



1 December 2006

Michael Cosgrave  
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Dear Mr Cosgrave

### **FOXTEL Special Access Undertaking in relation to the Digital Set Top Unit Service**

We enclose a Special Access Undertaking to the Australian Competition and Consumer Commission given by FOXTEL Management Pty Limited (for and on behalf of the FOXTEL Partnership) and FOXTEL Cable Television Pty Limited (together, **FOXTEL**) in relation to the Digital Set Top Unit Service (the **Undertaking**). It is dated 1 December 2006 and given pursuant to s 152CBA of the *Trade Practices Act 1974* (Cth) (the **Act**).

We also enclose:

1. a version of the Undertaking which shows in mark-up the amendments made to the Undertaking compared to the Special Access Undertaking FOXTEL gave to the Commission on 6 October 2005 (the **2005 Undertaking**); and
2. a submission in support of the Undertaking. FOXTEL claims confidentiality over several portions of this submission and we also enclose a non-confidential version of the submission.

In support of the Undertaking, FOXTEL adopts the submissions and answers to information requests, and relies upon the evidence and expert reports, that it provided in support of the 2005 Undertaking. A list of this material appears at Appendix A to the enclosed submission.

A number of the documents FOXTEL provided to the Commission in relation to the 2005 Undertaking contain information confidential to FOXTEL and to third parties. FOXTEL permitted these documents to be disclosed to external legal advisers and independent experts retained by interested parties, subject to the execution of a proforma confidentiality undertaking. These documents remain subject to these confidentiality undertakings.

There are additional confidential documents upon which FOXTEL relies in support of the Undertaking. If third parties wish to view those documents they will need to execute new confidentiality undertakings in the form attached (the same form as provided to the Commission in relation to the 2005 undertakings).

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Ms Downes continues to be the appropriate contact person for any requests for access to confidential information.

Yours sincerely



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