



Australian
Competition &
Consumer
Commission

Unconditioned Local Loop Service

Pricing Principles and Indicative Prices

June 2008



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Introduction

The unconditioned local loop service (ULLS) is a service for access to unconditioned cable, usually a copper wire pair, between an end user and a telephone exchange. The ULLS essentially gives an access seeker the use of the copper pair without any dial tone or carriage service. This allows the access seeker to use its own equipment in an exchange to provide a range of services, including traditional voice services and high speed internet access, to end-users connected at the exchange.

On 28 July 2006, the Australian Competition and Consumer Commission (ACCC) issued a final decision to “declare” the ULLS. The decision to declare the ULLS followed a public inquiry into the regulation of fixed network services.¹ The ULLS was originally declared in August 1999.

On 21 November 2007, the ACCC made its final ULLS Pricing Principles Determination as required by s.152AQA of the *Trade Practices Act 1974* (the Act). These pricing principles may also “contain price-related terms and conditions”. The ACCC may therefore specify indicative prices for a declared service.² The *Unconditional Local Loop Service (ULLS) Final Pricing Principles - November 2007* (2007 ULLS Pricing Principles) is reproduced as Appendix 2 to this paper.

At the time of issuing the 2007 ULLS Pricing Principles, the ACCC chose not to specify indicative prices. The ACCC nevertheless noted that it may consult on indicative prices for the ULLS at a later time.

The ACCC has arbitrated a number of access disputes relating to the ULLS. Given the extensive consultation processes undertaken in those disputes, the ACCC considers that it is in a position to determine indicative prices for the ULLS. The ACCC also considers it beneficial to provide access providers and access seekers with the ACCC’s approach to ULLS prices in order to assist the parties in commercial negotiations by narrowing the boundaries for those negotiations and by providing tools in alternative dispute resolution processes.

On 23 April 2008, the ACCC released the draft 2008 ULLS Pricing Principles and Indicative Prices Determination. The ACCC received submissions from (or on behalf of) six interested parties. A full list of all submissions received by the ACCC following release of the draft ULLS Pricing Principles and Indicative Prices Determination is contained in Appendix 4.

The 2008 ULLS Pricing Principles and Indicative Prices Determination sets out the submissions received in response to the draft and the ACCC’s reasoning in arriving at the indicative prices which form Schedule 2 to the 2008 ULLS Pricing Principles and Indicative Prices Determination as set out in Appendix 3. The ACCC’s reasoning in relation to Schedule 1 of the ULLS Pricing Principles is set out in the ACCC’s 2007 ULLS Pricing Principles.

¹ ACCC, *Declaration inquiry for the ULLS, PSTN OTA and CLLS Final Determination*, July 2006.

² In *Vodafone Australia Ltd v ACCC* [2005] FCA 1294 (16 September 2005), the Federal Court held that pricing principles may specify a price.

1. The Indicative prices

The ACCC determined final pricing principles for the ULLS under s152AQA of the Act. This determination, as well as the reasons for making it, is contained in the 2007 ULLS Pricing Principles and reflects the long-standing pricing principles adopted by the ACCC for the ULLS and other declared telecommunications services.³

Pricing principles consultation process

The ACCC first consulted on draft pricing principles for the ULLS in 2006. The ACCC published draft pricing principles for the ULLS in August 2006 but did not make a final determination at that time. This was for a number of reasons, one of which was Telstra's appeal to the Australian Competition Tribunal (Tribunal) of the ACCC's assessment of an undertaking pursuant to section 152BU of the Act in August 2006. In May 2007, the Tribunal affirmed the decision of the ACCC.

The amount of time that elapsed since the consultation in late 2006 caused the ACCC to re-consult in October 2007 on the final pricing principle for the ULLS. Submissions from interested parties were received by 6 November 2007 and the final pricing principles determination was published on 22 November 2007.

The ACCC opted not to specify indicative prices for the ULLS in November 2007 but noted that it may consult on indicative prices at a later time. The ACCC now considers that it is in a position to specify indicative prices for the ULLS and make a consolidated Pricing Principles Determination.

Application of pricing principles

Subsection 152AQA(6) of the Act requires the ACCC to have regard to the relevant pricing principles determination in setting prices in respect of the ULLS within the context of an access dispute. Section 152CR(1) of the Act further requires the ACCC to, in making a final determination in access disputes, have regard to a number of relevant legislative matters which are as follows:

- whether the terms and conditions will promote the long-term interests of end-users (LTIE) including:
 - the objective of promoting competition
 - the objective of any-to-any connectivity, and
 - the objective of encouraging the economically efficient use of, and the economically efficient investment in, infrastructure.
- the legitimate business interests of the access provider, and their investment in facilities used to supply the declared service
- the interests of access seekers

³ See ACCC, *Unconditioned Local Loop Service (ULLS) - Final Pricing Principles*, November 2007 and ACCC *Access Pricing Principles – Telecommunications*, July 1997.

- the direct costs of providing access to the declared service
- the value to a party of extensions or enhancement of capability where the cost is borne by someone else
- the operational and technical requirements necessary for the safe and reliable operation of a carriage service, telecommunications network or facility, and
- the economically efficient operation of a carriage service, telecommunications network or facility.

The ACCC may also have regard to other relevant matters.⁴

The price charged for a declared service has a significant impact on the promotion of competition and the encouragement of efficient investment in and use of infrastructure. Declaration of a service will not of itself necessarily promote the LTIE if the price charged by an access provider is inappropriate. Accordingly, the ACCC considers that pricing principles and indicative prices (when issued) are an important aspect of a declaration decision.

2007 ULLS Pricing Principles

The ACCC's final 2007 ULLS Pricing Principles conclude that:

- a Total Service Long Run Incremental Cost (plus a contribution to indirect costs) (TSLRIC+) pricing principle should be applied to the ULLS
- a specific cost component should be included in the ULLS monthly price, calculated by combining "ULLS-specific costs" with "Line Sharing Service (LSS)-specific costs" and Telstra Corporation Limited's (Telstra's) internal equivalent costs for the Asymmetric Digital Subscriber Line (ADSL) and, allocating those costs across the number of active ULLS, LSS and ADSL lines
- ULLS charges should be geographically de-averaged, and
- connection charges should be set with reference to the amounts charged by third party contractors to Telstra for jumpering work in exchanges, indirect costs and back-of-house costs.

2. Indicative prices

The ACCC is required by section 152AQA of the Act to determine pricing principles for a declared service. The pricing principles may contain price-related terms and conditions and the ACCC may, when determining price-related terms and conditions, specify indicative prices.⁵ The ACCC intends that the indicative prices will be treated as price related terms and conditions under s.152AQA(2) of the Act.

⁴ Subsection 152CR(2) of the Act.

⁵ *Vodafone Australia Ltd v ACCC* [2005] FCA 1294.

The ACCC recently made final determinations in ULLS access disputes involving various access seekers and Telstra, some of which have been published. The ACCC is currently arbitrating several further ULLS access disputes.⁶

The ACCC considers that setting indicative prices for the ULLS will provide useful certainty and guidance to the industry about the appropriate pricing for the ULLS.

The ACCC recognises that it would be preferable to provide certainty to the parties over the terms of access that are to apply in the future as this will best allow parties to plan their business operations and compete in the market for downstream services. This supports the view that the ACCC should set terms of access for future periods where it is reasonably able to do so.

Certainty needs to be balanced, however, against the possibility that the terms of access that would now be set for a future period could depart from the terms that would best reflect the 2007 ULLS Pricing Principles. The ACCC must consider whether the available data provides an appropriate basis to forecast the TSLRIC+ of the ULLS for the relevant period.

The ACCC considers that the TSLRIC+ cost of certain cost categories such as for 'specific-costs' and connection costs can be forecast for the remainder of 2007-08 and for 2008-09. The ACCC is currently preparing a new fixed-line network cost model that will allow for a direct TSLRIC+ measure of network costs to be made for 2008-09. This model will be consulted on during 2008.

The ACCC's final view is to forecast indicative prices until 31 July 2009 although the ACCC may revise the indicative prices should the fixed-line network cost model be completed beforehand. The ACCC intends to rely on the indicative prices in providing interim determinations in arbitrations.

2.1. General approach to indicative prices

The 2007 ULLS Pricing Principles provide that ULLS prices should be cost based, with necessary cost estimates derived from a TSLRIC+ methodology. The 2007 ULLS Pricing Principles give additional guidance on certain matters that arise in implementing the TSLRIC+ methodology for the ULLS. Under the principles, only efficient, forward-looking level of costs are brought to account in setting ULLS monthly charges.

2.2. ULLS monthly charges

A variety of issues relevant to the appropriate level of ULLS monthly prices have been the subject of significant debate since declaration, including:

- the appropriate cost model(s) for use in estimating ULLS costs
- the appropriate cost components to be included in cost models and the method of recovery of these cost components

⁶ A list of current arbitrations is available on the ACCC's website at: <http://www.accc.gov.au>

- the appropriate inputs for cost models, such as trench sharing, asset lives and cost of capital inputs, and
- averaging or de-averaging.

2.3. Appropriate cost model to apply

The ACCC is of the view that until it has consulted and settled upon its own fixed network cost model, indicative prices based on TSLRIC+ pricing principles should be based on the PIE II network cost model.

Views of interested parties

iiNet Ltd, Internode Pty Ltd and Adam Internet Pty Ltd

In response to the draft 2008 ULLS Pricing Principles and Indicative Prices Determination, iiNet Ltd (iiNet), Internode Pty Ltd (Internode) and Adam Internet Pty Ltd (Adam Internet) make submissions which support the usage of TSLRIC+ for ULLS but raise concerns in relation to the manner in which TSLRIC+ is applied when costing Telstra's legacy Customer Access Network (CAN). In particular they submit that:

- basing network costs upon the cost of installing a new network is a flawed concept when the existing network was installed years ago. The argument is not based upon the real value of money over time, but rather on the physical reality of building a network on un-built areas. A significant amount of past network costs have been borne by property developers and not by Telstra or its predecessor, and should not be borne by the hypothetical builder of the new network. Forward looking network cost analysis should reflect this reality, and
- the CAN has been paid for and the TSLRIC+ should therefore only account for efficient operating and maintenance costs (O&M).⁷

iiNet, Internode and Adam Internet share ongoing concerns in relation to the ACCC's 'conservative approach' in applying the PIE II model when assessing network costs because the model contains inbuilt operational impediments, usage difficulties, and a tendency towards overestimating costs. This results, in their view, in outputs and network cost estimations that do not reflect efficient costs. In particular they submit that:

- cost implications of spare capacity appear overestimated
- it is unclear whether the historic O&M costs used in the model reflect efficient costs
- Telstra may be over-recovering network planning costs by also recovering these costs under O&M expense factors

⁷ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-2; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-2; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-2.

