



# A Consultation Paper on **Dominant Service Provider Determinations**

Inviting public comment and input

**November 14, 2025**

## Introduction

- 1 The Telecommunications Regulatory Authority (TRA) **is seeking your feedback** on whether to analyze telecommunications markets in the FSM and, if appropriate, determine that one or more telecommunications licensees in the FSM are a “dominant service provider” (**DSP**) as defined in section 302(p) of the FSM Telecommunications Act of 2014 (**the Act**).
- 2 The purpose of making this determination would be to enable the TRA to achieve the objectives of providing conditions for effective competition and protecting the long-term interests of users and consumers.
- 3 The purpose of this consultation is to gather and consider public comments, so we can consider stakeholders’ views before we decide whether to make a determination that one or more telecommunications licensees are a DSP in one or more telecommunications markets in the FSM.

## Consultation feedback information

- 4 The TRA invites written comments and feedback on this consultation document. We have provided a comments form for responses which can be found in **Attachment 1**.
- 5 Responses may be submitted in person at TRA’s offices in Pohnpei, or sent to [consultations@tra.fm](mailto:consultations@tra.fm). Responses are due by **December 5, 2025**.
- 6 Submissions will be made public, unless there is a specific request for confidentiality made under Section 322 of the Act.<sup>1</sup>
- 7 We provide a list of consultation questions at the end of this document to help organize responses, and for us to receive feedback on specific issues.
- 8 After receiving feedback, we will publish the submissions, and our response to submissions which will state our views and reasons for either making changes or maintaining our initial views.
- 9 We intend to produce a draft decision by the end of **December 2025**. This will include a draft of the actual written determination we intend to issue. The current consultation provides an opportunity for licensees and members of the general public to provide feedback before the scope of the proposed decision, if any, is finalized and the draft written determination is produced. We will consult on the proposed draft decision and draft written determination before we make a final decision.

## Background

- 10 The objectives of the Act include “*providing transparent, technologically and competitively neutral regulation, which focuses on promoting the long-term interests of users,*”<sup>2</sup> “*providing conditions for effective competition among service providers in the Federated States of Micronesia and encouraging efficient and sustainable investment in and use of*

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<sup>1</sup> See the comments form (Attachment 1) for details.

<sup>2</sup> Section 303(1)(a) of the Act.

*communications networks and services*<sup>3</sup> and *“protecting the interests of consumers and regulating prices.”*<sup>4</sup>

- 11 The Act seeks to achieve these objectives primarily by encouraging new network and service providers to enter the FSM market and by promoting competition among new and existing providers. In a competitive market, direct regulation of many of the activities of network and service providers is not necessary in order to protect the interests of consumers. The Act, therefore, defaults to “light-touch” regulation and limits many of the TRA’s regulatory powers.
- 12 However, there may be circumstances where such competition is insufficient, and where additional regulatory powers may be required, in order to protect the interests of consumers. These circumstances include where a service provider dominates a telecommunications market. The Act, therefore, sets out certain powers that may only be exercised in relation to a *“dominant service provider.”*
- 13 The Act gives us the power to determine that a telecommunications licensee is a *“dominant service provider”* for the purposes of the Act.<sup>5</sup>
- 14 We are now considering whether we should exercise that power and, if so, in relation to which telecommunications markets and in relation to which telecommunications licensees.

#### **Telecommunications Markets in the FSM**

- 15 Competition in FSM markets is beginning. There are six Individual Operating License holders and two Class Operating License holders providing services or planning to provide services in retail fixed voice, fixed internet and mobile telecommunications markets across all four States of the FSM.
- 16 However, market development so far has been uneven. There are several competitors operating in the market for retail fixed internet services using different network technologies. For example, FSMTC offers ADSL- and fiber-based internet services, and Kacific and Starlink offer satellite-based internet services, across the country. OAE is in the process of actively deploying its wholesale open access fiber network so, while that source of retail competition might not yet have materialised in the market for fixed Internet services, it may do in the near term.
- 17 The situation is somewhat different in the market for retail mobile services. There are no nationwide alternatives to FSMTC’s mobile services. iBoom operates in Yap but its mobile services do not seem to have gained significant market share in that State. Entry of a new national mobile operator is still possible, but there is no guarantee that this will occur.
- 18 There is also no nationwide alternative as yet to FSMTC’s services in the market for retail fixed voice services.

