

TELSTRA CORPORATION LIMITED

Fixed Line Services Review: Response to the Commission's Draft Report on the Declaration Inquiry

Public version

14 February 2014

Contents

Executive Summary	3
1 Structure of submission	7
2 Regulation of wholesale services over the NBN	8
2.1. Technical differences revisited	8
2.2. It is in the LTIE for the resale service descriptions to only apply to the PSTN	9
3 LCS and WLR	10
3.1. Supply should not be regulated in CBD Areas	11
4 PSTN OA and PSTN TA	16
5 ULLS and LSS	17
5.1. Proposed amendments to the service descriptions	17
6 Other issues	18
6.1. Facilities access	18
6.2. HFC	19
6.3. Wholesale BDSL	19
7 Length of declaration	19
Appendix 1: Telstra's proposed amendments to the service descriptions for WLR, LCS and PSTN OA	20
Appendix 2: The alternative approach – Telstra's proposed amendments to the Commission's proposed service descriptions for WLR, LCS and PSTN OA	28
Appendix 3: Dr Paul Paterson's expert report	30

Executive Summary

Telstra welcomes the opportunity to respond to the Australian Competition and Consumer Commission's **(Commission)** *Fixed Services Review – Declaration Inquiry, Public inquiry into the fixed line services declarations Draft Report, December 2013 (Draft Report)*.

Telstra has built and maintains the copper network so Telstra can provide a range of telecommunications services to millions of customers and end users across Australia. Telstra's approach to the Declaration Inquiry and the broader Fixed Line Services Review (**FSR**) is to promote an environment of regulatory certainty and stability that is conducive to the innovation, investment and service necessary to meet the needs of Telstra customers and end users more broadly.

In this context, Telstra considers that the Declaration Inquiry should focus on three key issues:

- providing service providers with a stable regulatory platform – enabling them to make the necessary investments to support the products and services needed to meet the evolving needs of end-users;
- ensuring a smooth transition to the NBN; and
- minimising uncertainty and regulatory risk.

Taking these considerations into account, Telstra agrees with the Commission's draft decision to re-declare the fixed line services in question – ULLS, LSS, WLR, LCS, PSTN OA and PSTN TA¹ – for a period of five years. A five year period should provide service providers with the stability and certainty. This will benefit end-users, as service providers will be able to continue to access the services that underpin their current products as well as being able to invest to meet the evolving needs of end-users. The long term interests of end-users (**LTIE**), i.e. the interests of customers, should rightly be a key consideration of the Commission's in reaching its final decision in this Declaration Inquiry and Telstra's response (as set out in this submission) is aimed at promoting those interests.

Together, the current fixed line declared services arrangements have provided a platform for increased competition in markets for the supply of services over the legacy PSTN. The current market outcomes with respect to fixed line services supplied over the PSTN, particularly in areas that are subject to intensive competition via direct access services (principally CBD and metropolitan areas), indicate substantive changes to the declarations (or the addition of new declared services) are not warranted at this time and would not be in the LTIE.

NBN and IP-based services

Telstra welcomes the Commission's draft decision to exclude NBN based services from the scope of declaration. This decision is appropriate because it recognises the fundamentally different means by which voice services are delivered over the NBN and the shift of the enduring access bottleneck from Telstra's PSTN to NBN's access service.

Given the need for certainty and stability the Commission should however make certain minor changes to the proposed service descriptions to better clarify that the scope of the declarations of WLR, LCS and PSTN Pre-Select OA apply in respect of the legacy PSTN network only. That is, in addition to the carve out for NBN-based services, Telstra believes it would be helpful to clarify that these declared services are not intended to apply where similar services are supplied over non-NBN IP networks (which may or may not be substitutes for the declared legacy PSTN service). These changes are set out in Appendix 1.

¹ Unconditioned Local Loop Service (**ULLS**); Line Sharing Service (**LLS**); Wholesale Line Rental (**WLR**); Local Carriage Service (**LCS**); Public Switched Telephone Network Originating Access (**PSTN OA**); and Public Switched Telephone Network Terminating Access (**PSTN TA**).

ULLS and LSS service descriptions

With respect to the ULLS and the LSS, Telstra recognises and agrees with the Commission's objective of aligning the service descriptions. However, Telstra recommends that the Commission makes changes to the ULLS service description rather than the LSS service description to achieve this alignment because this would better reflect the characteristics of Telstra's network. To aid the Commission, Telstra has proposed appropriate amendments to the relevant service descriptions.

Proposed removal of CBD exemptions

Telstra is disappointed by the Commission's proposal to revoke the longstanding CBD exemptions for WLR and LCS, despite extensive and compelling evidence that competition in CBD Exchange Service Areas (**ESAs**) is effective. This decision is in stark contrast to the Commission's long standing approach of regulatory forbearance in areas with effective competition and is not in the LTIE.

The Commission has erred by inferring that a commercial WLR price higher than the regulated price is an indication that there is a competition problem in the CBD ESAs. The Commission then points to a perceived high demand for voice only services in the CBDs and a perceived lack of substitutes as supporting the supposed competition problem. However, the Commission's conclusion that there is a competition problem in the CBD ESAs is contradicted by the extensive evidence that Telstra has previously provided. This shows significant and growing levels of ULLS-based and fibre-based competition in CBD ESAs. Furthermore, the number of WLR services in operation (**SIOs**) in the CBD ESAs continues to decrease, which is evidence that the market is functioning effectively. Given the weight of this evidence, the potential adverse impacts on those who have invested in competing infrastructure and the benefits that have flowed to end-users from the availability of a wide choice of providers and hence differentiated products, Telstra questions why the Commission is proposing the revocation of the exemptions at this time.

In particular, it appears that the Commission has given insufficient consideration and weight to the presence of alternatives on fibre. The data that the Commission relies upon appears to be derived from the CAN RKR, which provides only a partial snapshot of the services that are available. Given the presence of extensive fibre infrastructure in the CBD ESAs – an average of 8.4 fibre providers in each ESA – the Commission cannot discount the alternatives that can be (and are being) delivered by that medium.

In any case, the Commission appears to have misinterpreted the data regarding the number of voice only SIOs. The true extent of "voice only" is better proxied by the number of "voice only" premises, which is significantly lower than the number of voice only SIOs. Reliance on this latter figure, which in any case, is extracted from Telstra's CAN RKR and hence does not include alternative, fibre networks, risks significant regulatory error.

Telstra also questions the benefits that the Commission believes will arise if the exemptions in the CBD ESAs are revoked. For example, Telstra's competitors operate nationally and contrary to the Commission's views, a lower regulated price for resale services in the CBD ESAs is unlikely to have a significant impact on competitors' ability to compete for customers because WLR SIOs make up an insignificant proportion of total voice services. Furthermore, the Commission's assessment of this supposed benefit does not appear to have been set against the potential detrimental effect of less product innovation and differentiation if access seekers increase their reliance on Telstra's resale services.

Telstra has commissioned an independent expert report by Dr Paul Paterson (attached as Appendix 3), assessing the Commission's analysis and conclusions with respect to the revocation of the exemptions. Dr Paterson concludes that the case for regulation is not apparent because:

- Limits to supply and demand substitution for the WLR and downstream voice-only services identified by the ACCC and Frontier Economics are, in fact, unlikely to be material. To the contrary, suitable alternatives exist;

-
- There is not sufficient evidence that access seekers are disadvantaged by commercial WLR and LCS prices in CBD areas, given the availability of economic substitutes for the WLR and LCS services;
 - Despite the commercial WLR and LCS pricing being higher than the regulated pricing for these services, this is not necessarily indicative of limited competition and Telstra's market behaviour is not consistent with an environment in which Telstra is unconstrained by any supply and demand substitutes for WLR and LCS;
 - Retail prices are not likely to be inflated by commercial WLR and LCS pricing;
 - Infrastructure efficiency is unlikely to be compromised; and
 - Even though the wholesale prices for the WLR and LCS would be reduced as a result of revoking the CBD exemptions, this would likely be accompanied by a reduction in service innovation and access seeker choice of wholesale supplier of voice-only services.

