

Our Ref: M2008/238, 31600
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**Australian
Competition &
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16 December 2008

Dr Tony Warren
Executive Director Regulatory Affairs
Unit 11, Level 2
11 National Circuit
Barton ACT 2600

cc: Rebecca Mitchell
Legal Counsel
Public Policy & Communications
Level 11, 231 Elizabeth Street
Sydney NSW 2000

By facsimile: 02 9261 8390

By facsimile: 02 9261 2401

Dear Dr Warren

Request for further information: Telstra's Band 2 ULLS undertaking

This letter formally requests Telstra Corporation Limited (Telstra) to provide the Australian Competition and Consumer Commission (ACCC) with further information under section 152BT of the *Trade Practices Act 1974* about Telstra's unconditioned local loop service undertaking lodged on 3 March 2008 (the Undertaking).

The ACCC notes that in a letter to the ACCC dated 2 December 2008, Telstra raised a number of issues, including the extent to which copper pairs were installed in turf or ground which had been paved over. In particular Telstra asked:

Referring to page 53 of the draft decision, could the ACCC clarify/explain the basis and evidence relied upon for the sentence "In a substantial majority of cases, local copper pairs were installed in turf and only subsequently paved over"?

The ACCC notes that the statement extracted by Telstra from the ACCC's draft decision on the Undertaking of November 2008 was based on submissions from interested parties.

The ACCC also notes that in a submission to the ACCC on 10 December 2008 (dated 5 December 2008) regarding Ovum's review of the Telstra Efficient Access (TEA) model, Telstra made the following statement:

Donald McGauchie's statement says nothing about the average age of copper cable. At most it says that 30% are more than 30 years old.

Given the issues raised by Telstra in its correspondence, the ACCC seeks further information from Telstra, which will assist the ACCC to assess whether the Undertaking is reasonable.

The ACCC requests the following information from Telstra about the Undertaking:

- 1) The total length of trenches installed in Band 2 exchange service areas (ESAs) for main and distribution cables broken down according to whether the trench required breaking the following surface barriers: concrete, asphalt, brick pavers, kerbing, turf or another type of barrier not specified in the TEA model, for the time period starting when copper pairs were initially installed in a Band 2 ESA to the current time.
- 2) The dollar amount of the actual contractor costs or equivalent internal costs where the work was conducted by Telstra, of breaking and re-instating different surface barriers for the purpose of installing main or distribution cables in Band 2 ESAs incurred by Telstra for the time period starting from when Telstra initially installed copper pairs in a Band 2 ESA to the current time.

For the avoidance of doubt, when responding to this question and question one, the ACCC requests information on initial investment outlay only (i.e. to address a green fields situation or where cables were installed to meet additional capacity requirements), not operations and maintenance costs.

- 3) Information on the average age of both the main cables and distribution cables in Band 2 ESAs, in light of the above comments made by Donald McGauchie.
- 4) Information on what constitutes ‘entrance facility costs’, including what the costs recover, who pays the costs, and the quantum of the costs, as referred to in the document ‘Telstra’s Efficient Access Model – Model Documentation, 3 March 2008’ at p. 45 submitted in support of the Undertaking.

The ACCC also requests that Telstra provide a reference to the source of any information supplied in response to this information request.

For ease of compliance with this request, an example of a table which can be used to answer question 1 is provided below.

	Length of trench in Band 2 according to surface barrier faced at time of installation				
Cable type	Concrete	Asphalt	Brick pavers	Kerbing	Turf
<i>For example:</i> Trench length for main cable	100 kilometres	100 kilometres	100 kilometres	100 kilometres	100 kilometres
<i>For example:</i> Trench length for distribution cable	100 kilometres	100 kilometres	100 kilometres	100 kilometres	100 kilometres

When supplying the requested information, the ACCC requests Telstra provide any submissions on these points at the same time.

Please forward the requested information (in both hard and electronic format) to:

Ms Kim Huynh
Communications Group
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3000
Email: kim.huynh@acc.gov.au
Fax: (03) 9663 3699

In accordance with sub-section 152BU(6), a day during any part of which this request (or part of this request) remains unfilled, is disregarded in calculating the period within which the ACCC must make a decision about the Undertaking.

In the event Telstra fails to comply with this request by such time that the ACCC considers reasonable, the ACCC may proceed to make a decision on the Undertaking based on the information currently before it.

Should you wish to discuss how Telstra can fulfil this request and in particular the practicalities of collating the requested information, please contact Kim Huynh on (03) 9290 1960.

Yours sincerely



Robert Wright
General Manager
Compliance and Regulatory Operations
Communications Group