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# **TELSTRA CORPORATION LIMITED**

## **Domestic Transmission Capacity Service**

### **Final Access Determination Inquiry Consultation Paper**

**Public submission**

**5 July 2019**



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## CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>3</b>
<b>01 Approach to pricing the DTCS</b>	<b>5</b>
1.1. Experience to date	5
1.2. Future approach to pricing the DTCS	6
1.3. Benchmarking options	7
<b>02 Other issues for consideration in making the new FAD</b>	<b>10</b>
2.1. Telstra does not support making capacity a non-continuous variable	10
2.2. Telstra does not believe there is a need to separately price mobile backhaul services	10
2.3. Telstra does not consider there is any need to set prices for service features to the FAD	12
2.4. Telstra does not consider staged reductions are necessary	12
2.5. Telstra does not consider changes to non-recurring charges in the FAD are necessary	13
2.6. Telstra considers existing non-price terms for special linkage charges should be rolled over	14
2.7. Pricing of undersea cable for Tasmania and Christmas Island	15



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## EXECUTIVE SUMMARY

Telstra welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (Commission's) consultation paper on the final access determination (FAD) for the domestic transmission capacity service (DTCS).

While the DTCS has been declared since 1997, pricing has been set primarily through commercial negotiation rather than regulation reflecting the constraints imposed by actual and potential competition in both regulated and unregulated areas. The transmission market has also changed considerably since the last FAD, with significant new infrastructure investment, growth in demand for bandwidth and changing transmission requirements as a result of the national broadband network (NBN) deployment.

Given the dynamic nature of the market and outcomes to date, the Commission should adopt an approach to pricing the DTCS in the next regulatory period that provides certainty, stability and predictability for market participants and consumers. The continued use of the domestic benchmarking methodology would best achieve this and would encourage further investment and competition in the transmission market, while also ensuring that the resulting benefits are passed on to consumers in regulated areas.

In relation to the specific benchmarking options canvassed in the Commission's consultation paper, it is Telstra's view that the development of a new regression model is unnecessary and would impose a significant burden on industry participants and the Commission. While the other options, which retain the existing model, would involve a lower regulatory burden, it is difficult to provide feedback given that the details of the proposed approaches have not been provided. It is unclear how the Commission would use the updated dataset to assess and adjust the existing model under the second benchmarking option and the Commission has not explained how the adjustment factor would be determined under the third benchmarking option.

In relation to the other issues for consideration in the new FAD, Telstra's position is summarised as follows:

- The only valid approach for extending the low-capacity, short-distance services pricing to 10 Megabits per second (Mbps) would be to respecify the DTCS regression model. Given the competitive constraints on Telstra's pricing, this is unnecessary. In addition, regulated prices are not required for services 1 Gigabits per second (Gbps) and above, as pricing for these services is highly competitive with all pricing determined through commercial negotiation. The time and cost involved in respecifying the DTCS regression model to set prices for these services in the next FAD is unwarranted.
- Separate pricing for mobile backhaul is not required. Pricing for mobile backhaul is determined primarily through commercial negotiation and, if required, can be set with reference to the DTCS regression model. Given the current DTCS regression model has been specified in relation to all transmission services, it is also difficult to envision how separate pricing could be determined without respecifying the regression model for non-mobile backhaul services. This would rule-out the Commission's simplified benchmarking options.
- Staged pricing reductions over the term of the FAD are not required. The current approach, which involves a one-off adjustment at the commencement of the FAD with annual real price reductions equivalent to CPI in the following years, provides a reasonable balance between providing price certainty and stability while still ensuring consumers in regulated areas share the benefits of



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competition. This is the approach that has been used for the previous two FADs and has been successful in allowing competition to drive pricing outcomes over the term of the FAD while also supporting transmission investments in regional areas.

- The costs associated with the provision of connection services have increased since 2016 so any change to the regulated prices for non-recurring charges should take this into account.
- The non-price terms for Special Linkage Charges should be rolled over in the new regulatory period.
- It is unclear what factors are driving the large discrepancy between the uplift factors for the undersea component of the Bass Strait link and that proposed for the Christmas Island route. For the purpose of transparency and regulatory certainty, it is important to understand these drivers.



