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Dear Mr O'Leary

**Facilities access – response to certain factual inaccuracies in submissions to the ACCC's Draft Report on the review of the declaration for the Domestic Transmission Capacity Service**

The purpose of this letter is to respond to some of the comments relating to facilities access made by other parties in their submissions to the ACCC's *Draft Report on the review of the declaration for the Domestic Transmission Capacity Service (Draft Report)*. Telstra considers that some of those comments may be misleading and others are factually incorrect.

**TEBA rules**

A number of submissions<sup>1</sup> to the Draft Report make reference to restrictions on service providers cross-connecting to third-party infrastructure within Telstra exchanges. For instance, Macquarie Telecom refers to:

*"...Telstra-imposed impediments such as TEBA rules which are used to prevent access to non-Telstra inter-exchange infrastructure."<sup>2</sup>*

Telstra considers that these statements are misleading in that they only tell part of the story. Under the terms of CRA20 (the Telstra Equipment Buildings Access (**TEBA**) service schedule), Telstra grants access seekers access to its Equipment Buildings for certain purposes, and on specific conditions (such as the access seeker first submitting an Order to Telstra, and the request being reasonable). Regarding the agreed purposes for which access is provided, these are set out in section 1.2 of Part B of CRA20. They include, amongst other things, installation of relevant equipment that interconnects with access seeker equipment and allows Telstra to supply declared services to the access seeker.

To the extent that an access seeker wishes to access Telstra's Equipment Buildings for a purpose that is not covered by section 1.2 of Part B of CRA20 or other terms agreed between the parties, this does not mean such access will not be granted. CRA20 is based on a standard set of terms of access to Telstra's Equipment Buildings, addressing the most common purposes for which access is sought by access seekers. If an access seeker wishes

<sup>1</sup> See AAPT, Macquarie Telecom and Optus submissions in response to the Draft Report.

<sup>2</sup> Macquarie Telecom, February 2014, p5.

to access Telstra's Equipment Buildings for other purposes not covered by the standard terms, it can request such access in accordance with Schedule 1 to the *Telecommunications Act* and – subject to the provisions of that Act – Telstra and the access seeker can then agree relevant access terms.

### **Availability of TEBA**

Telstra notes that VHA commented on the availability of TEBA in a number of Exchange Service Areas (**ESAs**) that the ACCC is proposing to deregulate. VHA stated:

*“VHA is concerned that fibre providers may not currently have access to Telstra exchanges in a number of ESAs which the ACCC is currently proposing to exempt from regulation. As at 23 April 2013, Telstra did not offer the TEBA service in over 100 exchanges which the ACCC has indicated should be deregulated. Appendix C sets out a list of these ESAs. The ACCC must investigate whether fibre providers currently have access to the Telstra exchange in those ESAs and, if they do not, either require Telstra to offer the TEBA service (or another means for connection) to those exchanges, or remove those ESAs from the list of deregulated ESAs in the service description.”<sup>3</sup>*

There appears to be an error with the list of ESAs provided by VHA in Appendix C. Telstra has reviewed the list of ESAs and as at December 2013, TEBA was provided in all of the ESAs listed, with the number of acquirers ranging between two and ten in each ESA. The list of established TEBA sites can be found at the following link:

<http://www.telstrawholesale.com.au/download/document/fixed-facilities-access-established-sites.pdf>

If you have any questions on the above, please contact Pauline Crichton on (03) 8649 2010 or [Pauline.Crichton@team.telstra.com](mailto:Pauline.Crichton@team.telstra.com) in the first instance.

Yours sincerely,



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<sup>3</sup> VHA, February 2014, p6.