



**Australian
Competition &
Consumer
Commission**

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Open Letter

5 September 2012

Re: Public inquiry into making an access determination for wholesale ADSL – request for submissions on congestion in ADSL networks

The purpose of this letter is to seek submissions from interested stakeholders on congestion on ADSL networks. In particular, the ACCC seeks submissions on the relevance of congestion in setting terms and conditions of access to the declared wholesale ADSL service.

In February 2012 the ACCC commenced a public inquiry and published a discussion paper on making a final access determination (FAD) for wholesale ADSL. In July 2012 a second discussion paper was published. The second discussion paper sought submissions on a range of non-price issues.

In response to the second discussion paper, Telstra submitted that network congestion is a relevant consideration in setting wholesale ADSL prices. Telstra submitted that wholesale ADSL prices should be increased to assist the management of network congestion. Telstra indicated that such regulated pricing, which accounts for network congestion, will promote the long-term interests of end-users.

The ACCC did not seek submissions on network congestion in the second discussion paper and other stakeholders have not submitted on this issue. To foster an informed and consultative process, the ACCC seeks further information, or submissions in response to Telstra's submissions concerning congestion in ADSL networks. The ACCC welcomes comments on:

- Telstra's submissions that ADSL networks are subject to congestion
- How congestion in ADSL networks should be measured or quantified
- How congestion on ADSL networks impacts end-users
- How congestion on ADSL networks affects you as an access provider and/or access seeker of wholesale ADSL

- How the ACCC should account for congestion in making the FAD and determining prices for wholesale ADSL
- The extent to which wholesale ADSL prices affect congestion
- The extent to which current wholesale ADSL prices reflect the cost of network congestion
- The extent to which current retail prices reflect the social cost (i.e. the impact on other network users) of network congestion
- The effectiveness of retail ADSL plan prices and caps to manage ADSL network congestion at peak usage times, and
- Other possible measures to manage ADSL network congestion.

Please provide submissions to this open letter to the following email address: accessdeterminations@acc.gov.au. The ACCC prefers to receive submissions in electronic form, either in PDF or Microsoft Word format which allows the submission text to be searched.

Responses to this open letter will be accepted until **5:00 pm on 5 October 2012**. Any submissions received after this time may not be considered. Interested parties who require an accessible version of the submissions should contact the ACCC at the contact details provided below.

All submissions will be considered public and posted on the ACCC's website. To submit commercial-in-confidence material interested parties should provide the ACCC with a public and a commercial-in-confidence version of their submission. The public version of the submission should clearly identify the commercial-in-confidence material by replacing the confidential material with an appropriate symbol or '[c-i-c]'.

The *ACCC-AER information policy: the collection, use and disclosure of information* sets out the general policy of the ACCC and the Australian Energy Regulator (AER) on the collection, use and disclosure of information. A copy of the guideline can be downloaded from the ACCC website at www.acc.gov.au.

Please contact Kathryn Wood with any questions regarding the contents of this letter, on (02) 9230 3895 or kathryn.wood@acc.gov.au.

Yours sincerely



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