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## 01 Approach to pricing the DTCS

### 1.1. Experience to date

The domestic transmission capacity service (DTCS) was deemed to be declared in 1997 in recognition that it is essential to the supply of downstream communications services. The Australian Competition and Consumer Commission (Commission) has since maintained the declaration of the DTCS (with variations to the scope) based on its assessment against the long-term interest of end-users (LTIE).

Since the DTCS was declared, the Commission has undertaken the following pricing reviews:

- In 2004, the Commission published pricing principles for the DTCS but did not set indicative prices<sup>1</sup>.
- In 2007, the Commission released a transmission cost model based on total service long-run incremental cost (TSLRIC)<sup>2</sup>. Due to the complexities of the DTCS pricing and the limits of TSLRIC route-based pricing, the Commission subsequently reviewed a range of other options for pricing the DTCS, including domestic benchmarking<sup>3</sup>.
- In 2010, the Commission released a position paper outlining the domestic benchmarking approach to pricing the DTCS<sup>4</sup>.
- In 2012, the Commission made the first FAD for the DTCS based on a domestic benchmarking approach<sup>5</sup>.
- In 2016, the Commission released its FAD for the DTCS based on an updated version of the earlier benchmarking approach to apply to 31 December 2019<sup>6</sup>.

In the 2016 FAD, the Commission continued to apply the domestic benchmarking methodology, based on a regression model developed by Economic Insights to estimate competitive benchmark-based prices on regulated routes using commercial pricing data supplied by transmission providers. The Commission's 2016 final decision set prices, on average, 71 per cent lower than that determined by the Commission in 2012<sup>7</sup>.

It is important to note that prior to the 2012 FAD, the Commission did not issue an arbitration determination in relation to the DTCS. Rather, terms and conditions of access, including price, were determined through commercial negotiations, without any access seeker being 'unable to agree' with access providers. This is in stark contrast to other declared services, which were subject to frequent disputes about price and non-price terms, and reflects the more competitive nature of transmission markets. Since the first FAD was issued in 2012, Telstra's transmission pricing in regulated areas

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<sup>1</sup> ACCC 2004, Pricing principles for declared transmission capacity services – Final report, September.

<sup>2</sup> ACCC 2007, Transmission network cost model, Discussion paper, May.

<sup>3</sup> ACCC 2010, Domestic transmission capacity service pricing, Position paper, November.

<sup>4</sup> Ibid.

<sup>5</sup> ACCC, 2012, Final Access Determination, June.

<sup>6</sup> ACCC 2016, Public inquiry to make a Final Access Determination for the domestic transmission capacity service, Final report, April.

<sup>7</sup> Ibid, p.65.



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continues to be determined primarily through commercial negotiation, reflecting the competitive constraints that Telstra faces from a number of sources including:

- Numerous other wholesale communications providers offering managed transmission solutions.
- NBN Co providing transmission services as part of its wholesale Enterprise Ethernet offering with minimal geographic pricing differentiation. NBN Co has recently announced price reductions up to 50 per cent on its suite of Enterprise Ethernet suite of products from 19 August 2019<sup>8</sup>.
- Non-communications providers such as electricity transmission providers with excess capacity offering transmission services.
- Providers of dark fibre offering unmanaged backhaul services under long-term lease arrangements.
- Likely expansion of the above providers and potential entry of new providers<sup>9</sup>.

The competitive nature of the transmission market is also evidenced by the differentiation in product characteristics such as contention, protection and management and the range of service features on offer to meet the specific requirements of different wholesale customers.

Telstra anticipates that competitive pressure will intensify further over the next regulatory period following significant investments in transmission infrastructure by TPG, Vocus and Optus. Other market changes will also impact future transmission pricing, particularly as bandwidth capabilities increase, ethernet becomes more common and the national broadband network (NBN) roll-out is completed.

## 1.2. Future approach to pricing the DTCS

Given the market for transmission services is functioning well and current regulatory settings have facilitated the development of effective competition, the Commission should continue pricing the DTCS in a manner which provides price certainty, stability and predictability. This will encourage further efficient investment in transmission infrastructure to meet growing demands and drive competitive outcomes.

