

Schedule B: Draft Exemption Order

The Australian Competition and Consumer Commission (“**Commission**”) under paragraph 152AT(3)(a) of the *Trade Practices Act 1974* (Cth) (**TPA**) determines that Telstra is except from the standard access obligations specified below.

Citation

1. This order may be cited as the “SingTel Optus HFC Exemption Order”.

Commencement

2. This order comes into effect on the Exemption Determination Date.

Term

3. This order expires on the earlier of:
 - (a) the last of the Exempt Services ceasing to be an active declared service;
 - (b) a finding by a Court of competent jurisdiction that Part XIC of the TPA is invalid as it relates to the Unconditioned Local Loop Service and/or the High Frequency Unconditioned Local Loop Service; and
 - (c) 31 December 2012.

Interpretation

4. For the purposes of this order:

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

Commercial Reach means that a 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 suppliers of these services.

Exempt Service means ULLS, LSS, LCS, WLR and PSTN OA.

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 of 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 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.

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.

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

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.

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

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

Phase 1 Premises means End User premises at a Distinct Place which, as 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.

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.

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 forming part of the SingTel Optus HFC Network.

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

Telstra means Telstra Corporation Limited (ABN 33 051 775 556).

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.

Exemption

5. (a) Subject to sub-clause (b), Telstra is exempt from all of the standard access obligations in section 152AR of the TPA in respect of the supply of Exempt Services in the Exemption Area:
 - (i) directly to SingTel Optus; or
 - (ii) 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.
- (b) The exemption applies in respect of the Exempt Services on and from the following dates:
 - (i) WLR, LCS and PSTN OA: from the Exemption Determination Date;
 - (ii) ULLS and LSS:
 - (A) to any Phase 1 premises, from expiry of the period of 180 days after the Exemption Determination Date; and
 - (B) to any Phase 2 premises, from expiry of the period of 365 days after Exemption Determination Date.