



Fixed services review

Further consultation on draft ULLS pricing principles

October 2007

Introduction

On 28 July 2006, the ACCC issued a final decision to continue the regulation of the Unconditioned Local Loop Service (ULLS) as part of its fixed services review.¹

The ACCC is required by s.152AQA of the *Trade Practices Act 1974* (TPA) to determine, in writing, principles relating to the price of access to declared services.

The ACCC is required to publish a draft pricing principles determination, invite submissions on the draft and consider any submissions received, before it finalises the pricing principles.

Section 152AQA(6) of the TPA states that, once the ACCC has made a pricing principle determination, it must have regard to the determination if it is required to arbitrate an access dispute.² The ACCC considers that pricing principles will guide commercial negotiation of access by providing greater certainty as to the ACCC's views on access pricing.

Issue of draft ULLS pricing principles in July 2006

Chapter 7 of the ACCC's ULLS declaration decision also contained draft pricing principles for the ULLS.³ The ACCC sought submissions on the draft pricing principles from interested parties.

In summary, those draft ULLS pricing principles considered that, consistent with the ACCC's past approach, it was appropriate to maintain the use of a Total Service Long Run Incremental Cost (TSLRIC) pricing principle for the ULLS.⁴ The TSLRIC pricing principle was considered by the ACCC in its July 1997 access pricing principles paper.⁵

The draft pricing principles also noted that the ACCC has in the past adopted a geographically de-averaged approach to ULLS pricing, where charges are set by reference to the costs in different geographic areas.⁶

Consultation process on draft ULLS pricing principles

The ACCC received submissions from three parties in response to the draft ULLS pricing principles.⁷ However it did not finalise the ULLS pricing principles given that there were a number of ULLS pricing issues being considered in undertakings and subsequently on appeal to the Australian Competition Tribunal.

¹ ACCC, *Declaration inquiry for the ULLS, PSTN OTA and CLLS—final decision*, July 2006.

² *Trade Practices Act 1974* s.152AQA(6)

³ ACCC, *Declaration inquiry for the ULLS, PSTN OTA and CLLS—final decision*, July 2006, p. 54.

⁴ ACCC, *Declaration inquiry for the ULLS, PSTN OTA and CLLS—final decision*, July 2006, p. 56.

⁵ ACCC, *Access Pricing Principles – Telecommunications – a guide*, 1997.

⁶ ACCC, *Declaration inquiry for the ULLS, PSTN OTA and CLLS—final decision*, July 2006, p. 55.

⁷ Public versions of the submissions are available on the ACCC's website at <http://www.accc.gov.au/content/index.phtml?itemId=719844>

The ACCC is now moving to finalise the ULLS pricing principles. Given the lapse of time since the ACCC's previous consultation, it considers it appropriate to allow parties to make a submission or further submission on the draft ULLS pricing principles. The ACCC will take into account all submissions received to date.

Parties should read the draft pricing principles in the ACCC's final declaration document before making a submission. Parties may also wish to take into account the Australian Competition Tribunal's decision on Telstra's ULLS undertaking.⁸

The ACCC now invites submissions or further submissions on the draft ULLS pricing principles determination from July 2006. The ACCC will consider any submissions received by **close of business on Tuesday 6 November 2007**. Those parties who have already put in submissions should address any developments since the lodging of their original submission.

After considering the three submissions received in 2006 and any further submissions, the ACCC will make a final ULLS pricing principles determination.

Submissions

Electronic submissions should be in a PDF or Microsoft Word format that contains searchable text and allows "copy-and-paste". All submissions should be provided by email and/or post to:

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To allow for an informed and open consultation, the ACCC will treat all submissions as non-confidential, unless the author of a submission requests that the submission be kept confidential. In such a case, the author of the submission must provide a non-confidential version of the submission.

Non-confidential submissions will be published by the ACCC on its website.

Any questions about this discussion paper should firstly be directed to Michael Eady at michael.eady@acc.gov.au or 03 9290 1945.

⁸ Australian Competition Tribunal, *Telstra Corporation Ltd (No. 3)* [2007] ACompT 3.