Encouraging investment in regional areas is particularly important in ensuring consumers in these areas have access to the same economic and social opportunities as other Australians. In its review of regional telecommunications, the Independent Review Committee was strongly of the view that there are compelling factors for significant additional capital investment in telecommunications infrastructure to maximise the economic opportunities and economy-wide benefits that are available for the people in regional, rural and remote Australia<sup>10</sup>. Telstra has undertaken significant investment in regional Australia over the last five years. Telstra's total mobile network investment, including mobile backhaul, is around \$8 billion of which almost \$3 billion has been invested in regional areas. It is important that the future approach to pricing the DTCS continues to encourage investment, particularly in regional areas as the demand for bandwidth continues to grow.

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<sup>8</sup> Communications Day 2019, NBN Co to slash Enterprise Ethernet prices up to 50% from next month, 1 July 2019, p.1-2.

<sup>9</sup> See for example, Communication Day 2019, New Queensland state backhaul provider up and running, 3 July 2019, p.1-2.

<sup>10</sup> Regional Telecommunications Independent Review Committee 2018, Regional Telecommunications Review – Getting it right out there, September.



Telstra notes recent decisions on transmission regulation in both the UK and New Zealand have adopted approaches aimed at encouraging investment. For example, the recent review of the leased lines charge control undertaken by Ofcom was explicitly aimed at encouraging investment:

*For active services at 1 Gbit/s and below, we are prioritising investor confidence in current and planned investments over the static benefits of keeping prices tightly aligned to costs, while ensuring BT cannot use its market power to set excessive prices. We consider that a charge control at CPI-CPI best achieves this. We have modelled costs over the review period and do not believe that any potential risk of modest over-recovery of costs by BT outweighs the benefits of maximising investment incentives and balancing impacts on consumers through price stability<sup>11</sup>.*

Similarly, the New Zealand Commerce Commission recently reviewed domestic backhaul services and concluded that further regulatory intervention was not necessary<sup>12</sup>. Specifically, the Commerce Commission found that the backhaul market was generally competitive except in some provincial areas where Chorus is the only provider and some links are more expensive. Prices in these areas continue to be based on international benchmarking undertaken in 2008 and while the Commerce Commission expected that updated cost benchmarks would now be lower, they made the decision not to intervene given that there was no clear evidence of any direct impact on end-users in areas with high backhaul prices. The Commerce Commission stated it will consider the need for any re-benchmarking and/or addition of regulated service-agnostic backhaul services as part of the copper review, which it is required to be completed prior to 2025.

In Telstra's view, the continued use of domestic benchmarking would provide a stable and predictable pricing outcome for the DTCS; encouraging efficient investment while also ensuring that the benefits associated with competition (particularly in the form of cost reductions) are passed on to consumers in regulated areas. There is no evidence to suggest the domestic benchmarking methodology is resulting in inefficient outcomes.

The competitive nature of the transmission market does not warrant a more intrusive pricing approach, which would impose an unnecessary regulatory burden and risk stifling investment. A more intrusive approach to regulating the DTCS pricing would need to be supported by industry data and transparent analysis to clearly demonstrate that it would result in superior outcomes to the domestic benchmarking methodology. Importantly, any alternative approach would need to ensure that the incentives to invest in regional and rural areas are maintained to deliver the capacity upgrades needed in these areas.

### 1.3. Benchmarking options

The benchmarking approach used in the next FAD should take into account the fact that the transmission market is operating well and future investment will be necessary to meet growing demand. As such, benchmarking should provide a reference point for FAD pricing that encourages efficient investment and provides the potential for commercially negotiated outcomes to continue.

#### 1.3.1. Developing a new regression model from a new dataset

The development of a new regression model is unnecessary and would impose a significant regulatory burden on industry participants and the Commission. Capacity, distance and location remain the key factors that determine underlying prices and while there may be some change in the relative weighting of particular drivers, the time and cost involved in re-estimating the regression model to determine more

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<sup>11</sup> Ofcom 2019, Promoting competition and investment in fibre networks: review of the physical infrastructure and business connectivity markets, volume 3: leased lines charge control, May, p.2.

