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TransACT Capital Communications Pty Ltd

Submission on

Australian Competition & Consumer Commission

Draft pricing principles and indicative prices

for

LCS, WLR, PSTN OTA, ULLS and LSS

August 2009

Mr Chris Ratchford
Communications Group
Australian Competition & Consumer Commission

"By Email"

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Dear Mr Ratchford

TransACT is pleased to submit a response to the Australian Competition & Consumer Commission 'Consultation Paper' on *Draft Pricing Principles an Indicative Prices for LCS, WLR, PSTN OTA, ULLS and LSS,* released by the Commission on 21 August 2009.

As the Commission would appreciate, there has been a considerable amount of time and effort placed in the ongoing review of fixed network wholesale access services in Australia, including initiatives undertaken by the Commission such as:

- the commissioning of the Analysys cost model;
- the ACCC 'Specific Costs' cost model;
- international benchmarking; and
- the analysis of the Telstra Efficient Access (TEA) model.

TransACT will not be providing any detailed analysis of these previous initiatives undertaken by the Commission, but will focus on the outputs as they apply to the draft pricing principles and indicative prices for the six fixed-line services. TransACT will also provide its views on the adoption and implementation of TSLRIC+, the adoption of a glide path where services may be subject to a price shock, the adoption of a two-tiered pricing model for ULLS and WLR and the adoption of a single national rate for PSTN OTA, LCS and LSS.

It will be important that the Commission not only provides regulatory certainty during the transition period to a National Broadband Network (NBN), but also ensures that final access pricing principle determinations for the six declared services, during that transition period, continue to promote industry investment, competition and the long-term interests of end users.

Yours sincerely,

Peter Lee

Group Manager

Network Development & Regulatory Affairs

Executive Summary

Since 2001 TransACT has been rolling out a fibre-optic network in the Australian Capital Territory (ACT) region to provide Canberra and Queanbeyan with the next generation of communication services. TransACT's philosophy has always been to operate an open access network. The Australian Government's announcements to invest up to $43 billion over eight years to build and operate a "wholesale only" NBN and to immediately invest up to $250 million to improve the supply of transmission services to black spot areas, supports TransACT's original premise.

TransACT has successfully built, and operates a fibre rich network, which supports a rich array of retail and wholesale telecommunication services. TransACT offers a comprehensive selection of telecommunications products and services including:

- fixed line and mobile telephony;
- high speed broadband;
- broadcast subscription television services featuring a wide choice of channels; and
- demand based video featuring a wide variety of content.

TransACT also works with a range of service and content providers in order to deliver these services. Currently eleven ISPs, including TransACT's own joint venture entity with ActewAGL (Grapevine Ventures), access TransACT's network to provide broadband services to customers.

TransACT products and services are now available to over 100,000 premises across the ACT and Queanbeyan, directly connected via TransACT's VDSL FttC network and supplemented by ADSL over the ULLS. Utilising other wholesale access services, such as LCS and WLR, a complete local and long distance phone service is also available in Sydney and south-east NSW including Bega, Berridale, Bombala, Crookwell, Cooma, Goulburn, Gunning, Nowra, Thredbo village and Yass. TransACT also provides its TransMOBILE (mobile telephony) service covering 94% of the Australian population, which is also complemented with its national broadband product through Grapevine Ventures.

Neighbourhood Cable Pty Ltd (NCPL), another wholly owned subsidiary of TransACT's parent company, TransACT Communications Pty Limited, is also investing significantly in the provision of broadband infrastructure, products and services to other areas of Regional and Rural Australia. NCPL is an advanced telecommunications company servicing the Victorian regions of Ballarat, Mildura and Geelong. Committed to delivering high speed cable broadband and entertainment services to regional Australia, NCPL began rolling out a hybrid fibre and coaxial (HFC) network in 1997. Starting in Mildura and later expanding to Ballarat and Geelong, the Neighbourhood Cable network now reaches over 90,000 households across the three regions.

It will be important for TransACT that draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS and LSS do not inhibit TransACT in its continued investment plans where it would utilise these services, and that the long-term interests of end users are protected from potential price increases and reduced competition as a result.

Although TransACT agrees that the TSLRIC+ model and the Analysys cost model provide a robust framework to determine indicative pricing, reasonable weight should also be applied to international benchmarking reports. The Ovum report on ULLS [1], requested by the Commission, demonstrates that for Band 2 equivalent areas the regulated ULLS monthly charges, where LRIC is the basis for regulated access prices, are approximately forty percent (40%) lower than the end price proposed by the Commission. International benchmarking results for other services (LCS, WLR and PSTN OTA) do not seem to have the level of disparity to that of ULLS when compared to the indicative prices proposed by the Commission. TransACT recommends that equivalence of weighting of international benchmarked pricing is also applied to ULLS indicative prices and that further analysis be undertaken to clearly identify the reasons for variations between international benchmarked pricing and the end price proposed by the Commission for ULLS.

