

**ACCESS DISPUTE BETWEEN OPTUS NETWORKS PTY LIMITED (ACCESS SEEKER)  
AND  
TELSTRA CORPORATION LIMITED (ACCESS PROVIDER)**

**PROVISIONING OF UNCONDITIONED LOCAL LOOP SERVICE  
TO MULTI-DWELLING UNITS**

**Access dispute notified under Subsection 152CM(1) of the *Trade Practices Act 1974* on  
21 September 2006**

**Final Determination under Section 152CP of the  
*Trade Practices Act 1974* (the TPA)**

**Background**

1. On 21 September 2006, the Australian Competition and Consumer Commission (the Commission) received a written notification (the Notification) from Optus Networks Pty Limited (Optus) of an access dispute in relation to the supply, by Telstra Corporation Limited (Telstra) of the Unconditioned Local Loop Service (the ULLS) in Multi-Dwelling Units (MDUs) to Optus. Optus' notification was provided to the Commission pursuant to subsection 152CM(1) of the TPA.
2. The ULLS is an access service involving the use of unconditioned cable, primarily copper pairs, between end-users and a telephone exchange, where the unconditioned cable terminates. The ULLS is used by access seekers to connect their own networks to existing infrastructure to deliver high-speed and data-based services to end-users.
3. After holding a public inquiry, the Commission declared the ULLS pursuant to subsection 152AL(3) of the TPA in August 1999. A copy of the declaration was published in the *Commonwealth of Australia Gazette* No. GN32, 11 August 1999. Following a further public inquiry, the Commission re-declared the ULLS with effect from 1 August 2006. A copy of that declaration was published in the *Commonwealth of Australia Gazette* No. GN31, 9 August 2006.
4. The Notification states that the dispute concerns the technical and operational quality of the ordering and provisioning provided by Telstra to Optus in respect of the ULLS.
5. This determination relates to the ordering and provisioning of the ULLS in MDUs serviced by a main distribution frame (MDF) in the building.
6. The Commission has formed the view that the requirements of subsection 152CM(1) of the TPA are satisfied. That is:
  - Telstra is a carrier
  - Telstra supplies the declared ULLS
  - Telstra has an obligation under subsection 152AR(3) of the TPA to supply the ULLS to Optus, and

- Optus is unable to agree with Telstra about the technical and operational quality of the ordering and provisioning of the ULLS on which Telstra is to comply with that obligation.
7. Pursuant to section 152CP of the TPA, this instrument is a final determination relating to the terms and conditions of access by Optus to the ULLS provided by Telstra.

### **Final Determination**

8. This Final Determination relates to the supply by Telstra to Optus of the ULLS in MDUs serviced by a MDF in a building.
9. Unless the contrary intention appears, words or phrases used in this Final Determination have the same meaning as those words or phrases used in the ULLS Declaration published in the *Commonwealth of Australia Gazette* No. GN31, 9 August 2006.
10. Except where the parties agree otherwise, the supply by Telstra to Optus in respect of the ULLS in MDUs serviced by a MDF in the building is to be as follows:
- (a) Where there is an existing Communications Wire between the Telstra exchange and the end-user customer's premises which has a soft dial tone and Optus submits a ULLS Request to Telstra that provides the Service Number (which includes the full national number) and address associated with the Communications Wire, Telstra must treat the request as if it was a ULLS Transfer Request following the ULLS Transfer process specified in the ACIF C569:2005 *Unconditioned Local Loop Service – Ordering, Provisioning and Customer Transfer* industry code.
  - (b) On receipt of a ULLS Request from Optus, Telstra must validate that the Service Number corresponds to the address specified in the request, based on Telstra's cabling records in Telstra exchanges.
  - (c) If this information is incorrect, Telstra must follow the ULLS Rejection process for ULLS Transfers specified in the ACIF C569:2005 *Unconditioned Local Loop Service – Ordering, Provisioning and Customer Transfer* industry code.
  - (d) For the purposes of the ULLS Transfer Request and in accordance with the definition of Losing Access Seeker stated in the ACIF C569:2005 *Unconditioned Local Loop Service – Ordering, Provisioning and Customer Transfer* industry code, where Telstra has been supplying the service immediately prior to the transfer, Telstra is to be considered the Losing Access Seeker.
  - (e) Where there is no Communications Wire between the Telstra exchange and the end-user customer's premises (i.e., there is no soft dial tone) and Optus submits a Vacant ULLS Request, Telstra must follow the Vacant ULLS process specified in the ACIF C569:2005 *Unconditioned Local Loop Service – Ordering, Provisioning and Customer Transfer* industry code.

- (f) If Optus submits a ULLS Transfer Request to Telstra that meets the requirements in paragraph (a), Optus must accept any risk to the quality of, connectivity of and suitability for providing voice and/or data services on the existing copper path between the Telstra exchange and the end-user premises.
- (g) For the avoidance of doubt, where there is an existing Communications Wire between the Telstra exchange and the end-user customer's premises which has a soft dial tone but Optus is **not** prepared to accept any risk to the quality of, connectivity of and suitability for providing voice and/or data services on the existing copper path between the Telstra exchange and the end-user premises, Optus must submit a Vacant ULLS Request.

### ***Definitions***

For the purposes of this Final Determination, the following definitions apply:

***Losing Access Seeker*** means the Carrier/Carriage Service Provider which will cease providing the Customer with services over the ULLS immediately after the Effective Date of Transfer (for the avoidance of doubt, this may include the Access Provider).

***Soft dial tone*** is an audible telephone signal, except that there is no actual service on the line and normal calls cannot be made. A soft dial tone only allows emergency service calls to be made or calls to a carrier's test numbers (e.g., Own Number Check).

***Service Number*** means the Customer's fixed network billing service number which is identifiable by a full national number. For the avoidance of doubt, Service Numbers may be associated with voice and data services.

***Unconditioned Local Loop Service*** is the use of unconditioned communications wire between the boundary of a telecommunications network at an end-user's premises and a point on a telecommunications network that is a potential point of interconnection located at or associated with a customer access module and located on the end-user side of the customer access module.

***ULLS Rejection*** means an advice from the Access Provider to the Access Seeker of a ULLS Request that has been rejected.

***ULLS Request*** means a specific request from the Gaining Access Seeker to the Access Provider for a Vacant or In-Use ULLS or ULLS Transfer Request.

***ULLS Transfer*** means the successful transfer of a ULLS between the Losing Access Seeker and the Gaining Access Seeker.

***ULLS Transfer Request*** is a request from the Gaining Access Seeker to the Access Provider to process a ULLS Transfer.

***Vacant ULLS*** means a ULLS that is not an In-Use ULLS.

*Commencement*

11. This determination takes effect 180 days from the date it is made, unless otherwise agreed between the parties.



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**Graeme Samuel**  
**Chairman**



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**Ed Willett**  
**Commissioner**

**DATED: 30 November 2007**