

MALLESONS STEPHEN JAQUES

Private & Confidential

Ms Shara Evans
Chief Executive Officer
Market Clarity Pty Ltd
Suite 407
83 York Street
SYDNEY NSW 2000

9 July 2008

Dear Shara

ACCC's Draft Part XIC Procedural Rules 2008 - Declarations of Accuracy and Completeness

1 Introduction

We refer to the draft *Part XIC Procedural Rules 2008* ("**Draft Rules**"), released for consultation by the Australian Competition and Consumer Commission ("**ACCC**") on 27 May 2008.

We would be grateful if you could prepare a report for Telstra Corporation Limited ("**Telstra**") relating to the workability of rule 11 of the Draft Rules, which would require any document provided to the ACCC in a "Part XIC process" to be accompanied by a declaration that "the information contained in the document is accurate and complete" The term "Part XIC process" is defined to include, for example, the ACCC's consideration of an exemption application or access undertaking, or the resolution of an access dispute.

The scope of your brief is set out in section 3 ("**Instructions**") below. This letter sets out the terms of your retainer. Please contact us if you have any questions in relation to your retainer or the scope of your brief.

2 Background

Section 152ELA of the *Trade Practices Act 1974* ("**the Act**") empowers the ACCC to make Procedural Rules dealing with the ACCC's practice and procedure in performing its functions and exercising its powers under Part XIC. Several other provisions within that Part also empower the ACCC to make Procedural Rules dealing with specific matters.

Rule 3 of the ACCC's Draft Rules states that the object of the Procedural Rules is "to promote timeliness and certainty in decision-making in the exercise of the Commission's functions and powers under Part XIC" This is broadly consistent with the Explanatory Memorandum to the Bill by which section 152ELA was inserted into the Act.

3 Documentation

The documents listed below are enclosed with this letter:

- the Draft Rules, draft explanatory statement and associated discussion paper released by the ACCC on 27 May 2008.

4 Instructions

You are instructed to consider these documents and prepare a report setting out your views as to what would be the likely practical consequences for the ACCC, telecommunications carriers and carriage service providers (including their employees) participating in processes of the ACCC under Part XIC, and the experts or other consultants those participants might engage, if rule 11 of the Draft Rules were made in its present form.

Your report should be suitable for presentation to the ACCC.

5 Independence and Expertise

The views expressed in your report should be (and be seen to be) independent, and they should be based on your expertise.

To give you a sense of what we expect in this regard, we enclose, in addition to the documents listed above, a copy of the Federal Court's practice direction, "Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia". This is not intended to suggest that we will be asking you to appear as a witness in any court proceedings, but only to further describe the type of report that we are seeking.

6 Confidentiality

This brief and any information or documents that Telstra provides to you in relation to this matter (other than those already in the public domain) are confidential information belonging to Telstra. By accepting this retainer you agree:

- (a) to use Telstra's confidential information only for the purpose of this retainer;
- (b) not to disclose Telstra's confidential information to anyone without Telstra's written consent; and
- (c) if requested by Telstra, to destroy or return to Telstra all records containing Telstra's confidential information.

7 Your Fees

We will be responsible for payment of your fees. Please send your accounts to us.

8 Correspondence

To ensure that your work attracts legal professional privilege, please direct all correspondence in this matter to the writer. His details are set out below.

If you wish to speak with a representative of Telstra or any other person acting for Telstra regarding this matter, please let us know and we will make arrangements for this to take place.

9 Presentation of Your Report

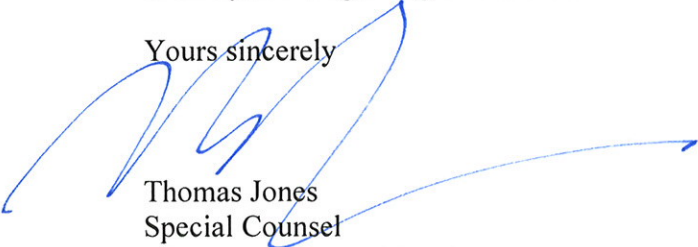
Please include the following with your report:

- (a) a copy of your curriculum vitae including qualifications, experience in the field and any publications;
- (b) our instructions to you; and
- (c) key facts or assumptions upon which you rely in preparing your report.

Please address your report to Mallesons Stephen Jaques.

Thank you for agreeing to assist us.

Yours sincerely



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