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2 April 2009

Dr Tony Warren  
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cc: Rebecca Mitchell  
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**By facsimile: (02) 9218 3836**

Dear Dr Warren

**Telstra's ULLS Undertaking – Receipt of Telstra's responses to the ACCC's requests for further information**

I refer to your letter dated 13 March 2009, responding to the ACCC's requests for further information issued on 16 December 2008 (December request) and 23 January 2009 (January request).

The ACCC notes Telstra's comment that:

In light of the provision of Telstra's responses to the December and January 152BT Requests, Telstra considers that it has fulfilled those requests.<sup>1</sup>

As you would be aware, the ACCC's December request for further information asked for information from "when copper pairs were initially installed in a Band 2 ESA to the current time". The ACCC considers that this information was necessary to ensure it could meet its obligation to consider the legitimate business interests of Telstra, as required under paragraph 152AH(1)(b) of the *Trade Practices Act 1974*.

In response to the ACCC's December request, Telstra has supplied information from October 2000 to January 2009. As noted in the ACCC's letter to Telstra dated 20 March 2009, the ACCC considers this information covers "an inadequate period of history". Accordingly, given the partial response by Telstra, the ACCC does not consider that the December request for further information has been wholly fulfilled.

However, the ACCC notes Telstra's statement in its letter dated 13 March 2009 that "Telstra has been able to source the relevant data back to October 2000 from its database records." In addition, given Telstra's reasons provided in its confidential

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<sup>1</sup> Telstra, *Letter to ACCC – Telstra's Band 2 ULLS Undertaking – Responses to s152BT information requests and further submissions*, 13 March 2009.

response to the December request, the ACCC is willing to accept that Telstra is not capable of providing information for the whole time period requested by the ACCC. The ACCC therefore withdraws the unfulfilled portion of its December request for further information.

Given the above, for the purposes of calculating the period within which the ACCC's December request for further information remained unfulfilled, the ACCC considers that the request remained unfulfilled from the date of issue—16 December 2008—until Telstra's partial response on 13 March 2009.

In relation to the January request, the ACCC considers that Telstra has fulfilled its obligations in relation to this request.

In addition, the ACCC notes that public versions of Telstra's responses to the December and January requests have not been provided to the ACCC. Whilst the ACCC acknowledges that certain information may be commercially sensitive, the ACCC requests redacted versions of these documents that can be placed on the ACCC's website be provided by close of business **Wednesday 8 April 2009**. This assists in ensuring an open and transparent assessment process whereby information can be subject to scrutiny by interested parties.

Should you have any questions regarding this letter, please contact Matthew Gillet on (03) 9290 6971.

Yours sincerely



Robert Wright  
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Compliance and Regulatory Operations  
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