



13 March 2009

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Dear Mr Wright

Telstra's Band 2 ULLS Undertaking - Responses to s152BT information requests and further submissions

I refer to:

- the ACCC's request for further information pursuant to s152BT of the *Trade Practices Act (TPA)*, in relation to Telstra's historical experience of breakout and reinstatement requirements for the construction of the CAN, dated 16 December 2008 (**the December 152BT Request**);
- the ACCC's request for further information pursuant to s152BT TPA in relation to Telstra vendor prices for materials included in the network construction activities costed by the TEA Model, dated 23 January 2009 (**the January 152 BT Request**); and

Telstra's Response to the December 152BT Request

In the December 152BT Request the ACCC sought from Telstra further information about the amount of trenching that it has paid historically for the various different types of breakout and reinstatement of different surface types.

Telstra has been able to source the relevant data back to October 2000 from its database records.

The figures support the monthly cost for the ULLS in Band 2 estimated by the TEA Model. Substituting the historical breakout and reinstatement ratios into the TEA Model results in an increase in the estimated monthly cost from \$46.54 to \$58.00.

To provide the ACCC with a better understanding of Telstra's historical experience with breakout and reinstatement activities, also enclosed are two statements from Telstra Operations network engineers who both have significant practical experience over a number of years in relation to the kinds and extent of breakout and

reinstatement of surface barriers that Telstra has had to undertake in construction of the CAN. The statements show that such activities have been significant, notwithstanding the opportunities that may be available in certain circumstances to avoid some breakout and reinstatement costs.

Accordingly, Telstra attaches:

- its Response to the December 152BT Request; and
- two statements of Telstra witnesses regarding surface barriers.

Telstra's Response to the January 152BT Request

In the January 152BT Request the ACCC requested that Telstra provide it with details of the underlying material costs included in the averaged rates obtained from the A & AS Contracts. Telstra has provided the requested information in the attached response to the January 152BT Request.

Because that information is highly commercially sensitive and because Telstra has potential obligations of confidentiality to third parties in relation to that information, the content of that response is entirely Category 2 confidential information and will only be made available to the ACCC and external advisers of access seekers who have provided confidentiality undertakings in the form required by Telstra.

Measure of TEA Model Efficiency

Telstra has previously provided to the ACCC a study entitled "Measure of TEA Model Efficiency" dated 8 September 2008 which demonstrate the efficiencies in network design that are embodied in the TEA Model compared to Telstra's actual network. Telstra has updated that study to include a comparison of the quantities of network plant and equipment deployed in the ACCC's Model with that used in the TEA Model. A copy of the updated study is enclosed.

Importantly, the TEA Model uses 15.7% less trench length in the distribution network and 41.2% less copper cable (sheath) length in total.

Profitability Analysis

Also enclosed is a Telstra submission which responds to the submissions of Optus and iiNet dated February 2009 in relation to the profit margin analysis of a \$30 per month charge for ULLS (the original analysis was contained in Attachment 1 to Telstra's Response to the ACCC's Draft Decision – dated 23 December 2008). This submission explains why the criticism's of Telstra's analysis made by Optus and iiNet are baseless and notes that a number of the propositions relied upon by them in making those criticisms appear inconsistent with information that the companies have released to the market.

Regulatory Submission

In considering the undertaking, the ACCC should also have regard to Telstra's submission to the Productivity Commission's "Annual Review of Regulatory Burdens on Business", available at:

http://www.pc.gov.au/_data/assets/pdf_file/0004/86314/sub016.pdf.

That submission explains investor confidence in efficient cost recovery will be undermined if the ACCC does not adopt a cost standard that is consistent, predictable and transparent. Nothing sends a signal more chilling of investment than the

inappropriate exercise of regulatory discretion or even the threat of such inappropriate exercise.

The cost standard that has been chosen and used by the ACCC in telecommunications since 1997, for some but not all declared services, is TSLRIC+. In choosing to rely on TSLRIC+, the ACCC has emphasised, in claims the Tribunal has subsequently endorsed, that the TSLRIC+ standard:

- Is consistent with outcomes in a competitive market;
- Permits full recovery of efficient costs, while not requiring end-users to pay for inefficiencies in service provision;
- Provides signals that can guide efficient build/buy decisions; and thereby
- Enhances competition in dependent markets; and
- Promotes the long term interests of end users.

Clearly, however, these claims would not be fulfilled where the cost standard is not consistently applied.

Confidentiality status

Telstra **does not** claim confidentiality over:

- this letter;
- the revised Measure of TEA Model Efficiency;
- the Profitability Analysis submission; or
- Telstra's submission to the Productivity Commission

and, accordingly, those documents may be published on the ACCC website.

Telstra **does** claim confidentiality over:

- Telstra's Response to the December 152BT Request (this is **Category 1** confidential information);
- Telstra's Response to the January 152BT Request (this is **Category 2** confidential information);
- two statements of Telstra witnesses regarding surface barriers (this is **Category 1 Confidential Information**)

and, accordingly, those documents **may not** be published on the ACCC website.

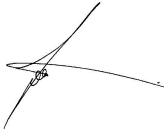
Telstra will ensure that copies of the confidential documents are made available to interested parties subject to the same terms of access applicable to any other Telstra Confidential Material.

Timing

In light of the provision of Telstra's responses to the December and January 152BT Requests, Telstra considers that it has fulfilled those requests.

Telstra will provide further submissions shortly.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Tony Warren', written in a cursive style.

Tony Warren
Executive Director Regulatory Affairs
Public Policy and Communications