Accordingly, it remains Telstra's view that the Commission should maintain the long-established carve out of WLR/LCS services in the 16 CBD ESAs. The unique demographic and demand qualities exhibited in the CBD areas has not only driven intense competition in markets for the supply of voice and broadband services via the use of ULLS and LSS, but has also supported competition via a number of alternative fibre-based access networks.² The Commission should re-examine this clear evidence before deciding whether to revoke the exemptions.

Interconnection

Telstra considers the Commission's proposal to maintain the longstanding CCS#7/TDM interconnection protocols for voice interconnection in the context of the current FSR is appropriate and in the LTIE. The industry needs time over the next three to five years to develop and implement a robust set of new standards which could be used for IP-based voice interconnection in the future. Any regulatory intervention at this time would be premature and risk creating an unnecessary distraction for any future working party tasked with undertaking this development. In any event, the current fixed line voice interconnection services have proven sufficiently robust and flexible to support a wide range of carriers, including carriers utilising IP-based networks for the provision of voice services. Nevertheless, should the Commission consider it appropriate to consider issues regarding the availability of IP-based voice interconnection in the future, Telstra will provide input at that time.

Telstra is concerned by the Commission's proposal to remove from the PSTN OA and PSTN TA service descriptions long standing provisions that relate to the key technical and operational parameters for implementing current interconnection arrangements that have applied since 1997. Removing those terms from the service descriptions is not a step that has been advocated by industry participants and it is unnecessary. Given the developments that are likely to take place during the next five years, including around IP interconnection, the next review will likely be the most appropriate time to consider substantive changes to the PSTN OA and PSTN TA service descriptions.

Facilities access, HFC and BDSL

Telstra notes that the Commission is giving further consideration to whether to commence an inquiry into the declaration of facilities access services. Telstra reiterates its belief that the existing regulatory regime pertaining to facilities access is working well and that there is no need for the services to be declared. In any case, Telstra agrees with the Commission that the question of declaration of facilities access should not be addressed as part of the current FSR. To attempt to widen the scope of the FSR would risk delaying that process, which would not be in the interests of service providers or end-users. Notwithstanding Telstra's views that declaration of facilities access is not required, if the Commission

² Infrastructure RKR data for September 2013 shows an average of over 8 fibre owners within CBD ESAs (compared with under 4 in Band 2 ESAs where 2 or more fibre owners are present).

does decide to commence a declaration inquiry into those services, Telstra will provide input to that inquiry at the appropriate time. Telstra will, of course, also respond to the Commission's FAD inquiry on which services should be regulated as ancillary to the declared services.

As to the other issues raised by the Commission, Telstra agrees that the Commission's approach to HFC is reasonable. It would be premature for the Commission to commence a declaration inquiry into the HFC at this time and in any case widening the scope of the FSR would not be in the interests of service providers or end-users. With respect to BDSL, this issue is not directly relevant to the FSR declaration inquiry, and as such should not be dealt with in this process. Telstra expects the opportunity to provide input to the relevant process should the Commission decide to conduct a separate inquiry into BDSL, or indeed any other services, in the future.

1 Structure of submission

The remainder of this submission is structured as follows:

Section 2: Consideration of regulation of wholesale services over the NBN. Section 2 concludes that the Commission's approach not to regulate voice services provided over the NBN is in the LTIE, although Telstra believes that this decision can be effected in the relevant service descriptions in a more targeted manner and has provided suggested amendments to those service descriptions;

Section 3: Regulation of LCS and WLR services. Section 3 concludes that the LCS and WLR should not be regulated in CBD areas;

Section 4: Regulation of PSTN OA and PSTN TA services. Section 4 concludes that the Commission's approach, that the PSTN pre-select / override obligation should only apply in respect of the PSTN (and the service description should be amended accordingly) and that the current interconnect arrangements should not be extended to encompass IP-IP interconnection, is in the LTIE;

Section 5: Regulation of ULLS and LSS. Section 5 concludes that declaration of the ULLS and LSS for the next regulatory period, and their existing service descriptions, are appropriate;

Section 6: Regulation of facilities access. Section 6 concludes that the Commission has taken the appropriate path of considering the question of declaring facilities access separately to the current inquiry. Telstra remains of the view that facilities access is well regulated by legislative and industry mechanisms, thus declaration under Part XIC of the *Competition and Consumer Act 2010* (CCA) is neither necessary nor appropriate; and

Section 7: Length of declaration. Section 7 concludes that a declaration period of 5 years is appropriate.

This submission is also supported by an independent expert report prepared by Dr Paul Paterson (Appendix 3).

2 Regulation of wholesale services over the NBN

Telstra welcomes the Commission's proposal to exempt resale services (WLR, LCS and PSTN OA (pre-selection and override)) from regulation when supplied over NBN. Regulation of these resale services is most appropriately targeted at the legacy PSTN, not the NBN. The network architectures of the PSTN and the NBN are different – the PSTN is a voice network which has been adapted to carry data, whereas the NBN is a data network which can support voice applications. As such, a different approach to regulation is required.

Nevertheless, Telstra recommends that the Commission should reconsider the way it proposes to exempt NBN-based supply. This is because carving out resale services over the NBN from the relevant service descriptions only goes part of the way to creating the stable regulatory platform required by both access providers and access seekers because it focuses specifically on the NBN rather than on all next generation networks (**NGNs**). Telstra believes that there are two options open to the Commission:

1. To adopt the amendments to the service descriptions that were proposed by Telstra in its September submission, which are repeated in Appendix 1; or
2. To explicitly carve out resale services over the NBN – Telstra has proposed amended wording that would achieve such an aim and those amendments are set out in Appendix 2.

Telstra strongly believes that the first option would be preferable because it would ensure that the regulation is appropriately targeted at the legacy PSTN. The second option may, however, have unintended consequences by including other NGNs within the scope of the declarations, hence potentially stifling competition, innovation and investment.

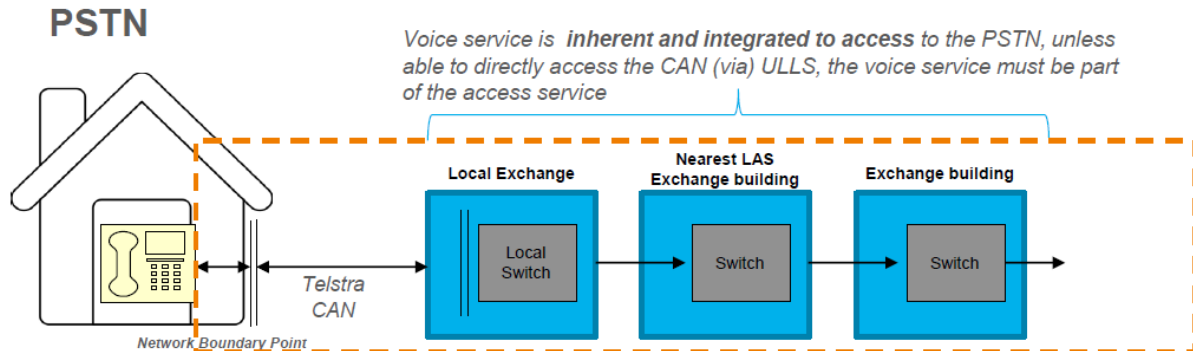
2.1. Technical differences revisited

Telstra's initial submission³ outlined the key differences between the PSTN and NGN networks. The diagrams below illustrate the differences in network architecture between Telstra's PSTN and a major NGN network – the NBN.