<sup>12</sup> Commerce Commission New Zealand 2019, Section 9A Backhaul services study, June.



precise regulated prices is not warranted. For the reasons discussed above, the benchmark pricing for the DTCS should not be aimed at setting transmission prices deterministically. Rather, it should provide a reference point to encourage commercially negotiated outcomes and to support the development of further competition in the market. Telstra is also concerned that re-estimating the model could potentially re-open debates over model specification and inputs, which would undermine the principles of price stability and certainty.

### **1.3.2. Adjusting the current regression model with a new or updated dataset**

Telstra agrees with the Commission's view that the current model remains fit-for-purpose for the next regulatory period. The DTCS pricing that has resulted from use of the model in the current period has allowed competition to develop and has encouraged commercially negotiated outcomes, which have benefited consumers in both competitive and regulated areas. Importantly, continued use of the existing model would involve a lower regulatory burden than the development of a new regression model.

However, updating the dataset to determine prices would still involve a lengthy process to collect and analyse the new data. There is also some uncertainty as to how the Commission would use the updated data to assess and adjust the relative weights of the cost drivers and variables in the current regression model. Telstra would be concerned if an updated dataset were used to make *ad hoc* adjustments to the model, which may compromise the validity of the results. If the Commission is to adopt this approach, Telstra suggests that the only change to the current model should be to reflect the updated input data.

### **1.3.3. Applying an adjustment factor (discount) to prices generated by the current model**

The Commission's third option of applying an adjustment factor to the prices generated by the current model would be consistent with a price-cap form of control, where prices in the new regulatory period are set based on prices in the last regulatory period, adjusted by an x-factor. The price-cap methodology for setting regulated prices is well-established in other industries and is used by Ofcom for transmission pricing in the UK (and effectively by the Commerce Commission in New Zealand in keeping the 2008 pricing unchanged in nominal terms).

However, the Commission's suggested approach to determining the adjustment factor, in line with the overall change in prices, would still require the collection and analysis of updated data. If the Commission were to adopt this benchmarking option, then a simplified approach to determining the adjustment factor would be appropriate and should be set out clearly in the Commission's draft report. Consideration should also be given to the approach adopted in the UK, where the x-factor is set explicitly to prioritise confidence in current and planned investments.

## **Responses to ACCC questions**

**Question 1: What approach should the ACCC adopt for setting regulated prices for the DTCS over the next regulatory period? If domestic benchmarking is not appropriate, please specify what approach would promote the long-term interests of end users and how that approach would provide a better outcome.**

The domestic benchmarking approach should continue to be used for setting regulated prices for the DTCS over the next regulatory period. By setting a reference point, the domestic benchmarking approach has encouraged competition and investment in the transmission market while also ensuring that the resulting benefits are passed onto consumers in regulated areas.



**Question 2: Are the current drivers (particularly distance and capacity) and their relative weightings still appropriate in setting the regulated DTCS price? Are there other factors that need to be considered?**

Telstra agrees with the Commission's view that the current model remains fit-for-purpose for the next regulatory period, as capacity, distance and location remain the key drivers of transmission prices. While the relative weighting of some drivers may have changed since the last FAD, Telstra does not consider that such potential changes necessitate the development of a new model. Rather, a simplified adjustment can be made to the existing model to reflect price changes in unregulated areas, with the objective of encouraging efficient investment and providing the potential for commercially negotiated outcomes to continue.

**Question 3: To what extent have prices for transmission services on competitive routes changed since the last FAD inquiry? How have prices for transmission services connecting NBN POIs changed by comparison?**

Telstra offers a range of wholesale transmission capacity services. These include Managed Lease Line (MLL) services, Telstra Wholesale Carrier Grade Ethernet (TWCGE) services, Wholesale Transmission (WTX) and Wholesale Wavelength Services (WWS). The MLL was introduced in response to market demand for a product that had a simplified pricing structure and enhanced service features such as proactive monitoring.

