidential copy of the Optus Notice and variation, with the document IDs 71760.006.003.0025 and 71760.006.008.0001, respectively.
- 21. The ACCC also conducted voluntary interviews or examinations under s 155(1)(c) of the CCA with five Optus executives:
 - (a) Kelly Bayer Rosmarin on **[Confidential to Optus]** [REDACTED];
 - (b) **[Confidential to Optus]** [REDACTED];
 - (c) Benjamin White on **[Confidential to Optus]** [REDACTED];
 - (d) Kanagaratnam Lambotharan on **[Confidential to Optus]** [REDACTED]; and
 - (e) **[Confidential to Optus]** [REDACTED]

A.6 Optus intervention in Tribunal proceeding

- 22. On 11 January 2023, Optus notified the Applicants and ACCC of its intended application to intervene in the proceedings currently before the Tribunal. The Applicants did not object to Optus' application to intervene.
- 23. On 16 January 2023, Optus applied to the Tribunal to intervene. Pursuant to the 24 January Directions, the Tribunal directed that Optus be permitted to intervene in the proceedings.

B. CONCERNS REGARDING OPTUS DOCUMENT PRODUCTION

B.1 Production of Optus Documents to the Applicants

- 24. On 25 and 27 January 2023, pursuant to Direction 5 of the 24 January Directions, the ACCC produced notes of substantive meetings, discussions, and conferences between the ACCC and Optus in connection with MA1000021 (being the ACCC's case number for the Proposed Transaction).
- 25. On 30 January 2023, the ACCC produced documents pursuant to Direction 6 of the 24 January Directions, which included confidential copies of all documents and information

produced by Optus to the ACCC pursuant to any notice issued under s 155(1)(a) or (b) of the CCA in connection with this matter (**Optus s 155 Documents**).

- 26. On 3 February 2023, the ACCC produced a copy of the Optus Notice.
- 27. On 6 February 2023, the ACCC produced four spreadsheets to the parties identifying each of the Optus s 155 Documents (**Optus Document Lists**). The Optus Document Lists have the document IDs 71760.006.006.0006, 71760.006.009.0003, 71760.006.010.0003 and 71760.006.013.0002.
- 28. On 13 February 2023, I sent a letter to AGS requesting confirmation that the ACCC had produced all records of any substantive meetings, discussions or conferences between the ACCC and Optus on and from 21 February 2022 (the announcement of the Proposed Transaction) and 23 May 2022 (the date the authorisation application was filed). Annexed to this affidavit and marked **SJM-6** is a confidential copy of this letter.
- 29. On 16 February 2023, **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B.2 Analysis of documents produced in response to the Optus Notice

- 30. Optus produced approximately **[Confidential to Optus]** [REDACTED] documents to the ACCC in response to the Optus Notice. This figure is based on the number of Optus documents (with the document identifier prefix 'STO') that have been produced to Gilbert + Tobin by the AGS pursuant to the 24 January Directions and the Optus Document Lists.
- 31. I have made enquiries with Gilbert + Tobin's Legal Informatics team with respect to the types of documents produced by Optus in response to the Optus Notice. Based on the metadata received within the documents that were produced by Optus to the ACCC, I understand that:
 - (a) **[Confidential to Optus]** [REDACTED]
[REDACTED]
 - (b) [REDACTED]
 - (c) [REDACTED]
[REDACTED]
- 32. Based on analysis undertaken at my request by the Legal Informatics team, I am informed that **[Confidential to Optus]** [REDACTED] of the emails are dated on or after the

date that Telstra and TPG publicly announced the Proposed Transaction (21 February 2022). [Confidential to Optus] [REDACTED]

[REDACTED]

33. Of the [Confidential to Optus] [REDACTED] emails that were provided to Telstra and that relate to the period after the announcement of the Proposed Transaction:

(a) [Confidential to Optus] [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

B.3 Concerns with the Optus Notice

34. Based on my experience in preparing responses on behalf of clients to notices issued by the ACCC under s 155(1)(b) of the CCA, including in reviewing the significant volume of correspondence and documents that are often produced by large corporations in connection with significant or disruptive market developments, it is unusual that so few documents have been produced evidencing either:

(a) correspondence between Optus executives in the period following the announcement; or

(b) draft versions of board and executive committee papers, and associated modelling, which ultimately formed an important element of Optus' regulatory submissions, evidence and strategies.

