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Mr John Skinner
Communications Group
Australian Competition and Consumer Commission

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Dear Mr Skinner

SUBMISSION ON DRAFT PRICING PRINCIPLES

TPG Telecom Limited (TPG) is an ASX listed company (ASX:TPM) with a group of companies that includes TPG Internet Pty Ltd, Chariot Pty Limited, Soul Communications Pty Limited and Soul Pattinson Telecommunications Pty Ltd, each of which is an access seeker for one or more of ULLS, LSS, WLR, LCS and PSTN OTA. The group provides a wide range of consumer and corporate/government/wholesale services across an extensive countrywide data and voice network.

TPG has for many years led the Australian telecommunications marketplace in consistently delivering best value products and services. We believe that TPG has been a significant driver of competition in the consumer broadband market such that all Australian internet users have experienced considerable improvements over the past years in the value and performance of their internet access.

A very large portion of TPG's customer base is supplied services using regulated services and at September 2010, the approximate SIOs purchased from Telstra included 375,000 ULLS/LSS SIOs.

It is operationally much simpler to utilise LSS in supplying broadband to consumers and provisioning is also quicker and easier than provisioning broadband using ULLS. Customers are able easily to acquire a voice service from either Telstra or any other supplier who acquires WLR. Accordingly, our strategy to date has been to make use of LSS in delivering broadband to consumers and we have been recognised on many occasions as being one of the best value providers of such services in Australia.

The limitation with the strategy is that it has left LSS broadband customers who need a voice service with no choice but to buy that service from Telstra or another access seeker who acquires WLR. Such consumers have been for many months calling on TPG to offer a broadband and voice service which avoids the need for such consumers to acquire line rental.

Over the past few years, TPG has noted the ACCC's stated objectives which include setting pricing that will encourage infrastructure based competition rather than simple resale competition.

Based on consumer demand and our expectation that pricing decisions made by the ACCC would meet the stated objective of encouraging infrastructure based competition, TPG has made decisions to invest significantly in infrastructure. The investments were made with the purpose of providing broadband, line rental and voice services into the Australian market. We believed that we could bring our efficient business operations to bear in these markets and that, in so doing, our end users would significantly benefit from those efficiencies by way of lower priced services. We also believed that, having invested in infrastructure, we would and should have a competitive advantage over others that have not invested and that this competitive advantage would enable us to obtain a reasonable return on those investments.

These investments include:

TPG has invested considerably into exchange based infrastructure and today has more DSLAM enabled exchanges than any other telecommunications provider, excepting Telstra.

	TPG Exchanges October 2010
NSW	134
VIC	108
QLD	64
SA	31
ACT	11
WA	39
	387

TPG has invested in an Australia-wide network with interconnection points in call collection areas around Australia. It has invested in SS7 switching capability and call handling and rating systems to make use of this infrastructure to connect to Telstra and Optus and other major voice networks in Australia and internationally.

TPG has acquired significant fibre network through capital cities and in metropolitan areas.

In recent months, TPG has made capital investment upgrading almost all TPG exchanges so that today they are enabled with infrastructure to support ULLS based internet and voice services.

In April 2010, TPG released its first offering for a fixed line phone service using ULLS. Although marketed in a limited fashion in early months, this service has been enthusiastically received by new customers and recently we have been attracting in excess of 6,000 new subscribers each month. Many existing LSS customers wish to migrate to these ULLS based services but find it difficult to tolerate the cumbersome and lengthy process of ~3 weeks without an internet service to make this move - LSS to ULLS migration capability is urgently required. If such a migration capability was made available, the number of ULLS SIOs that TPG would acquire would greatly increase.

As described above, in developing these fixed line products and services for supply to consumers, we considered a range of factors. These included:

- ability to obtain market share through the delivery of innovative products attractive to customers;
- operational impact if such products were to be offered (i.e., the operational efficiency with which the products could be delivered); and
- The returns that can be obtained from the products.

The cost of regulated services and particularly the differential pricing between ULLS and the combination of LSS and WLR was and remains clearly a very influential factor in the making of development decisions.

The current access pricing structure has been an influential factor for TPG as it has made its considerable investment in infrastructure (to provide initially LSS and increasingly today, ULLS based services) and clearly the consumer has received big benefits from this.

TPG recognises the difficult task that the ACCC faces in endeavouring to meet the objectives of arriving at access pricing which promotes competition in downstream retail markets and ensures investment by access seekers in infrastructure. However, we believe that the indicative pricing set out in the draft report significantly shifts the market landscape. In particular, we believe that the proposed differentials in pricing between ULLS and LSS and WLR have the effect of discouraging infrastructure based competition in the line rental and voice market.

The below table sets out the outcome of the pricing principles when viewed by an infrastructure based access seeker such as TPG.

	Band 1	Band 2	Band 3
ULLS	$ 6.00	$16.00	$31.00
LSS	$ 2.50	$ 2.50	$ 2.50
WLR	$20.00	$20.00	$20.00
LSS + WLR	$22.50	$22.50	$22.50
ULL DIFFERENTIAL	$16.50	$ 6.50	- $ 8.50

TPG's issue is the proposed pricing differential between WLR and ULLS. Whilst a nationally averaged price of $20 per month for WLR will be attractive for reseller competitors, the gap between that price and the price for ULLS effectively removes the competitive advantage that TPG believed it had garnered for itself by making its significant investments in basic access and voice capability. Whilst $16.50 in Band 1 may represent a gap that is large enough for TPG to set a competitive price, the number of exchanges in Band 1 and the relatively small number potential consumers in that market mean that it is unlikely that TPG would make significant sales in that Band.

In Band 2, the gap between buying WLR + LSS and selling a ULLS based service simply does not leave room to justify either the investments that we have made or the making of future investments to compete. As explained above, an LSS/WLR combination is far simpler to provision and manage than a ULLS based service. The only reason we would offer a ULLS service instead of a WLR/LSS Service is because we could (a) compete better on price and (b) make a reasonable return on the investment made.

ULLS is a major cost element of WLR. If, as the draft report points out, the nationally averaged SIO price per ULL is $28.50, it is difficult for TPG to understand how the nationally averaged WLR price can be $20.

The ACCC has noted at page 103 of the draft report that the price differential between ULLS and WLR can be justified based on the additional costs associated with supplying basic voice services over ULLS. We are not able to comment on what value should be placed on those in relation to Telstra's equipment but, for TPG, we believe that it is more than the $6.50 that proposed pricing would suggest (based on Band 2).

We submit that pricing should be set at rates that motivate the installation of alternative infrastructure and the development of innovative products and services using ULLS rather than the WLR/LSS combination. The current proposed pricing principles do not achieve this and, as such, will tend to have a negative competition outcome.

Thank you for considering our submission.

Yours sincerely

Alan Latimer
Group Director