Telstra's preliminary analysis of existing 2019 transmission prices on deregulated routes demonstrates that on average, since the last FAD:

- Prices have reduced on average by [c-i-c].
- Price reductions differ by geographic routes, with price reductions highest on inter-capital and metropolitan routes. Prices reduced by up to [c-i-c] on inter-capital routes, and up to [c-i-c] on metropolitan routes. On tail-end and regional routes, prices reduced by up to [c-i-c] and [c-i-c] respectively.

These price reductions are based on average prices for the monthly rental charge on deregulated routes for Telstra's MLL services, compared with prices generated by the Commission's DTCS FAD pricing calculator (April 2016). Approximately [c-i-c] of all transmission connections were for MLL services over the last three years.

**Question 4: Are prices for transmission services to NBN POIs a valid proxy to price access to services in areas that remain regulated?**

Transmission services to NBN points of interconnect (POIs) are characterised by high traffic growth and hence declining unit costs. These declining costs, which have driven down prices for transmission services to NBN POIs year on year, are not achievable in regulated areas that are characterised by much lower traffic volumes. In addition, pricing for transmission services to NBN POIs are likely to reflect a range of different product features such as protection as well as other contract terms including growth forecasts and partnering arrangements.



## 02 Other issues for consideration in making the new FAD

This section provides Telstra's views on the additional issues for consideration outlined in section 4.3 of the Commission's consultation paper.

### 2.1. Telstra does not support making capacity a non-continuous variable

The only valid approach for extending the differentiated pricing for low-capacity, short-distance services to services up to 10 Megabits per second (Mbps) would be to respecify the DTCS regression model consistent with the Commission's first benchmarking option. The current model specification is specific to the definitions used in the 2016 DTCS FAD and it would be incorrect to simply apply the results of that model to an amended service definition. However, as discussed above, respecifying the benchmarking model is unnecessary. The current DTCS regression model provides a useful reference point for commercial negotiations and it is the competitive constraints on Telstra's pricing that ultimately determine what prices it can charge for transmission services in regulated areas.

The provision of high capacity transmission services is highly competitive with all pricing for these services determined through commercial negotiation. The time and cost involved in respecifying a regression model to accommodate services 1 Gigabit per second (Gbps) and above is completely unwarranted. The Commission should allow competition to continue determining prices for these services, rather than intervening via the next FAD.

#### Responses to ACCC questions

##### **Question 5: Should the differentiated pricing for low-capacity short-distance services be extended to the range of low-capacity services identified in the 2019 DTCS declaration (i.e. involving services up to 10 Mbps)?**

As discussed above, the only valid approach to extending the differentiated pricing to the new service definition would be to fully respecify the DTCS regression model. Given that pricing is effectively constrained by competition and determined via commercial negotiation and that the importance of low capacity services are declining, this is unnecessary.

##### **Question 6: Are there any issues with the prices for high capacity transmission services acquired in regulated areas? If so, should the next FAD set price for services of 1 Gbps and above?**

The high-capacity segment of the market is very competitive, and prices are negotiated on a commercial basis reflecting a range of factors. There is no compelling evidence to support the development of a new model to accommodate pricing for services 1 Gbps and above in the next FAD.

### 2.2. Telstra does not believe there is a need to separately price mobile backhaul services

The approach to defining the functional market for the DTCS has always been as a wholesale input for the provision of various downstream communication services. This approach has recognised that underlying wholesale transmission services have the same essential characteristics regardless of the end use case for which they are an input. This approach remains appropriate and separate pricing for mobile backhaul under the FAD is unwarranted.



Pricing for mobile backhaul services is determined primarily through commercial negotiations. Where commercially negotiated outcomes cannot be reached, pricing can be set with reference to the DTCS regression model. In Telstra's experience, price terms for mobile backhaul have always been agreed through commercial negotiations without the need to default to the DTCS regression model to resolve pricing disagreements. It would be inappropriate to introduce specific pricing for mobile backhaul, which would involve considerable complexity and cost, without clear evidence that mobile backhaul in regional and rural areas is set inefficiently high.

