

**ACCESS DISPUTES BETWEEN
DIGIPLUS PTY LIMITED (ACCESS SEEKER)**

AND

TELSTRA CORPORATION LIMITED (ACCESS PROVIDER)

WHOLESALE LINE RENTAL SERVICE

Access dispute notified under subsection 152CM(1) of the *Trade Practices Act 1974*
on 20 December 2007

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

Background

1. On 20 December 2007, the Australian Competition and Consumer Commission (Commission) received a valid written notification from Digiplus Pty Limited (Digiplus) of an access dispute in relation to the supply of the wholesale line rental service (WLR) by Telstra Corporation Limited (Telstra) to Digiplus. The notification was provided to the Commission under subsection 152CM(1) of the *Trade Practices Act 1974* (TPA).
2. The WLR is a declared service which allows an end-user to connect to a carrier or carriage service provider's public switched telephone network, and provides the end-user with:
 - an ability to make and receive any 3.1kHz bandwidth calls (subject to any conditions that might apply to particular types of calls), including, but not limited to, local calls, national and international long distance calls, and
 - a telephone number,except where the supply of the line rental telephone service is within the Central Business District Area of Sydney, Melbourne, Brisbane, Adelaide or Perth.
3. On 8 January 2009, the Commission issued an interim determination (ID) in relation to this dispute. The ID came into effect on the 8 January 2009. The ID set the prices payable by Digiplus to Telstra for the WLR at \$25.57 per month for HomeLine Part and \$26.93 per month for BusinessLine Part 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 WLR provided by Telstra.

Determination

Terms and conditions of access

5. This determination specifies the terms and conditions to apply to WLR monthly charges, as per Schedule 1.
6. Subject to Clause 7, the other terms and conditions on which Telstra currently supplies the WLR 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 WLR 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

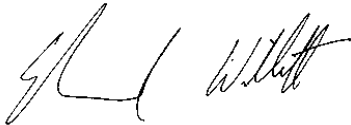
8. The total amount that arises from the difference between charges that have been paid by Digiplus and the charges specified in this determination (the settlement amount) is to be paid:
 - (a) where the charges paid by Digiplus are less than the charges specified in this determination, by Digiplus to 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: WLR monthly charges

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

Period	HomeLine Part	BusinessLine Part
7 August 2007 – 31 December 2007	\$23.12 per month	\$25.84 per month
1 January 2008 – 31 December 2010	\$25.57 per month	\$26.93 per month

2. Except where the parties subsequently agree otherwise, this determination does not include any reasonable amount which Telstra may impose in order to recover tax paid by Telstra pursuant to the *Utilities (Network Facilities Tax) Act 2006* (ACT).