- the ACCC's proposed value of 13 per cent of trenches available for sharing may understate historical trench sharing
- the lack of clustering algorithms, the use of rectilinear distance estimation and the use of minimum spanning trees may lead to more than the required lengths of cable and conduits in the network
- the asset lives used in the annualisation of capital costs appear to be based on accounting measures that may not represent economic asset life, and
- the PIE model overestimates costs in regional and rural areas and this affects the prices generated for band 3.⁸

Singtel Optus Pty Limited

Singtel Optus Pty Limited (Optus) submits that subject to further consideration in future reviews, it is still appropriate for the ACCC to apply TSLRIC+ pricing, however Optus notes that:

- the ACCC must account for the imminent National Broadband Network rollout, which reduces the need to encourage build/buy decisions on the part of access seekers
- Telstra's costs of constructing the CAN have been fully recuperated many times over, and
- there is no need to give the benefit of the doubt to any arguments that an issue may lead to a price below efficient cost and that the ACCC should not take a conservative approach to Telstra's cost submissions because the risk of "regulatory error" has been substantially eliminated.

In relation to the appropriate cost model, Optus submits that in the interim it would be appropriate to use the PIE II model as long as it is appropriately modified and parameterised. Optus also submits that the ACCC should take a more vigilante stance towards the inputs used in the PIE II model by:

- using contemporaneous forecasts of asset price trends instead of using ABS index data
- extending asset lives to 15 years
- only considering current period network costs and setting the mark up to no more than 10%
- not including exogenous uplifts, and
- not accepting Telstra's proposed gradient uplift as details of calculation have not been fully released.

⁸ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-4; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-4; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.1-4.

Optus is of the view that the ACCC should not place any weight on the Telstra Efficient Access (TEA) model as the TEA model is as yet untested and has not been subject to adequate review by parties external to Telstra.⁹

Telstra

Telstra submits that it is inappropriate and incorrect for the ACCC to use the PIE II model because it is superseded by the TEA model, the ACCC does not have the relevant data on which to run PIE II for 2008-09 and the data used in the PIE model in 2007-08 is outdated. Telstra further submits that the ACCC has inconsistently applied its own methodology because it was unable to replicate the draft prices supplied by the ACCC when it ran the PIE II model with the ACCC's preferred inputs (including the 2007-08 Weighted Average Cost of Capital (WACC) inputs).¹⁰

Telstra notes that the ACCC made final determinations in a number of access disputes, in which the ACCC did not consider pricing beyond 30 June 2008 and that the ACCC conceded in March 2008 that no available data "allows the Commission to directly measure, or otherwise reliably forecast, the network costs for 2008/09"¹¹. Telstra submits that it appears that the ACCC has placed a ruler over the prices calculated by the PIE II model for 2005-06, 2006-07 and 2007-08 and drawn a straight line out to 2008-09. Telstra states that there is no reason for assuming that the trend for ULLS prices will follow a straight line or if there is a straight line, for such a trend to continue. Telstra does not expect there to be a trend in light of ongoing changes in a dynamic industry such as the telecommunications industry.¹²

Telstra notes that in previous ULLS access disputes it submitted that:

- the PIE II model was appropriate in the absence of an improved alternative model, and
- the PIE II model should be used to calculate network costs only if the inputs are updated for the relevant year and the model run for that year.

Telstra denies stating that the PIE II model should be used to determine ULLS costs for 2008-09 especially as the TEA model is now available.¹³ In relation to the TEA model, Telstra submits that it:

- is the only current TSLRIC+ model available for the ULLS. It focuses exclusively on the cost of ULLS (with the exception of a WLR option) and has a high degree of reliability and accuracy

⁹ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp. 6, 9, 11-13.

¹⁰ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.2-4, 7.

¹¹ *Unconditioned Local Loop Service Access Dispute between Telstra Corporation Ltd and Powertel Ltd*, March 2008, [202].

¹² Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.2-4, 6.

¹³ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.4.

- relies on data relating to actual location of customers, exchange buildings and terrain, and this enables the accurate determination of network costs
- can be run with any set of inputs chosen by the user and at any level of disaggregation
- measures the incremental cost, (including a contribution to indirect costs) of the total ULLS service, over the long run, assuming all other production activities remain unchanged
- estimates forward-looking efficient costs by estimating the cost of a replacement network provisioned with best-in-use equipment and best-practices engineering, standards and construction techniques
- does not have legacy effects, such as duplicative cable runs, in the design of the replacement network
- provides cost estimates for Band 2 which can be used to extrapolate cost estimates for Bands 1 and 3 for indicative pricing purposes, and
- shows that the previous cost estimates and prices determined by the ACCC are below the TSLRIC+ for ULLS. Application of the TEA methodology for 2008-09 costs are for Band 1 (extrapolated) \$21.36, for Band 2 (estimated by TEA) \$49.27 and for Band 3 (extrapolated) \$98.20.¹⁴

In relation to the ACCC's criticisms of the TEA model, Telstra submits that the ACCC has been in possession of the TEA model since 21 December 2007 and has had ample opportunity to test the model. The TEA model has also been available since late February 2008 to approved interested parties pursuant to appropriate confidentiality undertakings in favour of Telstra.¹⁵ Telstra submits that there is no justification for the ACCC to ignore the TEA model as the basis for determining indicative prices for the ULLS.¹⁶

Telstra submits that in addition to the ACCC's fixed-line network cost model, the ACCC is obliged to consult and consider the TEA model in the context of Telstra's Ordinary Access Undertaking for the ULLS provided on 3 March 2008. Telstra expects that during the period of application of the proposed indicative prices for the ULLS, consultations will be completed on the TEA model and commenced in the ACCC's fixed-line network cost model. Telstra's view is that this is likely to have a material impact on indicative prices set for ULLS for 2008-09.¹⁷

Telstra further submits that the prices in the period from 2005-06 to 2007-08 have largely been the subject of published arbitral determinations and that 'certainty and

¹⁴ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.11-12.

¹⁵ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.12.

¹⁶ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.12.

¹⁷ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.4

guidance' do not require the republication of these prices in the form of indicative prices.¹⁸

The ACCC's view

The ACCC does not consider that it should place any weight on the TEA model in determining the 2008-09 ULLS indicative prices. The ACCC notes that the TEA model is as yet untested, in particular, the model has not been the subject to any detailed review by parties external to Telstra. Such a model review is likely to take considerable time and result in significant delay if the ACCC were to have regard to it in the setting of the ULLS indicative prices.

The PIE II network cost model was first submitted by Telstra to the ACCC in January 2003 in support of Telstra's undertakings for Public Switched Telephone Network Originating and Terminating Access (PSTN OTA) and ULLS. Since that time, the ACCC has attempted to work with Telstra to overcome concerns about:

- the model's lack of transparency
- the users' inability to manipulate the model
- the model's overestimation of network costs in regional and rural areas (particularly in Band 4), and
- Telstra's unwillingness to change the model in response to the ACCC's and industry's concerns.

The ACCC continues to hold concerns about the transparency of the PIE II model but considers that, given the benefits of issuing indicative prices, it would not be appropriate to wait until an alternative cost model is available and tested.

The ACCC believes that, with reservations and appropriately considered inputs, the PIE II model can be used to set indicative prices for the ULLS.

The ACCC notes that an error was made in the WACC table for the 2007-08 parameters in the draft, this is clarified further below.

In relation to forecasting 2008-09 prices, the ACCC considers that it is appropriate to forecast ULLS indicative prices for 2008-09 even though it is not able to directly measure the network costs for that period. The ACCC notes Telstra's submission and selective quoting from published final determinations. The ACCC's network cost model is not yet available. Similarly, the TEA model has only recently been re-submitted by Telstra (an initial version having been withdrawn) and has not been critically assessed. The TEA model only provides prices for Band 2, while the ACCC is setting indicative prices for Bands 1, 2 and 3.

It will not be possible, therefore, to set 2008-09 indicative prices on the basis of the output of either of the TEA model or ACCC's network cost model. The ACCC does not consider it would be appropriate to defer including indicative prices in the ULLS pricing principles determination given the pending expiry of final determinations made in arbitrations and the likelihood that parties will be unable to agree upon 2008-09

¹⁸ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.5.

prices. In this regard, Telstra's proposed monthly charges (as contained in its access undertaking) are significantly different to the prices access seekers have previously proposed.

As previously foreshadowed, where direct observations are not available, the ACCC considers that it may be appropriate to estimate unit costs by adjusting previous period measures. The ACCC sets 2008-09 prices based upon trends observed for network costs over the period from 2005-06 to 2007-08. The methodology that the ACCC uses takes into account a likely increase in the 2008-09 WACC based upon current market conditions. The ACCC acknowledges that this approach does not adjust for all possible variations in factors that could have some influence on network costs and that this approach may not be appropriate to use to forecast costs over a longer timeframe. The ACCC nevertheless considers that it provides a reasonable estimate of the unit costs that can now be expected in 2008-09.

2.4. Specific costs

The term "specific costs" refers to the cost of providing the ULLS by the access provider. They are the costs associated with ordering, provisioning and qualifying the ULLS. Relevant cost categories could include:

- capital expenditure to accommodate the ordering and provisioning of the ULLS
- O&M costs for IT systems
- operating costs associated with the ULLS front-of-house connection group
- operating costs associated with wholesale product management of the ULLS, and
- indirect O&M costs associated with the front-of-house connection group and the wholesale product management team.¹⁹

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet submit that the pooled cost base be allocated across all copper lines, rather than ADSL lines only, because the ULLS can be used to provide both ADSL and telephony and other telecommunications services. In their view, customers accessing the CAN will benefit from ULLS price competition and Telstra's legitimate commercial interests will be met given the inclusion of a WACC component in the ULLS specific costs. They also maintain that if Telstra's costs are adequately recovered, the approach of allocating costs across ADSL lines will enable it to recoup an above normal investment in ULLS.²⁰

¹⁹ Telstra Corporation Ltd (No 3) [2007] ACompT 3 (17 May 2007) [387].

²⁰ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.2-3; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.2-3; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.2-3.

Optus

Optus proposes that ULLS costs be allocated across all CAN lines. If this is not adopted, Optus supports the ACCC's broad recovery base approach.²¹

Telstra

Telstra submits that the ACCC's estimate of specific costs is incorrect. The ACCC's model does not include inputs for the period post 30 June 2008 and cannot therefore determine specific costs after that date. Specific cost inputs are dynamic and often fluctuate from year to year. In their view, it is inappropriate to assume specific costs for 2008-2009 can be estimated by applying the levelised average of specific costs of preceding years. The pooling approach adopted by the ACCC is also inconsistent with section 152CR(1)(d) of the Act because it does not estimate the direct costs of the ULLS but aggregates the costs of a number of services which are then averaged across the lines over which those services are provided. Telstra maintains that the specific costs associated with ULLS are higher than those in respect of the other services with which they are pooled. Telstra further submits that for it to fully recover its ULLS specific costs, it must do so from the price it charges for other retail or wholesale services while competing in the retail market with wholesale customers who receive the benefit of a ULLS charge that does not include those costs.²²

The ACCC's view

The ACCC notes that some of the specific costs are recovered through ULLS connection charges or other charges imposed by Telstra. Accordingly, the ACCC is of the view that it is not appropriate to recover all these charges through ULLS monthly charges.

In addition to incurring specific costs to allow for the supply of the ULLS, Telstra also incurs equivalent specific costs to allow for the supply of the declared LSS or when supplying line sharing to itself to provide xDSL services. Telstra arguably incurs such costs in provisioning a voice service to an end user.