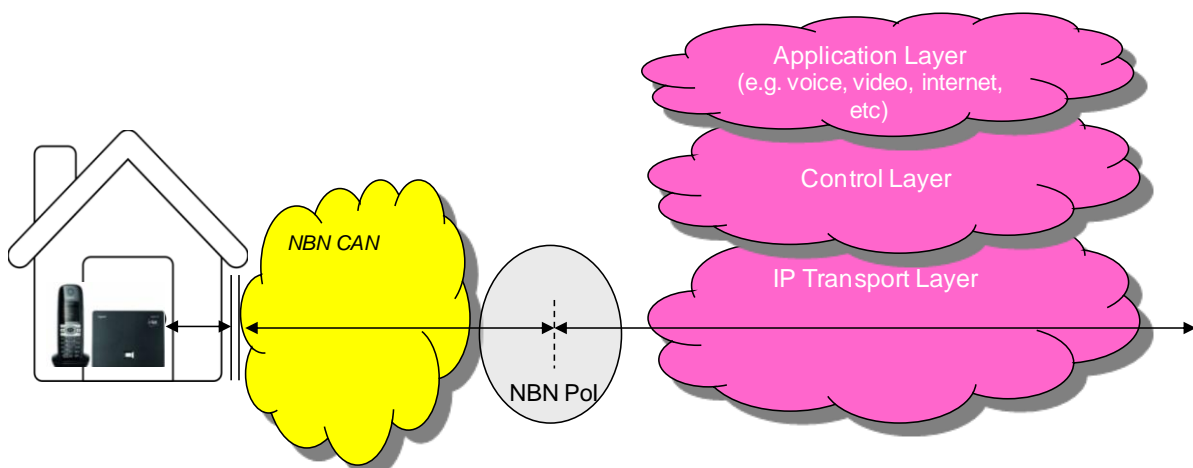
On the PSTN, an access seeker must use the ULLS to connect at the MDF of an exchange in order to bypass Telstra's voice switching infrastructure. This is because the access service (WLR) is inherently integrated with Telstra's voice service. Access seekers that interconnect with Telstra and acquire PSTN OA (pre-select) are able to bypass parts of the Telstra voice service (e.g. long distance calls), but they are fundamentally tied to the underlying Telstra voice service.

The link between the voice service and the underlying access service is a technical feature of the PSTN, with no physical separation between the switching of traffic through the network and the provision of the voice service. Both of these activities are carried out within the PSTN switch infrastructure as demonstrated by Figure 1 below.

³ Telstra Corporation Limited, *Fixed Services Review: Submission in Response to the Commission's Discussion Paper on the Declaration Inquiry*, September 2013.

Figure 1: PSTN network

In contrast, in IP networks (including the NBN and the IP core networks that Telstra and other RSPs will use to supply NBN-based services) the transport of data packets is carried out through infrastructure (the so called 'transport layer') that is separate to the infrastructure used to enable services to end-users. This is demonstrated by Figure 2 below.

Figure 2: NBN/IP network

Figures 1 and 2 above deliberately avoid naming the physical medium on which the CAN exists. This is because both PSTN and IP-based voice services can be, and are today, delivered over either copper or fibre infrastructure.

2.2. Resale service descriptions should apply only to the PSTN

As previously outlined, when the WLR and LCS services were first declared, they were appropriately targeted to an enduring bottleneck on the PSTN. At that time the widespread availability of alternative network access services was a long way off. While it could be argued that the WLR and LCS service descriptions we have today are already PSTN specific due to this history, there have been, and continue to be developments made to the range of network access services available which blur the lines between what is declared and what is not.

Telstra believes the Commission should use the opportunity of the current Declaration Inquiry to provide greater regulatory certainty around voice resale services by adopting Telstra's suggested changes to the service descriptions for WLR, LCS and PSTN OA. Those amendments were aimed at ensuring that the

service descriptions were appropriately targeted to the legacy PSTN and did not capture other, IP-based services.⁴

Instead, the Commission has proposed maintaining the existing service descriptions with the addition of an exemption that carves out services that are supplied specifically over a “*Layer 2 bitstream service that is supplied by an NBN corporation*”.⁵ Whilst this approach explicitly excludes NBN supply, Telstra suggests some further clarity would provide greater certainty in the context of the rapidly changing competitive environment where IP-based voice services are being provided across multiple access networks in addition to the NBN.

In Telstra's view, the pre-existing definition of “public switched telephone network” was intended in any event to be limited to the legacy PSTN. Further minor changes as proposed would address any residual uncertainty regarding the regulatory status of existing carrier grade voice services (such as iiNet business voice, AAPT SIP trunks, Telstra TIPT, Optus Evolve voice etc). It would also address uncertainty for future services supplied over alternative IP access technologies – such as TPG's fibre to the basement.

While the Commission may consider that these innovative services have been developed despite the current service descriptions, by taking steps to explicitly carve out services delivered over one NGN (the NBN), this brings the issue to the fore and begs the question of why the Commission's approach is not consistent across *all* NGNs. It would not be in the LTIE for innovation and investment to be stifled because of a lack of clarity around whether the regulation that applies to the legacy PSTN also applies to some, but not all, NGNs.

Given these concerns, Telstra recommends that the Commission should re-consider the approach by which the service descriptions apply the exemptions, and provides suggested wording in Appendix 1. These service descriptions were proposed by Telstra in its September 2013 submission⁶ and are designed to specifically target the regulation to the legacy PSTN.

Notwithstanding Telstra's strong preference for the Commission to adopt its proposed amendments to the service descriptions, if the Commission does wish to retain its approach of specifically carving out NBN resale services only, then Telstra recommends that the Commission should amend its proposed wording. As it stands, the current proposed wording (set out in Appendices C, D and E of the Draft Report) continues to reference the PSTN, which Telstra believes is incorrect. As such, Telstra has proposed alternative wording, which it believes would better achieve the Commission's aim of carving out resale services provided over the NBN – that wording is set out in Appendix 2.

3 LCS and WLR

Telstra considers that the LTIE are best served when regulated resale services and other ‘lower-rung’ access services are only declared where direct access services (notably the ULLS) are not able to provide effective competition in the supply of fixed line voice (and other) services.⁷ The Commission itself has previously expressed the same views, most notably in 2008 during its consideration of the metropolitan exemptions for WLR and LCS, when it stated:

⁴ For the avoidance of doubt, the amendments proposed by Telstra do capture Telstra's Velocity estates and its South Brisbane network. Although these services are delivered over fibre rather than copper, they are still PSTN services.

⁵ Australian Competition and Consumer Commission, *Fixed Services Review – Declaration Inquiry, Public inquiry into the fixed line services declarations, Draft Report*, December 2013.

⁶ Telstra Corporation Limited, September 2013, Appendix 7.

⁷ Telstra Corporation Limited, *Fixed Services Review: Submission in response to the Commission's Discussion Paper on the Declaration Inquiry*, September 2013, p30.

...the ACCC believes that ULLS-based competition encourages competitors to compete on greater dimensions of supply, such as price and quality, which allows them to dynamically innovate their services and leads to more sustainable competition.⁸

These views are of even greater relevance in the current considerations, given the evident levels of both ULLS-based and fibre-based competition. Any re-declaration of LCS and WLR should be limited to areas where there is an essential bottleneck facility to be regulated and to do otherwise is contrary to the LTIE.

This requires careful consideration of infrastructure-based competition and other substitutes that provide effective competition in particular geographic regions. In Telstra's view, it is in the LTIE that any regulation of WLR and LCS should continue to exclude the CBD ESAs of Sydney, Melbourne, Brisbane, Adelaide and Perth (**CBD ESAs**). Telstra is disappointed by the Commission's draft decision to revoke those exemptions, despite compelling evidence that competition in those ESAs is effective. It is not apparent to Telstra that in reaching its draft decision the Commission has taken full account of all of the evidence that has been presented to it. Nor has the Commission (in contrast to its approach in 2008) given the same weight to the consideration of the world where the CBD exemptions are maintained versus the world where the exemptions are removed.

Telstra has commissioned an expert report from Dr Paul Paterson, which assesses the Commission's approach to the evaluation of the CBD exemptions and the conclusions flowing from that approach. Dr Paterson's report is attached as Appendix 3.

3.1. Supply should not be regulated in CBD Areas

Telstra disagrees with the Commission's draft decision to revoke the WLR and LCS exemptions in the CBD ESAs. This draft decision is particularly surprising given that LCS has been exempt from regulation in the CBDs since 2002 and WLR in CBDs has never been regulated, having been exempt since WLR was first declared in 2006. During this period of regulatory forbearance, the CBD ESAs have continued to develop into the most competitive areas in Australia, with high levels of infrastructure competition delivering significant benefits to end-users.

Thriving competition has been demonstrated in Telstra's previous submissions,⁹ which showed an average of [c-i-c begins] [c-i-c] [c-i-c ends] DSLAM based competitors in each of the CBD ESAs and an average of over eight fibre-based providers in the same ESAs. Furthermore, Telstra's retail market share in the CBD ESAs is lower than nationally, reflecting the competitive environment that Telstra faces in those ESAs.

