

Optus Supplementary Submission to the 2010 Review of Telstra Price Control Arrangements

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- 1.1. As noted in Optus' main submission, the ACCC may be considering whether to recommend the establishment of a specific sub-cap on fixed-to-mobile (FTM) services. This issue is addressed in further detail in this supplementary submission.
- 1.2. Optus does not support the imposition of a separate sub-cap on FTM services because such a cap would distort the FTM market by reducing fixed operators' pricing flexibility in downstream retail fixed-to-mobile services. To require Telstra to adopt a similar retail margin to Optus, for example, would interfere with Optus' ability to differentiate its offers in the marketplace through superior value to customers and thereby harm retail competition.
- 1.3. A further difficulty with introducing a separate cap for FTM prices is that it would leave Telstra with very little scope for retail pricing flexibility within its service basket, since the ACCC would be effectively regulating the retail prices of most individual services within that basket. This would defeat the purpose of establishing an average price cap on a broad basket of services.
- 1.4. Optus considers that the promotion of long-term competitive market structures through effective wholesale regulation is far preferable to regulation of retail prices.
- 1.5. However, Optus is concerned that the ACCC may nevertheless determine that the establishment of a FTM price cap may be warranted. In this event, Optus considers that in making its recommendation the ACCC should take into account the following facts.

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- 1.6. In the event the ACCC determines that the establishment of regulation at the retail level may be warranted (contrary to Optus' position), then the appropriate mode for any such regulation would be a cap on Telstra's retail FTM price, in order to ensure that Telstra's retail FTM pricing was not excessive. Such a cap would also constrain the retail FTM price of competitors in the wider market. Given Telstra's dominance in the fixed line market, a reduction in Telstra's FTM price would need to be matched by competitors otherwise they would not be able to attract market share.
- 1.7. To the extent that the ACCC considers there is a market failure –it clearly lies with Telstra's Retail pricing. It follows that if the ACCC determines that the establishment of regulation at the retail level is warranted, it should not link that regulation to the regulation of MTAS. Rather, Optus submits that any such retail regulation should be focussed directly on the source of the perceived market failure; that is, a specific price cap on Telstra's retail FTM price.