The ACCC considers that 'ULLS specific costs' should not be recovered from ULLS lines alone. Under the ACCC's preferred approach, costs to pool and allocate are limited to the like-for-like or equivalent incremental costs associated with:

- a Telstra internal request for line sharing (when a retail or wholesale ADSL service is requested) or
- a request for line sharing, or access to the full spectrum on the line, from an external service provider (LSS or ULLS).

This approach was finalised in the 2007 ULLS Pricing Principles which stated that 'ULLS-specific costs' should be combined with 'LSS-specific costs' and 'Telstra's

²¹ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p. 7.

²² Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.2, 10-11.

internal equivalent costs when providing internal line-sharing' and allocated across the active number of ULLS, LSS and ADSL lines. This approach has been referred to as the "pooling approach" or the "broad recovery base approach".

The Tribunal also concurred with the ACCC's broad recovery base approach when it upheld the ACCC's decision to reject the Telstra 2005 ULLS undertakings that specified that ULLS specific costs should be allocated only to the ULLS²³.

The ACCC's overall TSLRIC+ measure of specific costs, and hence the access charge, provides a separate levelised cost estimate for efficient unit operating costs (\$1.86) and efficient capital charges (\$0.59) which result from specific costs totalling \$2.45.²⁴

2.5. Network costs

Network costs refer to the capital, operational, maintenance and indirect costs of Telstra's fixed line network. The relevant efficient network costs for the ULLS are the efficient costs attributable to the copper lines between the end-user and the exchange.

The issues which influence (to varying degrees) the measurement of ULLS network costs include:

- whether to use the updated PIE II model with the ACCC's preferred inputs
- the WACC
- the price trends and the use of a tilted annuity
- the particular model inputs—trench sharing, asset lives, network planning, network provisioning, O&M factors and network design, and
- the possible exogenous uplifts to the PIE II model's costs.

2.6. Application of cost model

Views of interested parties

Optus

Optus submits that the ACCC should continue to adopt a tilted annuity approach.²⁵

Telstra

Telstra disagrees with the way the ACCC uses flat annuities rather than tilted annuities and refers to its submissions in published arbitrations.²⁶ Telstra further notes the

²³ Telstra Corporation Ltd (No 3) [2007] ACompT 3 (17 May 2007).

²⁴ ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.140.

²⁵ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p. 9.

²⁶ See *Unconditioned Local Loop Service Access Dispute between Telstra Corporation Ltd and Powertel Ltd*, March 2008.

worldwide trend of copper main cable being replaced with fibre and the fact that shorter lengths of copper between the end user and fibre nodes will be used as FTTN builders embrace VDSL rather than ADSL technologies. In their view, it is ridiculous in this context not to apply a tilted annuity to defer recovery of capital costs of assets that may soon become obsolete.²⁷

The ACCC's view

Telstra's PIE II model was originally designed to reflect a network and calculate network costs for the period 2001-02 to 2004-05. Accordingly, to calculate costs for 2005-06 and beyond, a procedure was required to take costs from years up to and including 2004-05 and extrapolate them to 2005-06 and beyond.

Telstra provided the ACCC with an updated PIE II model. They also amended the underlying databases in the model with updated information for 2006 to 2008.²⁸ The ACCC is using the updated PIE II model submitted by Telstra but has populated it with the ACCC's preferred inputs as set out further below.

In calculating prices for 2007-08, the risk free rate at the start of the 2007-08 financial year was used to re-calculate the appropriate WACC. The model was then used to re-calculate prices relevant to that year. This is in contrast to previous years where the historical risk free rate was used in the ULLS final determinations.

In determining indicative prices for 2008-09, the risk-free rate as of 26 May 2008 was used to determine the appropriate WACC. Network costs for each year of the model were calculated and then a trend line applied to obtain cost estimates for 2008-09.

The ACCC is of the view that the approach submitted by Telstra will lead to ULLS network costs which are higher than a cost-reflective level. The ACCC considers that, having regard to its ULLS Pricing Principles, Telstra's approach will not reflect TSLRIC+ but rather overstate it.

WACC

Views of interested parties

Optus

Optus is of the view that the WACC should include:

- a risk free rate matching the maturity of the debt instrument with the regulatory period
- a three year bond rate to estimate the risk free rate
- an asset beta based on a CAN operator rather than a PSTN operator, and

²⁷ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.6.

²⁸ Telstra, *Submissions of Telstra – Part 3 – ULLS Monthly Charges*, 16 August 2007, Annexure 21, p.30 as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.78.

- an effective tax rate as opposed to a corporate tax rate.

Optus supports the current ACCC approach in relation to asymmetric consequences of over-estimating or under-estimating the WACC.²⁹

Telstra

Telstra stands by its submissions in recent ULLS access disputes on WACC. Telstra notes that the ACCC's rationale for some of its perspectives on WACC components has not changed for over a decade even though empirical support has eroded. In particular, the ACCC's recommended gearing (based on book values at the time of Telstra's initial partial privatisation in 1997) and the debt risk premium (DRP) has been stable over the last decade despite the volatility in the Telstra-wide DRP (as a useful partial indicator of the ULLS-specific DRP). Telstra submits that the application of the gearing combined with contemporary estimates of other parameters (eg risk free rate) is unsupportable in WACC theory and not properly supported by the ACCC. The ACCC is also taking, in their view, an unrealistic approach in determining the allowance for the debt premium when it uses a 1.02 per cent premium every year from 2000 to 2009 inclusive despite recent turmoil in global financial markets. The Telstra-wide DRP and recommended point estimate for ULLS specific DRP applicable as at 1 January 2008 is 1.95 per cent. Telstra asserts that the ACCC has not provided support for the time invariant DRP and appears to have ignored recent relevant developments in financial markets with immediate and direct relevance to WACC estimation.³⁰

The ACCC's view

The WACC is used to calculate a normal return on capital employed. There are a number of inputs relevant to deriving a WACC. These rates and inputs are based on analysis and evidence discussed in the ACCC's assessment of WACC as part of its consideration of Telstra's ULLS monthly charges access undertaking.³¹ The ACCC's views on the appropriate WACC parameters are:

Risk-free rate: the ACCC considers that the risk-free rate should be the 10 year government bond rate, averaged in the period leading up to the relevant observation date rather than a point estimate. The ACCC did not choose a shorter maturity bond and averaging is done to lessen volatility.

The observations should be taken on an ex ante basis for financial years commencing after the date from which these indicative prices will have effect. The average value for the period leading up to 30 June 2006 was, for example, applied to 2006-07 and the following year. This reflects the ACCC's decision of when the ULLS monthly charge

²⁹ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.8-9.

³⁰ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.8-9.

³¹ ACCC, *Assessment of Telstra's ULLS Monthly Charges Undertaking – Final Decision, August 2006*, Appendix D as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.82.

terms should apply. The ACCC considers this approach to better replicate what would have occurred in an effectively competitive market for the ULLS where prices would be set proximate to when access was sought whilst having regard to unbiased forecasts for future periods. The risk free rates are sourced from the Reserve Bank of Australia.³²

In order to calculate prices for the 2008-09 financial year, the risk-free rate as of 26 May 2008 was applied to determine the appropriate WACC.

Market Risk Premium (MRP): The ACCC has previously noted the large amount of conflicting evidence about the MRP. The ACCC estimates a forward-looking market risk premium by adjusting historically observed values. Adjustments are made to reflect that markets are becoming more integrated and efficient. The ACCC chose a value of 6 per cent which is at the lower end of the range of historically observed values. This value is generally consistent with past and current regulatory practice and market participant survey results.

Debt ratio: The ACCC is using a target debt ratio of 40 per cent. It considers that this is reflective of the target debt ratio for a company that provides services over the PSTN and CAN to itself and others. The 40 per cent rate is in accordance with the Telstra-wide historic book value and overseas fixed line regulation.

Asset beta: The asset beta used is 0.5, leveraged to provide an equity beta of around 0.83. The ACCC is of the view that the appropriate WACC for the ULLS is one based on a business providing access to a fixed-line customer access network, either to itself or to other service providers. The ACCC has applied the same WACC to both networks and specific costs.

Debt premium: the ACCC is using a debt risk premium of 1.95 per cent, as submitted by Telstra, to better reflect the recent developments in the financial markets. While it is unclear for how long these conditions will continue, on current information the ACCC considers that the debt risk premium for 2008-09 will likely be above historical levels.

Issuance cost: the ACCC is using a value of 0.083 per cent for debt issuance, reflecting the benchmark debt issuance costs appropriate for a company that provides services over the PSTN and CAN to itself and others and finances an amount the value of Telstra's CAN. Equity issuance costs are not included in the WACC although they can be included in the efficient cost pool as an operating-type expense should they be considered relevant.

Gamma: The possible values range from 0 to 1. The ACCC adopted a value of 0.5 as it is the midpoint of the range. The final WACC value is not materially sensitive to the value chosen.

³² See RBA, *Interest rates and yields: Money market and Commonwealth government securities*, viewed 7 December 2007, <http://www.rba.gov.au/Statistics/HistoricalInterestRatesYields/1993_to_2007.xls>.

Tax rate: the ACCC prefers an effective tax rate although it notes that a reliable estimate of the effective tax rate may not be possible. The ACCC used a corporate tax rate in its calculations below. This does not have a significant effect on cost estimates.

Resulting WACC values

The following WACC values result from the ACCC’s analysis above. The 2005-06, 2006-07, 2007-08 and 2008-09 WACCs are entered into the PIE II model. The earlier WACCs are relevant to the ACCC’s consideration of specific costs.

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
D/V ratio	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40
E/V ratio	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60
Risk-free (rf)	0.0623	0.0587	0.0590	0.0483	0.0582	0.0515	0.0582	0.0582	0.0635
Risk premium	0.06	0.06	0.06	0.06	0.06	0.06	0.06	0.06	0.06
Asset beta	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Equity beta	0.8299	0.8301	0.8301	0.8305	0.8301	0.8304	0.8301	0.8301	0.8300
Tax rate (e)	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Debt premium	0.0102	0.0102	0.0102	0.0102	0.0102	0.0102	0.0102	0.0102	0.0195
Issuance cost	0.0008	0.0008	0.0008	0.0008	0.0008	0.0008	0.0008	0.0008	0.0008
Gamma	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Return on equity	0.1121	0.1085	0.1088	0.0982	0.1080	0.1013	0.1080	0.1080	0.1133
Return on debt	0.0733	0.0697	0.0701	0.0594	0.0692	0.0625	0.0692	0.0692	0.0838
WACC (post-tax vanilla)	9.66%	9.30%	9.33%	8.26%	9.25%	8.58%	9.25%	9.25%	10.15%
WACC (pre-tax exclusive of imputation benefit)	10.85%	10.45%	10.48%	9.30%	10.39%	9.65%	10.39%	10.39%	11.35%

Consistent with past practice, and views of the Tribunal,³³ the ACCC does not make any allowance to accommodate claims of asymmetric consequences of over-estimating or under-estimating the WACC.

In calculating indicative prices, the ACCC used Telstra’s calculated price trends and applies a tilted annuity. The ACCC notes that the draft indicative prices report contained an error in relation to the risk free rate for the 2007-08 period. This has been rectified in this final report.

