



Submission by AAPT Limited (23 March 2012)

to

Australian Competition and Consumer Commission

Discussion Paper

**Public inquiry to make an access determination
for the local bitstream access service, dated February 2012**



Introduction

1. AAPT Limited (**AAPT**) welcomes the opportunity to comment on the Australian Competition and Consumer Commission (**ACCC**) discussion paper titled: *“Public inquiry to make an access determination for the local bitstream access service”*, dated February 2012 (**Discussion Paper**).

Relevant issues

2. AAPT understands that the ACCC is seeking information on the following issues to assist it in making a final access determination (**FAD**) for the local bitstream access service (**LBAS**):
 - the nature of the current services that may be captured by the LBAS declaration;
 - the appropriate methodology for pricing the LBAS or suggested pricing for the LBAS;
 - the appropriate regulatory period for the LBAS FAD and
 - the non-price terms and conditions that should be included in the LBAS FAD.

Nature of services provided

3. Apart from the Telstra South Brisbane Exchange Service Area and certain Telstra Velocity networks for which an exemption from the level playing field arrangements have already been granted, AAPT is not specifically aware of any networks that are or could be designated superfast telecommunications networks. In addition, as far as it is aware, AAPT does not purchase any services provided using a designated superfast telecommunications network.
4. AAPT cannot make an assessment about whether other service providers’ networks could or should be classed as a designated superfast



telecommunications network. However, AAPT notes that its network is not a designated superfast telecommunications networks because the network is not used, or proposed to be used, to supply a layer 2 bitstream service or superfast carriage service wholly or principally to residential or small business customers, or such prospective customers, in Australia. Rather, AAPT's current customer base and target market mainly comprise of medium sized enterprises to large corporate customers.

Methodology for pricing the LBAS

5. AAPT considers that a building block, cost-based model would be the most appropriate method to ensure the long term interests of end-users (**LTIE**). Past experience has shown that the other models, particularly benchmarking, are not effective on their own.
6. As AAPT does not provide any services which are equivalent to the local bitstream access service, it is unable to offer any information on what an access provider's costs might be. Given there is likely to be a lack of detailed information about the costs for providing the LBAS, AAPT considers the ACCC should look to NBN Co's pricing structure for its NBN services and products as a guide. In doing this, the ACCC should have regard to the fact that a non-NBN Co access provider is likely to require a much shorter payback period than that set by NBN Co.
7. In AAPT's view, aligning the LBAS pricing to NBN Co's pricing, should be in the LTIE as this will help ensure that consumers will have access to equivalent services at comparable prices.

Duration of access determination

8. AAPT does not have a strong view as to how long the term of the LBAS final access determination should run, but considers that 3 years is generally a good



period to ensure there an appropriate balance between the need for regulatory certainty and the need for flexibility to adapt to a changing environment.

Non-price terms and conditions

9. In general, AAPT considers the non-price terms should align with the terms contained in any NBN Co special access undertaking that is accepted by the ACCC.
10. **Non-discrimination obligations** - AAPT considers that the ACCC should articulate in the FAD terms that would be required to meet the open, non-discriminatory access requirement for supply of the LBAS. In AAPT's view, this should mean the LBAS must be provided to access seekers on the same terms (price and non-price), except where a difference in terms is needed to remove indirect discrimination.
11. **Product range** – AAPT considers that an LBAS access provider should make available a range of services and products (for both the consumer and large business markets) that are technically equivalent to the NBN services and products that are, or will be, offered by NBN Co to retail service providers.

Conclusion

12. As set out above, AAPT considers that in making the FAD, the ACCC should generally be guided by the price and non-price terms on which NBN Co provides, or proposes to provide, NBN services to retail service providers.