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<sup>3</sup> Section 303(1)(c) of the Act.

<sup>4</sup> Section 303(1)(f) of the Act.

<sup>5</sup> Section 302(p) of the Act.

### Impact of Dominance

- 19 A telecommunications service provider may become dominant for a number of reasons (for example, offering a superior or unique service) and dominance is not in and of itself harmful to competition or to consumers.
- 20 However, a dominant service provider would have the ability to abuse that dominance without fear of repercussions from competitors or consumers. For example, a DSP could unilaterally increase its prices or reduce the quality of its services, knowing its actions will not be constrained by others.<sup>6</sup> The competitors to that dominant provider, if any, would not be strong enough to challenge that provider's position in the market with their own service offerings. In addition, consumers would not be able to challenge the dominant provider's actions if they don't like the prices or quality of service (for example, by choosing a different service provider) as there would no practical alternative to the dominant provider's services.
- 21 It is this abuse of dominance, not the dominance itself, that is harmful and contrary to the best interests of consumers.
- 22 The Act gives us certain regulatory powers in order to limit or control any such abuse of market power (see paragraph 48 below). However, we can only exercise those powers in relation to a licensee, if we determine that the licensee is in fact a DSP.

### Definition of Dominant Service Provider

- 23 The Act defines a "*dominant service provider*" in section 302(p):

*'Dominant Service Provider' means in respect of a communications market a licensee who, in the opinion of the Authority:*

- (i) Receives 40% or more of the total gross revenues of all service providers in that market; or*
- (ii) Has a position of economic strength or controls a bottleneck facility in that market that allows the licensee to behave independently of competitors or potential competitors, consumers, or customers;*

- 24 Three elements of this definition are key.
- 25 First, the definition specifies that the decision regarding dominance and our power to regulate applies to specific communications markets, not necessarily to all communications markets in the FSM. For example, a licensee could be a DSP in one market but subject to effective competition in a second market: dominance in the first market does not justify regulation of the licensee in the second one. This means we must define the "relevant market" and consider the licensee's position in that specific market.

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<sup>6</sup> We note that section 203 of the Federated States of Micronesia Telecommunications Corporation Act of 1981 imposes some obligations on FSMTC in relation to its prices and quality of service. These may mitigate a potential abuse of market power, but they do not apply to other service providers.

- 26 Second, we must form an “opinion.” This requires us to collect and to consider relevant evidence regarding the relevant market and the position of the licensee in question in that market, and then to make a reasonable determination. Consultation with the affected licensee and with other stakeholders is an important part of this decision-making process.
- 27 Third, the Act sets out two separate standards for determining whether a licensee is a dominant service provider. The first test, in paragraph (i), is based on the licensee’s share of the gross revenues from a specific communications market. The second test, in paragraph (ii), is a “market power” test that has been applied in other countries around the world. It is, however, more complicated as there are more elements we must consider (economic strength, bottleneck facilities, independent behavior, etc.) before we can make a decision. The Act does not require us to apply both standards – we can choose to apply one or the other.
- 28 In both cases, though, we must collect relevant evidence in order to reach a reasonable decision regarding dominance.

### **Relevant Markets**

- 29 The first step in the process is to identify the relevant product and geographic markets that will be assessed.
- 30 We are of the preliminary view that there are three principal retail product markets for the provision of telecommunications services in the FSM:
- a. fixed voice services;
  - b. fixed internet services; and
  - c. mobile services.
- 31 We consider that these three markets describe appropriately the structure of the actual overall telecommunications market in the FSM.

