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**FINAL REPORT - PUBLIC**

**Prepared For:**

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Supplementary Statement by Dr Paul  
Paterson of CRA International for  
Mallesons Stephen Jaques on the  
Economic Considerations for LCS and  
WLR exemptions

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## 1. INTRODUCTION

- 1 My name is Dr Paul Paterson. I am a Vice President with CRA International, a major US-based economic consulting firm. I have earlier this year provided Mallesons Stephen Jaques ('MSJ'), acting on behalf of Telstra, with a statement of my views on the economic issues relevant to exemption from the Standard Access Obligations ('SAOs') of the Local Carriage Service ('LCS') and Wholesale Line Rental ('WLR') ('my Statement'). My Statement was submitted by Telstra to the Australian Competition and Consumer Commission (the Commission) at the time it lodged its LCS and WLR exemption applications (9 July 2007) and now appears on the Commission's website.
- 2 I have subsequently been asked by MSJ to provide advice on the economic implications (if any) for Telstra's LCS and WLR exemption applications of revised data on competitor DSLAM deployment in metropolitan (Band 2) exchanges, and revised exemption area SIO data, provided by Telstra. Additionally, I have been asked to update the referencing of my original report in light of additional Witness Statements provided to me after finalising that report (see Appendix A).<sup>1</sup>

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<sup>1</sup> A copy of the MSJ instruction letter is provided at Appendix B.

## 2. UPDATED DSLAM AND SIO DATA

3 With regard to entrant DSLAM deployment, I note from the updated information provided to me that:<sup>2</sup>

- The number of DSLAMs installed in metropolitan ESAs has increased from 1048 in June 2007 (as used in the 9 July exemption applications) to 1213 in August 2007, an increase of 165 or 15.7 percent in 2 months
- The number of Band 2 ESAs in which at least one competitor DSLAM has been installed has increased from 371 in June 2007 to 387 in August 2007, an increase of 16 ESAs or 4.3 percent.
- Of the 371 Band 2 ESAs for which exemption is sought, the proportion with two or more competitor DSLAMs installed has risen from 77 percent to 87 percent. Similarly:
  - the proportion with three or more competitor DSLAMs installed has risen from 52 to 65 percent; and
  - the proportion with four or more competitor DSLAMs installed has risen from 29 to 40 percent.

4 With regard to the revised SIO data, I note that these data change slightly Table 2 in my original statement. The amended table is presented below (Table 1). It is important to note that the changes to the SIO data increase the share of Band 2 SIOs covered by ULLS-based build in every state and nationally from the shares stated in my original report. This implies that if anything, my original report understated the reach of ULLS-based competition.

**Table 1: Band 2 ESAs with at least one ULLS-based competitor, by State (June 2007)**

	<i>ESAs with at least one ULLS-based competitor</i>	<i>Total Band 2 ESAs</i>	<i>Band 2 SIOs covered by ULLS-based competitor build</i>	<i>Total Band 2 SIOs</i>	<i>Percentage of Band 2 SIOs covered by ULLS-based build</i>
SA	32	[c-i-c]	529017	[c-i-c]	[c-i-c]
WA	54	[c-i-c]	675196	[c-i-c]	[c-i-c]
ACT	11	[c-i-c]	129518	[c-i-c]	[c-i-c]
NSW	117	[c-i-c]	1866306	[c-i-c]	[c-i-c]
VIC	89	[c-i-c]	1284561	[c-i-c]	[c-i-c]

<sup>2</sup> [c-i-c]

QLD	64	[c-i-c]	873408	[c-i-c]	[c-i-c]
NT	1	[c-i-c]	14247	[c-i-c]	[c-i-c]
TAS	3	[c-i-c]	36812	[c-i-c]	[c-i-c]
Total	371	[c-i-c]	5409065	[c-i-c]	[c-i-c]

Source: [c-i-c]

- 5 When updates to the DSLAM information (outlined in paragraph 3) are incorporated into the above table, I note that the share of band 2 SIOs covered by ULLS-based build rises above 80 percent (see Table 2).

**Table 2: Band 2 ESAs with at least one ULLS-based competitor, by State (August 2007)**

	ESAs with at least one ULLS-based competitor	Total Band 2 ESAs	Band 2 SIOs covered by ULLS-based competitor build	Total Band 2 SIOs	Percentage of Band 2 SIOs covered by ULLS-based build
SA	32	[c-i-c]	529,017	[c-i-c]	[c-i-c]
WA	54	[c-i-c]	675,196	[c-i-c]	[c-i-c]
ACT	11	[c-i-c]	129,518	[c-i-c]	[c-i-c]
NSW	124	[c-i-c]	1,934,133	[c-i-c]	[c-i-c]
VIC	92	[c-i-c]	1,326,310	[c-i-c]	[c-i-c]
QLD	69	[c-i-c]	932,009	[c-i-c]	[c-i-c]
TAS	4	[c-i-c]	48,807	[c-i-c]	[c-i-c]
NT	1	[c-i-c]	14,247	[c-i-c]	[c-i-c]
Total	387	[c-i-c]	5,589,237	[c-i-c]	[c-i-c]