The ACCC notes Telstra’s submission on the debt risk premium used by the ACCC in the draft report. The ACCC considers that a debt risk premium reflective of financial market conditions should be applied for the 2008-09 period and has adopted the premium submitted by Telstra of 1.95 per cent.

³³ Telstra Corporation Ltd (No 3) [2007] ACompT 3 (17 May 2007) at 474.

2.7. Particular cost model inputs

Trench sharing

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet note that the public do not like their streets repeatedly dug up to install cables, pipes and other infrastructure, that it is a gross waste of funds not to share trenches and that Telstra has the statutory obligation to take all reasonable steps to share trenches constructed for the installation of cables pursuant to Schedule 3 of the *Telecommunications Act 1997* and *Telecommunications Code of Practice 1997*. In addition Telstra, in its submission of its transmission exemption application, claimed that its competitors had installed a significant amount of fibre in Band 1 and 2 Exchange Service Areas (ESAs) and that the average number of fibre owners in CBD ESAs in Sydney was 7.2, in Melbourne 7, in Brisbane 3.75, Adelaide 6 and Perth 4. They submit that if this competitive fibre exists, forward looking efficient network planning would ensure that it is all installed in the same trenches. They predict on this basis, and on the figures provided by Telstra, that the sharing of trenches in Bands 1 and 2 approximates towards 100 per cent rather than 1 per cent proffered by Telstra or the 13 per cent suggested by the ACCC.³⁴

Optus

Optus submits that the 13 per cent figure chosen by the ACCC is likely to understate historical trench sharing and that a higher trench sharing value of 15.72 per cent is more appropriate.³⁵

Telstra

Telstra disagrees with the way the ACCC runs the PIE II model in relation to the degree of trench sharing in new estates and refers to its submissions in the published arbitrations.³⁶

The ACCC's view

Trench sharing reduces the cost of trenches in the provision of fixed line network services. Telstra has traditionally stated that the appropriate level of trench sharing in the PIE II model would be 1 per cent as this is the proportion of open trenches available

³⁴ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.4-5; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.4-5; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.4-5.

³⁵ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.10-11.

³⁶ See *Unconditioned Local Loop Service Access Dispute between Telstra Corporation Ltd and Powertel Ltd*, March 2008. Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.2, 13.

over one year.³⁷ Comparatively, the ACCC has stated that a value in the order of 13 per cent would be more appropriate as this reflects historical cumulative trench sharing.³⁸ The ACCC notes that the 13 per cent figure might now itself understate historical trench sharing and that the use of a higher trench sharing value will tend to decrease estimates of network costs.

The ACCC is of the view that a 13 per cent trench sharing figure is appropriate given the TSLRIC+ pricing principles. It will better reflect the amount of trench sharing available to an infrastructure owner deploying the CAN, the efficient forward-looking cost of Telstra's ULLS and, better promote competition. A 13 per cent trench sharing figure will also allow the access provider and access seeker to compete in downstream markets on their relative merits. The ACCC considers that adopting Telstra's submitted approach will inflate costs for access seekers and inhibit competition on the merits. The ACCC also considers that adopting the access seekers' views would unreasonably reduce costs.

Asset lives

Views of interested parties

Optus

Optus submits that the weight of international evidence supports an asset life of at least 15 years.³⁹

Telstra

Telstra disagrees with the way the ACCC runs the PIE II model in relation to asset lives and refers to its submissions in the published arbitrations.⁴⁰

The ACCC's view

The ACCC considers that the asset lives used in the PIE II model should reflect the economic lives of the assets. The asset life used directly affects the depreciation schedule of the assets and will, therefore, affect the network cost estimates. A too short asset life will increase network cost estimates because cost recovery will be spread over a shorter period, will tend to inhibit competition and also lead to the recovery of more than the direct costs of the ULLS. Similarly, a too long asset life will unduly favour

³⁷ ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.94.

³⁸ ACCC, *Assessment of Telstra's ULLS Monthly charges Undertaking – Final Decision*, August 2006, pp 55-56, as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p94.

³⁹ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p.11.

⁴⁰ See *Unconditioned Local Loop Service Access Dispute between Telstra Corporation Ltd and Powertel Ltd*, March 2008. Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.6.

access seekers and adversely affect the legitimate business or commercial interests of the access provider.

The ACCC previously considered that the most appropriate asset lives to use are 12 years for the main cable and 20 years for the distribution cable. The ACCC is of the view that these asset lives best reflect the information available to it about both the average cable lives and the difference in cable lives between the main and distribution cable.

Network provisioning

Previously the ACCC noted a number of specific concerns it held about the PIE II model assumptions and inputs. These concerns relate to network provisioning, O&M factors, network planning costs and network design algorithms. These concerns apply equally to the updated version of PIE II provided by Telstra because the underlying model architecture has not been changed.⁴¹

The ACCC accepts Telstra's approach to provisioning, O&M, network planning and network design but considers that it has taken a conservative position that would tend to result in a higher estimate of network costs than would otherwise be the case.⁴²

2.8. Structure of charges

Views of interested parties

iiNet, Internode Adam Internet

iiNet, Internode, Adam Internet and Optus assert that rounding the monthly charges up to the nearest ten cents is inappropriate and unfairly favours Telstra. iiNet, Internode and Adam Internet consider that the difference will lead to a material sum of money when extrapolated across all services each month should they proceed to connect a large number of ULL services. Rounding up is also arbitrary and cannot be described as reflecting direct costs as required by section 152CR(1)(d) of the Act. In their view, rounding the charges down will result in a more accurate costs assessment especially as the ACCC takes a 'conservative position' resulting in a higher estimate of network costs than would otherwise be the case.⁴³

Optus

⁴¹ ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, para 496.

⁴² ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, para 503.

⁴³ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.5-6; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.5-6; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.5-6; Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.13-14.

Optus submits that it is not appropriate for the ACCC to round up charges to the next 10 cents as this would cause a departure from cost reflective charges and notes that the ACCC has given no justification for the decision.⁴⁴

The ACCC's view

The ACCC considers that, having regard to the 2007 ULLS Pricing Principles,⁴⁵ Tribunal findings in relation to Telstra's ULLS undertakings⁴⁶ and the subsection 152CR(1) legislative matters, the ULLS price should not be geographically averaged for the period covered by the ULLS indicative prices.

The ACCC's final indicative prices for ULLS monthly charges on a per service per month basis for Bands 1, 2 and 3 are:

Band	2005-06	2006-07	2007-08	2008-09
1	\$ 5.60	\$ 6.00	\$ 6.20	\$ 6.60
2	\$ 12.30	\$ 13.70	\$ 14.30	\$ 16.00
3	\$ 25.00	\$ 27.30	\$ 28.50	\$ 31.30

The charges result from applying the 2007 ULLS Pricing Principles and the ruling of the Tribunal. The charges also reflect the prices set in recent ULLS arbitration final determinations. The ACCC has considered the submission of Optus, iiNet, Internode and Adam Internet and formed the view that conventional rounding to the nearest 10 cents should apply for 2008-09.

The ACCC does not propose to set indicative prices in Band 4. The ACCC reached this view in light of the following factors:

- the fact that no access seeker has sought a determination of ULLS prices in Band 4
- the role of the Universal Service Obligation (USO) and other funding arrangements for the supply of services to Band 4 areas
- the known technical limitations in the provision of xDSL services over the ULLS in regional and rural areas due to the length of copper loops and, the resulting small expected demand for the ULLS in Band 4, and
- the ACCC's concerns about the PIE II model's overestimation of network costs in regional and rural areas, particularly in Band 4.

⁴⁴ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p.13-14.

⁴⁵ See ACCC, *Unconditioned Local Loop Service (ULLS) - Final Pricing Principles*, November 2007, p.22.

⁴⁶ The Tribunal found that it could not be satisfied that Telstra's proposed averaged ULLS charges were reasonable. See Australian Competition Tribunal, *Telstra Corporation Limited (No 3)* [2007] ACompT 3 (17 May 2007) at [291].

The ACCC is of the view, having considered the above factors, not to issue indicative prices for the ULLS in Band 4.

2.9. ULLS Single Connection Charges

A ULLS connection can be made using Telstra's standard ordering systems or processes, or alternatively, using a Managed Network Migration (MNM) process. A ULLS single connection is when Telstra's standard ordering system and processes are used and comprise all ULLS connections that occur outside an MNM process.

Views of interested parties

Optus

Optus is of the view that single ULLS and MNM ULLS connections should be geographically de-averaged. Optus submits that jumpering costs should be based on PSTN connections rather than ULLS which will over estimate efficient costs.⁴⁷

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet agree that connection charges should be based upon third party contractor rates but have concerns that quotes provided by Telstra do not represent quotes obtainable via a competitive tendering process.⁴⁸

Telstra

Telstra is of the view that the connection charges are too low and should be averaged across all bands.⁴⁹

The ACCC's view

The ACCC considers the following distinct cost categories in determining the efficient costs of ULLS single connections:

- Jumpering, travel, vehicle, tool and materials (copper pair) costs and indirect costs, and
- Back-of-house costs.

⁴⁷ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.15-16.

⁴⁸ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.1; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.1; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.1.

⁴⁹ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.2, 13.

Structure of charges

Telstra staff and systems perform back-of-house tasks. Back-of house costs encompass single connections and costs associated with the Data Activation Centre (DAC) and the Integrated Deployment Solution Centre (IDS) within Telstra's workgroups and processes.

In the 2007 ULLS Pricing Principles, the ACCC considered it appropriate to incorporate an allowance for back-of-house costs when determining a single connection charge for the ULLS. The ACCC considers the main issues in relation to appropriate back-of-house costs as the following:

- the time needed for DAC activity
- salary costs, and
- cutover testing.

The ACCC has not made an allowance for wholesale front-of-house costs as it considers that these costs will be recognised in the cost pool to be recovered through ULLS monthly charges.

Time needed for DAC activity

Views of interested parties

iiNet, Internode and Adams Internet

iiNet, Internode and Adams Internet note that the ULLS connection includes tracing bad or missing cable records and other manual service qualification tasks. They submit that it is not reasonable to penalise access seekers with higher connection charges because of Telstra's failure to adhere to its statutory obligation of maintaining accurate records of all underground cables and facilities.⁵⁰ They assert that an efficient operator should know where its cables are installed and whether they are of adequate condition or technology to support an ADSL service.⁵¹

Optus

Optus submits that an 8 minute allowance for DAC activity (1 minute per line for manual SQ and 7 minute allowance for DAC cutover activities) overestimates efficient costs.⁵²

Telstra

Telstra maintains that the ACCC's allowance of 8 minutes for activities performed by the DAC is substantially below what is necessary and reasonable for performing the

⁵⁰ *Telecommunications Act 1997*, Schedule 1, clause 41(3) and (4).

⁵¹ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.6-7; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.6-7; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7.

⁵² Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p.15.

tasks required. Telstra states that the average DAC time required for each IULLS or TULLS single connection is [c-i-c] minutes. Time is required for:

- manual intervention for manual service qualification (SQ), point of interconnection (POI) validation and cable assignment where necessary
- cutover activities, and
- cutover testing.

