

**Competitive
Carriers'
Coalition Inc**

Submission in Response to Telstra Undertakings for the ULLS

7 July 2006

Introduction

The Competitive Carriers' Coalition is an industry association representing the interests of non-dominant telecommunications carriers. Its members participate in the fixed line, mobile, residential, corporate, government, voice and data markets.

The CCC is pleased to be able to respond to the ACCC's draft decision in relation to Telstra's proposed ULL service undertaking.

The CCC Supports the Draft Decision

The CCC strongly supports the ACCC's conclusions in its draft decision on the ULLS undertakings and believes it is correct to reject the Telstra undertaking.

Importantly, all of the CCC members have progressed on the investment stepping stones path to infrastructure-based competition. In particular, since 2004, the CCC member companies participating in fixed line markets have been among the earliest and the most active acquirers of the ULLS and LSS. These members of the CCC are therefore the most likely to be affected by the proposed changes to the pricing of the ULL service that are contained in Telstra's latest undertaking. For this reason, the CCC invested substantial resources in an independent expert analysis of the PIE II model, and the result of this analysis alone is sufficient to require the undertakings to be rejected.

In the view of the CCC, some of the specific grounds on which the undertaking should be rejected are:

- The PIE II model does not represent a reliable basis on which to determine network costs and therefore access prices. The work commissioned by the CCC and submitted to this inquiry, as well as subsequent work submitted to another Commission inquiry, demonstrates that the PIE II model is seriously and fundamentally flawed and does not reflect the legislative criteria. The CCC submits that the Commission should move as a priority to develop an alternative, independent network model consistent with the legislative criteria.
- The move to average costs proposed by Telstra is not consistent with the legislative criteria, regulatory best practice, or the long term interest of end users. It would not send appropriate investment signals and, more importantly, would undermine the business plans of those who have been most active in taking up the ULLS since the service was declared with the intention of increasing competition in downstream markets through promoting infrastructure investment.
- ULLS specific costs should be recovered from the widest range of services using the common copper network infrastructure, and not narrowly applied to ULLS access seekers, as proposed by Telstra. The CCC notes that the Commission's reasoning on this issue was supported by the recent decision by the Australian Competition Tribunal in considering Telstra's appeal against the LSS undertakings rejection.

- The Weighted Averaging Cost of Capital used by Telstra to calculate its costs is too high and would result in inflated access prices. The CCC notes the work prepared by Associate Professor Neville Hathaway and Professor Bob Officer submitted by AAPT in this regard.

The CCC submits that the Commission should confirm its draft decision and notes further that the pricing principles that the Commission has applied to this service are now several years old. Apart from the above issues, there is now much more recent and accurate demand data available to the Commission that should be reflected in new published indicative prices or whatever changes are necessary to allow quick decisions in reaching interim prices.

The CCC further notes that the ACCC is presently arbitrating several disputes related to the ULLS and published the interim prices it set in one of those matters involving a CCC member company.

The CCC believes that it is appropriate that the ACCC publishes all interim and final prices in these ULLS arbitrations. It is apparent that the actions and public statements of Telstra in recent months about the impact of the price of access to this service have created a very high level of investment market interest and expectation. Telstra has claimed that movements on these prices are material to its business and would therefore clearly be obliged to disclose any decisions to the market. The same obligation would apply to any listed access seeker that is involved in an arbitration. In these circumstances, the CCC believes the Commission should take the initiative by publishing its decisions rather than allowing the parties to publish their interpretations.

Contact

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