



**Fixed Services Review – Declaration Inquiry**  
**Public inquiry into the fixed line services declarations – Draft Report**

**Submission by AAPT Limited (14 February 2014)**  
**to**  
**Australian Competition and Consumer Commission (ACCC)**

**Introduction**

1. Thank you for the opportunity to comment on the ACCC *Public inquiry into the fixed line services declarations – Draft Report*, dated December 2013.

**Proposed extension of the declarations for fixed line services**

2. AAPT welcomes and agrees with the ACCC's preliminary view that it is in the long-term interests of end-users to continue declaration of the following fixed lines services:
  - unconditioned local loop service;
  - line sharing service;
  - wholesale line rental (**WLR**) service;
  - local carriage service (**LCS**);
  - public switched telephone network originating access service in respect of pre-selection, override services and special numbers; and
  - PSTN Terminating Access,for a further five year period with an expiry date of 31 July 2019.

**Proposed removal of the WLR and LCS CBD exemptions**

3. AAPT also welcomes and strongly supports the ACCC's proposal to remove the CBD exemptions from the WLR and LCS service descriptions. AAPT agrees with the ACCC that the removal will enable access seekers to compete more effectively with Telstra to offer competitive packages of services to end-users.

**Declaration of facilities access services**

4. AAPT is encouraged by the ACCC's indication that it is giving further consideration to whether to commence an inquiry into the declaration of facilities access services. However, AAPT does not agree that the ACCC should wait to commence an inquiry after it has consulted on regulating facilities access services that are ancillary to declared services through the Final Access Determinations (**FADs**). Rather the ACCC should seek to be proactive and consider commencing an inquiry into the declaration of facilities access services as soon as possible.

5. As AAPT has previously submitted, Telstra remains the dominant owner of exchange buildings, ducts and external and internal interconnect facilities (**Telstra Facilities**). Access to Telstra Facilities is essential, and has become increasingly important, to AAPT's business. Moreover, AAPT is likely to continue to require access to the Telstra Facilities on an on-going basis after the rollout of the NBN and the rollout is unlikely to change the bottleneck character of the Telstra Facilities.
6. While AAPT acknowledges that facilities access services that are ancillary to declared services may be regulated through the FADs for the relevant declared services and that access to facilities may be available under Schedule 1 of the *Telecommunications Act 1997*, these avenues for facilities access are flawed and limited (refer to AAPT's previous submission<sup>1</sup> for further information.)
7. AAPT notes that only services that are ancillary to declared services may be regulated through the FADs. That is, it will not provide for access to Telstra Facilities to allow access seekers to supply non-declared, Telstra services (**non-ancillary Telstra Facilities**). In AAPT's view, the most effective form of regulation to constrain Telstra from extracting monopoly rents for Telstra Facilities are upfront price and non-price terms of access to facilities. Unfortunately none of the existing regimes provide for upfront pricing or access terms *with respect to non-ancillary Telstra Facilities*. For these reasons set out above, the ACCC should seek to consider and address this gap as expeditiously as possible.

#### Wholesale ADSL service

8. AAPT has identified a need to clarify the service description of the W-ADSL service to ensure equivalence in accordance with the Telstra Structural Separation Undertaking (**SSU**). In summary, AAPT notes:
  - Telstra is able to provide a combined voice and data service bundle over a single ADSL2+ connection to its customers where the voice component is prioritised over data, such that voice quality can be ensured. Telstra can do this because it deploys a technology called Quality of Service (**QoS**) to telephone exchanges across Australia.
  - In contrast, when AAPT provides a product which combines voice and data traffic to its customers, it does not have access to QoS so voice quality deteriorates and cannot be ensured in the same way. This clearly puts AAPT, and no doubt other wholesale customers, at a competitive disadvantage compared to Telstra's Retail Business Units.
  - For Telstra's wholesale ADSL service (i.e. L2IG) to be supplied to its customers on equivalent terms in accordance with the SSU, QoS should be made available to Telstra's wholesale customers on equivalent terms. Unfortunately, under the current W-ADSL service description, it is not clear whether Telstra is obliged to offer QoS to access seekers if they request it. AAPT believes the ACCC should consider the appropriateness of imposing such an obligation on Telstra.

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<sup>1</sup> AAPT, *Submission by AAPT Limited in response to ACCC - Fixed Services Review Discussion Paper on the Declaration Inquiry - CONFIDENTIAL VERSION*, August 2013

9. In AAPT's view, it is open to the ACCC to clarify the scope of W-ADSL service description when it seeks submissions on the FAD for the W-ADSL service. Among other things, the ACCC should consider whether to impose an obligation on Telstra to supply QoS to access seekers as part of the L2IG product. AAPT will be happy to provide further information on the issue during that process.
10. If the ACCC does not consider the W-ADSL FAD inquiry is the appropriate process to consider the QoS equivalence issue, then AAPT requests that the ACCC seek further information and consider varying the wholesale ADSL service description to address this matter.