

Our ref: M2008/238, 31600  
Contact officer: Matthew Gillet  
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18 March 2009

Dr Tony Warren  
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cc: Rebecca Mitchell  
Legal Counsel  
Public Policy &  
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Level 11, 231 Elizabeth Street  
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**By facsimile: 02 9218 3836**

Dear Dr Warren

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

I refer to your letter dated 26 February 2009 requesting access to the ACCC's NERA network cost model (the NERA model) for the purposes of making submissions in support of Telstra's March 2008 ULLS Undertaking.

The ACCC notes that in paragraph 376, *Re Telstra Corporations Ltd* (No3) [2007] ACompT 3 (17 May 2007) the Australian Competition Tribunal stated that:

... Telstra accepted that the NERA model was significantly out of date and no longer provided any meaningful insight into the cost of its network.

Further, in paragraph 377 of the above Decision, the Australian Competition Tribunal stated that:

In the light of this acknowledgement by Telstra, we [the Tribunal] are not satisfied that the NERA model adequately models the current ULLS network costs or that the model provides a reasonable estimate of the efficient network costs associated with providing the ULLS for the periods covered by the undertakings.

These statements by the Tribunal indicate that the NERA model is based on outdated data and therefore no longer relevant for the purpose of assessing Telstra's 2008 ULLS Undertaking.

Accordingly, the ACCC notes that the NERA model was not considered in preparing its Draft Decision on Telstra's 2008 ULLS Undertaking. The ACCC also does not intend to have regard to the NERA model in the Final Decision on Telstra's 2008 ULLS Undertaking.

Given the above, the ACCC will not be releasing the NERA model to Telstra.

Should you have further questions regarding this letter, please contact Matthew Gillet on 03 9290 6971.

Yours sincerely

A handwritten signature in blue ink that reads "R. Wright." The signature is written in a cursive style with a large initial 'R'.

Robert Wright  
General Manager  
Compliance and Regulatory Operations Group  
Communications Group