TransACT believes that the adoption of a glide path for those services subject to a price shock for an Access Seeker (AS) or Access Provider (AP) has merits, but needs to be put into the context of previous price variations for each of the services over similar time periods. While the Commission has not adopted a glide path for WLR or the LSS, as it does not consider the changes result in a price shock, the initial change for Band 1 ULLS services from $6.60 to $16.90 in 2009-10 (an increase of 156%) and moving ultimately to $23.60 in 2011-12 (an increase of 258%) could certainly be deemed as a price shock for Access Seekers.

For PSTN OTA, LCS and LSS, TransACT agrees with the Commission's approach to a single national rate. Although representing a change in pricing methodology for PSTN OTA from a two part pricing (flagfall and end minute of use) basis to a single rate, TransACT agrees that the similarity of transit costs of a call through the network regardless of the location of the end user, endorses this approach.

TransACT's view is that the proposed ULLS pricing structure is in fact moving towards a ***fully averaged*** pricing structure and away from a ***de-averaged*** approach, as previously endorsed by the Commission. The Commission has indicated that consideration of pricing principles and indicative prices for the fixed services has occurred in the context of the Government's NBN. Others have recognised that an average NBN wholesale access price and the existing ULLS pricing structure could not co-exist efficiently; and there would need to be some glide path to reduce any effects of a price shock to get copper-based access pricing on to the same plane as NBN access pricing. The zoning structure proposed by the Commission for ULLS could be seen as a mechanism to achieve that, but it should not be to the detriment of investment, competition or the LTIE, during the transition period to the NBN.

For WLR, TransACT agrees that the Commission should seek further information from Access Seekers and Access Providers on the number of WLR services in each Zone to fully assess the impact of the proposed pricing structure. Initial assessment of indicative prices for WLR, using a cost-based pricing model and international benchmarking in lieu of the previously adopted Retail-Minus-Retail-Cost (RMRC) principle, appears reasonable, with minimal price shock from past indicative prices.

[1] Ovum, *Telstra ULLS Undertaking – ULLS International benchmarking*, February 2009.

Adoption of an adjustment (glide) path

TransACT believes that the adoption of an adjustment (glide) path has merits and agrees with the Commission that, as a general rule, it would only need to apply to services where the change in prices may result in a *price shock* either for the access seeker or the access provider. The glide path mitigates moving immediately to (end) indicative pricing, where that change would represent a significant shift in price.

While TransACT agrees with the following characteristics considered by the Commission, that:[2]

- *"it should proceed from the ACCC's most recent indicative price for the service;*
- *the end price should be set at the best estimate of the TSLRIC+ of supplying the service in 2011-12 based on the results of the relevant cost models and international benchmarking;*
- *price changes should be made on an annual basis; and*
- *each price change should be a straight line over the life of the adjustment, subject to any rounding up of the results."*

TransACT would question how a price shock does not apply in the case of:

1. 28,993 ULL services moving immediately from Band 1 previous monthly charges of $6.60 to monthly Zone A charges of $16.90 in 2009-10 (an increase of 156%, as applied to an access seeker);
2. approximately 1,400 ULL services moving immediately from Band 3 previous monthly charges of $31.30 in 2008-09 to monthly Zone B charges of $61.50 in 2009-10 (an increase of 96%, as applied to an access seeker); and conversely
3. approximately 7,107 ULL services moving immediately from Band 3 previous monthly charges of $31.30 in 2008-09 to monthly Zone A charges of $16.90 in 2009-10 (a decrease of 85%, as applied to the access provider).

For point 2 above, it is assumed that most of the existing ULL lines in Analysys geotypes 11 and 12 would be in Band 3 ESAs, given that 200 of the 236 ESAs in geotype 11, comprising 1,281 ULL lines, are in Band 3 locations. A similar assumption is used for point 3, given that 322 of the 379 ESAs in geotypes 7, 8 and 10 are Band 3, and of the 86 Band 4 ESAs in geotype 9, only three ULL lines currently exist.

Given that there is not a similar price shock associated with the immediate change in Band 2 pricing from previous monthly charges of $16.00 in 2008-09, to Zone A monthly charges of $16.90 in 2009-10 (an increase of 5.6%), the main impact associated with ULLS, represented by the three cases above, is shown in the following table.

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[2] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.25

Existing Band Analysis				Proposed Zone Analysis		
Band	Band monthly charge	Total monthly Band cost	ULL lines	Zone	Zone monthly charge	Total monthly Zone cost
1	$6.60	$191,354	28,993	A	$16.90	$489,982
3	$31.30	$43,820	1,400	B	$61.50	$86,100
3	$31.30	$222,449	7,107	A	$16.90	$120,108
	(per ULLS)	**$457,623**			*(per ULLS)*	**$696,190**

Access Seeker - price shock (2009-10)	**$238,567**	**(per month)**
Access Seeker - price shock (2009-10)	**$2,862,805**	**(per annum)**

The ACCC may consider the annual quantum immaterial, however TransACT believe it may effect individual access seekers investment decisions and therefore impact LTIE.

