

**ACCESS DISPUTE BETWEEN
TELSTRA CORPORATION LIMITED (ACCESS PROVIDER)**

AND

DIGIPLUS PTY LIMITED (ACCESS SEEKER)

LOCAL CARRIAGE SERVICE

Access dispute notified under subsection 152CM(1) of the *Trade Practices Act 1974*
on 23 January 2008

Determination under section 152CP(1) of the *Trade Practices Act 1974*

Background

1. On 23 January 2008, the Australian Competition and Consumer Commission (Commission) received a valid written notification from Telstra Corporation Limited (Telstra) of an access dispute in relation to the local carriage service (LCS) it supplies to Digiplus Pty Limited (Digiplus). The notification was provided to the Commission under subsection 152CM(1) of the *Trade Practices Act 1974* (TPA).
2. The LCS is a declared service for the carriage of telephone calls from customer equipment at an end-user's premises to separately located customer equipment of an end-user in the same standard zone. However, the LCS does not include services where the supply of the LCS originates from an exchange located within a Central Business District Area of Sydney, Melbourne, Brisbane, Adelaide or Perth and terminates within the standard zone, which encompasses the originating exchange.
3. On 8 January 2009, the Commission issued an interim determination (ID) in relation to this dispute. The ID set the price payable by Digiplus to Telstra for the LCS at 17.92 cents per call for the period 8 January 2009 to 31 July 2009.
4. Pursuant to subsection 152CP(1) of the TPA, this instrument is the determination relating to the terms and conditions of access by Digiplus to the LCS provided by Telstra.

Determination

Terms and conditions of access

5. This determination specifies the terms and conditions to apply to LCS call charges, as per Schedule 1.
6. Subject to Clause 7, the other terms and conditions on which Telstra currently supplies the LCS to Digiplus continue to apply.
7. Except where the parties expressly agree otherwise, in the event of any inconsistency between the terms and conditions upon which Telstra and Digiplus have agreed for the supply of the LCS and the operation of this determination, this determination is taken to apply to override any such pre-existing agreement to the extent of the inconsistency.

Settlement of over or under paid amounts and interest


8. The total amount that arises from the difference between charges that have been paid by Digiplus and the charges specified in this determination (the settlement amount) is to be paid:
 - (a) where the charges paid by Digiplus are less than the charges specified in this determination, by Digiplus to Telstra; or
 - (b) where the charges paid by Digiplus are more than the charges specified in this determination, by Telstra to Digiplus.
9. Interest is payable on the settlement amount, compounded daily at the applicable monthly rate specified in the Small Business Variable Other Overdraft Indicator Rate published by the Reserve Bank of Australia, for the period commencing on the date that the charge specified in this determination commences, and ending on the date that this determination takes effect.

Note: A copy of the Small Business Variable Other Overdraft Indicator Rate is available at <http://www.rba.gov.au/statistics/tables/xls/f05hist.xls>.

10. Except where the parties agree otherwise, the settlement amount is to be paid within 42 days after the date on which this determination is made.

Commencement and expiry

11. This determination takes effect 21 days from the date it is made, and ceases to have effect on 31 December 2010.



Edward Campbell Willett
Presiding Member



Joseph Dimasi
Commissioner

DATED: 20th August 2010

Schedule 1: LCS call charges

1. Except where the parties subsequently agree otherwise, the charges payable by Digiplus to Telstra for the LCS are as follows.

Period	Price per call
7 August 2007 – 31 December 2007	17.92 cents per call
1 January 2008 – 31 December 2010	17.36 cents per call