Vodafone's suggestion that Telstra's introduction of a new mobile backhaul product used to connect Mobile Black Spot Program (MBSP) base station sites involves gaming of Part XIC and allows Telstra to charge monopoly pricing is incorrect. Where another mobile network operator (MNO) co-locates on a mobile tower which received funding under the MBSP, the MNO can either acquire backhaul under its existing agreements (and pricing) or under the DTCS terms. If backhaul is acquired under the regulated DTCS terms, the price is discounted from the regulated DTCS price by applying a 'rental holiday', where the length of the holiday depends on the length of contract for the DTCS. As discussed in Telstra's response to the Commission's draft decision on mobile roaming, Telstra's agreement with the Federal Government for MBSP Round 2 requires backhaul to be offered at price terms and conditions more favourable than regulated rates<sup>13</sup>. It is unclear how these pricing arrangements could be considered monopoly pricing or gaming.

Further, geographic coverage is only one of the many factors that MNOs compete on and operators do not need identical coverage in order to compete successfully. As the Commission concluded in its domestic mobile roaming declaration inquiry:

*MNOs compete across a range of factors, including the extent of network coverage, the quality (ie depth) of coverage in areas where they provide services, retail support, price and service inclusions (eg data inclusions, free voice calls and SMS). We found that overall geographic coverage is not the primary driver of competition, nor is it essential for MNOs to have equal geographic coverage compete effectively in the market<sup>14</sup>.*

MNOs make decisions about the extent to which they are going to compete on geographic coverage. Where economic challenges exist, there are measures in place to promote investment and competition, including public/private co-investment models such as MBSP and optimised facilities-sharing arrangements (the Facilities Access Code is currently under review). The Commission's decision in relation to pricing the DTCS should not be aimed at removing geographic coverage as a point of differentiation for MNOs.

## Responses to ACCC questions

### **Question 7: Do current DTCS prices appropriately reflect the cost of providing backhaul to mobile sites located in remote areas or in difficult to access locations?**

Pricing for mobile backhaul is commercially negotiated and reflects a range of factors. If anything, the current DTCS model, which reflects the price reductions that occur on unregulated routes, may overstate the cost reductions that can be achieved on regional routes.

<sup>13</sup> Telstra 2017, Response to the ACCC's draft decision in the domestic mobile roaming declaration inquiry, June, p.48.

<sup>14</sup> ACCC 2017, Domestic mobile roaming declaration inquiry, Final report, October, p.2



**Question 8: Should mobile backhaul be priced separately from other types of routes? If so, what are the relevant cost drivers?**

Pricing for mobile backhaul is commercially negotiated and it is unnecessary to set separate prices for mobile backhaul in the next FAD. The Commission's DTCS regression model already incorporates key cost drivers and results in prices for regulated routes that reflect price movements on competitive routes.

**2.3. Telstra does not consider there is any need to set prices for service features to the FAD**

It is not necessary for the Commission to determine prices in the FAD for online ordering capability and enhanced service monitoring of faults. If the Commission's analysis concludes that pricing does need to be determined, then the pricing should act as a reference point only to allow the continuation of commercially negotiated outcomes.

**Responses to ACCC questions**

**Question 9: Should online ordering and enhanced service monitoring of faults be included in the price of the DTCS or priced separately?**

It is unnecessary for the Commission to set pricing for additional service features such as online ordering and enhanced service monitoring of faults. Such features are developed and priced in response to competitive constraints and market demand. For example, the MLL was introduced in response to market demand for a product that had a simplified pricing structure and enhanced service features such as proactive monitoring. The Commission should allow the market to continue determining the pricing for such services. Regulatory intervention risks distorting incentives for future product innovation.

**Question 10: If priced separately, should the price be a percentage of the price for the basic DTCS? What should that additional percentage be?**

Enhanced service features should be left to commercial negotiations. See answer to Question 9.

**Question 11: Should access providers be required to itemise charges for service features provided in addition to the DTCS service description?**

Telstra enters into negotiations in order to arrive at a commercially agreed price for a product with specific service features. Whether access providers should be required to itemise charges for service features, should be left to market negotiations. Further requirements on itemised charges should not impose regulatory burden and distort incentives for market participants to negotiate for service features or the way such features are billed or itemised.

