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Australian Competition and Consumer Commission

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Fixed Services Review

Your Reference

Our Reference IP 091306

Macquarie Telecom Pty Limited (“**Macquarie**”) wishes to make a further submission to the Australian Competition and Consumer Commission (“**ACCC**”) in respect of its fixed services declaration inquiry. In particular, Macquarie wishes to provide additional information which relates to its response to question 11 as set out in Macquarie’s submission to the ACCC’s inquiry.¹

Macquarie’s response to question 11 argued that the exemption from regulation which applies to the wholesale line rental (“**WLR**”) service and the local carriage service (“**LCS**”) when such services are supplied in CBD areas should be removed. The additional information that is provided herein adds further weight to this argument. Macquarie considers that the data provided below supports the proposition that, far from being more competitive, the market for WLR services is even more constrained in CBD areas than non-CBD areas. Accordingly, there is no possible justification for retaining this exemption.

Macquarie now wishes to advise the ACCC of current data on the number of WLR services that Macquarie acquires in CBD areas and of the implications that arise in the context of the current inquiry. The relevant data is shown in the following table.

Table 1: WLR CBD vs Non-CBD September 2011 and 2013

Date	WLR CBD (Number and Proportion)	WLR Non-CBD (Number and Proportion)	Total WLR (Number and Proportion)
September 2011	[CiC]	[CiC]	[CiC]
	[CiC]	[CiC]	[CiC]
September 2013	[CiC]	[CiC]	[CiC]
	[CiC]	[CiC]	[CiC]

¹ Macquarie, Letter to ACCC, Fixed Services Review, Reference IP081301, 28 August 2013

Table 1 shows that the total number of WLR services acquired by Macquarie has gradually declined over the two year period from September 2011 to September 2013. This rate of decline in fixed line access is largely mirrored in the broader market context where substitution of fixed services with mobile or broadband access is taking place. That is, the Macquarie trend is reflective of the broader market experience.

However, it is very significant that this decline is proportional across CBD and non-CBD areas, i.e., CBD areas still account for [CiC] *per cent* of the total WLRs acquired by Macquarie. This strongly indicates that the factors which underlie this decline, such as gradual declining end-user demand for copper network services are equally experienced in both CBD and non-CBD areas. Put another way, the lack of available WLR substitutes is a trend equally impacting across CBD and Metro areas. As such, there seems little basis for regulating a service supplied in one area but not regulating the same service when it is supplied in another area.

The basis for exempting CBD areas from regulation in relation to WLR and LCS was the existence of actual or potential competition for the provision of these services. Macquarie's experience, and the figures produced above, makes clear that no effective competition exists for the provision of these services at a wholesale level. As previously stated, Macquarie's practice is to actively seek out alternatives to obtaining supply from Telstra wherever possible, and to take advantage of such alternatives wherever they exist. Such alternatives may be other wholesale providers or self-supply where viable. The fact that the proportion of WLR services obtained by Macquarie from Telstra in CBD as opposed to non-CBD areas has remained static makes clear that the level of competition for the supply of these service is no greater in CBD than non-CBD areas.

It should be noted that, while the number of WLR services in operation is gradually declining with mobile and broadband substitution, there remains a very large and significant customer base that requires WLR services and for which mobile and broadband alternatives are not effective substitutes. The absence of effective competition for the provision of these services in CBD areas is to the detriment of these customers and adversely impacts on the ability of other operators to compete effectively in these areas.

It is clear that overall decline in number WLR and LCS services is greatest in CBD areas, where mobile coverage and broadband availability is generally high. Accordingly it might be expected in the normal course that the proportion of WLR services acquired by Macquarie from Telstra would decline more quickly in the CBD than in other areas, in line with the more rapid reduction in services in operation. The fact that the proportionate reduction in CBD areas relative to non-CBD areas has remained static provides an indication that, far from competition being enhanced in CBD area, it is in fact even more constrained in CBD areas.

This observation is consistent with the issue of the differential between cost and wholesale price in CBD areas raised previously. In its previous response to question 11, Macquarie noted that *prima facie* the CBD exemption costs Macquarie [CiC] per month for every WLR service that it acquires in CBD areas. This cost is based on the difference between the amount that Macquarie actually pays, i.e., [CiC] per month and the regulated non-CBD WLR price, i.e., \$22.84 per month. However, this difference is evidently significantly understated. Through a review of the ACCC's fixed-line service model it is evident that the WLR (average) cost in band 1 is only [CiC] per month. This indicates that the cost of the CBD exemption to

access seekers like Macquarie is more like [CiC] per service per month.

Should you have any queries in relation to this matter please feel free to contact me.

Yours sincerely



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