Telstra notes that in reaching its draft decision, the Commission has acknowledged that service levels and line blockers – such as RIMs – do not impact the availability of the ULLS in the CBD ESAs. Telstra agrees with this view, given that Telstra offers better service levels for the ULLS than the WLR in the CBD ESAs and that only around [c-i-c begins] [c-i-c] [c-i-c ends] of services in those ESAs are connected via RIMs.

These two factors were relevant in the Commission's December 2011 decision to remove the metropolitan area exemptions,¹⁰ but given that they are not relevant in the CBD ESAs, it appears that the

⁸ Australian Competition and Consumer Commission, *Telstra's local carriage service and wholesale line rental exemption applications, Final Decision and Class Exemption*, August 2008, pp113-114.

⁹ Telstra Corporation Limited, *Fixed Services Review: Submission in response to the Commission's Discussion Paper on the Declaration Inquiry*, September 2013, Section 4.2 and Appendix 2.

Telstra Corporation Limited, *Fixed Services Review: Response to other parties' submissions to the Commission's Discussion Paper on the Declaration Inquiry and Response to the Commission's request for market information dated 9 October 2013*, October 2013, Section 3.

Telstra Corporation Limited, letter to Mr Michael Cosgrave, November 2013.

¹⁰ Australian Competition and Consumer Commission, *Inquiry into varying the exemption provisions in the final access determinations for the WLR, LCS and PSTN OA services, Final Report*, December 2011.

Commission's draft decision is primarily driven by the fact that the commercial price of a WLR service¹¹ in the CBD ESAs is above that in other ESAs.

The Commission appears to believe that for competition to be effective, the commercial price of the WLR should be driven down to at least the regulated price (if not a cost-based price). However, the Commission does not appear to have considered that a plausible alternative scenario is the erosion of market share. Telstra has presented evidence to the Commission that the number of WLR SIOs in the CBD ESAs has declined (and continues to do so).¹²

In his expert report, Dr Paterson also concludes that despite the commercial WLR and LCS pricing being higher than the regulated pricing for these services, this is not necessarily indicative of limited competition and Telstra's market behaviour is not consistent with an environment in which Telstra is nationally unconstrained by any supply and demand substitutes for WLR and LCS.

Telstra acknowledges that the price of WLR in CBD ESAs – at \$31.77 for business lines and \$27.60 for residential lines – is above the regulated rate of \$22.84, but disagrees this has had the negative impact upon end-users that the Commission has inferred or that revoking the exemptions would result in greater or more vigorous competition. The Commission summarises its reasoning as follows:

*The ACCC considers that the removal of the CBD exemptions will provide end-users with additional choices in terms of service provider and increased competition in retail service dimensions. Access seekers will be able to compete more effectively with Telstra to offer competitively-priced products to end-users.*¹³

As noted above and in Telstra's previous submissions, end-users in the CBD ESAs already have significant choice in terms of service providers and there are already higher levels of competition in those ESAs through the sheer scale of infrastructure competition. Telstra has previously presented facts to the Commission that support this – in the CBD ESAs, access seekers have installed more interconnect pairs than there are SIOs and Telstra's retail market share in those ESAs is lower than elsewhere in Australia – but Telstra is concerned that the Commission may have misconstrued some of the evidence that has been presented to it.

Most notably, Telstra is concerned that by focussing on those services provided using Telstra's CAN, the Commission has failed to understand the true extent of competition that already exists. Telstra made this point in its September submission, where it stated *"...the significant presence of alternative, fibre-based networks within CBD ESAs means that these data understate the true size of the addressable market – particularly for those service providers operating their own network infrastructure."*¹⁴

Telstra notes the Commission's view that *"voice services provided over alternative HFC and fibre networks are unable to provide significant competitive constraint in the national market for fixed voice services. These networks are often geographically limited, and, particularly in the case of the HFC networks, are not configured to provide wholesale access services."*¹⁵ While this view may be valid when looked at from the perspective of the national markets, which are the subject of the current declaration inquiry, this is not a valid approach when considering the exemptions in the CBD ESAs.

The alternative fibre networks that the Commission appears to have in mind are those that are generally found in business parks or discrete residential areas.¹⁶ However, such areas are very different from the CBD ESAs, which are characterised by the presence of *multiple* alternative fibre networks, as opposed to the single network that is more commonly found in other, discrete areas. End users in the CBD ESAs – who are more likely to be business customers and who have more SIOs per address – are far more

¹¹ For ease of reference Telstra has referred to the 'WLR service' but its arguments throughout this section are equally applicable to the LCS.

¹² Telstra, letter to Mr Michael Cosgrave, November 2013.

¹³ ACCC, December 2013, p58.

¹⁴ Telstra Corporation Limited, September 2013, pp33-34.

¹⁵ ACCC, December 2013, p54.

¹⁶ ACCC, December 2013, p21.

likely to demand innovative products that will reduce their cost base and such products are more likely to be developed by providers using alternative infrastructure, rather than Telstra resale services.

The Commission cannot, therefore, simply assume that fibre-based networks do not offer products that are effective substitutes for the WLR. Indeed, the Commission's view is contradicted by at least one provider, whose website comments that its SIP product *"is an efficient and cost effective IP voice-based alternative to ISDN and PSTN products."*¹⁷

Telstra is concerned that the Commission may not be exercising sufficient caution in drawing conclusions regarding the level of competition in the CBD ESAs when it is clear that those conclusions are based upon only a partial view of the addressable market. Telstra reiterates that the Commission's own data shows that there is a *minimum* of six fibre providers in each of the CBD ESAs, hence it is likely that a significant number of voice services are provided over those alternative networks and that those networks – at least in the context of the CBD ESAs – do provide a competitive constraint on Telstra. Dr Paterson concurs with this view, stating that it is highly likely that substitutable voice-only services are being provided on the fibre networks and recommending that the Commission should consider this prospect in its analysis. Importantly, the existence of CBD exemptions has not in any way prevented the rapid development and rollout of these alternative competitive offerings for customers.

In addition to the competitive constraint provided by alternative fibre networks, the Commission appears to have underestimated the constraint imposed by the presence of significant levels of DSLAM-based competition. Telstra notes the Commission's statement that *"...voice services supplied using access seeker DSLAM infrastructure and fibre infrastructure are not fully substitutable for voice services supplied using the WLR service."*¹⁸ It is not apparent how this conclusion fits with the evidence cited in Telstra's September submission that the number of ULLS SIOs has grown significantly in the CBD ESAs and, as also noted by Dr Paterson in his expert report, significantly overshadows the number of WLR SIOs (which have declined by [c-i-c begins] [c-i-c] [c-i-c ends] since September 2007).

Moreover, the evidence presented by Telstra¹⁹ shows that between June 2012 and June 2013:

- [c-i-c begins] [c-i-c] [c-i-c ends] WLR services were lost in CBD ESAs;
- the number of ULLS services grew by [c-i-c begins] [c-i-c] [c-i-c ends]; and
- the number of Telstra Retail voice services fell by [c-i-c begins] [c-i-c] [c-i-c ends].

While it is difficult to draw definitive conclusions from these figures, the reduction of over [c-i-c begins] [c-i-c] [c-i-c ends] SIOs (WLR plus Telstra Retail) is likely to be at least partially reflected in the increase in the ULLS SIOs. This implies that competitors are providing products that are substitutable for Telstra's Basic Access service. The Commission must at least then consider that at least some of the remaining gap of approximately [c-i-c begins] [c-i-c] [c-i-c ends] SIOs have in fact churned to alternative networks. As already stated, it is not apparent to Telstra that the Commission's conclusions with respect to the availability of substitutes are reflected in the evidence of competition that has been presented.

Finally, with respect to the presence of alternative fibre providers in the CBD ESAs, it is not apparent that the Commission has considered the impact of regulation of the WLR upon those networks. This should properly form part of the Commission's "with exemptions" analysis, which (as noted above) does not appear to have been given the same weight as the "without exemptions" analysis. As Telstra has previously noted,²⁰ the continuing growth in the availability of competitive infrastructure has been promoted since 2002 by the absence of regulation and it is incumbent upon the Commission to consider the impact upon the operators of those networks of introducing WLR and LCS regulation after such a sustained period of regulatory forbearance.