**2.4. Telstra does not consider staged reductions are necessary**

Staged reductions over the period of the next access determination are unnecessary. By resetting prices at each FAD and then holding prices constant in nominal terms over the regulatory period, the Commission is effectively making an initial adjustment followed by a real price decrease (equal to CPI) in each of the following years of the FAD. This approach provides a reasonable balance between providing price certainty and stability, while still ensuring consumers in regulated areas share the benefits of competition.



The experience to date has been that transmission pricing in regulated areas has declined significantly over the term of the FAD as a result of competitive pressure. In Telstra's view, the Commission should continue to allow pricing over the course of the FAD to be determined by competition rather than regulatory intervention. If the Commission does intervene to impose staged reductions, there is a risk that it could overstate the reductions that are possible in regional areas, with the effect of undermining the incentives to invest in these areas.

### **Responses to ACCC questions**

#### **Question 12: How are prices expected to change over the next five years?**

Telstra expects that increased investment and competition will continue to put pressure on transmission pricing over the next five years. As has occurred over the last two FADs, Telstra expects transmission prices in both regulated and unregulated areas will decline over the term of the FAD as a result. Regulatory intervention has not been required to deliver price reductions over the last two FADs and Telstra does not believe any intervention is necessary in the next FAD to ensure that price reductions occur over the term of the FAD.

#### **Question 13: Should the ACCC implement a staged reduction in DTCS prices over the term of the regulatory period? If so, how should it determine those staged adjustments? Would the change in prices since the last FAD be a relevant guide?**

For the reasons discussed above, Telstra does not consider staged reductions over the period of the FAD to be necessary. Such reductions could distort commercially negotiated outcomes that lower risks and costs for all parties if access seekers are provided with the incentive to wait for short term regulatory driven staged reductions.

#### **Question 14: Alternatively, would it be more appropriate to monitor price movements at specified points in time over the regulatory period and introduce a correction in the price of DTCS if required?**

Monitoring price movements is unnecessary. There are sufficient constraints on Telstra's pricing in regulated areas to ensure price reductions over the term of the FAD. As noted above, the current approach is consistent with price cap regulation used in other industries which involves a one-off adjustment at the commencement of the FAD with annual real price reductions equivalent to CPI in the following years. This provides a reasonable balance between providing price certainty and stability while still ensuring consumers in regulated areas share the benefits of competition. Given that the current approach is delivering outcomes consistent with the LTIE, the regulatory burden associated with regular collection of pricing information for ongoing monitoring is unwarranted.

### **2.5. Telstra does not consider changes to non-recurring charges in the FAD are necessary**

Changes to non-recurring charges (connection charges) are unnecessary. Costs associated with service provisioning, setting-up new interface ports, internal cabling and back-end support services have, if anything, increased since the 2016 FAD. Given that the 2016 FAD prices have been held constant in nominal terms – and have declined in real terms – Telstra does not consider any further change to non-recurring charges are necessary. If the Commission does consider it necessary to change recurring charges, then it should review the movement in key cost drivers since the 2016 FAD.



### Responses to ACCC questions

#### **Question 15: How have non-recurring charges evolved since the last inquiry?**

If anything, connection costs have increased since the last inquiry as the average bandwidth of services has increased. Less services are installed on 100Mbps or below equipment and more on 1 Gbps equipment, driving higher installation costs.

#### **Question 16: Should a set of non-recurring charges be sourced from the sample or dataset to support the determination of recurring charges?**

Non-recurring charges should be determined in a way that enables ongoing commercial flexibility to continue to work out the appropriate commercial constructs surrounding these services.

#### **Question 17: Should the capacity bands and technologies set out in the current FAD be maintained?**

The capacity bands (i.e. high-, mid- and low-capacity) and technologies defined in the amended service description should be maintained in so far as they remain commercially relevant and serve the LTIE. Updates, changes or amendments to the current FAD that result in no net benefit to end users and result in no efficiency gains should be avoided.

#### **Question 18: Should connection charges remain only applicable to one-year contracts?**

Connection charges should remain applicable to one-year contracts to allow scope for commercial negotiations to occur in relation to contract term.

### **2.6. Telstra considers existing non-price terms for special linkage charges should be rolled over**

Telstra agrees with the Commission's initial position that the non-price terms for SLCs should be rolled over in the new regulatory period. Access seekers are able to make enquiries to Telstra regarding the cost items for SLC quotes and Telstra can provide the appropriate details without revealing commercially sensitive information.