### **Fixed Voice Services**

- 32 We are of the preliminary view that the retail product market for fixed voice services is a separate market in the FSM because, generally speaking, fixed voice and fixed Internet services are not substitutes or interchangeable for each other.
- 33 While there is, at present, only one national licensee operating in that retail market, we do not consider it necessary to determine whether that licensee is a DSP because the market is in long-term decline, both in terms of revenues and number of users. According to published annual reports, since FY2019, the number of FSMTC’s fixed voice subscribers has decreased from 6,941 to 5,807 in FY2024, a decrease of 16.33 percent. As a share of revenues, FSMTC’s fixed call revenue has decreased from 5.04 percent of its annual revenue in FY2019 to 1.83 percent in FY2024.<sup>7</sup> Further, global trends suggest consumers

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<sup>7</sup> FSMTC Audited Financial Statements FY2019, available at:

[http://www.fsmopa.fm/files/FY%202020/FSMTC\\_fs19%20\[Final\].pdf](http://www.fsmopa.fm/files/FY%202020/FSMTC_fs19%20[Final].pdf)

FSMTC Audited Financial Statements FY2024, available at:

[http://www.fsmopa.fm/files/FY2025/FSM%20Telecommunications%20Corporation\\_FY24%20FS.pdf](http://www.fsmopa.fm/files/FY2025/FSM%20Telecommunications%20Corporation_FY24%20FS.pdf)

are increasingly substituting mobile and over-the-top (OTT) services for fixed voice services.<sup>8 9</sup>

- 34 Given that this market is in decline and evolving, we do not believe it is necessary to regulate the activities of a DSP in this product market in order to protect the long-term interests of users and consumers. As a result, we propose not to determine whether there is a DSP in this product market.

**Fixed Internet Services**

- 35 We are similarly of the preliminary view that the retail product market for fixed internet services constitutes a separate market in the FSM for the following reasons. As noted above, generally speaking, fixed voice and fixed Internet access services are not substitutes or interchangeable for each other. Further, because of the lack of mobility, fixed internet services are not effective substitutes for mobile services. In addition, the prices and characteristics of mobile and fixed internet services are sufficiently different that they are not effective substitutes for each other.

**TABLE 1: CHARACTERISTICS OF DOWNSTREAM SERVICES**

Characteristic	4G LTE Mobile Broadband <sup>10</sup>	Fixed Internet – Starlink (LEO) <sup>11</sup>	Fixed Internet – Fiber (FTTP) <sup>12</sup>
<b>Typical Download Speed</b>	5 – 100 Mbps (variable)	45 – 280 Mbps	100 Mbps – 1 Gbps
<b>Upload Speed</b>	5 – 20 Mbps <sup>13</sup>	10 – 30 Mbps	100 Mbps – 1 Gbps
<b>Latency</b>	30 – 50 ms	25 – 60 ms	5 – 7 ms
<b>Reliability / Consistency</b>	Variable (cell load, signal)	Generally stable	Very stable
<b>Data Allowance / Pricing (typical)</b>	Metered, high \$/GB	Flat rate, moderate \$/GB	Flat rate, low \$/GB
<b>Mobility</b>	Fully mobile	Fixed terminal	Fixed premises

<sup>8</sup> International Telecommunication Union (ITU), *Handbook for the Collection of Administrative Data on Telecommunications/ICT*, 2020

<sup>9</sup> International Telecommunication Union (ITU), *Economic impact of OTTs on national telecommunication/ICT markets*, 2020.

<sup>10</sup> <https://www.bandwidthplace.com/article/speed-comparison-5g-4g-lte-3g>

<sup>11</sup> [https://starlink.com/legal/documents/DOC-1470-99699-90?srsId=AfmBOopOC3MyjFCgNoElvu8wefdzsGP8rsxJV6vTHCSk\\_v-ggCkXS6m](https://starlink.com/legal/documents/DOC-1470-99699-90?srsId=AfmBOopOC3MyjFCgNoElvu8wefdzsGP8rsxJV6vTHCSk_v-ggCkXS6m)

<sup>12</sup> <https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/broadband-research/broadband-speeds/home-broadband-performance-september-2023/march-23-home-broadband-performance.pdf?v=330131>

<sup>13</sup> <https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/telecoms-research/mobile-matters/2024/mobile-matters-2024-report.pdf?v=374995>