Source: [c-i-c]

### 3. ECONOMIC IMPLICATIONS OF UPDATED DATA

6 The updated data have a number of significant implications:

- First, the Exemption Area is conservative in that it is only a subset of the ESAs in which there is at least one entrant DSLAM deployed.
- Second, the use of my proposed decision rule, that the Band 2 Exemption Area should be defined by the presence of one or more competitor DSLAM in an exchange, is low risk as 87% of Exemption Area ESAs now have DSLAMs installed by two or more entrants.
- Third, these updated data substantiate my position that the presence of at least one entrant DSLAM in an exchange is an indication that there are not material barriers to DSLAM-based entry. The fact that almost 90 percent of the Exemption Area ESAs now have more than one competitor DSLAM supports the argument presented in my Statement that the presence of one competitor in an ESA is a strong indication of underlying competitive conditions. One of the key bases for my proposed one-DSLAM decision rule is the belief that entry by one competitor in a particular ESA indicates that barriers to entry in that ESA are not insurmountable and that further entry by other carriers is likely. This is clearly borne out in the evidence presented in section 2 above of continued competitor entry in one-DSLAM ESAs.

7 The updated SIO data result in only a slight change to the magnitudes in which I am interested and do not alter in any way the implications and conclusions I draw in my original statement. The fact that these changes to the data marginally increase the share of SIOs covered by ULLS-based competition indicates that the conclusions drawn in my original report were conservative.

#### 4. CONCLUSIONS

- 8 The recent expansion beyond the LCS and WLR Exemption Area of ESAs with one or more competitor DSLAMs means that the exemption application is conservative.
- 9 The increase in the number of ESAs in the exemption area with two or more competitor DSLAMs provides substantiation of one of the main points made in my Statement., This is that the presence of at least one competitor DSLAM in an ESA is evidence that material barriers to entry do not exist, and that further entry could be expected if Telstra attempted to increase prices above competitive levels in downstream markets. For this reason I maintain my belief that the presence of one competitor DSLAM in an ESA – as an indicator of underlying competitive conditions – should be the trigger for regulatory forbearance.
- 10 The updated SIO data do not change the implications I discuss or the conclusions I reach in my original Statement.

Paul Paterson



***Vice President***



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## APPENDIX A: UPDATES TO REFERENCING

[c-i-c]

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## APPENDIX B: ENGAGEMENT INSTRUCTIONS FROM MALLESONS STEPHEN JAQUES

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## APPENDIX C: CURRICULUM VITAE

### DR PAUL PATERSON

Vice President

Bachelor of Agricultural Economics  
(First Class Honours)  
University of New England

Master of Economics  
Australian National University

Ph D (Economics)  
Australian National University

Paul Paterson is a Vice President at CRA International. Paul joined CRA from NEEG and brings with him commercial and government experience in industry analysis, corporate strategies, regulation and policy development. Paul has senior executive experience in the telecommunications industry. Prior to joining NEEG, he was with Telstra Corporation Ltd as Director Regulatory from 2001 to 2004.

As a founding member of the Regulated Industries Forum in 2003, and convener since then, Paul also has extensive insight into regulatory issues in the utilities and transport sectors.

Prior to his appointment as Director Regulatory at Telstra, Paul was the Group Manager Competition, Regulatory and External Affairs for Telstra from 1998 to 2001. Until leaving Telstra he was on the Board of the Australian Communications Industry Forum. Paul has authored numerous economic reports and publications since 1978.

### EXPERIENCE

Advice on regulatory, competition, commercial, strategic and government policy matters to major corporations and government agencies in telecommunications and other network industries. Jurisdictional experience spans Australia, New Zealand, Singapore, Hong Kong, Japan, United Kingdom, Ireland, Italy and the USA.

### PROFESSIONAL HISTORY

Nov 04 – Present	Vice President, CRAI, Australia
2004	Principal, NEEG, Australia
2001 – 2004	Director Regulatory, Telstra
1998 – 2001	Group Manager Competition, Regulatory and External Affairs, Telstra

1992 – 1998	Executive Director, Policy & Resources, Department of State and Regional Development (previously Chief Business Economist, Office of Economic Development, New South Wales Premier's Department), Sydney
1988 – 1992	Chief Economist, OTC Limited (now Telstra), Sydney
1987	Visiting Economist, Department of the Treasury, Canberra
1986	Special Advisor, Department of Trade, Canberra
1985 – 1986	Assistant Director, Bureau of Labour Market Research, Canberra
1983 – 1984	Administrator, Organisation for Economic Co-Operation and Development, Paris
1980 – 1983	Senior Project Manager, Bureau of Labour Market Research
1977 – 1980	Project Manager, Bureau of Agricultural Economics

## SELECTED PUBLICATIONS, PRESENTATIONS AND REPORTS

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D Shiff & P Paterson (1990) **Regulatory Issues for International Telecommunications in the New Environment: How do Overseas Arrangements Inform the Australian Situation?** Paper presented to the International Telecommunications Law and Policy Conference, Sydney, December 1990.

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