



5 April 2012

Ms Kathryn Wood
Communications Group
Australian Competition and Consumer Commission

Email: Kathryn.Wood@acc.gov.au
cc: accessdeterminations@acc.gov.au

Dear Ms Wood,

ACCC inquiry to make an access determination for the LBAS – discussion paper

While Optus acknowledges that it currently does not offer any wholesale services that fall under the Local Bitstream Access Service (LBAS) declaration, Optus welcomes the opportunity to respond to the ACCC's inquiry to make an access determination for the LBAS.

Methodology for pricing LBAS

Given that the LBAS is a newly declared service, there remains little information on the appropriate pricing methodology for such services. The only networks Optus is aware that would fall under the current declaration include the Telstra Velocity network, for example in South Brisbane, and potentially parts of Telstra's HFC network following the recent upgrade announcement. However, the declaration will have little practical effect in respect of these, since South Brisbane is subject to a ministerial exemption and the HFC will effectively be decommissioned for broadband services.

In terms of setting prices, Optus considers that it would be premature for the ACCC to do so until:

- It has finalised its views on prices for access to the NBN; and
- It has an understanding of the circumstances in which such networks will be deployed. For example, if an alternate network is not over built by the NBN and is the only infrastructure available that might lead to a different approach from one where the NBN has overbuilt an alternate network.

As a result, the ACCC should be cautious in its attempt to set price terms and ensure that the Layer 2 bitstream service is priced at efficient costs and meets the LTIE criteria. Generally, prices should be based on the prudent efficient cost of supply – this may or may not reflect actual costs.

Duration of access determination

Given that there is no intended expiry for the declaration of Layer 2 bitstream services, Optus agrees that it is not appropriate to align the expiry of the FAD with the declaration time frame. Furthermore, while the availability of (and demand for) the LBAS is currently limited, the duration of

the access determination should also be flexible and maintain a balance to encourage both the take-up of services and price certainty. As such, the ACCC should set the duration to apply for no more than three years for the LBAS price terms, following which the ACCC should conduct a pricing review for the setting of price terms in future periods.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AS', with a long horizontal stroke extending to the right.

Andrew Sheridan
GM, Interconnect & Economic Regulation