Characteristic	4G LTE Mobile Broadband <sup>10</sup>	Fixed Internet – Starlink (LEO) <sup>11</sup>	Fixed Internet – Fiber (FTTP) <sup>12</sup>
<b>Typical Use</b>	On-the-go browsing, social media	Home broadband, streaming, remote work	High-demand home and business use, cloud apps
<b>Network Design</b>	Shared cellular spectrum	Satellite beam coverage	Dedicated fixed access network

36 In our 2022 *Final Bottleneck Facilities Decision*,<sup>14</sup> we determined that internet services provided using copper, mobile or satellite facilities were not effective substitutes for similar services provided using fiber-to-the-premises (**FTTP**) facilities.<sup>15</sup> Since that time, circumstances have changed. Starlink has entered the market with satellite-based internet services that might be effective substitutes in terms of price and quality with FSMTC’s FTTP-based internet services. The consumer experience of fixed internet services (for example, using a computer to access information on the web) might no longer vary based on whether satellite or fiber facilities were used to deliver the services. The nature of the network technology used (i.e. satellite vs. fiber) may therefore be less relevant for the purposes of defining the retail market for fixed internet services than it was in 2022. However, we do not yet have enough evidence to change our 2022 view on this matter, and we do not make a decision on this here.

37 In any event, as noted above, the market for fixed internet services is changing. Starlink has recently begun offering services that may be competitive with FSMTC’s fiber-based fixed internet services, iBoom has been providing limited services in Yap, and additional retail competitors may enter the market in the near future using OAE’s wholesale fiber network services.

38 We are of the preliminary view, therefore, that we should allow the market to continue to evolve and become more competitive, and that we do not need to determine at this time whether there is a DSP in the retail market for fixed internet services.

**Mobile Services**

39 We are of the preliminary view that the retail product market for mobile services should be considered a separate market. We have not yet seen evidence that fixed services are substitutes for mobile services<sup>16</sup> and the two products are therefore not sufficiently interchangeable to be in the same market.

40 As noted above, there is at present only one licensee providing services in that product market on a national basis. Entry into that market has been limited, with only one licensee with limited market share operating exclusively in Yap. We granted a national mobile

<sup>14</sup> *Final Decision on Bottleneck Fiber Optic Communications Facilities*, published on May 9th, 2022.

<sup>15</sup> Paragraph 94.

<sup>16</sup> We reached a similar conclusion at paragraph 94 of our 2022 *Final Bottleneck Facilities Decision*.

spectrum license to a third licensee, iSolutions, in 2024 but they do not appear to have begun to deploy their network, let alone offer services to the public.

- 41 In light of the limited competition available to protect the interests of consumers and users, we are of the preliminary view, therefore, that we should investigate whether there is a DSP in the retail product market for mobile services.

#### **Relevant Geographic Markets**

- 42 In the 2022 *Final Bottleneck Facilities Decision*, we determined that the relevant geographic markets for services enabled by FTTP facilities were “*areas covered by a contiguous FTTP network ... typically a single island, or a group of islands lying in sufficiently close proximity to each other to enable connection to the same network.*” We noted in particular that “*Services provided using terrestrial fiber are inherently local in nature, as services provided on one island or group of islands do not substitute for services provided on another island or group of islands.*”<sup>17</sup>

- 43 We are of the view that the same considerations apply to each of the communications services discussed above. Fixed services, whether voice or internet, are offered at a specific location and, therefore, those that are provided in one State do not substitute for equivalent services provided in another. Further, the fact that a licensee can enter the mobile market in only one State (for example, iBoom in Yap) suggests that the relevant geographic market for mobile services is also a State.

- 44 We are of the preliminary view, therefore, that the relevant geographic markets for each of the communications services discussed above (fixed voice, fixed internet access, and mobile services) is each of the States of the FSM.

#### **Other Markets**

- 45 We do not propose to examine at this time markets for wholesale telecommunications services, that is, services that telecommunications licensees only sell to other licensees. The Act and the Interconnection and Access Rules give us separate regulatory powers that we consider are better suited for those services.

