



16 April 2009

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Dear Mr Wright

Telstra's Band 2 ULLS Undertaking

I refer to your letter dated 15 April 2009.

Telstra welcomes the ACCC's acknowledgement of the primacy of "*an open and transparent process in which all interested parties are given a reasonable opportunity to assess and respond to the submissions of others*". Telstra agrees entirely and has made every effort to engage positively and efficiently with the ACCC and interested parties throughout the ACCC's consideration of Telstra's Undertaking.

Telstra's material is responsive to submissions of interested parties and ACCC materials only recently made available

Consistent with the above, as soon as Telstra became aware of and was provided with access to, most recently:

- the various Ovum advisory notes dated 28 January 2009, 2 February 2009, 5 February 2009 and 26 February 2009; and
- Optus' various further submissions including the Europe Economics report dated 26 March 2009 and Optus' supplement to the same dated 27 March 2009;

Telstra considered those materials and prepared its responses as quickly as possible.

On any view, the materials Telstra submitted, most recently in March and April 2009, are responsive in nature and deal with a substantial volume of additional material submitted by interested parties or made available by the ACCC well past the ACCC's 23 December 2008 deadline.

Telstra is entitled to respond to these additional materials and, as the timing demonstrates, has gone to considerable effort to consider the detail of, and prepare its responses to both the ACCC's and interested parties' additional materials extremely promptly. Accordingly, Telstra encourages the ACCC to thoroughly consider all its submissions in order to reach a fully informed decision on Telstra's Undertaking.

The ACCC considers that the statutory timetable was halted from 16 December 2008 until 13 March 2009

The ACCC's letter indicates the ACCC is also concerned that late submissions are particularly problematic where the ACCC is subject to statutory deadlines. In this regard, the ACCC's letter to Telstra dated 2 April 2009 makes it clear that the ACCC considers the statutory timeline for consideration of Telstra's Undertaking was halted from the date the ACCC issued its first request for information pursuant to s152BT of the TPA on 16 December 2008 until 13 March 2009.

In the circumstances, and without understating the importance of adherence to statutory timetables, Telstra does not consider that the recent lodgement of its responsive material should prove at all problematic for the ACCC.

Accounting for Regulation in UK Utilities

Otherwise, the publication titled *Accounting for Regulation in UK Utilities* is a specialised report published in the UK by the Institute of Chartered Accountants in England and Wales. After Telstra's order for the publication was submitted, and subsequent to receipt of the ACCC's letter of 15 April 2009, Telstra has been informed that there are no copies of the text currently available for purchase and delivery.

As such, and in light of the ACCC's concerns, Telstra attaches a further statement from Professor Cave annexing Chapter 6 of *Accounting for Regulation in UK Utilities* for the ACCC's consideration. The annexed material includes the quotations cited in Professor Cave's previous statement which is already public and available for scrutiny by interested parties. Telstra does not claim confidentiality over this further statement of Professor Cave or Chapter 6 of *Accounting for Regulation in UK Utilities*.

Yours sincerely,



Tony Warren
Executive Director Regulatory Affairs
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