

14 October 2003

Michael Cosgrave
General Manager - Telecommunications
Level 35 The Tower
Melbourne Central
360 Elizabeth Street
Melbourne VIC 3000

Facsimile: 03 9663 3699

Dear Michael

Submission on Telstra's undertakings for PSTN, ULLS, and LCS

Optus is pleased to provide the ACCC with two reports from NERA in respect of the ACCC's consultation on Telstra's Access Undertaking. (They are attached to the email version of this letter). In addition to the attached reports, Optus will also submit a third report from NERA together with our own submission that addresses the questions raised in the ACCC's March discussion paper on Telstra's Access Undertakings. We expect to submit these latter reports by 8 August.

Based on the evidence that will be presented in these reports and submissions, Optus believes that each of the undertakings lodged by Telstra in January 2003 should be rejected by the ACCC. The grounds for the rejection would be that the price and non-price terms and conditions associated with the undertakings are not reasonable (as defined in Section 152AH of the *Trade Practices Act 1974*).

Our analysis to date indicates that PIE II's structure and assumptions unnecessarily inflate the cost of these core access services. An adjusted version of the model, which addresses a number of Optus' concerns, reveals that efficient costs are well below the costs and prices put forward in Telstra's undertakings.

In its attached report "Assessment of the PIE II Model", NERA identify numerous reasons to reject PIE II as a basis for a setting access prices for PSTN and ULL services. In many instances Telstra's cost estimates appear to be well above reasonable levels as compared with international benchmarks. Modelling assumptions have been made that appear to unduly raise the costs of supply as compared to alternative assumptions. Further, the model appears to be inflexible. It has proved difficult to perform some quite basic sensitivity analysis on the model. For this reason alone Optus concludes that in its current

form the model is not fit for purpose as the basis for setting industry wide transparent access prices.

Optus will shortly submit its own detailed submission that expands on these points and addresses the questions in the ACCC's discussion paper not previously addressed in Optus' submission on model price terms and conditions.

Concurrently, Optus believes that Telstra's retail costs for local call and basic access services are unreasonable and its local carriage services price should be rejected on that basis. A supporting submission to this effect will be submitted shortly with the ACCC.

We note that according to Telstra's letter to us dated 22 July 2003 that Telstra will shortly lodge its "detailed submission in support of its Undertakings". Clearly, Optus cannot finalise our assessment of the Undertakings until the ACCC has consulted on the detailed content of Telstra's submission, which may contain additional information that has not been made available to us. We look forward to receiving a copy of this when it is provided to the ACCC.

At this stage the attached submissions should be regarded as commercially confidential as they contain details of PIE II that were provided to us on a confidential basis by Telstra. In addition to the specific submissions noted in this letter in respect of the undertakings, Optus requests that the ACCC also has regard to Optus' previous submissions on the ACCC model price and non-price terms and conditions lodged with the ACCC earlier this year. These submissions address a number of issues that are relevant to an assessment of the costs and prices set out in the undertakings. These submissions are referenced in the attachment to this letter.

If you have any queries in relation to the submission please call me on 02 9342 9109.

Yours sincerely

Paul Fletcher
Director, Corporate and Regulatory Affairs