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ABN 47 702 595 758

**From** Michael Ball / Jacqueline Downes

The Chifley Tower  
2 Chifley Square  
Sydney NSW 2000  
Australia  
Tel 61 2 9230 4000  
Fax 61 2 9230 5333

**To** **Mr Arek Gulbenkoglu**, Australian Competition and  
Consumer Commission, Melbourne

**Email** arek.gulbenkoglu@acc.gov.au

*Correspondence*  
GPO Box 50  
Sydney NSW 2001  
Australia  
DX 105 Sydney

[www.aar.com.au](http://www.aar.com.au)

Confidential Email

Dear Mr Gulbenkoglu

### **FOXTEL Digital Set Top Unit Service Special Access Undertaking**

We refer to our letter of 9 May 2006 in relation to the percentage of marketing costs included in FOXTEL's Regulatory Accounting Procedures Manual (*RAPM*), which is Attachment 12 to FOXTEL's submission accompanying its special access undertaking lodged on 6 October 2005.

As FOXTEL outlined in that letter, FOXTEL will each year determine the percentage of marketing costs that are to be included in the cost pool as "marketing" consistent with the definition of Defined Capital Expenditure in Schedule 3 to the DAA. Marketing costs to be excluded are Retention Marketing and marketing solely devoted to a single Subscription Television Service in the basic package of FOXTEL ("Excluded Marketing Costs").

FOXTEL had asked PWC to review the marketing costs included in the T1 rate card. However, PWC required that FOXTEL locate and provide to it about 2500 invoices and allow them to conduct interviews with marketing staff in relation to the majority of the invoices, a process that would have proven very difficult and time consuming. FOXTEL therefore does not propose to obtain an independent review of the information so that it now proposes that Section 7.3.3 of the RAPM reads:

Line 15 will record the percentage of Marketing which should be included for each year as determined by FOXTEL in accordance with Schedule 3 of the DAA.

T1 in the current RAPM is for the period 1 July 2003 to 30 June 2004 (See page 5 of RAPM). Due to the difficulty in retrieving marketing records for this period, FOXTEL proposes to average the percentage of relevant marketing costs for financial years 2004/2005 and 2005/2006 for this period. From 1 July 2004, the actual percentage for each financial year (for T2, T3 etc) will be used.

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On this basis, the averaged percentage of marketing to be included in the cost pool for T1 is **90.29%** of costs. This is calculated as follows:

**04/05**

Total non-retention marketing costs = [ ] [CONF]  
Less Excluded Marketing Costs [ ] [CONF]  
Percentage = 91.43%

(The spend on point of sale marketing uses the figures for 2005/2006 as the 2004/2005 figures are not available).

**05/06**

Total non-retention marketing costs = [ ] [CONF]  
Less Excluded Marketing Costs [ ] [CONF]  
Percentage = 89.14%

Average of 91.43% and 89.14%

= **90.29%**

This is the percentage of non-Retention marketing costs to be included for the T1 period as Retention marketing costs have already been excluded.

FOXTEL claims confidentiality over the material in square brackets and marked confidential and requests that the Commission not make this information public or disclose it to any person.

Yours sincerely



**Michael Ball**  
Partner  
Michael.Ball@aar.com.au  
Tel 61 2 9230 4973

**Jacqueline Downes**  
Senior Associate  
Jacqueline.Downes@aar.com.au  
Tel 61 2 9230 4850