#### **Relevant Information**

- 46 We note that the first of the two standards for dominance in section 302(p) is based on the gross revenues of the providers in the markets. We already collect this information through quarterly reports submitted by licensees.
- 47 The second of the two standards requires consideration of different, more complex types of information. In light of the applicability of the first standard, we do not consider it necessary to pursue the information required for the second standard at this time.

#### **Consequences of a DSP Determination**

- 48 As noted above, the Act gives us certain regulatory powers which we may apply if we determine that there is a DSP operating in a specific telecommunications market. These include:

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<sup>17</sup> Paragraphs 76-77.

- a. the power to approve and require publication of tariffs, in section 346;
  - b. the power to require prices to reflect costs and to require price adjustments where warranted, in section 347;
  - c. the power to require standard terms and conditions of service and to approve any differences, in section 348; and
  - d. the power to impose minimum standards for quality of service, in section 354.
- 49 To be clear, we are not deciding at this time which of these powers we may wish to exercise in relation to a DSP, if there is indeed one. We would decide in a separate regulatory proceeding which of our powers we might need to exercise in any given situation. For example, it may be that, in one market, the interests of consumers would be best protected if quality of service is regulated, while in another market it may be prices that need to be regulated. In any event, we will exercise those powers in a manner that is consistent with the light-touch regulatory approach of the Act.
- 50 Nor does a DSP determination automatically lead to regulation of the DSP. We will be flexible in our approach to ensure the interests of consumers are best protected with the lightest regulation that is appropriate, particularly as circumstances change. For example, if a market becomes more competitive after we determined there was a DSP, we might adopt a wait-and-see approach before choosing to apply any of our regulatory powers.

#### **Consultation questions**

- 51 We provide here the relevant consultation questions for respondents' consideration below. When answering a question, please explain your reasoning in detail.
- a. What are your views on the current and likely future state of competition in communications markets in the FSM?
  - b. Do you agree we should investigate whether there are DSPs in one or more communications markets in the FSM?
  - c. Do you agree with our proposal to define three retail communications product markets (fixed voice, fixed Internet access, and mobile)?
  - d. Do you agree with our proposal to define four State-based geographic markets for each of the relevant retail product markets?
  - e. Do you agree with our proposal not to examine the fixed voice or the fixed internet markets at this time?
  - f. Do you agree with our proposal not to examine wholesale markets at this time?
  - g. In your view, are there one or more DSPs in any of those three retail communications markets? If so, please provide a detailed explanation for your views and any available evidence.

- Annex**
- 1 Attachment 1: Comments form

## Attachment 1 - Comments Form



### Feedback on Consultation Paper: Dominant Service Provider Determinations

#### Information of commenting party

Full name	
Organization	
Phone number	
Email	
Is confidential information being submitted?	Y/N (Specify below)

#### Comments

	Comment	Proposed changes	Confidentiality <sup>18</sup>
<i>Paragraph Number or Section of Consultation Document, or Consultation Question, that Comment Pertains To</i>	<i>Please describe comments on specific section or question. Please be as detailed as possible and explain why you hold your views and what the potential impact of the Authority's proposed declaration would be</i>	<i>Please suggest an alternative to the proposed declaration (if applicable)</i>	<i>If confidential, please explain reasons for confidentiality request</i>
<i>(Insert rows as needed)</i>			

Please complete this form in full and submit to [consultations@tra.fm](mailto:consultations@tra.fm) or in person before **December 5, 2025** to:

Takuro Akinaga  
 Chief Executive  
 FSM Telecommunication Regulatory Authority  
 KSP Building, 2<sup>nd</sup> Floor  
 Main Street, Kolonia  
 Pohnpei FM 96941, Federated States of Micronesia

<sup>18</sup> Confidentiality requests are managed under the rules set out in Section 322 of the Telecommunications Act. Respondents should clearly mark which information is claimed as being confidential and should provide reasons of what commercial harm will result should the information be published. Respondents who make a request for confidentiality should also provide a redacted copy of their submission, with all confidential information removed, that the TRA may publish.