17 March 2004

Mr Chris Pattas
Senior Director
Australian Competition and Consumer Commission
GPO Box 520J
MELBOURNE VIC 3000

Dear Chris,

This letter is an initial submission by AAPT to the Australian Competition and Consumer Commission (the **Commission**) to assist in the consideration of Telstra's undertaking for the Line Sharing Service (the **LSS Undertaking**).

AAPT requests the Commission reject the LSS Undertaking. This submission will outline the reasons for this position, these reasons being the inadequacy of Telstra's supporting submission and the errors we believe the Commission has made in developing the pricing principles for the Line Sharing Service (the **Service**). The AAPT position on the pricing principles has not significantly changed from its comments in response to the draft decision on the declaration of the Service. Recognising these have not been understood we intend to make a further submission providing more detail on our concerns.

Telstra provides inadequate reasons

The Telstra submission supports the use of a cost-based price, argues that the cost based price is "in excess of" $57/mth and then offers a price of $15 as a price "similar to those currently prevailing at the upper end of the market" for the service. This is an inadequate explanation, as it provides no reason why $15 should be chosen over any other price.

The Commission has erred in establishing pricing principles for the Service

The Commission's pricing principles are, in effect, that the cost should be based on the TSLRIC of providing the service, which includes the service-specific costs only as the Commission ascribes no cost to the provision of the line.

> *Telstra should recover the service specific costs across all DSL services not just the Service*
>
> The so-called service specific costs primarily constitute the capital costs of providing network and front of house systems. For these services to be incremental to the provision of the Service it is necessary that it be possible that Telstra would not have incurred them had they not provided the service. The nature of the access regime and Telstra's ownership of the copper network means there is no circumstance under which Telstra could offer retail DSL services without offering the Service. That is, the LSS specific costs are increments to the decision to offer DSL, it is this decision that necessitates the offer of LSS.[1]
>
> *The Service should contribute to the cost of the copper network*

[1] The same argument applies to the service-specific costs of ULL and AAPT intends to make a further submission to the Commission in consideration of the core services undertaking on this point.

AAPT in its submission to the draft decision identified that the LSS and Telstra wholesale and retail DSL should each contribute to the cost of the copper network equally. In its submissions to the Commission's consideration of the core services benchmarks and the consideration of Telstra's January 2003 undertakings AAPT consistently argued that the revenues associated with DSL services need to be considered in determining the cost of services provided using Telstra's CAN.

AAPT maintains these views as any other conclusion results in an effective cross-subsidy from Telstra's voice business to the data access business. This distorts the build/buy decision for alternative access technology providers who might provide Voice over IP services and Internet in a single data access.

The combined effect of pricing principles that reflected these changes would be a cost based price significantly below the $15/mth being proposed by Telstra. If the ludicrous provision for product management costs in Telstra's model is reduced and the capital charge eliminated the service specific cost would fall to approximately $8/mth. A small increase in demand reduces the cost further to approximately $5/mth.

For the allocation of a value to the DSL and LSS services of the use of the copper network it is not necessary that these costs result in a saving to the individual consumer in their line rental – just as Telstra has not offered half price line rental to consumers connected to pair gain systems. Voice line rental is the charge for the provision of the voice telephony service. Based on the Commission estimates of the cost of the copper loop for the ULL service ($3/mth and $12/mth in Bands 1 and 2 respectively) and an estimate that the voice service is significantly less elastic than the DSL services and that the proportion of DSL and SSL services is still less than 10% of lines, AAPT estimates the cost of the CAN attributable to the LSS (and DSL) would be in the order of $1/mth.

Accordingly the cost based price of the Service is certainly significantly lower than the price being offered by Telstra and the Commission should reject the undertaking as being above cost.

Yours sincerely,

David Havyatt
Head of Regulatory Affairs