Submission by TPG Telecom Limited (October 2014)

to

Australian Competition and Consumer Commission (ACCC)

Telecommunications Final Access Determination inquiries – FLSM

PUBLIC VERSION

Introduction

1. The task of setting prices for the declared fixed line services is a challenging one that must be approached with a clear, consistent and robust process. It is clear from the Discussion Paper that the ACCC is committed to such a process.
2. It is fundamental that market participants, including Telstra, have sufficient certainty around costs and revenue to enable them to make investment decisions.
3. It is also important that the pricing of regulated services set economic signals that will promote infrastructure based competition.

Building Block Model

4. TPG supports the continued use of the Building Block Model approach to establishing the critical information needed to establish cost and prices.
5. TPG understands that the RAB has been determined. However, it remains important to consider Telstra's RKR responses with a critical eye to ascertain the extent to which additional claims should be viewed. TPG notes that the historic cost of the FLSM asset classes appears to be, in total, [c-i-c] [c-i-c]. The written down value of the FLSM asset classes appears to total [c-i-c] [c-i-c]. Telstra's 2014 Balance Sheet as shown in its annual report shows a book value for property plant and equipment of $19.8billion. It is difficult for TPG to understand how the regulated assets could be said to account for such a large proportion of the total Telstra asset base when the mobile network and other international assets that have recently been acquired must account for a large part of their balance sheet assets.
6. In relation to Telstra's capex forecasts, the ACCC notes that Telstra claims that there was significant difference between ACCC forecast capex and asserted actual capex – driven by "indirect capex" on FSLM asset classes – predominantly IT systems. TPG is not aware of the relevant IT systems that were developed specifically to support declared services during the period of the current FADs. It is also not aware why, if such capex was spent, there would not be a direct correlation to a reduction in opex, which is in fact forecast to increase. Furthermore, the total capex spent by Telstra for the 2014 Financial Year was $3.6billion (as disclosed in its annual report) which included substantial mobile network rollout. The amount set out in the RKR for expenditure on capex was [c-i-c] [c-i-c] which is [c-i-c] [c-i-c] of all capex spent in the year. This seems a remarkably high percentage. These issues require further investigation.

7. TPG also considers that capex on declared services will reduce as a result of the NBN rollout but that this is not sufficiently captured in Telstra's forecasts. This is something that should be "actualised" in a short period of time.
8. As noted above, the opex budget shows [c-i-c] [c-i-c] in opex over the 5 year period. TPG does not understand why Telstra's budget is used for some lines of business but actual expenditure uplifted by CPI was used for other lines of business. Telstra's operating expenditure line over several years appears to be relatively consistent and, in fact shrinking, by its improved operational efficiencies. TPG considers that Telstra's opex will fall as NBN rollout progresses. A large part of the costs are Telstra operations for installations and faults. These will reduce. TPG is therefore of the view that the opex forecast is unreliable and requires further consideration or a near term accuracy check.
9. TPG does not accept the rates of [c-i-c] [c-i-c] forecast by Telstra for takeup of declared fixed line services over the 5 year period. We concede that this forecast is directly affected by the rate of NBN rollout and that it is therefore a difficult forecast to make.
10. TPG is being successful in its sale of bundled telephony and broadband and does consider that, although mobile substitution will continue to drive a reduction in the number of minutes, there remains solid demand for PSTN calls for end users.
11. TPG is concerned that critical inputs to the BBM and the ACCC's pricing determinations, including Telstra's various forecasts (demand, opex and capex), that where they are impacted by the progress of the NBN, are almost certainly instantly inaccurate even at the time that the forecasts are given.
12. There is no easy solution for this and it is only all the more significantly complicated by the changing policy approach and the ongoing timeframes for the implementation of that policy. TPG considers that the only reasonable way to deal with this is to make the coming FADs shorter in timeframes so that the forecasts demand can actually be measured against actual demand and the accuracy tested. Rather than completing a further complete review in 1 year's time, the ACCC could consider setting an automated adjustment model based on the differentials between forecast number from which the pricing is determined and the actual.

