CONFIDENTIAL TELSTRA SUPPLEMENTARY SUBMISSION IN THE MATTER OF THE ULLS MONTHLY CHARGES UNDERTAKINGS DATED 23 DECEMBER 2005

A INTRODUCTION

1 On 23 December 2005, Telstra gave to the Australian Competition and Consumer Commission ("**Commission**") two undertakings for the Unconditioned Local Loop Service ("**ULLS**") pursuant to section 152BS of the *Trade Practices Act 1974* ("**TPA**") ("**ULLS Undertakings**"). The ULLS Undertakings relate to the 6 month period from 1 January 2006 to 30 June 2006 and the 2006/07 and 2007/08 financial years.

2 On 16 June 2006 the Commission published its draft decision in respect of the ULLS Undertakings ("**the Draft Decision**").

B CONFIDENTIALITY

3 This submission and all the information contained in it is confidential to Telstra and may only be disclosed by the Commission to persons approved of in writing by Telstra who have signed confidentiality undertakings that are acceptable to Telstra.

4 Telstra will provide this submission and the information contained in it to interested parties upon those parties signing appropriate confidentiality undertakings.

5 The confidentiality undertakings do not limit the extent to which interested parties, including the Commission, can analyse and comment on the content of this submission. Rather they are intended to prevent the distribution and use of the confidential material contained in this submission for purposes other than participating in the Commission's public inquiry relating to the Undertakings.

C REGULATORY REGIMES IN OTHER INDUSTRIES

6 In the Draft Decision, the Commission rejects the averaged ULLS price in the Undertakings, preferring instead a ULLS price which is deaveraged based on the local costs of providing those services. This is in circumstances where the prices for access that Telstra is allowed to charge to retail customers are uniform. As discussed in the Expert Report of David Sappington, this inconsistency in tariff structures can cause distortions in the market.

7 The presence of averaged pricing at the retail and wholesale levels has instructive parallels in the electricity and gas industries. Most electricity and gas distribution

network service providers charge a uniform price to retailers within a particular class of service regardless of the geographic locations of the individual end user customers. Incumbent retailers in turn are required to offer a uniform price for electricity or gas to end user customers.

8 Examples of this type of distribution charging regime can be found in the Electricity Pricing Determinations of most electricity distribution companies in eastern Australia. Links to a number of relevant determinations are provided below:

ACT	http://www.icrc.act.gov.au/energy/electricity
NSW	http://www.ipart.nsw.gov.au/investigations.asp?industry=2&sector=3 and http://www.iprt.net/elec.htm
SA	http://www.escosa.sa.gov.au/site/page.cfm?u=172
TAS	http://www.energyregulator.tas.gov.au/domino/otter.nsf/a08b00d12c2fae17ca256c4c0020929e/901a1c855af6847fca256cd7007dacc2?OpenDocument
VIC	http://www.doi.vic.gov.au/Doi/Internet/Energy.nsf/AllDocs/9B858CECB005F5DACA25701B0024ECAA?OpenDocument

9 There are, however, a few examples in the electricity and gas industries where distribution prices do vary locationally. These include:

Queensland — electricity industry

- In Queensland, Ergon Energy charges retailers different distribution tariffs for similar end-use customers in different geographic areas, but the retail price the incumbent retailer can charge customers within a service class is regulated to be uniform across those geographic areas (see Ergon Energy Corporation Limited Network Price Book 2006 – 2007 and http://www.ergon.com.au/home/electricity_for_your_home/ep_domestic.asp.

- As a result, the retail arm of Ergon Energy makes losses in those parts of its service territory where the geographic distribution charge is high. These losses are made up through a Treasury mechanism called the Community Service Obligation ("**CSO**") whereby retail margin lost in areas characterized by high distribution charges are compensated by the extra margin collected by the state government owned retailer serving geographic areas with below volume-weighted average distribution costs. At the most general level, this entails transfers of retail margin from Energex retail (which services the Brisbane metropolitan area) to Ergon Energy retail, which serves the rest of the state. This set of arrangements, in aggregate, has been frequently commented on as a significant limiting factor on the extent to which it will be economically feasible for second-tier retailers to offer competitive retail prices to customers in rural and remote parts of Queensland.

Victoria — gas industry

- When the Victorian gas industry was split up and sold off, each of the three incumbent retail areas were designed to straddle two of the gas distribution service territories. As a result, each of the retailers' initial averaged standard tariffs had two different underlying wholesale distribution tariffs. This price distortion led to complaints from the incumbent retailers, in response to which the Victoria Government allowed the retailers to adopt different standard tariffs for each of the distribution service areas in which they served as the incumbent retailer (see the Victoria Government Gazette No s 207, Monday 31 October 2005 for listings of how the standard tariffs posted by the incumbent gas retailers for 2006 vary by geographic area).

10 Telstra submits that the Commission should re-consider its position on deaveraging ULLS prices as this position is inconsistent with regulation in other industries.

Dated 22 August 2006