

TRADE PRACTICES ACT 1974 – SECTION 152AT

**APPLICATION FOR EXEMPTION FROM STANDARD ACCESS OBLIGATIONS
IN RESPECT OF THE SINGTEL OPTUS HFC NETWORK**

17 DECEMBER 2007

To: Australian Competition and Consumer Commission (**Commission**)

Application is made under subsection 152AT(1) of the *Trade Practices Act 1974* (Cth) (**TPA**) for an exemption from all of the standard access obligations set out in section 152AR of the TPA in respect of the Unconditioned Local Loop Service (**ULLS**), Line Sharing Service (**LSS**), Line Rental Service (**WLR**), Local Carriage Service (**LCS**) and domestic PSTN originating access service (**PSTN OA**) (**Exemption Application**).

Applicant details

Name of applicant:

Telstra Corporation Limited (ABN 33 051 775 556) (**Telstra**)

Short description of business carried on by applicant:

Telstra is both a carrier and carriage service provider under the *Telecommunications Act 1991* (Cth) and it supplies telecommunications services.

Address in Australia for service of documents on the applicant:

	Copy to:
Tony Warren Executive Director Regulatory Affairs Telstra Corporation Limited Level 2 Engineering House Unit 11 National Circuit Barton ACT 2600	Paul McLachlan Legal Counsel Regulatory Legal Group Telstra Corporation Limited Level 11 231 Elizabeth Street Sydney NSW 2000

Description of service and exemption

Description of the declared services to which the application relates:

This Exemption Application relates to:

- (a) the ULLS and the LSS; and
- (b) to the extent not covered by another exemption under section 152AT(1) of the TPA:
 - (i) LCS;
 - (ii) WLR; and
 - (iii) PSTN OA,

each of which are “**declared services**” pursuant to subsection 152AL(3) of the TPA (together the **Exempt Services**).

Description of exemption applied for:

Telstra applies for an exemption from all of the standard access obligations set out in section 152AR of the TPA in respect of access to the Exempt Services in the Exemption Area:

- (a) directly to SingTel Optus; or
- (b) indirectly to SingTel Optus through another carrier or carriage service provider which obtains Exempt Services from Telstra and resells, rebills, wholesales or otherwise resupplies those Exempt Services to SingTel Optus.

The exemption would apply within the Exemption Area as follows:

- (a) in respect of each of LCS, WLR and PSTN OA, from the Exemption Determination Date;
- (b) in respect of ULLS and LSS:
 - (i) for services connecting Phase 1 Premises, 180 days from the Exemption Determination Date; and
 - (ii) for services connecting Phase 2 Premises, 365 days from the Exemption Determination Date,

and continue until the earliest of:

- (a) of the last of the Exempt Services ceases to be an active declared service; and
- (b) a finding by a court of competent jurisdiction that Part XIC of the TPA is invalid as it relates to ULLS or LSS.

For the purposes of the description of the exemption applied for:

active declared services has the meaning set out in section 152AR of the TPA.

Commercial Reach means that the Distinct Place at which the relevant End User premises are located lies wholly or partly within 75 metres, measured on straight line basis, of the nearest point on a Network Distribution Line.

Distinct Place has the meaning given in section 36 of the *Telecommunications Act 1997* (Cth).

End User means consumers of communications carriage services and other services supplied using communications carriage services, rather than the suppliers of these services.

Exemption Area means the area comprising the Distinct Places which are within Commercial Reach of the SingTel Optus HFC Network.

Exemption Determination Date means the date on which the Commission determines to grant the requested exemption.

Interexchange Line means a Line forming part of the common infrastructure of the SingTel Optus HFC Network or of other network infrastructure owned or leased by

Line has the meaning given in section 7 of the *Telecommunications Act 1997* (Cth).

SingTel Optus providing transport facilities for the SingTel Optus HFC Network which has at each end of the Line one of the following facilities:

- (i) a node;
- (ii) a base station;
- (iii) a remote switching or routing unit;
- (iv) a local exchange; or
- (v) a point of interconnection or point of presence with another network.

Network Distribution Line means a Line forming part of the common network infrastructure of the SingTel Optus Network and, for clarification, excludes:

- (i) Interexchange Lines; and
- (ii) Subscriber Lines.

Phase 1 Premises means End User premises at a Distinct Place which, at the Exemption Determination Date, is connected by less than 5 Lines supplied by Telstra which are capable of providing Standard Telephone Services (whether any or all of those Lines are activated or are used for Standard Telephone Services).

Phase 2 Premises are End User premises at a Distinct Place which are not Phase 1 Premises.

Related Body Corporate has the meaning given in the *Corporations Act 2001* (Cth).

SingTel Optus HFC Network means the Hybrid Fibre Coaxial (HFC) network deployed by SingTel Optus in the Sydney, Melbourne and Brisbane Metropolitan areas, as it exists as at the date of this Order.

SingTel Optus means SingTel Optus Pty Limited, Optus Networks Pty Limited, Optus Vision Pty Limited, XYZed Pty Limited and any Related Body Corporate of each.

Standard Telephone Service has the meaning given in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth).

Subscriber Line means a Line installed or operated by SingTel Optus for the sole purpose of connecting a building, structure, caravan or mobile home to a Network Distribution Line.

Telecommunications Network has the meaning given in the *Telecommunications Act 1997* (Cth).

Grounds for grant of exemption:

An order by the Commission granting the exemption sought by Telstra will promote the long-term interests of end-users of carriage services or of services provided by means of carriage services for the reasons set out in Schedule A to this Exemption Application.

A draft exemption order in the form prepared by Telstra is at Schedule B to this Exemption Application.

Interpretation

For the purposes of this Exemption Application:

LCS means the Local Carriage Service as declared by the Commission with effect from and on 1 August 2006 and set out in the *Commonwealth of Australia Gazette* No. GN 31 of 9 August 2006.

LSS means the Line Sharing Service as declared by the Commission with effect from and set out in the *Commonwealth of Australia Gazette* No. GN 31 of 9 August 2006

PSTN OA means domestic PSTN originating access service as declared by the Commission with effect from and on 1 August 2006 and set out in the *Commonwealth of Australia Gazette* No. GN 31 of 9 August 2006.

ULLS means the Unconditioned Local Loop Service as declared by the Commission with effect from and set out in the *Commonwealth of Australia Gazette* No. GN 31 of 9 August 2006.

WLR means the Line Rental Service (otherwise known as Wholesale Line Rental or WLR) as declared by the Commission with effect from and on 1 August 2006 and set out in the *Commonwealth of Australia Gazette* No. GN 31 of 9 August 2006.

The singular includes the plural and vice versa.

Name and address of persons authorised by the applicant to provide additional information in relation to this application:

Tony Warren Executive Director Regulatory Affairs Telstra Corporation Limited Level 2 Engineering House Unit 11 National Circuit Barton ACT 2600	Paul McLachlan Legal Counsel Regulatory Legal Group Telstra Corporation Limited Level 11 231 Elizabeth Street Sydney NSW 2000
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SIGNED by TONY WARREN in)
the presence of:)

Tracy Thomas)
Signature of witness)

TRACY THOMAS)
Name of witness (block letters))
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Signature of Tony Warren

Dated: 17/12/2007

Schedule A

GROUNDS FOR EXEMPTION

The grounds for exemption are set out in Schedule A to the exemption application lodged by Telstra on or about 17 December 2007 in respect of the supply of declared services to SingTel Optus within an Exemption Area defined by the SingTel Optus HFC Network.