Cutover testing takes [c-i-c] minutes. Based on information relating to its own DAC staff, Telstra estimates the efficient hourly rate as \$[c-i-c] per hour and the efficient DAC costs associated with IULLS/TULLS single connections as \$[c-i-c] per connection.⁵³

The ACCC's view

The ACCC considers that the following tasks require DAC involvement:

- manual SQ – trace bad/missing cable records, calculate attenuation, enter into Telstra's ULL Carrier Interface System (ULLCIS)
- manual service qualification – validate POI and assign main distribution frame (MDF) metallic path, and
- DAC cutover activities, including assisting with connection problems.

The ACCC considers, in accordance with previous technical consultancy information, that an allowance of 8 minutes for DAC activity on average per ULLS connection is appropriate. In particular, one minute for the first two tasks combined and an allowance of 7 minutes for DAC cutover activities.

Salary costs

Views from interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet submit that the ACCC's proposed annual labour cost of \$60 to \$64 per hour or \$117,000 to \$124,800 per annum is too high.⁵⁴

iiNet considers its Customer Service Representative role as directly comparable to the role performed by Telstra's back-of-house staff such as the DAC. The base rate for iiNet permanent full time Customer Service Representatives is between \$36,000 and \$42,000 while the total annual cost ranges from \$43,560 to \$50,820.⁵⁵

⁵³ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.14.

⁵⁴ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6.

⁵⁵ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6.

[c-i-c]

Internode submits that Internode's roles of Customer Support Specialist, Provisioning, Investigations and Escalations Officer, and Support Relationship Officer are directly comparable to the role performed by Telstra's back-of-house staff. The base pay for these roles ranges from \$39,000 to \$47,000 per annum, the total salaries from \$47,190 to \$57,475 per annum and an hourly rate of \$24.20 to \$29.47 in comparison to the ACCC's proposed \$60-\$64 rate.⁵⁶

Adam Internet submits that its Team Leader Provisioning or Team Leader Faults roles are comparable to the role performed by Telstra's back-of-house staff. These roles perform all service provisioning and fault remediation as well as managing a small team of staff and providing customer service and technical support to Adam Internet's customer base. The base pay for these roles range from \$36,000 to \$50,000 per annum, the total salaries from \$43,560 to \$60,500 per annum and an hourly rate of \$22.34 to \$31.02 in comparison to the ACCC's proposed \$60-\$64 rate.⁵⁷

Optus

Optus submits that the contractor rates of \$60 to \$64 per hour are likely to overestimate the efficient cost for the supply of back-of-house activity.⁵⁸

Telstra

Telstra submits that the ACCC's proposed hourly efficient labour rate for back of house activities of \$60 to \$64 is too low. Based on information relating to its own DAC staff, Telstra estimates the efficient hourly rate to be \$[c-i-c].

The ACCC's view

The ACCC will maintain its use of a \$60 to \$64 per hour wage rate as neither the rates submitted by Telstra or access seekers are representative of efficient wage rates for back-of-house activity. This rate reflects a realistic point lying between the positions of the parties. It is also consistent with the ACCC's past approach to pricing DAC activities.

⁵⁶ Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6.

⁵⁷ Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.6.

⁵⁸ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p.15.

Cutover testing

The *Unconditioned Local Loop Service – ordering, provisioning and customer transfer code*⁵⁹ (Communications Alliance Code) requires Telstra to perform cutover testing when requested by an access seeker.

Views of interested parties

Optus

Optus submits that pre-jumper/cutover activities are not relevant for the provisioning of an in-use ULLS which cover the majority of ULLS connections.⁶⁰

Telstra

Telstra submits that the proposed indicative prices make no allowance for the cost of cutover testing and that there should be a cutover testing component of \$[c-i-c].

The ACCC's view

The ACCC is of the view that cutover testing is not necessary for all types of ULLS connections, namely, in-use ULLS connections (IULLS) and transfer ULLS connections (TULLS), as both types of connections are made on lines that have an operating service provided over them.

In order to reflect Telstra's obligations under the Communications Alliance Code, the ACCC considers that it would be appropriate for Telstra to be compensated for cutover testing performed in circumstances where it has been requested to do so by access seekers. The ACCC considers this approach appropriate because cutover testing relates to access seeker behaviour.

Jumpering, travel, vehicle, tool costs, material costs and indirect costs

Optus

Optus submits that it is appropriate to base efficient ULLS jumpering costs on the rate for PSTN connection. Should the ACCC apply jumpering costs for ULLS at a higher rate than PSTN jumpering costs, the jumpering costs should not in their view be significantly higher.⁶¹

The ACCC's view

The ACCC considers it appropriate to assess efficient jumpering, travel, vehicle and tool costs on rates of third party contractors used by Telstra for the connection of the ULLS.

⁵⁹ ACIF (569:2005).

⁶⁰ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008

⁶¹ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.15-16.

In relation to travel costs, it is the ACCC's view that single connection costs should reflect travel costs where singular connections are made at exchanges, not necessarily close to one another, and where connections are made as part of work orders involving multiple tickets of work at one exchange or at exchanges in close proximity.

Issues for consideration in this cost category include the appropriate weighting of singular and multiple jumpering, contractor charges and whether averaged contractor quotes or lowest contractor prices should be used.

Material costs and mark-up for indirect costs

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet accept the ACCC's proposal to adopt a mark-up of 10 per cent to cover indirect costs.⁶²

The ACCC's view

The ACCC does not consider it appropriate to include a separate allocation for materials costs in the connection charges because the costs of materials are already included in third-party contractor costs.

The ACCC considers that an appropriate mark-up for indirect costs would be 10 per cent. This approach is consistent with recent ACCC arbitration determinations, connection charge undertaking assessments and the 2007 ULLS Pricing Principles.

Weighting of singular and multiple jumpering charges

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet consider singular jumpering in Band 2 metropolitan exchanges to be between 10 per cent and 20 per cent. They accept the ACCC's estimate of 80 per cent for connections in Band 3 regional exchanges as reasonably accurate.⁶³

Telstra

Telstra is of the view that the ACCC's proposed jumpering costs are insufficient to cover the efficient costs of ULLS jumpering. The costs proposed by the ACCC suggest

⁶² iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7.

⁶³ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7.

that there are no single connections in Band 1. Telstra states that this is not the case and provides a weighting of [c-i-c] for connections in Band 1.⁶⁴

The ACCC's view

In accordance with previous technical consultancy advice and in consideration of the 2007 ULLS Pricing Principles, the ACCC has regard to the following weightings for single versus multiple jumpering in Bands 1, 2 and 3:

	Band 1	Band 2	Band 3
ACCC	0:100	30:70	80:20

The ACCC considers that these proportions are reasonably open to Telstra to achieve having regard to the number of connections made in each Band and the number of exchanges.

Appropriate contractor quotes to use

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet submit that ULLS jumpering costs should not exceed LSS jumpering quotes because ULLS jumpering involves a single pair of wires compared to two pairs for LSS. They consider the PSTN connection quotes as a fairer estimate of costs than the ULLS quotes provided by Telstra. They also assert that linking ULLS rates to PSTN rates will give Telstra the incentive to obtain contractors at reasonable rates. They propose, if PSTN rates are not used, that contractor quotes for LSS connections be used in order to bring ULLS connections closer to realistic efficient costs.⁶⁵

The ACCC's view

The ACCC's 2007 ULLS Pricing Principles require connection charges be set with reference to the amounts charged by third party contractors to Telstra for jumpering work performed in exchanges but do not specify how those contractor charges should be used to set the price.

⁶⁴ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.14.

⁶⁵ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.7.

The quotes used below were “first round” singular ULLS quotes provided by Telstra in May 2007 in the course of an ACCC arbitration of an access dispute concerning the supply of the ULLS by Telstra to PowerTel Ltd.⁶⁶

Contractor rates for ULLS singular tickets of work – Run Jumpers ULLS								
Metropolitan			Regional					
[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]

Simple averages of these prices are \$[c-i-c] in metropolitan areas and \$[c-i-c] in regional areas. The ACCC bases its costs for multiple jumpering on the \$[c-i-c] quote provided by Telstra for 2005-06.

In May 2007, Telstra provided PSTN singular jumpering rates for 2006-07 which averaged \$[c-i-c] in metropolitan areas and \$[c-i-c] in regional areas.⁶⁷ PSTN rates were, according to Telstra’s contractors, not adequate to cover ULLS work given the time required to carry out ULLS jumpering, particularly the time required to contact the DAC and access seekers.

Telstra provided finalised quotes for ULLS singular jumpering in 2007-08 but did not distinguish between metropolitan and regional areas. Those figures are as follows⁶⁸

Contractor rates for ULLS singular TOWs – Run Jumpers ULLS						
[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]	[\$[c-i-c]]

The simple average of these rates is \$[c-i-c] for singular tickets of work. Telstra also provided updated 2007-08 quotes for multiple ULLS tickets of work which averaged at \$[c-i-c].

The ACCC considers that current third-party contractor rates for ULLS connections are likely to exceed, to some extent, the efficient cost of jumpering ULLS in the future. This is evident in the current disparity between rates for PSTN and ULLS jumpering, and the potential for ULLS cutover testing and associated costs to reduce from present

⁶⁶ Telstra, *Telecommunications access disputes: Telstra ULLS access disputes – Direction for the supply of information on third party costs of single ULLS connections*, 8 May 2007, Annexure B as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.210.

⁶⁷ Telstra, *Telecommunications access disputes: Telstra ULLS access disputes – Direction for the supply of information on third party costs of single ULLS connections*, 8 May 2007, Annexure A as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.210.

⁶⁸ Telstra, *Telecommunications access disputes: Telstra ULLS access disputes – Direction for the supply of information on third party costs of single ULLS connections*, 8 May 2007, pp. 14-15 as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.210.

levels. The extent to which wholesale customers will support discontinuation of routine cutover testing and the extent to which ULLS jumpering costs should correspondingly fall are not clear at this time. As a conservative approach, the ACCC considers that ULLS connection charges in these indicative prices should be set with reference to the third-party connection quotes for ULLS connections rather than PSTN connections. It may be appropriate to revisit this matter once wholesale customer preference is better known.

The ACCC's conclusion on single connection charges

The ACCC's ULLS single connection charges for the purpose of these indicative prices are as follows:

Band	2004-05	2005-06	2006-07	2007-08	2008-09
1	\$ 38.10	\$ 38.10	\$ 44.00	\$ 50.10	\$ 50.40
2	\$ 43.10	\$ 43.10	\$ 47.80	\$ 52.80	\$ 53.10
3	\$ 51.50	\$ 51.50	\$ 54.10	\$ 57.40	\$ 57.70

The level of prices resulting from the ACCC's approach may appear to be high, and in particular, lead to a counterintuitive result of ULLS connection prices being significantly higher than LSS connection prices. The ACCC expects, however, that these ULLS connection prices will fall in later periods following the cessation of routine cutover testing and consequent expected reduction of contractor rates. In particular, the ACCC notes that jumpering quotes should, in due course, at least fall below the costs for LSS connections and should approach costs of PSTN connections.

The ACCC used Telstra's third party contractor rates for 2007-08 in its 2008-09 indicative prices. Given that the ACCC is not bound by indicative prices when arbitrating access disputes, it would be open to the ACCC to consider evidence of any price change (such as renegotiated third party contractor rates) when considering ULLS connection prices in specific arbitrations in the future.