35. For the reasons set out in paragraphs 37 to 52 below, and based on my review of the documents produced (and evidence provided by Optus executives), it appears that:

(a) [Confidential to Optus] [REDACTED]

(b) [REDACTED]

[REDACTED]

(c) [REDACTED]

36. Based on my analysis of the Optus Notice (which I set out in section B.3.1 to section B.3.5 below) and my experience in previous competition law matters in which I have acted, I consider that the Optus Notice was narrowly framed, particularly for a matter in which Optus has been an active participant and the primary contradictor.

B.3.1 Definitions

37. From my review of the Optus Notice, it appears that several of the defined terms that appear in the “Definitions” section were narrowly defined. These terms include (the emphasis is mine):

(a) **[Confidential to Optus]** [REDACTED]

(b) [REDACTED]

- i. [REDACTED]
- ii. [REDACTED]
- iii. [REDACTED]
- iv. [REDACTED]

38. The consequences of these definitions appear to include that:

- (a) not all material correspondence between Relevant People was produced, including in relation to the development and analysis of the regulatory and commercial strategy Optus intended would respond to the announcement of the Proposed Transaction;
- (b) while a number of draft papers and reports were produced by Optus, it is not clear that all relevant drafts were produced;
- (c) where reports (including some drafts) were produced, these were often provided as ‘standalone’ documents without being attached to associated email correspondence, preventing the ACCC (or the Applicants) from properly

understanding the context in which those documents were created or sent, the development of those documents over time, and the input of particular individuals in their development; and

- (d) **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

39. By contrast, on 14 June 2023 Telstra also received a notice under s 155(1)(a) and (b) of the CCA (**Telstra Notice**) during the course of the ACCC process. While a number of the definitions were framed in a similar manner to the Optus Notice, the categories contained additions or exceptions which required production by Telstra of substantially more documents. For example:

- (a) **[Confidential to Telstra]** [REDACTED]
[REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
[REDACTED]

Annexed to this affidavit and marked **SJM-8** is a confidential copy of the Telstra Notice and subsequent variation, with the document IDs 71760.005.003.0157 and 71760.005.030.0001, respectively. Telstra produced approximately **[Confidential to Telstra]** [REDACTED] documents in response to the Telstra Notice, of which only **[Confidential to Telstra]** [REDACTED] were calendar invites.

B.3.2 Schedule 1 of the Optus Notice

40. [Confidential to Optus] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (a) [REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
[REDACTED]

B.3.3 Schedule 2 of the Optus Notice

41. Schedule 2 of the Optus Notice comprised five categories that dealt generally with the following documents:
- (a) [Confidential to Optus] [REDACTED]
[REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B.3.4 Implications of limited production under the Optus Notice

42. I set out below two examples which illustrate the implications of the narrowly framed scope of the Optus Notice. The ultimate consequence is that the internal processes by which Optus developed its strategic modelling and commercial analysis in response to the announcement of the Proposed Transaction have not been able to be thoroughly assessed or tested. This is in circumstances where the analysis was (a) relied upon by Optus in its submissions; (b) used as the basis for instructing Optus' experts; and (c) was referred to extensively by the ACCC in its Reasons for Determination.

