

**SCHEDULE 2 - DIGITAL SUBSCRIPTION TELEVISION CARRIAGE SERVICE
ACCESS TERMS AND CONDITIONS**

Part A - Digital Channel Allocation

1. Objective

1.1 This Part A sets out the procedure Telstra will use to allocate Digital Channels to access seekers. Unless otherwise defined in this Part A, capitalised terms in this Part A have the same meaning as in the Access Agreement.

1.2 For the purposes of this Part A, the following words have the following meanings:

“Access Agreement” means the documents attached as Part B collectively forming the *Telstra Multimedia Access Agreement - Digital Services*.

“Channel Price” and **“Reserve Price”** means \$750,000 (or other amount calculated under clause 1A) for each Available Digital Channel, increased on each anniversary of 1 October 2002 by any CPI Change on such date if such change is a positive number.

“Network Digitisation Date” is the date at which Telstra commences carriage of FOXTEL’s subscription television signals in digital mode on the Telstra HFC Network on a commercial basis, excluding any testing and trials of such carriage.

“Simulcast End Date” means the date at which Telstra ceases carriage of FOXTEL’s subscription television signals in analogue mode on the Telstra HFC Network on a commercial basis.

“Simulcast Period” means the period commencing on the Network Digitisation Date and ending on the Simulcast End Date.

1A Recalculation of Channel Price/Reserve Price

1A.1 Telstra must calculate the percentage of retail revenues derived from End User Services on the Telstra HFC Network as at 1 October 2006 and 1 October 2010 (**“Relevant Dates”**) in accordance with the following formula:

$$p = \frac{X}{Y} \times 100$$

Where:

p = percentage of retail revenues from End User Services;

X = aggregate revenue derived from the retail supply by any person of End User Services (or Subscription Television Services (if any) transmitted in analogue mode) delivered by means of the Telstra HFC Network during the 12 month period ending on each Relevant Date (as applicable); and

Y = aggregate revenue derived from the retail supply by any person of all services delivered to end users by means of the Telstra HFC Network during the 12 month period ending on each Relevant Date (as applicable).

- 1A.2 A percentage calculated under clause 1A.1 will be rounded up or down to the nearest multiple of 10 percent. Where the percentage is 35 percent, 45 percent, 55 percent or 65 percent the percentage will be rounded up to the nearest multiple of 10 percent.
- 1A.3 Telstra must ensure an independent third party makes the calculations under clauses 1A.1 and 1A.2 within 45 Business Days of each Relevant Date subject to the independent third party agreeing to keep the information confidential on terms acceptable to Telstra acting reasonably (which terms include, in relation to information of Customers, the undertaking referred to in clause 8.4 of the Access Agreement). The calculations of the independent third party are binding in the absence of manifest error.
- 1A.4 Subject to clause 1A.8, Telstra must provide all relevant information to the independent third party to make the calculations under clauses 1A.1 and 1A.2.
- 1A.5 Telstra will require any person who provides End User Services to provide aggregate revenue derived from the retail supply of services delivered by means of the Telstra HFC Network to Telstra for the purposes of providing the information to the independent third party to make the calculation under clauses 1A.1 and 1A.2.
- 1A.6 In respect of the Relevant Date of 1 October 2006, the “Channel Price” and “Reserve Price” will be varied in accordance with the table below with effect from the date of calculation under clauses 1A.1 and 1A.2:

Relevant Date = 1 October 2006

Percentage of retail revenues as at 1 October 2006 calculated in accordance with clauses 1A.1 and 1A.2	Channel Price/Reserve Price
70% or greater	\$750,000 x CPI
60%	\$683,000 x CPI
50%	\$619,000 x CPI
40%	\$556,000 x CPI
30% or less	\$492,000 x CPI

Where:

CPI = the aggregate of the CPI Changes on each anniversary of 1 October 2002 up to and including 1 October 2006 (excluding any CPI Change that was not a positive number).

- 1A.7 In respect of the Relevant Date of 1 October 2010, the “Channel Price” and “Reserve Price” will be varied in accordance with the table below with effect from the date of calculation under clauses 1A.1 and 1A.2:

Relevant Date = 1 October 2010

Percentage of retail revenues as at 1 October 2006 calculated in accordance with clauses 1A.1 and 1A.2	Percentage of retail revenues as at 1 October 2010 calculated in accordance with clauses 1A.1 and 1A.2				
	70% or greater	60%	50%	40%	30% or less
70% or greater	750,000 x CPI	688,000 x CPI	633,000 x CPI	578,000 x CPI	523,000 x CPI
60%	738,000 x CPI	683,000 x CPI	628,000 x CPI	573,000 x CPI	518,000 x CPI
50%	729,000 x CPI	674,000 x CPI	619,000 x CPI	564,000 x CPI	510,000 x CPI
40%	720,000 x CPI	665,000 x CPI	611,000 x CPI	556,000 x CPI	501,000 x CPI
30% or less	712,000 x CPI	657,000 x CPI	602,000 x CPI	547,000 x CPI	492,000 x CPI

Where:

CPI = the aggregate of the CPI Changes on each anniversary of 1 October 2002 up to and including 1 October 2010 (excluding any CPI Change that was not a positive number).

