

Competition and Consumer Act 2010 (Cth)

NOTICE PURSUANT TO SUBSECTION 151BUA(2)

TO: Telstra Corporation Limited (ACN 051 775 556)
Level 10
400 George Street
SYDNEY NSW 2000

Category A: Disclosure to certain persons on certain terms and conditions

1. Pursuant to subsection 151BUA(2)(d) of the *Competition and Consumer Act 2010* (Cth) (**CCA**), the Australian Competition and Consumer Commission (**ACCC**) gives notice to Telstra Corporation Limited (ACN 051 775 556) (**Telstra**) that it intends to make copies of:
 - (a) the report that Telstra provided to the ACCC on 25 November 2013 in response to the ACCC's request on 13 September 2013 under Rule 15 of the *Building Block Model Record-Keeping Rule* (**Report**); and
 - (b) the material that Telstra provided to the ACCC on 10 February 2014, in response to the ACCC's request on 17 January 2014 for further explanatory material (**Other Relevant Material**),

available for inspection and purchase electronically at no cost by a person specified in paragraph 2, on the terms and conditions specified in paragraph 3, as soon as practicable after 9 July 2014.
2. A person for the purposes of paragraph 1 is a person who is not employed at NBN Co Limited (ACN 136 533 741) (**NBN Co**) or a related party of NBN Co and is:
 - (a) employed:
 - (i) at a service provider who, for the purposes of section 152AG of the CCA, is an access seeker; and
 - (ii) in a regulatory role or as an Australian legal practitioner to produce and provide submissions on behalf of that access seeker to the ACCC's public inquiry into making final access determinations for the declared fixed line services and the wholesale ADSL service that was commenced on 1 July 2013 (**Fixed Line Services FAD Inquiry**); or
 - (b) a consultant or an adviser engaged by an access seeker referred to in paragraph (a)(i) above solely to assist in the production and provision of submissions to the Fixed Line Services FAD Inquiry.

3. The terms and conditions for the purposes of paragraph 1 are that a person must:
- (a) execute the confidentiality undertaking that is included at Schedule 2 to this Notice;
 - (b) provide the ACCC and Telstra with a copy of the executed confidentiality undertaking;
 - (c) comply with the executed confidentiality undertaking at all times; and
 - (d) provide the ACCC with a secure e-mail address for receipt of the Report and the Other Relevant Material.

Category B: Disclosure to the public

4. Pursuant to subsection 151BUA(2)(c) of the CCA, the ACCC gives notice to Telstra that it intends to make copies of extracts of the Report and the Other Relevant Material, other than the extracts specified in Schedule 1 to this Notice, available for inspection by the public:
- (a) on the ACCC's website at www.accc.gov.au and purchase electronically at no cost; or
 - (b) by appointment at the ACCC's Melbourne office at Level 35, 360 Elizabeth Street, Melbourne, Victoria and for purchase of a physical copy at \$1 per page; or
 - (c) by appointment at the ACCC's Sydney office at Level 20, 175 Pitt Street, Sydney, New South Wales and for purchase of a physical copy at \$1 per page; or
 - (d) by appointment at the ACCC's Canberra office at 23 Marcus Clarke Street, Canberra, Australian Capital Territory and for purchase of a physical copy at \$1 per page.

as soon as practicable after 9 July 2014.

Dated this ____ day of _____ 2014

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Rodney Graham Sims
Chairman
Australian Competition and Consumer Commission

SCHEDULE 1

SPECIFICATION OF EXTRACTS FOR THE PURPOSES OF PARAGRAPHS 1 AND 4 OF THE NOTICE ISSUED TO TELSTRA CORPORATION LIMITED (ACN 051 775 556) PURSUANT TO SUBSECTION 151BUA(2)

The information specified by these tables is as highlighted in the versions of the documents provided by Telstra to the ACCC on 17 April 2014.

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SCHEDULE 2
CONFIDENTIALITY UNDERTAKING
IN FAVOUR OF
TELSTRA CORPORATION LIMITED (ACN 051 775 556)

I, **[NAME]**..... of

[COMPANY/ORGANISATION NAME] (xxx)

undertake to Telstra Corporation Limited (ACN 051 775 556) (**Telstra**) that:

1. Subject to the terms of this Undertaking, I will keep confidential at all times the information and material that is specified in Schedule 1 to the Notice issued to Telstra by the Australian Competition and Consumer Commission (ACCC) pursuant to subsection 151BUA(2)(d) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) on 11 June 2014 (**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 Purpose (as defined in paragraph 3 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, officer or member of **[xxx]**, or any person engaged by **[xxx]** for the Approved Purpose in relation to the Confidential Information, except as expressly provided in this Undertaking.
3. I will only use the Confidential Information for the purposes of making submissions on behalf of **[xxx]** to the ACCC's public inquiry into making final access determinations for the declared fixed line services and the wholesale ADSL service that was commenced on 1 July 2013 (**Fixed Line Services FAD Inquiry**) (**the Approved Purpose**).
4. To the extent that any submission or other document is submitted to the ACCC or given to any person by me or **[xxx]** as permitted by this Undertaking and which contains any Confidential Information, I will:

- (a) clearly mark that document as a confidential submission or confidential document containing the 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 the ACCC or Telstra regarding the Confidential Information.
5. I will not disclose any of the Confidential Information to any other person save for disclosure to:
- (a) any person who:
 - (i) is a person for the purposes of paragraph 2 of the Notice issued to Telstra by the ACCC pursuant to subsection 151BUA(2)(d) of the CCA on 11 June 2014; and
 - (ii) has signed a confidentiality undertaking in the form of this Undertaking or another form acceptable to the ACCC and Telstra for the Approved Purpose; and
 - (iii) has served a copy of the signed undertaking on the ACCC and 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 Purpose; and
 - (c) other persons, if required to do so by law, but then only:
 - (i) if I notify the ACCC and 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 as required by law; 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 any recommendations that I may form which are based on the Confidential Information to the executive management or the Board of [xxx], for the purposes of obtaining approval to provide a submission to the ACCC in relation to the Fixed Line Services FAD Inquiry, provided that the Confidential Information cannot be identified or derived from those recommendations.

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 Fixed Line Services FAD Inquiry; or
 - (b) my ceasing to be employed or retained by, an officer, a member or a representative of [xxx]; or
 - (c) my ceasing to work for or represent [xxx] in respect of the Approved Purpose,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, other than electronic records stored in IT systems that cannot be destroyed or deleted.
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) the ACCC;
 - (ii) Telstra;
 - (iii) another person who has signed a confidentiality undertaking; or
 - (iv) another person who has an obligation of confidence in relation to the Confidential Information (or any part of it),provided that the information 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 Purpose, 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 State of New South Wales and I agree to submit to the non-exclusive jurisdiction of the court of that place.

Signed:

Name:

Dated:

Witness signature:

Witness name: