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Copy To **Mr Arek Gulbenkogl**, Assistant Director -
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Confidential Email

Dear Mr Cosgrave

FOXTEL Digital Set Top Unit Service Special Access Undertaking

We refer to clause 8.2(e) of the Digital Access Agreement (*DAA*), which provides as follows:

The Access Seeker acknowledges and agrees that:

...

- (e) a Channel listing will not be seen on the FOXTEL EPG by a Subscriber until (and only for so long as) that Subscriber subscribes to that Channel

FOXTEL has reconsidered its position with respect to this clause and intends to delete it from the DAA. The effect of this change will be that the FOXTEL EPG will display the program information of the channel or channels of an access seeker in all FOXTEL homes (not just for the access seeker's subscribers), unless an access seeker does not wish this to occur.

While FOXTEL still believes that it should not be *required* to include access seeker listings on the EPG for all homes (as this essentially 'markets' the channel for the access seeker), it is prepared to allow this in order to provide an additional benefit for access seekers under the DAA. Further, FOXTEL does not intend to charge access seekers an additional amount for this benefit so that the access price payable by access seekers pursuant to the DAA will not be affected by this amendment.

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FOXTEL is content for this letter to be published on the Commission's website if the Commission deems that appropriate

Yours sincerely

Allens Arthur Robinson

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