1A.8 The information provided by Telstra to the independent third party under clause 1A.4 will be based in part on information received from persons other than Telstra's Related Bodies Corporate ("**third parties**"). Telstra is not responsible for any errors in the information given to it by third parties or the failure of third parties to give the information.

2. Simulcast Allocation Process

2.1 This paragraph 2 only applies during the Simulcast Period.

2.2 For the purposes of this paragraph 2, the "Minimum Number" is:

- (a) the number of Digital Channels capable of being supplied by Telstra (calculated as 8 Digital Channels for each 8 MHz Stream) using **15%** of the total number of Digital Channels (calculated as 8 Digital Channels for each 8 MHz Stream) expressly allocated by Telstra from time to time for the supply of digital subscription television broadcast carriage services (including supply to FOXTEL);
- (b) **less** that number of Digital Channels which Telstra is already contractually required to supply (including any contingent obligation to supply), but excluding contractual requirements to supply digital subscription television broadcast carriage services to FOXTEL.

2.3 The Closing Date for the initial allocation of the Digital Channels will be within 2 months after the Network Digitisation Date.

- 2.4 Not less than 1 month before the Closing Date, Telstra will publicly request Applications from any interested persons by publishing a notice calling for Applications in one or more Australian national newspapers. In that notice, Telstra will at least:
- (a) identify the number of Digital Channels that are available for allocation at that time, which must not be less than the Minimum Number;
 - (b) invite Applications;
 - (c) state the Closing Date and the applicable Reserve Price; and
 - (d) state that further information, including Application Forms, can be obtained from Telstra.
- 2.5 Telstra will receive and process Applications in accordance with the terms and conditions set out in the Application Form. Applications may only be submitted before the Closing Date.
- 2.6 Telstra will allocate each Digital Channel in accordance with the terms and conditions set out in the Access Agreement (including the Digital Channel Allocation Process).
- 2.7 Telstra will use all reasonable endeavours to ensure that the initial Digital Channel Allocation Process is Completed within 4 months after the Network Digitisation Date.
- 2.8 Telstra must ensure that the initial Digital Channel Allocation Process is Completed within 6 months after the Network Digitisation Date.
- 2.9 At any time during the Simulcast Period after the initial Digital Channel Allocation Process has been Completed, Telstra may advertise that Digital Channels are available for allocation for the purposes of this paragraph 2 (“**Availability Date**”). Telstra will allocate those Digital Channels in accordance with paragraphs 2.4 to 2.6 of this Schedule 2. However:
- (a) the Closing Date will not be less than 1 week and not more than 8 months after that Availability Date;
 - (b) Telstra will use all reasonable endeavours to ensure that any such subsequent Digital Channel Allocation Process is Completed within 2 months after that Closing Date; and
 - (c) Telstra must ensure that any such subsequent Digital Channel Allocation Process is Completed within 4 months after that Closing Date.

3. Post-simulcast Allocation Process

3.1 This paragraph 3 only applies after the Simulcast End Date.

3.2 For the purposes of this paragraph 3, the “Minimum Number” is:

- (a) the number of Digital Channels capable of being supplied by Telstra (calculated as 8 Digital Channels for each 8 MHz Stream) using **35%** of the total number of Digital Channels (calculated as 8 Digital Channels for each 8 MHz Stream) expressly allocated by Telstra from time to time for the supply of digital subscription television broadcast carriage services (including supply to FOXTEL);
- (b) **less** that number of Digital Channels which Telstra is already contractually required to supply (including any contingent obligation to supply), excluding contractual

requirements to supply digital subscription television broadcast carriage services to FOXTEL.

- 3.3 Not less than 1 month after the Simulcast End Date, Telstra will publicly request Applications from any interested persons by publishing a notice calling for Applications in one or more Australian national newspapers. In that notice, Telstra will at least:
- (a) identify the number of Digital Channels that are available for allocation at that time, which must not be less than the Minimum Number;
 - (b) invite Applications and state the applicable Channel Price; and
 - (c) state that further information, including Application Forms, can be obtained from Telstra.
- 3.4 Telstra will receive and process Applications in accordance with the terms and conditions set out in the Application Form. Applications may be submitted at any time after the Simulcast End Date for any number of the Digital Channels available for allocation at that time (which must not be less than the Minimum Number).
- 3.5 Telstra will allocate each Digital Channel in accordance with the terms and conditions set out in the Access Agreement (including the Digital Channel Allocation Process).