Assessment of efficient costs - disconnections

Views of interested parties

Telstra

Telstra submits that any efficient operator would incur costs associated with disconnections. It is essential that a jumper be physically removed once a request for a ULLS cancellation is received because, if Telstra were to leave the jumper in place, the access seeker would be able to continue to use it without Telstra's knowledge (and without charge) and it would be very difficult for Telstra to monitor any such use. Telstra asserts that it is not sound engineering or business practice to leave redundant jumpers in place after the cancellation of a service. In particular:

- they will occupy space on the access seeker's POI or may cause a fault on the access seeker's POI block. Crossed wires on a redundant jumper, a battery fault or an earthing fault may all potentially result in a fault on an access seeker's POI block. Telstra states that while such problems are not common, increased

numbers of redundant jumpers in exchanges would certainly lead to an increase in these kinds of faults.

- if or when an order to reconnect a ULLS or other service is received, the previous failure to remove the redundant jumper to the access seeker's equipment may lead to a number of problems. For example, the technician may not be able to identify by testing whether the line is in use, particularly for lines which are being used to provide data only services as these show no identifiable voltage or tone when data is not being processed. The technician would need to in this instance contact the DAC for clarification as to whether the jumper is in use. This, for Telstra, adds an additional step to the process, adding further cost and delay.
- there will be times when no other jumpering work is required for a pathway using the relevant C-pair port for a number of months or years. These redundant jumpers can vary in length between 2 metres and 50 metres. Telstra states that redundant jumpers cannot be left physically connected for indefinite periods because they would occupy space (tens of thousands of jumpers could be left physically connected) including on the access seeker's equipment.

There are back-of-house costs associated with a disconnection. Telstra estimates that the efficient costs associated with each disconnection is \$25.66. Disconnection costs for Bands 1-4 contain:

Jumpering	[\$c-i-c]
IDS	[\$c-i-c]
DAC	[\$c-i-c]
Total	\$25.66

These costs are calculated on the basis of:

- jumpering undertaken by Telstra's internal workforce ([c-i-c] minutes at a labour rate of \$[c-i-c])
- [c-i-c], and
- DAC costs calculated on the basis of an average time of [c-i-c] minutes per disconnection at \$[c-i-c] per hour.

Telstra is of the view that disconnection charges should be \$25.66.⁶⁹

The ACCC's view

The ACCC has considered whether there should be a separate allowance within the ULLS connection charge for disconnection jumpering activity. The ACCC maintains its view that a separate disconnection activity does not represent an efficient process.

The ACCC considers that the current two-step procedure required by Telstra includes inefficient costs because it requires the removal of a jumper as a separate process

⁶⁹ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.15-17.

before the reconnection of a separate jumper and service and this occurs irrespective of the reason for disconnecting the ULLS. The ACCC considers that this introduces costs of a second jumpering activity that could be avoided by the alignment of disconnection and connection processes whenever the churn of an end-user customer to another provider causes the ULLS disconnection. In relation to disconnections which do not result from churn but simply from the cessation of an end-user customer's service, the ACCC considers that the jumper could be left in place until either the C-pair port or equipment-side port is re-used. The ACCC accordingly does not consider it necessary to implement an approach that charges for disconnections for such a scenario. The ACCC further considers that any inefficiency or confusion in the management of the MDF in exchanges would be minimal, transitory and outweighed by the factors in favour of disallowing disconnection costs.

2.10. ULLS Managed Network Migration charges

A Managed Network Migration (MNM) is a transfer or migration of multiple services.

MNM terms and conditions include:

- connection charges
- order cancellation charges
- a specified minimum number of ULLS connections as a precondition for requesting a MNM and a minimum MNM charge per exchange, and
- MNM plan terms such as forecasting timeframes and migration plan amendment terms.

The ACCC has had regard to the 2007 ULLS Pricing Principles adopted by the ACCC. Under those principles, a TSLRIC+ pricing approach should be applied to the charges, that is forward-looking efficient costs of connecting the ULLS as part of a MNM. These charges, in principle, should be geographically de-averaged although averaged prices can be justified where the distortionary effect of an averaged charge is not significant. The ACCC notes that the same costs (categories and level) apply to ULLS MNMs across the different geographic bands and that averaging across the geographic bands does not, therefore, lead to a different charge.

As with single connections, there are potentially a number of different types of network migrations that could be requested. The ACCC has considered connections of ULLS where the MNM connections are transfers of end-user data services from a Telstra wholesale PSTN service, connections of ULLS on lines previously being supplied with a ULLS to another access seeker and, connections of ULLS on lines previously being supplied with a LSS.

Connections of ULLS where the MNM connections are transfers of end user data services from a Telstra wholesale PSTN service

This type of ULLS MNM connection is where the ULLS is to be provided on a copper pair that was being used by Telstra to provide PSTN services (and may also have

provided xDSL services) on a wholesale or retail basis. This type of connection could be considered as the MNM equivalent to the single IULLS connection type. The MNM is used by access seekers to move customers to the access seekers' own exchange-based equipment from resold Telstra services. The ACCC considers it appropriate to set MNM connection terms for this category of MNMs given the importance of the process to access seekers switching end-users to the access seekers' own exchange-based equipment.

MNM connections of ULLS on lines previously being supplied with a ULLS to another access seeker

This type of connection could be considered as the MNM equivalent to the single TULLS connection type. The ACCC considers it appropriate to set MNM connection terms for this category of MNMs as it may be used by access seekers to switch customers from another access seeker's services. The ACCC's view is that it is appropriate to align MNM charges where the connections are being done as part of a transfer from an existing ULLS or wholesale PSTN/ADSL service on the basis that each type of connection requires similar jumpering work.

MNM connections of ULLS on lines previously being supplied with a LSS

This type of MNM connection is used where an access seeker requests, as with single connections, a ULLS connection on lines on which it, or a related entity, was previously acquiring a LSS.

Assessment of efficient costs

There are a number of distinct cost categories that are relevant to ULLS MNM connections. They are as follows:

- 'Back-of-house' costs
- Jumpering, travel, vehicle, tool and materials (copper pairs) costs, and
- Indirect costs.

Telstra uses third party contractors to perform the exchange-based work necessary to connect and disconnect the ULLS as part of a MNM. Telstra staff and systems perform back-of-house tasks.

The ACCC's 2007 ULLS Pricing Principles state that connection charges should be set by reference to the amounts charged by third party contractors to Telstra for jumpering work in exchanges, to indirect costs and back-of-house costs.⁷⁰ The components of the efficient cost of ULLS MNM connections are discussed below.

⁷⁰ ACCC, *Unconditioned Local Loop Service (ULLS)—Final Pricing Principles*, November 2007, p.24.

‘Back of house’ costs

‘Back of house’ costs are those associated with the following Telstra workgroups and processes:

- Wholesale Customer Transfer (WCT) group – The WCT group manages the provisioning of ULLS MNMs while the Wholesale Customer Service (WCS) manages the billing of ULLS MNMs
- DAC, and
- IDS.

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet reiterate the concerns they have with single connection costs and request that LSS to ULLS migration charges be confirmed.⁷¹

Optus

Optus made no submission in relation to back-of-house costs other than to note that the ACCC must be vigilant of Telstra’s submission in relation to these costs to ensure contractors’ rates are kept in check.⁷²

Telstra

Telstra submits that a specific allowance should be made for WCT costs. Telstra estimates its WCT costs for a ULLS MNM of 50 services as \$[c-i-c]. If, contrary to Telstra’s submission, the ACCC does not adopt this approach, it should, in Telstra’s view, expressly identify the cost category and amount of WCT costs it incorporated into its specific cost model. Telstra also submits that the DAC activity rate selected by the ACCC is insufficient to cover an efficient operator’s costs.⁷³

The ACCC’s view

The 2007 ULLS Pricing Principles state that ULLS connection charges should be determined by reference to back-of-house costs. WCT/WCS costs are front-of-house costs recovered in the specific cost component of ULLS monthly charges. The ACCC does not, therefore, view these costs as recoverable in the ULLS MNM charges. The

⁷¹ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8.

⁷² Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p16.

⁷³ Telstra Corporation Ltd, *Submission in Response to the Commission’s Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p7.

IDS and DAC group costs, on the other hand, are back-of-house costs that are appropriately recovered in the ULLS MNM costs.

The ACCC will allow a recovery of costs for 2.1 hours of IDS group involvement per MNM and 4 minutes per line connected for DAC costs.

This approach results in an allowance for back-of-house costs of \$126 per MNM for the period ending 30 June 2006, indexed for later years, and a further allowance of \$4 per line connected as part of the MNM, indexed for later years.

Jumpering, travel, vehicle and tool costs

Views of interested parties

Optus

Optus made no submission in relation to jumpering, travel, vehicle and tool costs other than to note that the ACCC must be vigilant of Telstra's submission in relation to these costs to ensure contractors' rates are kept in check.⁷⁴

Telstra

Telstra submits that the most appropriate contractor rates on which to base any assessment of efficient MNM jumpering costs are the two-visit rates. Telstra notes that the ACCC, in a recent final determination resulting in identical MNM pricing to the draft indicative prices, proposed charges reflecting the lower of the two negotiated two-visit contractor rates. Telstra asserts that it is rarely, if ever, efficient for MNM jumpering to be carried out in one visit and that Telstra will, therefore, under recover on MNM jumpering costs under the proposed indicative prices for MNMs. Telstra is also of the view that MNM charges, as with monthly charges, should be averaged across all bands.⁷⁵

The ACCC's view

A decision on the appropriate approach to take on jumpering, travel, vehicle and tool costs requires a balancing of the competing considerations under subsection 152CR(1) of the Act. The ACCC considers that it would be more consistent with the statutory criteria to base MNM connection charges on the scenario where MNMs are conducted using a mix of two-stage MNMs and single-stage MNMs, rather than on only one or the other.

The ACCC does not consider it necessary to have regard to the higher of the two contractor rates for two-stage processes, or to average the two price points.

⁷⁴ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p16.

⁷⁵ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.17-18.

The ACCC accepts that where a MNM involves a two-stage process for which the higher cost contractor rate applies, the contractor charge will be higher than the amount allowed by the ACCC. Similarly, where there is a MNM connected in a single stage, the contractor charge will be less than the amount allowed by the ACCC. The actual average charge faced by Telstra will depend upon the distribution of MNMs around all of the contracted price points. A simple averaging of the four price points does not, however, suggest that the average charge faced by Telstra will be higher than the amount allowed by the ACCC even if these are currently skewed towards the two-stage process.

The ACCC notes that should access seekers prefer a single-stage process (or a two-stage process) for all their future MNMs, access seekers may negotiate MNM connection charges on that basis.

Materials costs

The cost of materials incurred by contractors are already part of contractors' charges. The ACCC has not, therefore, included a further and discrete allowance for these costs.

Mark-up for indirect costs

The ACCC determines a mark-up of 10 per cent for indirect costs. The allowance is set by reference to what is considered a reasonable mark-up on contractor charges for efficiently incurred contract management costs. Although there may be some potential for a 10 per cent allowance to be "more than reasonable" or above efficient forward-looking levels, the ACCC does not consider this to be a significant risk. The ACCC's approach is consistent with its 2007 ULLS Pricing Principles.⁷⁶

Costs for 2007-08 and 2008-09

The ACCC proposes to index the jumpering, travel, vehicle and tool costs, material costs and back-of-house costs for 2008-09. The ACCC has determined to use the contractor rate of \$[c-i-c] provided by Telstra for 2007-08.