¹⁷ <https://aapt.com.au/wholesale/products/sip-focus>

¹⁸ ACCC, December 2013, p66.

¹⁹ Telstra Corporation Limited, October 2013.

²⁰ Telstra Corporation Limited, November 2013.

Voice only data

The Commission also appears to have overstated the significance of voice-only SIOs in the CBD ESAs. The Commission states that, “A significant number of end-users currently purchase voice-only services in the exempt CBD areas. Telstra currently has [c-i-c begins] [c-i-c] [c-i-c ends] voice only SIOs in CBD areas, including [c-i-c begins] [c-i-c] [c-i-c ends] wholesale SIOs.”²¹ However, although the data on “voice only SIOs” relied on by the Commission may suggest limits on substitutability for a significant number of end users, such a conclusion would be an error and based on a incorrect understanding of the underlying data.

A voice only SIO, as defined by the Commission and as sourced from Telstra's CAN RKR, being a PSTN line over which Telstra supplies a PSTN voice service, but does not supply a broadband service, is *not* indicative of the number of end users who only demand a PSTN voice service and no fixed line broadband service.

The presence of voice only SIOs at a service address (premises) may indicate:

- the presence of LSS on the “voice only” line;
- the presence of second (or more) lines over which Telstra supplies ADSL services, or over which LSS-based and or ULLS-based services are supplied;
- the presence of non-PSTN fixed line infrastructure to that premises – such as HFC and fibre services;
- the presence of multiple PSTN voice services; or
- the presence of a single, PSTN voice service.

The Commission's concern with respect to the contestability of “voice only SIOs” only applies to the final category of end-users. The presence of multiple voice and/or broadband services for the other categories of premises/end users clearly provides sufficient return to facilitate ULLS-based and fibre-based competition.

It is therefore important to ensure an accurate assessment of the number of end-users within CBD areas that are likely to *only demand a single PSTN voice service, without any fixed line broadband service*. Telstra considers that service address-level data (data at the premises level) is a more reasonable proxy of end user demand of fixed line services than SIO-level data.

Analysis of the number of *premises* within CBD areas to which only a single PSTN voice service is supplied (without any Telstra-supplied, ULLS-based, LSS-based or Telstra HFC-based broadband service) indicates that only a very small number of premises fit within this category. An analysis of Telstra service address information within CBD areas (set out in figure 3 below) shows that the number of premises with only a single PSTN voice service (and no fixed line broadband service connected) is around [c-i-c begins] [c-i-c] [c-i-c ends] premises. This fewer than [c-i-c begins] [c-i-c] [c-i-c ends] of total Telstra service addresses within CBD and means that only [c-i-c begins] [c-i-c] [c-i-c ends] of “voice only SIOs” in CBD areas are used in the supply of services to a “voice only” end-user,

²¹ ACCC, December 2013, p64.

Figure 3: Voice only premises [c-i-c begins]

[c-i-c]

[c-i-c ends]

The above analysis shows that it is clearly incorrect to use “voice only SIOs” in this context. Given the significant disparity between SIO and premises-level data, there is a very significant risk of regulatory error if the Commission were to rely on SIO-level data.

Furthermore, taking into account the significant presence of alternative fibre infrastructure, which would result in a far greater addressable market than PSTN only data would suggest, the demand for voice only services is likely to be a very small proportion of the total services in the CBDs. Telstra, therefore, strongly recommends that the Commission re-evaluate the emphasis that it has placed upon voice only SIOs in its decision to remove the CBD exemptions.

Impact on customers

Telstra also notes that product differentiation and innovation, which will result in a greater choice for end-users, is more likely to occur when access seekers utilise their own infrastructure and as noted above, this was explicitly recognised by the Commission in 2008. Regulation of the WLR in the CBD ESAs could lead to access seekers placing a greater reliance on Telstra's resale services (a possibility that appears to be contemplated by the Commission)²², which will result in less product differentiation; an outcome that is clearly not in the LTIE.

Dr Paterson agrees with this view, stating that any reduction in the price of the WLR to regulated rates would quite likely be accompanied by a reduction in service innovation and access seeker choice of wholesale supplier of voice only services. It is not apparent to Telstra that the Commission has set these detrimental impacts against any potential benefits that it believes may accrue from lowering the price of the WLR and changing access seekers' incentives to invest in their own infrastructure.

Telstra also believes that the Commission has overstated the likely impact upon competition from any reduction in the price of the WLR. Telstra and its competitors tend to price nationally and it is unlikely – given the low proportion of WLR services that are in the CBD ESAs – that any reduction in the WLR price will flow through to a reduction in voice pricing for end-users.

In addition, Telstra does not agree that a lower WLR price would enable its competitors to better compete in the enterprise and government segments. Telstra agrees that such customers often require whole of business deals, but competitors' reliance upon Telstra resale services to achieve national coverage is more likely to occur *outside* the CBDs. This is because – as noted above and in its previous submissions – there is significant competing infrastructure in the CBDs, which can be (and is) utilised by competitors. Furthermore, Telstra notes that in 2008 the Commission expressed the view that “...granting of the exemptions would have a negligible effect upon competition for the supply of services to corporate and government sector.”²³ Given the substantial growth in infrastructure-based competition since 2008, it is not apparent to Telstra why the Commission's view has changed so significantly.

Further points raised by the Commission are addressed in Dr Paterson's expert report. Most notably, Dr Paterson finds evidence that:

- ULLS-based supply of voice-only services by established access seekers is likely to be economically feasible, and latent market entry considerations are not realistic or relevant in current circumstances;

²² ACCC, December 2013, p69.

²³ ACCC, *Telstra's local carriage service and wholesale line rental exemption applications, Final Decision and Class Exemption*, August 2008, p105.

- end user costs incurred in shifting to IP-based voice and associated services (such as EFTPOS and alarm systems) are unlikely to be prohibitive, and robust solutions are now widely available;
- high wholesale market share is not necessarily indicative of a lack of competition, the claim that there is no externally-functioning wholesale market for WLR is factually incorrect, and high barriers to entry are not relevant in current circumstances (the position of established access seekers is what counts);
- the scope for retail price reductions for voice only services in CBD areas from the revocation of the CBD exemptions is limited for a number of reasons. These include the national pricing approach of Telstra and other major service providers for residential and small business customers. There is also a limited volume of WLR-based services provided to large businesses, and the relative immateriality of the price of WLR-based services for access seekers supplying the full range of telecommunications services to C&G customers, who often want a whole-of-business arrangement with their telecommunications service provider; and
- any productive and allocative efficiency gains from revocation would accrue through differences in access seeker infrastructure investment and use (not to Telstra or end users), and could, at best, be small. No dynamic efficiency gains are anticipated from revocation.

Taking all of the above into account, it is not apparent to Telstra that the Commission has properly considered all of the evidence that is available to it and that the resultant draft decision to revoke the exemptions is in the LTIE. Telstra urges the Commission to review the evidence before it and give appropriate weight to all of the potential impacts of revoking the exemptions, including those that would be detrimental to the LTIE.

4 PSTN OA and PSTN TA

Telstra welcomes the Commission's decision to maintain the longstanding CCS#7/TDM interconnection protocols for voice interconnection in the context of the current FSR. This approach is appropriate and in the LTIE. As a number of submissions²⁴ (including Telstra's) highlight, the industry expects to cooperatively develop and implement a set of standards in the coming three to five years. While this industry negotiation is underway it would be inappropriate for regulatory intervention to occur. In any event, for the present, the current fixed line voice interconnection services have proven sufficiently robust and flexible to support a wide range of carriers, including carriers utilising IP-based networks for the provision of voice services.

Nevertheless, should the Commission decide to consider issues regarding the availability of IP-based voice interconnection in the future. Telstra will provide input at this time – although the need for such an inquiry would need to be assessed with reference to whether or not carriers have been able to conclude satisfactory commercial arrangements once inter-operability arrangements become feasible. Telstra believes there will be strong commercial incentives for appropriate bilateral arrangements to be entered into as the industry evolves to IP over the next 3-5 years.