[Confidential to Optus] [REDACTED]

43. By way of example, Optus produced email chains which contain emails that have not been produced on a standalone basis. Where this has occurred, although the email's existence is disclosed by appearing in an email chain, neither the ACCC nor the Applicants have a copy of all the emails in the form they were sent, with any attachments. The text of some of those emails indicates to me that those emails were likely to include attachments. I am informed by the Legal Informatics team that Gilbert + Tobin is unable to confirm whether we have received copies of those attachments on a standalone basis without the relevant attachment to identify its unique identifier (known as an MD5) to compare against the documents produced.

44. **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

45. Within that email chain, I do not understand the following emails to have been produced to the ACCC or the Applicants:

(a) **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]

[Redacted]

(b) [Redacted]

[Redacted]

46. [Confidential to Optus] [Redacted]

[Redacted]

[Confidential to Optus] [Redacted]

47. [Confidential to Optus] [Redacted]

[Redacted]

(a) [Redacted]

(b) [Redacted]

Handwritten signature

Handwritten signature

(c) [Redacted]
[Redacted]
[Redacted]

(d) [Redacted]
[Redacted]
[Redacted]

(e) [Redacted]
[Redacted]
[Redacted]

(f) [Redacted]
[Redacted]
[Redacted]

48. [Confidential to Optus] [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted] [Redacted] [Redacted]
[Redacted]
[Redacted]
[Redacted]

C. [Confidential to Optus] [Redacted]

49. I have read the witness statement of Benjamin White dated 19 October 2022 provided to the ACCC by Optus. [Confidential to Optus] [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted] [Redacted] [Redacted]
[Redacted]
[Redacted]
[Redacted]

50. [Confidential to Optus] [Redacted]
[Redacted]

[Redacted]

(a) [Redacted]

(b) [Redacted]

(c) [Redacted]

51. However, based on enquiries I have made with my team, it appears that:

(a) [Confidential to Optus] [Redacted]

[Redacted]

52. [Confidential to Optus] [Redacted]

[Redacted]

[Redacted]

C. FURTHER DOCUMENTS THAT WOULD ASSIST TO CLARIFY EVIDENCE BEFORE THE TRIBUNAL

C.1 Proposed categories

53. To test and clarify the 5G investment plans, cost modelling and other strategic documents prepared and relied upon by Optus witnesses, or relied on in Optus submissions and evidence provided to the ACCC, it would be reasonable and appropriate for the Tribunal to have available to it, at a minimum, the following documents that were not, or were not fully, in evidence before the ACCC:

- (a) email correspondence (including any attachments) sent or received by Kelly Bayer Rosmarin, Andrew Sheridan or Benjamin White over the period following the announcement of the Proposed Transaction (i.e. 21 February 2022) to the date the [Confidential to Optus] ██████████ was finalised (which I understand, based on a review undertaken of document metadata, to be 21 July 2022), and that:
- i. refer to the Proposed Transaction; or
 - ii. were in connection with, or refer to, the Updated Model; and
- (b) all versions of the Updated Model (including any drafts).

C.2 Reasonableness of the request

54. The two categories of documents identified in paragraph 53 are not intended to fully 'remedy' apparent gaps in production associated with the framing of the Optus Notice. The two categories sought in the Application are narrow and targeted only at ensuring that the Tribunal has before it material documents that appear to exist (based on material that has been produced to date by Optus) and relating to matters that are both important, were used as evidence in support findings made by the ACCC and which are in contention before the Tribunal on review.
55. I note the following:
- (a) the categories request only emails (with attachments) together with all versions of the Updated Model, which should be documents of a type that can be readily and quickly able to be obtained from Optus' systems in relation to each of the three identified executives. It may be the case that the email boxes of Kelly Bayer Rosmarin and Benjamin White were already gathered when Optus was preparing its response to the Optus Notice. In any event, Optus should be readily able to extract the email boxes for the relevant period and apply key word search terms to identify documents that are responsive;
 - (b) emails are sought in respect of three individuals only, Kelly Bayer Rosmarin, Benjamin White and Andrew Sheridan. Based on my review of the documents produced to date, each of these individuals appears to have been closely involved in formulating Optus' response to the Proposed Transaction. Kelly Bayer Rosmarin and Benjamin White both provided witness statements in support Optus' submissions before the ACCC, and both were also the subject of s 155 interviews. However, there were only [Confidential to Optus] [21 emails] that we have identified as produced that were sent, received or copied to

