

7 May 2012

Sean Riordan
General Manager
Industry Structure and Compliance, Communications Group
Australian Competition and Consumer Commission
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Melbourne VIC 3001

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Dear Mr Riordan

Re: Commencement of the ITA Process

Telstra understands that the ACCC has a view that under clause 21 of the SSU, the ITA Provisions are scheduled to commence on 7 May 2012. Telstra does not believe that this requires the ITA Adjudicator to be appointed, and the ITA Process to be established, on this date.

Clause 20.1(c) clearly provides that the ITA Process will not apply until the ITA Adjudicator is appointed and agrees to be bound by the terms set out in Schedule 5. The ITA Provisions then go about ensuring that the appointment of the ITA Adjudicator occurs as soon as reasonably practicable:

- first, clause 4.1(a) of Schedule 5 provides that Telstra will provide a draft constitution for ITA Co within 90 Business Days after commencement of the SSU (as you know, this has already occurred);
- second, clause 20.1(a) (as well as clause 4.1(a) of Schedule 5) provides that Telstra will establish ITA Co as soon as reasonably practicable after constitution has been approved (I confirm that Telstra is in the process of doing this); and
- finally, clause 5.1(a) of Schedule 5 provides that Telstra will request ITA Co to nominate an individual for the ACCC to approve as the ITA Adjudicator as soon as reasonably practicable after ITA Co has been established.

Together, these provisions recognise that it was not possible for Telstra to commit to precise timeframes by when the following parties would take the action specified:

- the ACCC would be prepared to approve the constitution of ITA Co; and
- it would be possible for ITA Co to:
 - identify an individual to act as the ITA Adjudicator;
 - negotiate terms of engagement with that individual; and
 - receive the ACCC's approval to appoint that person as the ITA Adjudicator.

Telstra understands the ACCC's desire for the ITA Process to commence as early as possible and I confirm that Telstra is committed to achieving this.

To remove any doubt that on 7 May 2012 the ITA Adjudicator is required to be appointed and the ITA Process is required to commence, Telstra is prepared to apply for an extension of time under clause 21.3 of the SSU as follows:

- **Relevant provisions:** The relevant provisions of the SSU that this request relates to are clause 20, Schedule 5 and Schedule 6.
- **Extension requested:** Telstra requests that the commencement date for the relevant provisions be varied so that they commence on the date that the ITA Adjudicator:
 - is appointed by ITA Co (as contemplated in Schedule 5); and
 - agrees to be bound by the ITA Process and the terms set out in Schedule 5.

Yours sincerely



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