### Responses to ACCC questions

#### **Question 19: Should the NPTCs set out in the current DTCS FAD be rolled over into a new regulatory period? Should the current NPTCs be varied or should the ACCC consider making additional NPTCs?**

Telstra believes that non-price terms and conditions (NPTCs) in the current DTCS FAD should be rolled over into the new regulatory period. Historically, these terms have not been the subject of disputes between parties, who have consistently been able to reach commercial agreement on those terms. Variations to NPTCs or additional NPTCs may create unnecessary regulatory and compliance burdens with no additional benefits.



**Question 20: Has the requirement to itemise costs in SLC quotes been effective in providing greater transparency? Should it be retained for the next regulatory period?**

Market participants should decide whether itemised costs in SLC quotes should be retained in the next regulatory period.

**Question 22: Are there any additional issues or views that are relevant to price and non-price terms for access to the DTCS?**

Telstra has successfully negotiated price and non-price terms for the DTCS services, as well as other service enhancements, with access seekers. Further regulation should only be implemented when there is evidence of market failure where commercial agreements cannot be reached.

## 2.7. Pricing of undersea cable for Tasmania and Christmas Island

Telstra is concerned about the very large difference in uplift factors for Tasmania and Christmas Island. The uplift factor for the undersea component of the Bass Strait link is 40 per cent, while the Commission is proposing an uplift of 360 per cent for the undersea component of the Christmas Island route. It is important to understand what is driving the difference in these uplift factors to provide regulatory certainty for future investors on how undersea routes will be priced.

### Responses to ACCC questions

**Question 21: Should the new DTCS FAD maintain an uplift on pricing to Tasmania to reflect the higher costs associated with the route? If so, does a level of 40 per cent remain appropriate?**

The new DTCS FAD should maintain an uplift on pricing to Tasmania to reflect the higher costs associated with the route. The uplift on pricing to Tasmania should reflect the higher costs specific to the route including the higher costs associated with deploying marine cables versus terrestrial cables, higher operation costs that require specialist marine maintenance operators and additional landings station costs.

**Question 23: Should the price for services to Christmas Island be set as an uplift on DTCS prices for equivalent services in the mainland? If not, by what method should prices to Christmas Island be set?**

It is important that the methodology used to price services for Christmas Island is transparent and consistent with the Commission's approach for pricing other undersea cables. This ensures certainty and predictability around pricing decisions, which is important for encouraging future investment.



**Question 24: If the Commission adopted an uplift approach to pricing the Vocus service, what should be the appropriate level of that uplift to reflect the additional costs incurred in the construction and operation of a long-distance subsea cable, as well as the associated risks? Are there any other factors that the ACCC should take into account?**

Telstra does not have access to Vocus-specific costs for deploying and operating the cable to Christmas Island. However, Telstra would expect that Vocus would face similarly higher costs for deploying and operating marine cable as other owners/operators of undersea cable links. Telstra has previously provided information to the Commission on the relative costs of deploying and operating underseas cable to Tasmania. However, the Commission adopted an uplift of 40%.

**Question 25: What is the normal operating life for an undersea cable system?**

The normal operating life of a subsea cable is approximately 25 years and is dependent on a number of factors including the technology employed at the installation stage and the amount of maintenance required, which generally relates to geographical conditions, fishing activities, and whether the cable is buried or surface laid.

**Question 26: What are the expected maintenance and system costs for an undersea cable?**

Telstra has previously provided information to the Commission on operating costs for undersea cable<sup>15</sup>.

**Question 27: What is an acceptable normal rate of return for undersea cable investment and how should 'risk' be taken into account?**

Telstra anticipates that the Commission would adopt a consistent approach to determining the appropriate rate of return for undersea cable investment it adopted for determining the 40% uplift for Tasmania. In Telstra's view, it is important that the Commission adopt a transparent and consistent approach to provide regulatory certainty and predictability.

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<sup>15</sup> Telstra 2016, Confidential letter re DTCS final access determination inquiry – mainland to Tasmania route, dated 29 January 2016.