Telstra notes that the Commission has proposed removing from the PSTN OA and PSTN TA services descriptions a range of provisions that it considers relate to key technical and operational parameters for implementing current interconnection arrangements and hence would be more appropriately included in the Final Access Determinations (**FADs**) for those services. Telstra is surprised and concerned by this approach, because there have been no submissions made that suggest a problem exists with the fact that this technical detail is contained within the current service descriptions. Telstra believes that in the interests of stability it makes sense to refrain from unnecessary changes at this time.

²⁴ Optus, *Submission in response to ACCC Discussion Paper on the Declaration Inquiry*, August 2013, p49 – 50; AAPT, *Submission by AAPT Limited in response to ACCC Fixed Services Review Discussion Paper on the Declaration Inquiry*, August 2013, p29; iiNet, *Fixed Services Review Discussion Paper on the Declaration Inquiry* submission, August 2013, p10.

As described previously,²⁵ the current interconnection arrangements, which are long established and well-understood, involve network technology, technical standards, and specified interworking arrangements and processes in order to support efficient interoperability between networks. The most critical aspect which separates carrier interconnection from best efforts, internet based peering arrangements, is the set of interworking arrangements. The fact that elements of these interworking arrangements are included in the service description is because they are of substantial importance.

The Commission has rightly decided that it would be premature to specify a particular IP-based interconnection protocol at present. The Commission also points out that the existing method of interconnection (using CCS#7 signalling and 2.048Mbit/s switchports) is currently in use between major carriers, including carriers with IP core voice networks. This suggests that existing arrangements are working and that the best approach would be one of stability. A number of Telstra's agreements with its wholesale customers point to the service descriptions and it would be unhelpful to have to amend those agreements simply because this technical detail has been moved to a different location.

Telstra acknowledges that the service description is not usually the most appropriate place for these types of provisions, given the ability to set non-price terms in access determinations. However, as these provisions have set the framework for existing CCS#7/TDM-based interconnection arrangements for the last 17 years, it is important in the interests of industry certainty and stability that these explanatory provisions are retained at least for the next regulatory period. Given the developments that are likely to take place during the next five years, including around IP interconnection, the next review will likely be the most appropriate time to consider substantive changes to the PSTN OA and PSTN TA service descriptions.

5 ULLS and LSS

Telstra agrees with the Commission's draft decision to extend the declaration of the ULLS and the LSS. Telstra further agrees with the Commission's draft decision not to amend the service descriptions for the ULLS and the LSS, to specifically state that the internal interconnect cable (IIC) is a necessary component for the supply of these services. As the Commission notes, it can regulate the IIC through the FADs for the ULLS and the LSS, hence amendments to the relevant services descriptions are unnecessary. Telstra will, of course, provide comments on any proposals relating to the IIC at the appropriate time during the FAD inquiry.

With respect to the question of sub-loop unbundling, Telstra is of the view that it would be premature of the Commission to either amend the ULLS service description to allow for sub-loop unbundling or to separately declare sub-loop unbundling. As such, Telstra agrees with the Commission's view that consideration of this question should be deferred until details of any FTTN implementation have been determined.

5.1. Proposed amendments to the service descriptions

Telstra notes that the Commission has proposed a minor technical amendment to the LSS service description to ensure consistency with the ULLS service description. In particular, the Commission proposes to remove the words 'or aluminium' from the LSS service description because it states that it is not aware of any aluminium use in Telstra's CAN.²⁶

Telstra agrees with the Commission's intention to align the ULLS and LSS service descriptions, however, that aim would be better achieved by amending the ULLS service description. This is because there is aluminium in use in Telstra's CAN – figures from April 2013 indicate that over [c-i-c begins] [c-i-c] [c-i-c ends] services contain pairs which in at least one segment or another are on aluminium cable, including almost [c-i-c begins] [c-i-c] [c-i-c ends] ULLS services and over [c-i-c begins] [c-i-c] [c-i-c

²⁵ Telstra Corporation Limited, September 2013, Appendix 6 – Technical Witness Statement (PSTN OA and TA), p8.

²⁶ ACCC, December 2013, p44.

ends] LSS services. As such, Telstra recommends that the definition of 'communications wire' in the ULLS service description should be amended to be consistent with the current LSS service description:

***communications wire** is a copper or aluminium wire forming part of a public switched telephone network*

Further, the definition of 'voiceband PSTN service' in the LSS service description should largely remain as is:

***voiceband PSTN service** is a service provided by use of a public switched telephone network and delivered by means of the voiceband portion of the frequency spectrum available over a metallic line*

Telstra further notes that these amendments would also ensure consistency with the Wholesale ADSL service description, which refers to the service being provided "over a twisted metallic pair".

Telstra agrees with the Commission's other, minor amendments to the ULLS and LSS service descriptions.

6 Other issues

Telstra notes that the Commission intends to give further consideration to commencing separate inquiries into declaring a number of other services, including facilities access, HFC and wholesale BDSL. As the Commission is aware, if it does decide that declaration of any of these services is warranted, then it must follow the procedure set by section 152AL(3) of the CCA. That section provides that the Commission may declare an eligible service if:

- the Commission has held a public inquiry;
- the Commission has prepared a report about the inquiry;
- the report was published during the 180 day period ending when the declaration was made; and
- the Commission is satisfied that the making of the declaration will promote the LTIE.

In any event, Telstra welcomes the Commission's decision to separate the question of declaring any of these services from the current FSR declaration inquiry. To include the declaration of any of these services in the current FSR process would only risk prolonging that process and not allowing a full consideration of all of the pertinent facts; hence it would be unlikely to be consistent with the statutory criteria. Telstra will, of course, respond in detail to any such declaration inquiry at the appropriate time and has provided preliminary comments below in respect of each of the services.

6.1. Facilities access

Telstra's views with respect to facilities access were set out in detail in its September submission.²⁷ In summary, Telstra believes that any additional regulation of facilities access is unwarranted and would not be in the LTIE. This is because facilities access – including Telstra Equipment Building Access (**TEBA**), ducts access and external interconnect cables (**EIC**) – is already regulated through long established and well understood mechanisms, specifically:

- Parts 3 and 5 of Schedule 1 of the *Telecommunications Act 1997* (Cth) (**Telco Act**). Part 3 of the Telco Act sets out the regime for access to supplementary facilities, which includes exchange buildings. Part 5 of the Telco Act sets out the regime for access to telecommunications towers and underground facilities, which includes ducts access.
- The Facilities Access Code (**Code**), which was established in 1999 to govern how access to certain telecommunications facilities owned by telecommunications carriers (including mobile

²⁷ Telstra Corporation Limited, September 2013, Section 7.

towers and underground ducts) is provided to other carriers seeking to install their equipment on or in those facilities. The Code was updated – after consultation with industry – in 2013 and its provisions do generally form the basis for negotiations around access to the relevant facilities.

- Telstra's Structural Separation Undertaking (**SSU**) imposes further equivalence requirements upon Telstra with respect to exchange capping and the management of queues to access exchanges.

Telstra continues to believe that the existing regulatory regime works well and any additional regulation of facilities access will simply duplicate or be inconsistent with the existing regulation. Further, Telstra believes that it would not have been Parliament's intent to have two different access regimes (the Telco Act regime and the regime in Part XIC of the CCA) applying to access to the same facilities.

Telstra notes the Commission's view that it has the ability to specify terms and conditions for access to facilities through the FADs for the fixed line services. This accords with Telstra's view that facilities access services can be regulated in this manner only if there is a sufficiently direct nexus between the facilities access services in question and the declared services. In this regard, the Commission has indicated that it believes that the IIC is best regulated through the FADs for the ULLS and the LSS and Telstra welcomes the Commission's recognition that there is no need to separately declare the IIC or amend the existing ULLS and LSS service descriptions to encompass that service. In this case, Telstra agrees that if the IIC is to be regulated, then it is most appropriate to do so via the relevant FADs and Telstra will provide submissions on the appropriate terms and conditions of access during the FAD inquiry.

Should the Commission decide that it intends to set access terms and conditions for facilities access services other than the IIC through the FADs, Telstra will, of course, provide comments on which services should be regulated as ancillary to the declared services and on the appropriate terms and conditions at the relevant time.

6.2. HFC

Telstra agrees with the Commission's draft view that the most appropriate time to consider an inquiry into the declaration of HFC services is once there is greater clarity on the role of HFC networks in supplying telecommunications services within the broader context of the NBN.