The ACCC does not index material costs because they are not part of a separate charge in the ULLS MNM connection charges.

The ACCC uses the ABS 6345 Labour Price Index 'Ordinary time hourly rates of pay excluding bonuses; Australia; Communication services; Private; All occupations' 2006-07 labour costs as the basis for indexing labour costs for 2008-09.

Averaged or de-averaged charges

MNM charges are a geographically averaged estimate of the efficient costs of providing MNMs. The ACCC notes that MNM costs do not differ between geographic bands and while the 2007 ULLS Pricing Principles state that charges should be geographically de-averaged, the effect of averaging or de-averaging does not lead to a different charge in relation to MNMs.

⁷⁶ ACCC, *Unconditioned Local Loop Service (ULLS)—Final Pricing Principles*, November 2007, p. 24.

Bands 1, 2, 3 only

The ACCC considers it inappropriate to specify charges applicable to ULLS MNMs in Band 4 because there is little, if any, demand for these connections.

MNM connection charges

The ACCC applies a two-part tariff to ULLS MNM connection charges. Fixed, project management, back-of-house costs are recovered in a fixed component while other variable per line costs are recovered in a variable component charged on the basis of per service connected.

The ACCC is of the view that a higher jumpering rate for smaller scale MNMs and those applicable to 20 and 29 services are unnecessary. The ACCC notes that the single jumpering quotes incorporate costs for activities, such as cutover testing, that are not relevant for MNMs.

The following GST-exclusive charges result from the ACCC's arbitral processes and its approach to pricing structure, jumpering and associated cost categories, back-of-house costs and indirect costs⁷⁷:

- (a) for the period from 1 July 2007 to 30 June 2008

Component	Charge
– Fixed amount	\$ 135.60 (per MNM)
– Variable amount	+ \$ 24.90 (per connection)

- (b) for the period from 1 July 2008 to 31 July 2009

Component	Charge
– Fixed amount	\$ 138.00 (per MNM)
– Variable amount	+ \$ 25.00 (per connection)

MNM disconnection charges

The ACCC considers it inappropriate to allow ULLS disconnection charges where the ULLS is disconnected as part of a MNM.

⁷⁷ ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, pp 265-268

Cancellation charges

Views of interested parties

Telstra

Telstra notes that the cancellation charges in the draft 2008 ULLS Pricing Principles and Indicative Prices Determination are not reflected in the ACCC's proposed indicative prices schedule.⁷⁸

The ACCC's view

The ACCC advises that the cancellation charges are now reflected in the final indicative prices.

The ACCC determines cancellation charges as consisting of the following:

- There is no cancellation charge for cancellations of individual services where pre-jumping has not occurred. The ACCC considers that costs incurred by Telstra prior to 20 business days of the scheduled cutover date (before pre-jumping has occurred) are fixed costs which are incurred regardless of the number of services to be connected provided that the entire migration is not cancelled. This view is based on the fact that Telstra claims fixed amounts for IDS group costs and on Telstra's description of MNM processes.⁷⁹ Technical consultants contracted by the ACCC similarly considered the costs leading up to the 20 day list to be fixed costs which do not vary with the number of services connected.⁸⁰ The ACCC, as noted above in this report, has determined not to include an allowance for WCT costs in the ULLS connection charges.
- For cancellations of individual services where pre-jumping has occurred, the applicable charge is \$20 per service. The ACCC based this charge on the \$18.70 amount Telstra submitted it is charged by third party contractors for pre-jumping and subsequent removal of the pre-jumper wires in addition to an allowance of 1.2 minutes of DAC costs for DAC work undertaken leading up to, and during, the pre-jumping stage. The ACCC considers that an allowance should be made for DAC costs incurred before the completion of jumping on the basis that some DAC costs would be incurred on average in coordinating pre-jumping activities.⁸¹ The

⁷⁸ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.18.

⁷⁹ Telstra, *ULLS – Submissions of Telstra – Part 5 – ULLS Managed Network Migrations (“MNMs”) General issues*, 16 August 2007, p.9 as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.270.

⁸⁰ See Layer 10, *Analysis relating to ULLS Access Disputes – Primus, Chime, Optus, XYZed, Request, PowerTel and Telstra*, January 2008 p.778 as quoted in ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.270.

⁸¹ Layer 10, *Analysis relating to ULLS Access Disputes – Primus, Chime, Optus, XYZed, Request, PowerTel and Telstra*, January 2008, p. 89 as quoted in ACCC, *ULLS Access Dispute between*

charge for cancellation of individual services is only payable where the cancellation occurs after pre-jumping has taken place, which occurs within 20 business days prior to the scheduled cutover date. The 20 business day condition reflects the view that it would not be necessary for an access provider to pre-jumper before this time.

- Where the migration is completely cancelled the applicable charge is \$138.00 per MNM (2008-09 fixed cost for the MNM). This charge applies only where the entire MNM scheduled for an exchange is cancelled and is payable regardless of when the MNM is cancelled.

Pre-requisites to ordering a MNM and a minimum MNM connection charges

Views of interested parties

Telstra

Telstra notes that the cost of an MNM involving 20 services is not reflected in the proposed indicative prices in the draft 2008 ULLS Pricing Principles and Indicative Prices Determination.⁸²

The ACCC's view

The ACCC advises that the minimum charge is now reflected in the final indicative prices schedule.

The minimum charge payable for all MNMs is based upon the cost of a MNM involving 20 services.

The ACCC considers 20 services as an appropriate scale for MNMs to be requested even though access seekers may request MNMs for connections of fewer than or more than 20 services. The ACCC notes that the connection of 20 services can be performed at less cost when done as part of a MNM. This is demonstrated by comparing the cost of an ULLS MNM consisting of 20 connections to the cost associated with making 20 ULLS 'single' connections.⁸³

The ACCC does not specify a minimum number of connections to qualify for a MNM. The ACCC considers that access seekers should have the flexibility to request a MNM even where there are fewer than 20 services to connect if this is the approach they consider preferable. Access seekers will, however, still pay for the fixed cost of connecting 20 services should they request fewer than 20 services.

Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination, April 2008, p.270.

⁸² Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.18.

⁸³ ACCC, *ULLS Access Dispute between Telstra Corporation Limited and PowerTel (access seeker) Statement of Reasons for Final Determination*, April 2008, p.274.

The approach taken in setting MNM connection charges means Telstra's 'largely-fixed' back-of-house costs, and the costs incurred for the jumpering work for 20 services, will be recovered in all instances.

Other matters

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet have customers on LSS (iiNet has approximately 148,838 customers) which they could migrate to a ULLS based product but are unable to do so because Telstra has no process for such migrations and no intention, according to them, of developing one. The current process is for the customer to cancel their service, have the LSS disconnected and then re-apply as a new customer. iiNet, Internode and Adam Internet suggest that access seekers cannot expect customers to accept being disconnected from their service for up to three weeks while waiting for the ULLS to be connected nor, can access seekers run the risk of the customer transferring to a different service provider in the meantime. The current situation ensures that ULLS based services are only offered to new customers while LSS based services remain on the LSS. iiNet estimates that 70 per cent of its customers have churned from existing ADSL providers and that there are very few 'new' customers in the market. iiNet, Internode and Adam Internet suggest that by including the LSS 'step', smaller investors will be able to build scale, develop skills and build profitability. The parties request that the ACCC monitor the Communications Alliance's development of a LSS to ULLS migration process to ensure that access seekers are able to fully utilise the ULLS going forward.⁸⁴

The ACCC's view

The ACCC notes the views of iiNet, Internode and Adam Internet in relation to LSS migration to ULLS. The ACCC considers this issue to be more appropriately dealt with through the Communications Alliance as non-price terms and conditions are outside the scope of this report and the ACCC's power to set indicative prices under section 152AQA of the Act.

2.11. ULLS Call Diversion Charges

Views of interested parties

iiNet, Internode and Adam Internet

iiNet, Internode and Adam Internet agree with the ACCC's methodology in relation to call diversion charges. Telstra should not, in their view, be permitted to apply an on-

⁸⁴ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.8-9; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.8-9; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, pp.8-9.

going call diversion charge when Telstra does not incur ongoing costs to maintain automated routing instructions for call diversions and, when costs associated with the automated process are recovered via network costs applicable to ULLS and other services.⁸⁵

The parties also note that paragraphs 2.10 and 3 of the draft 2008 ULLS Pricing Principles and Indicative Prices Determination and paragraph 4 of the *Pricing Principles for the Unconditioned Local Loop Service Amendment Determination 2008 (No 1)* refer to different prices for call diversion connection charges in 2007-08. They submit the correct rate to be \$8.80 rather than \$9.20.⁸⁶

Optus

Optus submits that Telstra should not be permitted to charge access seekers for call diversion on an ongoing basis as the process is automated and the efficient costs of the provision of this service approaches zero.⁸⁷

Furthermore Optus submits that the ACCC has jurisdiction to set indicative prices in relation to the call diversion service as this service is an integral part of the ULLS migration process that directly affects the customer and that is part of the declared ULLS. Moreover, Optus submits that the ACCC has discretion to consider a much wider set of activities and components that are related to the provision of the ULLS under the terms of the existing service declaration. "Access" encompasses anything necessary to be provided in order that the access seeker can provide carriage services or content services in respect of the declared service.⁸⁸

Telstra

Telstra asserts that the ACCC does not have the power to determine or publish indicative prices for its call diversion number only ('CDNO') service as it is not a declared service and constitutes a separate service from the ULLS. Telstra argues that it is not a necessary component in the provision of the ULLS but an optional add-on, which supports the pre-requisite conditions for Local Number Portability ("LNP") beyond a ULLS completion. Although it is sometimes provided directly after the completion of a ULLS connection, Telstra notes that CDNO is a separate and very different service from ULLS which is illustrated by the fact that ULLS can be connected by four different processes, only one of which involves the subsequent

⁸⁵ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8.

⁸⁶ iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8; Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, May 2008, p.8.

⁸⁷ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, p17.