[Confidential to Optus] [REDACTED] only [Confidential to Optus] [REDACTED] that were sent, received or copied to [Confidential to Optus] [REDACTED], and only [Confidential to Optus] [REDACTED] that were sent, received or copied to [Confidential to Optus] [REDACTED];

- (c) the date range is limited to a period of only approximately 5 months; and
- (d) assessing whether an email 'refers' to the Proposed Transaction will not require a sophisticated understanding of the Proposed Transaction or complex decisions concerning whether an email is relevant to the Proposed Category. This should enable any review of emails to be efficient and fast.

D. FURTHER QUESTIONS FOR OPTUS WITNESSES THAT WOULD ASSIST TO CLARIFY EVIDENCE BEFORE THE TRIBUNAL

56. I have read each of the Optus witness statements referred to at paragraph 19 of this affidavit as well as the s 155(1)(c) transcripts for each of the Optus executives referred to at paragraph 21 of this affidavit.
57. The Application requests that the Tribunal summon three Optus executives to appear at the hearing to answer questions related to their evidence, being:
- (a) Kelly Bayer Rosmarin;
 - (b) Benjamin White; and
 - (c) Kanagaratnam Lambotharan.
58. The Application proposes that the scope of the questions asked of the witnesses at the hearing would be confined to three substantive topics below:
- (a) the capital investment incentives and intentions of Optus in respect of its mobile network if the Proposed Transaction is authorised or if it is not authorised;
 - (b) any commercial or regulatory strategy and analysis of Optus, including any modelling undertaken by Optus, after it became aware of the Proposed Transaction; and
 - (c) any counterfactual proposed by Optus involving a commercial transaction between TPG and Optus including the potential nature and effect of any such transaction.

The Application also leaves a fourth, general category for any questions which the Tribunal considers it is appropriate for the Applicants to ask of Optus witnesses, consistent with the rule in *Browne v Dunn*.

59. From my review of the documents produced and the evidence given by each of Kelly Bayer Rosmarin, Benjamin White and Kanagaratnam Lambotharan, it is apparent to me that they were each aware of, and give evidence in respect of:

- (a) **[Confidential to Optus]** [REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
[REDACTED]

60. As described in paragraphs 37 to 52 of this affidavit, there are also likely to be a number of documents that are relevant to the matters referred to in paragraph 58 that were not before the ACCC and are not currently before the Tribunal.

61. Based on the Optus s 155(1)(c) transcripts of examination, I consider that additional questions would be likely to assist to clarify evidence that is currently before Tribunal, either because those questions were not put to witnesses in those examinations, or because they would test or clarify answers provided during those interviews. For example:

- (a) **[Confidential to Optus]** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

62. In the circumstances, it would be reasonable and appropriate for the Tribunal to issue the summonses requested in the Application on the basis that:

- (a) the Application is limited to only three Optus executives, each of whom has given evidence in support of the Optus submissions;
- (b) the scope of the topics to be addressed is limited and is focused on matters that are centrally relevant to any application by the Tribunal of the test in s 90(7) of the CCA in this matter; and
- (c) the topics include matters **[Confidential to Optus]** [REDACTED] that were not fully tested through the ACCC process, including due to the limited number of documents produced by Optus in response to the Optus Notice.

