



Aneeqa Khan
Australian Competition & Consumer Commission
Communications Group
Level 35
360 Elizabeth Street
Melbourne
VIC 3000

27th September, 2011

Dear Aneeqa

Re: Telstra Structural Separation Undertaking Discussion Paper

Further to our recent telephone meeting, I am writing in response to the Telstra structural separation undertaking discussion paper in order to clarify certain conditions of supply and business issues relating to Setanta's use of the Telstra HFC network.

By way of background, Setanta Sport is an independent channel operator that provides a sports channel on a pay basis to subscribers on the Foxtel satellite, Foxtel cable, Austar, UBI, TransACT and Fetch TV platforms. A considerable proportion of Setanta subscribers access the channel on Foxtel via cable, which is facilitated by the Telstra HFC. Setanta is distributed on Foxtel under the Special Access Undertaking (SAU).

Setanta Sport Pty Limited entered into a contract for the supply of digital transport stream services with Telstra Multimedia Pty Limited on 1st November 2007. That agreement remains in force today and has a term of 5-years that expires 31st October 2012.

Setanta's distribution strategy is to make its channel available to the widest possible audience of potential subscribers. If Setanta were unable to access the proportion of its subscriber base that receives Foxtel via the cable system, it would have a material impact on the profitability of the Setanta business. Moreover, those customers that currently receive Setanta via Foxtel by cable would no longer have that choice available to them.

The provision of access to the HFC network is not within the scope of the SAU that applies to Foxtel. Accordingly the pricing of this service to Setanta is based on the costs proposed by Telstra. There is no alternative source of supply currently available. Based on our internal evaluation, the cost to Setanta of accessing a Foxtel cable home is 67% higher than the cost of accessing a Foxtel satellite home that receives exactly the same service and therefore cannot be differentially priced to the end user. This is as a direct result of the pricing of the HFC service.

Setanta Sports
15/50 Stanley Street
Darlinghurst
NSW 2010
Australia

E: setantaosz@setanta.com
T: +61 2 8324 0600
F: +61 2 9357 5211

www.setanta.com.au

Setanta Sport Australia Pty Ltd
ABN 27 086 130 805



If, as a result of the structural separation arrangements that relate to this specific service provision, Setanta was unable to provide its service to Foxtel cable homes, then it is likely that Setanta would suffer a significant reduction in income which will have a negative impact on its ability to compete for sports rights.

I trust the foregoing is helpful and I remain available to discuss these matters further as required.

Yours sincerely

Roger Hall
Managing Director
Setanta Sports International

Setanta Sports
15/50 Stanley Street
Darlinghurst
NSW 2010
Australia

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