



**VARIATION TO UNDERTAKING TO THE AUSTRALIAN COMPETITION AND
CONSUMER COMMISSION GIVEN PURSUANT TO SECTION 87B OF THE TRADE
PRACTICES ACT 1974**

BY

TELSTRA CORPORATION LIMITED (ABN 33 051 775 556)

AND

TELSTRA MULTIMEDIA PTY LIMITED (ACN 069 279 072)

1 Background

- 1.1 On 21 November 2002 the Australian Competition & Consumer Commission (“**Commission**”) accepted an undertaking (“**Undertaking**”) given by Telstra Corporation Limited (“**Telstra**”) and Telstra Multimedia Pty Limited (“**Telstra Multimedia**”) pursuant to section 87B of the *Trade Practices Act 1974* (“**the Act**”).
- 1.2 Paragraph 6.1 of the Undertaking requires Telstra Multimedia to commence supplying a Digital Subscription Television Carriage Service no later than 12 months after both Telstra Multimedia and FOXTEL obtain Final Orders.
- 1.3 Paragraph 6.2 of the Undertaking requires Telstra Multimedia to apply for a Final Order in relation to a Digital Subscription Television Carriage Service within 28 days of the Revised Legislation commencing.
- 1.4 Paragraph 6.4 of the Undertaking requires Telstra Multimedia to supply a Digital Subscription Television Carriage Service in accordance with the terms of Schedule 2 to the Undertaking if it commences supplying a Digital Subscription Television Carriage Service, other than a test or trial service.
- 1.5 An application for an anticipatory individual exemption order pursuant to section 152ATA(1) of the Act was lodged by Telstra and Telstra Multimedia with the Commission on 24 December 2002. The application satisfied Telstra Multimedia’s obligation under paragraph 6.2 of the Undertaking.
- 1.6 The Commission has granted an anticipatory individual exemption order to Telstra and Telstra Multimedia subject to a number of conditions. One of the conditions requires that a variation to the Undertaking be made (“**Condition**”).
- 1.7 Telstra and Telstra Multimedia proffer this variation to the Undertaking under section 87B(2) of the Act in relation to the Condition (“**Variation**”).
- 1.8 Terms used in this Variation have the same meaning as in the Undertaking except as otherwise defined.

2 Commencement of Variation of Undertaking

- 2.1 This Variation comes into effect on the last of the following dates:
 - (a) the date the Variation is executed by Telstra and Telstra Multimedia; and

(b) the date the Commission consents to the Variation so executed.

3 Variation to Undertaking

3.1 Schedule 2 to the Undertaking is replaced by Schedule 2 to this Variation.

3.2 The following paragraph is inserted into the Undertaking after paragraph 6.9:

“6.10 From the date on which Telstra obtains a Final Order which satisfies the requirements of paragraph 6.1(b), Telstra and Telstra Multimedia will not engage in conduct for the purpose of preventing or hindering an access seeker’s access to Digital Subscription Television Carriage Services in accordance with the terms of Schedule 2 to the undertaking. For the purposes of this undertaking, ‘purpose’ is to be interpreted in accordance with section 4F of the Act.”

3.3 Paragraph 7.3 of the Undertaking is replaced with the following:

“7.3 Notwithstanding paragraph 7.2, at any time between 1 October 2006 and 31 December 2006, Telstra Multimedia may give notice that it intends to continue its undertaking referred to paragraph 6.4 past 31 December 2007 until 31 December 2015. If Telstra Multimedia gives that notice, the undertakings referred to in paragraphs 6.4, 6.7, 6.8, 6.9 and 6.10 will continue on their terms after 31 December 2007 until 31 December 2015 unless the undertaking referred to in paragraph 6.4 is terminated before 31 December 2015 by Telstra Multimedia giving 12 months' notice to the Commission of its intention to terminate the undertaking.”

4 Acknowledgements

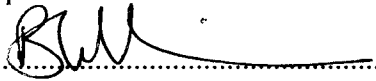
4.1 Telstra and Telstra Multimedia acknowledge that the Commission will make this Variation available for public inspection.

4.2 Telstra and Telstra Multimedia acknowledge that the Commission may issue a media release about this Variation and may from time to time publicly refer to this Variation.

4.3 Telstra and Telstra Multimedia acknowledge and accept that the Undertaking and this Variation in no way derogate from the rights and remedies available to any other person arising from Telstra’s and Telstra Multimedia’s conduct.

IN WITNESS OF THIS VARIATION

SIGNED by **BRUCE AKHURST** as)
authorised representative for)
TELSTRA CORPORATION)
LIMITED (ABN 33 051 775 556) in)
the presence of:)


.....)
Signature of witness)

BRIDGET COLLIER)
.....)
Name of witness (block letters))

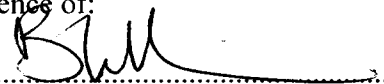

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By executing this agreement the
signatory warrants that the signatory
is duly authorised to execute this
agreement on behalf of TELSTRA
CORPORATION LIMITED

This 16th day of December 2003

IN WITNESS OF THIS VARIATION:

SIGNED by **BRUCE AKHURST** as)
authorised representative for)
TELSTRA MULTIMEDIA PTY)
LIMITED (ACN 069 279 072) in the)
presence of:)


.....)
Signature of witness)

BRIDGET COLLIER)
.....)
Name of witness (block letters))


.....

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signatory warrants that the signatory
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MULTIMEDIA PTY LIMITED

This 16th day of December 2003