Sworn by the deponent
at Level 25, 101 Collins Street, Melbourne
in Victoria
on 27 February 2023
Before me:

Signature of witness

)
)
)
)
)
Signature of deponent

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

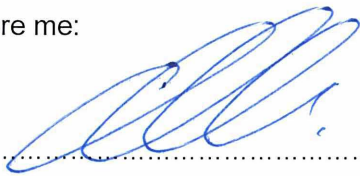
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the annexure marked SJM-1 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

Telstra and TPG Telecom sign landmark network sharing agreement for regional Australia

21 February 2022 - Telstra and TPG Telecom today announced a ground-breaking ten-year regional Multi-Operator Core Network (MOCN) commercial agreement, which will provide significant value to Telstra's wholesale mobile revenues, while providing TPG Telecom group's subscribers with 4G and 5G services within a defined coverage zone across regional and urban fringe areas.

Under the innovative deal TPG Telecom will gain access to around 3,700 of Telstra's mobile network assets, increasing TPG Telecom's current 4G coverage from around 96 per cent to 98.8 per cent of the population.

Telstra will gain access to TPG Telecom's spectrum across 4G and 5G, which will allow it to grow its network, increase capacity and continue to provide the country's largest and fastest network.

Under the MOCN arrangement Telstra will share its Radio Access Network (RAN) for 4G and subsequently 5G services in the defined coverage zone, however both carriers will continue to operate their own core network where key differentiating functionality resides. Telstra will also obtain access to and deploy infrastructure on up to 169 TPG Telecom existing mobile sites, improving coverage for TPG and Telstra customers in the zone. The non-exclusive agreement includes the option for TPG Telecom to request two contract extensions of five years each.

Telstra CEO Andrew Penn said the deal provided significant value to shareholders and customers and was a continuation of Telstra's strategy to maximise the utilisation and monetisation of its assets.

"This additional spectrum will mean that all Telstra customers will continue to experience Australia's best and fastest network across the country, in combined 4G and 5G speeds. In particular, the spectrum agreement will ensure that regional and rural customers will now experience faster speeds in more locations on their mobiles."

TPG Telecom CEO Iñaki Berroeta said the landmark network sharing agreement would significantly expand TPG Telecom's mobile network footprint in regional Australia and enable growth of its customer base in regional and metropolitan areas.

"It represents a material uplift in the capability of our network and will provide significant value for TPG Telecom shareholders over the medium and long term.

"We will be open for business in regional and rural Australia like never before, offering a 4G network that provides 98.8% population coverage and rapidly growing 5G coverage across the nation.

"The agreement demonstrates best-practice asset utilisation and a commitment to rationalising our operations to deliver a better customer experience, while increasing capital efficiency.

Mr Penn said, "With more people moving to regional areas as a result of COVID, congestion in some areas has increased. This additional spectrum will also ensure that Telstra customers will experience significantly reduced congestion at busy times.

“Telstra’s network has always been and will continue to be the best network – the structure of the deal ensures that we will continue to differentiate in network leadership for our customers in coverage and services.

“We can do that because we will maintain our one million square km competitive advantage in mobile coverage where no other operators have invested. Mobile coverage is often talked about as population coverage, however we all know that it’s the square kilometres of coverage when you travel between towns and cities that also matters. It is the fabric of our mobile network.

“This is critical for customers living and working in those areas. It provides security and safety when travelling long distances on major roads and is only available for our customers travelling through or working or living in those areas.”

Mr Penn said the innovative deal would realise more value from Telstra’s network infrastructure for shareholders while making a very significant contribution to Telstra’s wholesale mobile revenues.

“The deal provides TPG Telecom with the opportunity to access some of our network assets within the defined zone. The access is similar to the way Telstra currently provides wholesale services to its MVNOs and Belong in this zone.

“Similar to monetising our passive infrastructure, it allows Telstra to have an innovative way of monetising some of our active mobile infrastructure, in areas where the population coverage is much smaller and more challenging in terms of returns and further investment and where there are already a number of competitors.

“Additional scale from this agreement therefore supports return on invested capital in these areas and makes ongoing investment in the network and innovation more sustainable.”

Mr Berroeta said the agreement was a win for TPG customers who would have access to a significant part of the best regional network in Australia.