Cost Allocation

13. TPG is very concerned about Telstra's proposal for a fully allocated cost model and particularly notes that one expected impact is that the reduction in the number of SIOs for Wholesale DSL (a low margin off-net product for competitors) would result in a significant increase in the prices ULL, LSS and other declared services that are the essential inputs to infrastructure based competition.
14. TPG is also very concerned that, with the Telstra approach, access seeker costs could be increased simply by virtue of a reduced take up Telstra retail services, which is almost inevitable because of the NBN migration.
15. TPG notes the proposal to solve the balancing act issue by way of a flat 7.2% increase across all declared services. We do not understand how this just does not result in being a simple increase in the total revenue being recovered by Telstra to a number that would potentially exceed the assessed revenue. TPG considers that such an approach would be completely inconsistent with the logic of the current methodology for assessing appropriate prices.
16. TPG finds it difficult to understand the extent to which the costs of ducts and pipes are allocated to fixed line services when Telstra is making good recovery from NBN Co and other carriers (including PIPE) who are installing infrastructure in the ducts and pipes.
17. TPG supports the continuation of the partially allocated approach employed by the ACCC.

Declining Demand

18. TPG accepts that there is likely to be a declining demand for some declared services over the course of the next five years and that this will be driven by migration to the NBN and take up of mobile technologies.
19. However, TPG considers that:
    a. Telstra has the benefit of significant payments from NBN that will more than compensate it for any decline caused by the migration to the NBN; and
    b. Telstra itself is the primary driver of mobile substitution and it has made the commercial decision to favour that strategy than to push fixed line.
20. There is also said to be declining demand as a result of access seeker competition and clearly TPG is a contributor to that. However, the notion that TPG should be required to pay a higher price for the declared elements of its service, simply because of its success is ludicrous. If the outcome of the cost-allocation has this result, then the regulatory regime will have failed. TPG's belief and expectation is that Telstra's costs of supplying ULL and FTAS (which are the main declared services that TPG acquires) are more than recovered based on today's declared prices. Other access seekers are acquiring a larger mix of LSS or WDSL. It is essential for all access seekers that declining demand not result in one group of access seekers bearing a larger proportion of costs than other access seekers. Bearing in mind the position that the economic signals should promote investment in infrastructure based competition, it would be an unfortunate outcome if the reduction in Wholesale DSL (driven by NBN migration) resulted in an increase in costs in the key inputs for such infrastructure based competition.
21. TPG also believes that declining demand will yield lower costs for Telstra and that there should not be a requirement to make specific allowances for declining demand.

Pricing

22. TPG supports the continuation of the aggregated geographic regions (Bands 1 – 3 and Band 4) and that the averaged price promotes the interests of end users. TPG's retail products are a testament to the success of that strategy.
23. TPG supports the single national average price for originating access and terminating access.
24. Wholesale ADSL pricing remains a challenge for TPG. Based on current pricing structures and AGVC costs, and the bundle discounts offered by Telstra retail, we are not able to justify making significant competitive pushes into our off-net market and we continue to lose market share.
25. TPG considers that the continuation of an Access Port and AGVC pricing structure is probably the correct model.
26. TPG does not consider that it is likely to shift its market position unless the price for both the access port and AGVC were significantly lower.

Account for NBN Payments

27. TPG commends to the ACCC its submission made in relation to these payments. It is clear that the payments from the NBN Co are in large part, a payment for declared services and that if access seekers are asked to continue to pay the full amount of Telstra's costs, and NBN Co is not, Telstra will be significantly over-recovering on bottleneck infrastructure.
28. TPG would also support the "revenue approach" discussed by NERA in the Optus submissions.

Terms of the Access Determination

29. TPG considers that 3 years is an appropriate term with a check point at 1.5 years to compare Telstra's forecast against the actual experience.