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Dr Tony Warren
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cc: Rebecca Mitchell
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By facsimile: 02 9218 3836

Dear Dr Warren

Telstra's Band 2 ULLS Undertaking – Request for access to the NERA model

I refer to your letter dated 23 March 2009. As in your letter dated 26 February 2009, Telstra continues to request access to the ACCC's NERA network cost model (the NERA model).

In your letter dated 23 March 2009, Telstra submits that:

Whether or not the ACCC proposes to have regard to the NERA model in the context of the current Undertaking is not to the point, where the ACCC has had regard to the model in setting regulated prices for the ULLS in previous periods and the implications of the inputs of that model are relevant in the context of the Undertaking.

Telstra continues:

If the ACCC maintains its refusal [to grant access to the NERA model], Telstra considers that such refusal will deny it the opportunity to put relevant submissions to the ACCC in relation to its discretion to accept the Undertaking.

The ACCC does not agree with the above propositions. As was emphasised in the ACCC's letter dated 18 March, the ACCC considers that the methodology employed in the NERA model is not relevant for the purposes of assessing Telstra's current ULLS Undertaking. In relation to the assessment process, the ACCC considers its role is confined to determining whether Telstra's undertaking meets the relevant legislative criteria. In determining this, the ACCC does not consider a previous model that has been rejected by both Telstra and the Australian Competition Tribunal as out of date, is relevant.

The ACCC also notes that in the alternative, Telstra requests “the input prices for plant and equipment and price trends that were used in the NERA model.” As discussed above, the ACCC does not consider any aspect of the NERA model is relevant for the purposes of assessing or making submissions in support of Telstra’s undertaking.

Accordingly, the ACCC does not propose to supply Telstra with the NERA model or any of its input prices in the context of this undertaking assessment.

In light of the above comments, unless new evidence exists regarding the relevance of the NERA model, the ACCC does not intend to enter into any further correspondence on this issue.

Yours sincerely



Robert Wright
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