“The deal will give TPG Telecom’s consumer, enterprise and wholesale customers seamless access to a national network. This will enable TPG Telecom’s Vodafone, TPG, iiNet, Lebara and felix brands to improve their services for regional Australians.”

Access to this additional coverage will be automatic for all of TPG Telecom group’s customers and will appear to them as being provided by their current TPG Telecom group provider.

TPG Telecom will continue to operate its own 3G, 4G and 5G networks in metropolitan areas reaching around 80 per cent of the population, which includes its network infrastructure sharing arrangement with Optus in those areas.

TPG Telecom will decommission the 725 mobile sites it currently operates within the MOCN coverage area, reducing environmental impact, energy consumption, operating costs and future capex.

Subject to approval by the Australian Competition and Consumer Commission, the MOCN is expected to be available to TPG customers by the end of the year.

END

Telstra media contact: Steve Carey, General Manager Media

M: +61 413 988 640

E: media@team.telstra.com

Telstra investor contact: Nathan Burley, Investor Relations

T: +61 457 529 334

E: investor.relations@team.telstra.com

TPG Telecom Investor relations enquiries: Bruce Song, bruce.song@tpgtelecom.com.au,
0426 386 006

TPG Telecom Media enquiries: Jen Zemek, jennifer.zemek@tpgtelecom.com.au, 0451 123
307

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

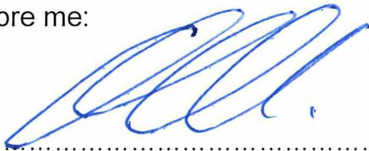
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-2 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

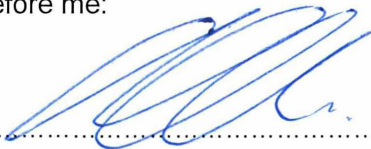
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-3 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

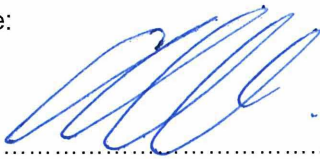
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-4 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-5 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-6 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMITT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

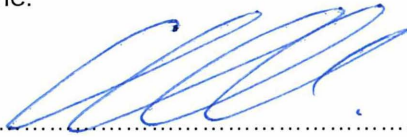
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-7 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-8 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

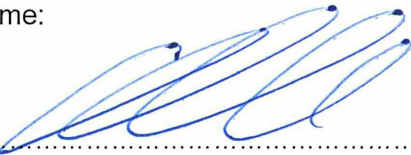
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-9 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-10 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....
SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**


Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-11 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-12 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-13 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-14 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

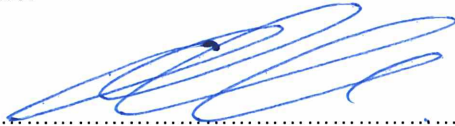
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-15 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-16 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-17 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-18 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....
SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

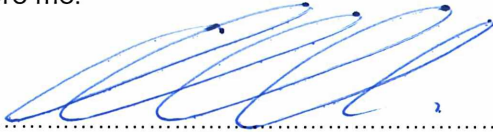
Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-19 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

File No. ACT 1 of 2022

Australian Competition Tribunal

Registry: Victoria

Application by Telstra Corporation Limited and TPG Telecom Limited

Review of Australia Competition and Consumer Commission

Merger Authorisation Determination MA1000021

CONFIDENTIAL ANNEXURE CERTIFICATE

Affidavit of: **Simon John Muys**

Address: Level 25, 101 Collins Street, Melbourne, Victoria 3000

Occupation: Solicitor

Date: 27 February 2023

This is the confidential annexure marked SJM-20 referred to in the affidavit of Simon John Muys made on 27 February 2023.

Before me:



.....

SARAH RUBY KESSELSCHMIDT
Gilbert + Tobin, 101 Collins St, Melb. Vic 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

