

CONFIDENTIALITY UNDERTAKING

IN FAVOUR OF

TELSTRA CORPORATION LIMITED

I, _____, of _____ (“[]”) undertake to Telstra Corporation Limited (“**Telstra**”) that:

1 Subject to the terms of this Undertaking, I will keep confidential at all times the information listed in Attachment 1 to this Undertaking (“**the confidential information**”).

2 I acknowledge that:

- (a) this Undertaking is given by me to Telstra in consideration for the **confidential information** being made available to me for the Approved Purposes (as defined in paragraph 3(a) below);
- (b) all intellectual property in (or in any part of) the **confidential information** is and will remain owned by Telstra; and
- (c) by reason of this Undertaking, no licence or right is granted to me, or any other employee, agent, representative, officer or member of [], or any person engaged by [] for the Approved Purposes in relation to the **confidential information**, except as expressly provided in this Undertaking.

3 I will:

- (a) only use the **confidential information** for:
 - (i) the purposes of making submissions to the Australian Competition and Consumer Commission (ACCC) during the course of the ACCC’s consideration of the “Review of the 1997 Telecommunications Access Pricing Principles for Fixed Lines Services”, including the enclosed draft Pricing Principles Determinations (“**the Review**”); or
 - (ii) any other purpose approved by Telstra in writing,

(“the Approved Purposes”)

(b) to the extent that any submission or other document is submitted to the ACCC or given to any person by me or [_____] as permitted by this Undertaking and which contains any **confidential information**:

(A) clearly mark that document as a confidential submission or confidential document containing **confidential information** and that is subject to this Undertaking; and

(B) clearly identify the **confidential information** within the submission or document;

(c) comply with any reasonable request or direction from Telstra regarding the **confidential information**.

4 Subject to paragraph 5 and 6 below, I will not disclose any of the **confidential information** to any other person without the prior written consent of Telstra.

5 I acknowledge that I may disclose the **confidential information** to which I have access to:

(a) any person for the Approved Purposes provided that:

(i) the person to whom disclosure is proposed to be made (“**the person**”) has been identified to Telstra in writing and Telstra has approved the person as a person who may receive the **confidential information**;

(ii) the person has signed a confidentiality undertaking in the form of this Undertaking or another form acceptable to Telstra for the Approved Purposes; and

(iii) the signed confidentiality undertaking of the person has been served on Telstra.

(b) any secretarial, administrative and support staff who perform purely administrative tasks and who assist me or any person referred to in paragraph 5(a) for the Approved Purposes;

(c) other persons, if required to do so by law, but then only:

(i) if I notify Telstra of that request within 7 days of receiving the request;

(ii) to the person(s) to whom I am obliged to provide the **confidential information**;

- (iii) to the extent necessary to comply with the legal requirement; and
- (iv) if I notify the recipient of the **confidential information** that the information is confidential and is the subject of this Undertaking to Telstra.

6 I may disclose:

- (a) the assumptions or variables used by me in the Ovum BBM; and
- (b) the resultant outputs produced by the Ovum BBM,

to any person. However, I acknowledge that nothing in this paragraph permits me to do so in a way that discloses or identifies any of the **confidential information** or part thereof.

7 I will establish and maintain security measures to safeguard the **confidential information** from unauthorised access, use, copying, reproduction or disclosure and will protect the **confidential information** using the same degree of care as a prudent person would use to protect their own confidential information.

8 Except as required by law, within 14 days after whichever of the following first occurs:

- (a) the conclusion of the Review; or
- (b) my ceasing to be employed by, retained by, an officer, a member or a representative of []; or
- (c) my ceasing to work for or represent [] in respect of the Approved Purposes; or

I will destroy or deliver to Telstra the **confidential information** and any documents or things (or parts of documents or things), constituting, recording or containing any of the **confidential information** in my possession, custody, power or control.

9 Nothing in this Undertaking shall impose an obligation upon me in respect of information:

- (a) that is in the public domain; or
- (b) that has been obtained by me otherwise than from:
 - (i) Telstra;
 - (ii) another person who has signed a confidentiality undertaking; or

- (iii) another person who has an obligation of confidence in relation to the **confidential information** (or any part of it);

provided that the information is not in the public domain and/or has not been obtained by me by reason of, or in circumstances involving, any breach of this Undertaking, any other confidentiality undertaking in favour of Telstra for the Approved Purposes, or by any other unlawful means.

- 10 I acknowledge that damages are not a sufficient remedy for any breach of this Undertaking and that Telstra is entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach of this Undertaking, in addition to any other remedies available to Telstra at law or in equity.
- 11 The obligations of confidentiality imposed by this Undertaking survive the destruction or delivery to Telstra of the **confidential information** pursuant to paragraph 8 above.
- 12 I acknowledge that this Undertaking is governed by the law in force in the Australian Capital Territory and I agree to submit to the non-exclusive jurisdiction of the court of that place.

Signed: _____ Dated: _____

ATTACHMENT 1

- (a) All information highlighted in yellow and marked as “**c-i-c**” in the confidential copy of: ACCC, *Review of the 1997 telecommunications access pricing principles for fixed line services – Draft report* (of which the public version was published on 17 September 2010). This document forms part of the ACCC’s “Review of the 1997 Telecommunications Access Pricing Principles for Fixed Lines Services”, and includes the draft Pricing Principles Determinations.
- (b) All information highlighted in yellow contained in the Ovum Building Block Model (“**the Ovum BBM**”) including any revised or amended versions of the Ovum BBM. This information is the same information described in (a).
- (c) Any document or information (whether or not within a document) provided to me which Telstra nominates as **confidential information** for the purposes of this, or any equivalent, confidentiality undertaking.