6.3. Wholesale BDSL

As the Commission noted in its Draft Report,²⁸ Telstra already supplies wholesale BDSL on a commercial basis. Telstra does not believe that there is any basis for declaring a wholesale BDSL service and notes that if the Commission does receive information from other parties that argues a contrary view, then Telstra should be given an opportunity to respond to those submissions.

7 Length of declaration

Telstra believes that the Commission should continue to declare the existing legacy fixed services (ULLS, LSS, PSTN OA and TA, and WLR/LCS over PSTN (except in CBD areas)) and that this would be in the LTIE. A duration period of five years would be appropriate.

²⁸ ACCC, December 2013, p91.

Appendix 1: Telstra's proposed amendments to the service descriptions for WLR, LCS and PSTN OA

Introduction

This Appendix sets out the amendments that Telstra considers should be made to the service descriptions for WLR, LCS and PSTN OA. For ease of reference, Telstra has marked up its proposed changes to the current service descriptions for WLR, LCS and PSTN OA.

1 Wholesale Line Rental

The wholesale line rental service is a line rental telephone service which allows an end-user to connect to a carrier or carriage service provider's public switched telephone network, and provides the end-user with:

- a) An ability to make and receive any 3.1khz bandwidth calls (subject to any conditions that might apply to particular types of calls), including, but not limited to, local calls, national and international long distance calls; and
- b) A geographic telephone number,

except where the supply of the line rental telephone service is within the Central Business District Area of Sydney, Melbourne, Brisbane, Adelaide and Perth.

Definitions

Where words or phrases used in this declaration are defined in the ~~Trade Practices Act 1974~~ Competition and Consumer Act 2010 or the Telecommunications Act 1997, they have the same meaning given in the relevant Act.

In this Appendix:

Central Business District Area means the exchange service areas that are classified as CBD ~~for the purposes of the ordering and provisioning procedures as set out below:~~

Exchange Name	Exchange Code	State
Batman	BATM	VIC
Bulwer	BWER	WA
Charlotte	CHLT	QLD
City South	CYSH	NSW
Dalley	DALL	NSW
Edison	EDSN	QLD
Exhibition	EXHN	VIC
Flinders	FLNF	SA
Haymarket	HMKT	NSW
Kent	KNST	NSW
Lonsdale	LONS	VIC
Pier	PIER	WA
Pitt	PITT	NSW
Spring Hill	SGHL	QLD

<u>Waymouth</u>	<u>WAYM</u>	<u>SA</u>
<u>Wellington</u>	<u>WLTE</u>	<u>WA</u>

Set out in the Telstra Ordering and Provisioning Manual as in force on the date of effect of the declaration.

Public switched telephone network - is a telephone network accessible to the public which is **designed to enable a dedicated voice circuit to be established between two end points in the network for the duration of a single call connection by providing switching and transmission facilities and utilising analogue and digital technologies including, Time Division Multiplexing (TDM) to transport the call across the circuit.**

2 Local Call Carriage Service

The local carriage service is a service for the carriage of telephone calls from customer equipment at an end-user's premises to separately located customer equipment of an end-user in the same standard zone, however, the local carriage service does not include services where the supply of the local carriage service originates from an exchange located within a Central Business District Area of Sydney, Melbourne, Brisbane, Adelaide or Perth and terminates within the standard zone which encompasses the originating exchange.

Definitions

Where words or phrases used in this declaration are defined in the ~~Trade Practices Act 1974~~ Competition and Consumer Act 2010 or the Telecommunications Act 1997, they have the meaning given in the relevant Act.

In this Appendix:

~~Central Business District Area~~ means the following exchange service areas that are classified as CBD for the purposes of the ordering and provisioning procedures set out in the Telstra Ordering and Provisioning Manual as in force on the date of effect of the renewed declaration as set out below:

<u>Exchange Name</u>	<u>Exchange Code</u>	<u>State</u>
<u>Batman</u>	<u>BATM</u>	<u>VIC</u>
<u>Bulwer</u>	<u>BWER</u>	<u>WA</u>
<u>Charlotte</u>	<u>CHLT</u>	<u>QLD</u>
<u>City South</u>	<u>CYSH</u>	<u>NSW</u>
<u>Dalley</u>	<u>DALL</u>	<u>NSW</u>
<u>Edison</u>	<u>EDSN</u>	<u>QLD</u>
<u>Exhibition</u>	<u>EXHN</u>	<u>VIC</u>
<u>Flinders</u>	<u>FLNF</u>	<u>SA</u>
<u>Haymarket</u>	<u>HMKT</u>	<u>NSW</u>
<u>Kent</u>	<u>KNST</u>	<u>NSW</u>
<u>Lonsdale</u>	<u>LONS</u>	<u>VIC</u>
<u>Pier</u>	<u>PIER</u>	<u>WA</u>
<u>Pitt</u>	<u>PITT</u>	<u>NSW</u>
<u>Spring Hill</u>	<u>SGHL</u>	<u>QLD</u>
<u>Waymouth</u>	<u>WAYM</u>	<u>SA</u>
<u>Wellington</u>	<u>WLTE</u>	<u>WA</u>

public switched telephone network -is a telephone network accessible by the public which is designed to enable a dedicated voice circuit to be established between two end points in the network for the duration of a single voice connection by providing switching and transmission facilities and utilising analogue and digital technologies, including Time Division Multiplexing (TDM) to transport the call across the circuit.

standard zone has the same meaning as in Part 4 of the Telecommunications (Consumer Protection and Service Standards) Act 1999.

telephone calls are calls for the carriage of communications at 3.1kHz bandwidth solely by means of a public switched telephone network.

3 PSTN OA

An access service for the carriage of telephone (i.e. PSTN and PSTN equivalent such as voice from ISDN) calls (i.e. voice, data over the voice band) to a POI from end-customers assigned numbers from the geographic number ranges of the Australian Numbering Plan and directly connected to the Access Provider's network except that in the case of Pre-select and Override OA the service is only available in respect of end users directly connected to the Access Provider's public switched telephone network.

For the avoidance of doubt, the service also includes a service for the carriage of telephone calls from customer equipment at an end-user's premises to a POI, or potential POI, located at or associated with a local switch (being the switch closest to the end-user making the telephone call) and located on the outgoing trunk side of the switch.

Public switched telephone network is a telephone network accessible by the public which is designed to enable a dedicated voice circuit to be established between two end point in the network for the duration of a single voice connection by providing switching and transmission facilities and utilising analogue and digital technologies, including, Time Division Multiplexing (TDM) to transport the call across the circuit. The circuit. The service as described comprises a number of different elements as follows:

- Access via Pre-selection, ~~AS number ranges such as those numbers listed in POASD7 or or 14xy~~ Override code (collectively referred to as "Pre-selection and Override OA"), or AS number ranges such as those numbers listed in POASD7 as required to achieve the objective of any-to-any connectivity
- Call Barring
- POI Location
- Forwarding a call beyond the POI of table OASD2 to OASD3 where applicable (see POIs below)
- Signalling
CLI provision
- Provision of Switchports
- Network Conditioning
- Fault Handling
- Inter C/CSPO Billing
- Restrictions on availability and other factors relating to the provision of Access are further described below.

In accordance with the ~~Trade Practices Act 1974~~ Competition and Consumer Act 2011 Part XIC, these elements:

- may not be available from all APs
- may have restriction in their availability

Availability

The availability of the services may vary depending on the geographic and technical capability of the AP's network at the time at which a request for the service is made or the service is delivered.

The AP will make available to Ass documents describing the availability of this service on its network. See Services & Interconnection hand over arrangements below.

Channel Capacity

The service will establish a connection for the purposes of voice communication with the standard bandwidth of 3.1kHz.

Services

The service is provided on a call that is made with:

- pPre-selection, or
- a AS specific code including Special Services codes and number ranges (with some exceptions) as per table POASD7, or
- a long distance, international or shared operator codes dialled with an over-ride/access code in accordance with the Australian Numbering Plan.
- The AP will publish at least half yearly, tables detailing the geographic number ranges where there are restrictions on the provision of this service.