⁸⁸ Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, May 2008, pp.17, 18.

provision of CDNO. These processes are categorised as VULL (a vacant ULLS Request), IULL (an in-use ULLS Request), TULL (an ULLS Transfer Request) and DULL (a ULLS Request in conjunction with a CDNO Request).⁸⁹

Telstra asserts that the provisioning of CDNO takes place entirely at the DAC, while the ULLS connection takes place at the telephone exchange and is done by technicians involved in jumpering wires. The two processes may be coordinated but are not dependent on one another and can be completed entirely separately at separate locations by different staff. Telstra also submits that the provision of Telstra's CDNO service is not the only means by which an end-user's telephone number may be ported in a situation where the end-user changes service providers. Access seekers acquiring ULLS could, for example, offer services without the need for a telephone number, request a separate VULLS on a different line and port the number to that line, request call diversions from third parties, allocate a new number, or coordinate with third parties immediately prior to ULLS cutover.⁹⁰

Telstra's position is that the ACCC's draft indicative prices for call diversion are inadequate and cannot be legitimately characterised as TSLRIC+. In their view, the only cost category taken into account is DAC time and the hourly rate used to calculate the costs is too low for reasons set out above. Telstra lists a range of additional costs categories that an efficient operator would incur. These include costs associated with core IT systems, resource management, overheads and billing. Telstra submits that the ACCC, in failing to take these categories into account, is not acting in accordance with its own ULLS pricing principles.⁹¹

The ACCC's view

The ACCC considers that it has the power to determine indicative prices for call diversion as it is an integral part of the declared service in relation to the supply of ULLS in particular circumstances. The ACCC notes that the work required for ULLS call diversions to be activated occurs entirely at the DAC, and is essentially an additional cost component of a ULLS connection. The cancellation of a ULLS call diversion occurs automatically on the porting of the phone number from the losing provider to the gaining provider and does not require manual intervention by Telstra staff. The average time per connection required in the case of failure of automatic cancellation is also negligible. The ACCC considers that the IT systems development costs to allow ULLS call diversion to take place are recovered in the specific costs component in ULLS monthly charges. Telstra's ability to recover the direct costs of ULLS call diversion is met by basing the charge on the time currently taken by DAC staff to perform activities necessary to activate ULLS call diversions.

⁸⁹ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp. 2 & 19.

⁹⁰ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, p.19.

⁹¹ Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008, pp.19-20.

The ACCC's final indicative price for the initial connection/activation of ULLS call diversion are \$9.20 for 2007-08 and \$9.30 for 2008-09. This charge is based on the appropriate hourly salary for Telstra's back-of-house activities (\$65.68 per hour) multiplied by the time taken for ULLS call diversion activities. The hourly salary for Telstra's back-of-house activities is consistent with the hourly salary used in calculating ULLS single and MNM connection charges.

The ACCC's final indicative price for the monthly charge of ULLS call diversion is pro rata \$12.50 per month per service for 2008-09. This is consistent with the ongoing costs access seekers currently incur for ULLS call diversion charges as specified in the Customer Relationship Agreements or access agreements between each access seeker and Telstra.

3. Conclusion

In conclusion, the ACCC's final indicative prices for ULLS to 31 July 2009 (being the expiry date of the ULLS declaration) are:

ULLS monthly charges

Band	2005-06	2006-07	2007-08	2008-09
1	\$ 5.60	\$ 6.00	\$ 6.20	\$ 6.60
2	\$ 12.30	\$ 13.70	\$ 14.30	\$ 16.00
3	\$ 25.00	\$ 27.30	\$ 28.50	\$ 31.30

The ACCC does not propose to issue final indicative prices for the ULLS in Band 4.

The ACCC's final indicative prices for ULLS Single Connection Charges (IULLS and TULLS) for the period 1 July 2008 to 31 July 2009 are:

ULLS Single Connection Charges

Band	2004-05	2005-06	2006-07	2007-08	2008-09
1	\$ 38.10	\$ 38.10	\$ 44.00	\$ 50.10	\$ 50.40
2	\$ 43.10	\$ 43.10	\$ 47.80	\$ 52.80	\$ 53.10
3	\$ 51.50	\$ 51.50	\$ 54.10	\$ 57.40	\$ 57.70

The ACCC does not propose to issue final indicative prices for the ULLS in Band 4.

The ACCC's final indicative prices for ULLS MNM Connection Charges for the period to 31 July 2009 are:

ULLS MNM Connection Charges

for the period from 1 July 2007 to 30 June 2008

Component	Charge
– Fixed amount	\$ 135.60 (per MNM)
– Variable amount	+ \$ 24.90 (per connection)

for the period from 1 July 2008 to 31 July 2009

Component	Charge
– Fixed amount	\$ 138.00 (per MNM)
– Variable amount	+ \$ 25.00 (per connection)

ULLS Cancellation charges

The ACCC's final indicative price for cancellations of individual services where pre-jumping has occurred is \$20 per service and \$138.00 per MNM (2008-09 fixed cost for the MNM) where the migration is completely cancelled.

ULLS Call Diversion Charges

The ACCC's final indicative price for the initial connection/ activation of ULLS call diversion are \$9.20 for 2007-08 and \$9.30 for 2008-09. The ACCC's final indicative price for the monthly charge of ULLS call diversion is pro rata \$12.50 per month per service for the period to 31 July 2009.

Appendix 1: Unbundled Local Loop Service (ULLS) description

The declaration took effect on 1 August 2006 and expires on 31 July 2009.

Service description

The ULLS is the use of unconditioned communications wire between the boundary of a telecommunications network at an end-user's premises and a point on a telecommunications network that is a potential point of interconnection located at or associated with a customer access module and located on the end-user side of the customer access module.

Definitions

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

In this Appendix:

boundary of a telecommunications network is the point ascertained in accordance with section 22 of the *Telecommunications Act 1997*;

communications wire is a copper based wire forming part of a public switched telephone network;

customer access module is a device that provides ring tone, ring current and battery feed to customers' equipment. Examples are Remote Subscriber Stages, Remote Subscriber Units, Integrated Remote Integrated Multiplexers, Non-integrated Remote Integrated Multiplexers and the customer line module of a Local Access Switch;

public switched telephone network is a telephone network accessible by the public providing switching and transmission facilities utilising analogue and digital technologies.

Appendix 2: ACCC 2007 ULLS Pricing Principles Determination

TRADE PRACTICES ACT 1974

Section 152AQA

Pricing Principles for the Unconditioned Local Loop Service

The Australian Competition and Consumer Commission (the Commission) determines, pursuant to section 152AQA of the *Trade Practices Act 1974* (the Act), that the pricing principles specified in Schedule 1 are to apply to the Unconditioned Local Loop Service (ULLS) declared by the Commission under section 152AL of the Act.

This Determination commences on the day it is made.

Note: for the effect of this determination, see subsection 152AQA(6) of the Act.

Made by the Australian Competition

and Consumer Commission on

21 November 2007

Graeme Samuel

Chairman

SCHEDULE 1

The Commission's pricing principles for the ULLS are:

- a TSLRIC+ Pricing principles should be applied to the ULLS
- a specific cost component should be included in the ULLS monthly price, calculated by combining 'ULLS specific costs' with 'LSS specific costs' and Telstra's internal equivalent costs for ADSL, and allocating those costs across the number of active ULLS, LSS and ADSL lines
- the ULLS charges should be geographically de-averaged, and
- connection charges should be set with reference to the amounts charged by third party contractors to Telstra for jumpering work in exchanges, indirect costs and back-of-house costs.

**Appendix 3: Pricing Principles for the
Unconditioned Local Loop Service Amendment
Determination 2008 (No. 1)**



Pricing Principles for the Unconditioned Local Loop Service Amendment Determination 2008 (No. 1)

Trade Practices Act 1974

The AUSTRALIAN COMPETITION AND CONSUMER COMMISSION makes this Determination under section 152AQA of the *Trade Practices Act 1974*.

Dated 2008

Chairman

Australian Competition and Consumer Commission

1 Name of Determination

This Determination is the *Pricing Principles for the Unconditioned Local Loop Service Amendment Determination 2008 (No. 1)*.

2 Commencement

This Determination commences on the day it is made.

3 Amendment of *Pricing Principles for the Unconditioned Local Loop Service*

Schedule 1 amends the *Pricing Principles for the Unconditioned Local Loop Service* dated 21 November 2007.

Schedule 1 Amendments
(section 3)

[1] Paragraph 1

omit

The Australian Competition and Consumer Commission (the Commission) determines, pursuant to section 152AQA of the *Trade Practices Act 1974* (the Act), that the pricing principles specified in Schedule 1 are to apply to the Unconditioned Local Loop Service (ULLS) declared by the Commission under section 152AL of the Act.

insert

The Australian Competition and Consumer Commission (the Commission) determines, pursuant to section 152AQA of the *Trade Practices Act 1974* (the Act), that the pricing principles specified in Schedule 1 and indicative prices specified in Schedule 2 are to apply to the Unconditioned Local Loop Service (ULLS) declared by the Commission under section 152AL of the Act.

[2] Schedule 1

omit

The heading "**Schedule 1**"

insert

A new heading "**Schedule 1 – PRICING PRINCIPLES**"

[3] After Schedule 1

insert

Schedule 2 – INDICATIVE PRICES

1. The indicative prices for ULLS monthly charges on a per service per month basis for Band 1, 2 and 3 for the period to 31 July 2009 are:

ULLS Monthly Charges

Band	2005-06	2006-07	2007-08	2008-09
1	\$ 5.60	\$ 6.00	\$ 6.20	\$ 6.60
2	\$ 12.30	\$ 13.70	\$ 14.30	\$ 16.00
3	\$ 25.00	\$ 27.30	\$ 28.50	\$ 31.30

No indicative price is set for Band 4.

2. The indicative prices for ULLS Single Connection Charges (including in-use ULLS and transfer ULLS connections) for the period 1 July 2008 to 31 July 2009 are:

ULLS Single Connection Charges

Band	2004-05	2005-06	2006-07	2007-08	2008-09
1	\$ 38.10	\$ 38.10	\$ 44.00	\$ 50.10	\$ 50.40
2	\$ 43.10	\$ 43.10	\$ 47.80	\$ 52.80	\$ 53.10
3	\$ 51.50	\$ 51.50	\$ 54.10	\$ 57.40	\$ 57.70

No indicative price is set for the ULLS in Band 4.

3. The indicative prices for ULLS Managed Network Migration (MNM) Connection Charges for the period to 31 July 2009 are:

ULLS MNM Connection Charges

- (a) For the period from 1 July 2007 to 30 June 2008:

Component	Charge
– Fixed amount	\$ 135.60 (per MNM)
– Variable amount	+ \$ 24.90 (per connection)

- (b) For the period from 1 July 2008 to 31 July 2009:

Component	Charge
– Fixed amount	\$ 138.00 (per MNM)
– Variable amount	+ \$ 25.00 (per connection)

ULLS Cancellation charges

4. The ACCC’s final indicative price for cancellations of individual services where pre-jumping has occurred is \$20 per service and \$138.00 per MNM (2008-09 fixed cost for the MNM) where the migration is completely cancelled.

ULLS Call Diversion Charges

5. The indicative prices for the initial connection/activation of ULLS call diversion are \$9.20 for the period 1 July 2007 to 30 June 2008 and \$9.30 for the period 1 July 2008 to 31 July 2009.

6. The indicative price for the monthly charge of ULLS call diversion is pro rata \$12.50 per month per service for the period to 31 July 2009.

Appendix 4: List of submissions

Adam Internet Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, 15 May 2008.

iiNet Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008.

Internode Pty Ltd, *Submissions on Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008.

Primus Telecommunications Pty Ltd, *Brief submission of support in relation to the ACCC's Draft ULLS Pricing Principles*, 29 May 2008.

Singtel Optus Pty Limited, *Optus Submission to Australia Competition and Consumer Commission on ULLS Pricing Principles and Indicative Prices*, 27 May 2008.

Telstra Corporation Ltd, *Submission in Response to the Commission's Draft ULLS Pricing Principles and Indicative Prices*, 14 May 2008.