Service Restrictions

At least annually, the AP will advise of end-customer services that may restrict the provision of this service e.g. Real Time Metering in a Table POASD5.

Barring

The AP may provide a service that will allow barring of over-ride codes at the request of the end-customer.

End-customers may request generic barring services which may restrict access to these services.

The AP should detail this barring in a table POASD6.

Interconnection handover arrangements

The AP and the AS are each responsible for the provision, installation, testing, making operational and monitoring of all the network on their respective sides of the POI.

POIs

"Point of Interconnection" or "POI" means an agreed location which:

- is a physical point of demarcation between the networks nominated by the AS and the AP; and
- is associated (but not necessarily co-located with) with one or more gateway exchanges of each of the networks nominated by the AS and the AP in respect of the POIs nominated by the AP.
- Calls originated by the A-party will be handed over to the AS at Points of Interconnection agreed

by the AS and the AP in accordance with POI locations and POI designation for codes.

POI locations

The AP will provide a table (Table POASD1) listing of POIs where this service may be provided. This listing will be updated at least annually. The AS may request a point of interconnect with the AP's network at a location other than one specified by the AP. The AP must, to the extent technically and operationally feasible, permit the location of a point of interconnect at that location.

POI designation for codes

The AP will provide a table (Table POASD2) listing of the geographic number ranges associated with each POI. When Originating Access is being provided access from these codes will be provided at the corresponding POI. The POIs in table POASD2 will be the POI for "near end handover" of calls from the origins listed.

The AP will provide a table (Table POASD3) listing of POIs and of associated POIs from which traffic that could have been handed over as per table POASD2 may be collected. [Different charges will be payable where traffic that could have been collected at the POI in table POASD2 is collected at a POI in table POASD3.]

The AP will indicate how these tables POASD2 and POASD3 apply to the different call types of paragraph 1.3.

The provisions of this Service Description apply to traffic collected at POIs listed in Table POASD2 or POASD3

Signalling

Signals for this service will use CCS#7 signalling. Unless otherwise agreed, this CCS#7 signalling will be in accordance with the NIIF/ACIF Interconnection-ISUP specification.

The AP will provide a table (Table OASD4) of the locations where the AS may interconnect its CCS#7 signalling network with that of the AP for the purpose of accepting this service.

Signalling interconnection may not be provided at all POIs. The POIs of 1.4.1.1 may provide for interconnection of only voice circuits. Control of voice circuits where direct signalling interconnection is not provided, will be via "quasi-associated signalling" using Signalling Transfer Point (STP) operation, with signalling via a nominated other gateway where signalling interconnection is provided.

CLI

The CLI of the A-party will be provided as part of the CCS#7 signalling for this service.

Nature of switchports

At POIs the calls will be delivered to the AS at 2.048Mbit/sec Switchports. The switchports will operate at 2.048Mbit/sec in accordance with the ITU Recommendations G.703, G. 704 and G.732 (Blue Book).

Send and receive speech levels

The send and receive levels for speech will be -13 dBr unless specified otherwise in the Australian Network Performance Plan.

The AP will not provide Echo Control unless this is a requirement within the AP's own network for calls between the end customer and the AP's gateway exchange.

Forecasting, ordering and provisioning arrangements

Interconnection forecasting and planning requirements

Forecast of port requirements

For each POI the AS should provide forecasts, at least half yearly, of switchport requirements for 6, 12, 18, 24, 30 and 36 months from the time of the forecast. Forecasts should be provided on dates to be agreed between the AP and the AS and forecast the switchport requirements from operative dates of 31 December and 30 June. Forecasts will be discussed by the AP and the AS with a view to agreement within 30 Business Days. Forecasts will be used by the AP for network planning and not for ~~charging~~charging purposes.

Forecast of network capacity requirements

For each POI and for each of the AP's charging districts the AS should provide forecasts, at least half yearly, of traffic requirements for 6, 12, 18, 24, 30 and 36 months from the time of the forecast. These forecasts should provide daily and weekly profiles for the traffic forecasted and advice of any material non-uniformities in the dispersion of the sources of originating access traffic. Forecasts should be provided on dates to be agreed between the AP and the AS and forecast the traffic requirements from operative dates of 31 December and 30 June. Forecasts will be discussed by the AP and the AS with a view to agreement within 30 Business Days.

Ordering of Switchports

The AP will accept orders for switchports up to the level of the agreed forecasts for each POI. The AS should order switchports allowing 6 months for their provision.

The AP will provide access up to the level of the agreed traffic forecasts for each POI.

The AS may request and the AP will give reasonable consideration to such provision, but is under no obligation to provide access of switchports above the level of the agreed forecasts. If such access is provided, delivery times may be longer than those specified in Ordering of Switchports.

Interconnection Ordering Requirements

Compliance testing

The AS will be required to demonstrate compliance with the agreed CCS#7 signalling System prior to the provision of the service.

The AP and the AS will develop an agreed test plan and the AS will provide results of tests to this plan from an appropriate test house or other such party. The AP will provide results of such tests if it is not otherwise seeking a switched access service from the AS.

The AP and the AS shall review the test results of the agreed test plan within 20 business days and if the AP accepts that the test results of the agreed test plan are satisfactory then the AP and the AS will agree a date for commissioning tests.

The test results of the agreed test plan will form the prime documentary basis for ongoing operations, fault analysis and fault management of signalling between the AP and the AS.

Network Conditioning

Network Conditioning of the AP's network will be required before the provision of the service.

Operational and Fault handling arrangements

The AP will provide a contact point for the Operation and Maintenance of the service. Faults may be reported to this centre which will manage the clearance of these faults.

Inter C/CSP Billing frequency

The AP will invoice the AS on a monthly basis for this service.

Provision of Tones and Network Announcements

Where calls attempting this service do not progress to the POI the call may be connected to tones as per AUSTEL Technical Standard TS002 or to a network RVA in the AP's network.

Customer Billing

Customer billing should be in accordance with an approved telecommunications access code.

Appendix 2: The alternative approach – Telstra's proposed amendments to the Commission's proposed service descriptions for WLR, LCS and PSTN OA

Telstra's preferred amendments to the service descriptions for WLR, LCS and PSTN OA are set out in Appendix 1. In Telstra's view, these amendments effectively confine the regulation to the legacy PSTN with no need for an express carve out of services delivered over NBN infrastructure.

However, if the Commission prefers to adopt an express carve out, then Telstra's view is that the Commission's current proposals do not achieve this aim because they contain references to the PSTN. To avoid this, Telstra proposes the following amendments to the Commission's proposed service descriptions for WLR, LCS and PSTN OA.

WLR

Service description

The wholesale line rental service is a line rental telephone service which allows an end-user to connect to a carrier or carriage service provider's public switched telephone network, and provides the end-user with:

- (a) an ability to make and receive any 3.1khz bandwidth calls (subject to any conditions that might apply to particular types of calls), including, but not limited to, local calls, national and international long distance calls; and
- (b) a telephone number.

~~except where the connectivity between the end-user and the public switched telephone network is provided in whole or part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.~~ however, the wholesale line rental service does not include services where the connectivity between the end-user and the carrier or carriage service provider's network (which the end-user is directly connected to) is provided in whole or in part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.

LCS

Service description

The local carriage service is a service for the carriage of telephone calls from customer equipment at an end-user's premises to separately located customer equipment of an end-user in the same standard zone, ~~except where the connectivity between the end-user and the public switched telephone network is provided in whole or part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.~~ however, the local carriage service does not include services where the connectivity between the end-user and the carrier or carriage service provider's network (which the end-user is directly connected to) is provided in whole or in part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.

PSTN

Services

The service is provided on a call that is made with:

- pre-selection, or
- an access seeker specific code including Special Services codes and number ranges (with some exceptions) as per table POASD7, or
- a long distance, international or shared operator codes dialled with an over-ride/access code in accordance with the Australian Numbering Plan.

~~Pre-selection and code override services are not declared where connectivity between the end-user and the public switched telephone network is provided in whole or in part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.~~ Pre-selection and code override services are not declared where connectivity between the end-customer directly connected to the access provider's network and a POI is provided in whole or in part by means of a Layer 2 bitstream service that is supplied by an NBN corporation.

Appendix 3: Dr Paul Paterson's expert report