Table 1: Immediate effect of ULLS price shock in 2009-10

In the first year of transition, moving from past indicative prices in 2008-09 to new indicative prices in 2009-10, the price shock, as shown in table 1 above, represents a 52% increase. When compared to subsequent years, 2009-10 to 2010-11 and 2010-11 to 2011-12, where the increment is of an approximately equal percentage of 18% per annum, this approach for ULLS is not consistent with that for LCS or PTSN OTA. TransACT does not believe that a 52% increase in the first year and an 18% increase in subsequent years is consistent with the Commission's following characteristics for the adjustment path:

- *"it should proceed from the ACCC's most recent indicative price for the service; and*
- *each price change should be a straight line over the life of the adjustment, subject to any rounding up of the results."*

TSLRIC+

The adoption of a Total Service Long-Run Incremental Cost (TSLRIC) model which recovers the efficient (ongoing or forward looking) costs incurred in the long-run of providing the service, is accepted by TransACT as the best approach for determining access pricing for declared services.

As the Commission acknowledges, there are many variants of cost-based pricing all of which are ultimately dependent on the inputs to the associated model and how they are applied, allocated and measured.

TransACT agrees with the Commission that adopting a TSLRIC+ principle as the appropriate methodology does not resolve all the issues that necessarily arise during a costing exercise. Cost models should be only one of many inputs that should be considered as part of determining final access pricing for declared services. That is, as stated by the Commission in the discussion paper:

> “the Analysys model should *be “an input into that [pricing] process, but not the only input”.*[3]

TransACT also agrees with the Commission’s view that:

> *“an efficient, forward looking implementation of TSLRIC+ in estimating network costs would require:*
>
> - *the costing exercise to be undertaken on a forward-looking and efficient basis;*
> - *the modelled access network to use best-in-use forward looking technology or modern equivalent assets (MEA);*
> - *equipment to be costed at full price currently prevailing (and not on a depreciated basis);*
> - *costs not faced by Telstra in building its access network to be excluded, e.g., costs of breaking and reinstating concrete;*
> - *costs which are able to be recovered through other charges, e.g., lead-in costs, are excluded;*
> - *the use of a tilted annuity to reflect that nominal access charges can vary over time in line with changes in the price of inputs;*
> - *allowances for operating and maintenance costs to be set by international benchmarks, and not based on the access provider’s actual operating and maintenance costs; and*
> - *allowances for indirect costs to be set by international benchmarks, from which the discrete specific cost allowance is deducted, and not based on the access provider’s actual indirect overheads.”* [4]

TransACT believes that all relevant enquiry material considered by the Commission, including international benchmarking analysis reports and the ACCC’s ‘Specific Costs’ cost model, should apply an appropriate weight of input, in conjunction with the Analysys cost model, when determining final access pricing for the six declared services.

With the impending NBN and the recent legislative announcements made by the Government on the separation of Telstra’s wholesale and retail operations[5], it is important that consideration of pricing principles and indicative prices for the fixed services occurs in that context.

For example, the Optus submission to the Commission on the Analysys cost model for Australian fixed network services rightly pointed out that assets stranded by the NBN should be considered in this context.[6] The Optus submission states that: [7]

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[3] ACCC, Analysys cost model for Australian fixed network services, Discussion Paper, December 2008, page 8.
[4] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.19-20
[5] http://www.minister.dbcde.gov.au/media/media_releases/2009/088
[6] Optus, *Submission to ACCC*: on the Analysys cost model for Australian fixed network services, March 2009, p.4
[7] Optus, *Submission to ACCC*, p.5 (2.9)

"Optus considers that Analysys' approach – the conventional approach to costing assets – is inappropriate for those assets that will be made redundant by the NBN because it takes no account of NBN-related redundancy. Optus agrees with the statement of Europe Economics that:" [8]

> *"those Telstra assets made redundant by the NBN will not be needed in the long term, so it is not realistic or efficient to calculate their prices as if they would"*

Optus also states: [9]

"For those assets that will be made redundant by the NBN, the approach recommended by Europe Economics is incompatible with, and, Optus submits, superior to the conventional approach followed by Analysys. For those assets that will be made redundant by the NBN, Europe Economics proposes the following adaptation to the TSLRIC+ method of calculation:" [10]

> *"The costs of using those of Telstra's assets expected to be made redundant by the NBN, would be estimated as the costs that would be incurred by an efficient operator in maintaining and repairing the existing assets in a serviceable state for the limited time for which they will be in use - including an appropriate rate of return on the investment that had been made but not including the cost of replacing the assets."*

"Optus submits that this approach is the correct way to estimate the efficient cost of service relating to the assets in question. Consequently, Optus submits that the values for network costs in the Analysys model which relate to network assets that will be made redundant by the NBN are likely to exceed forward-looking efficient costs." [11]

TransACT agrees with these suggestions.

Unconditioned Local Loop Service (ULLS)

In the ACCC Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS, (Consultation Paper), the Commission states that: [12]

"Previously, when setting indicative prices, the ACCC has stated a preference for geographically de-averaged pricing where appropriate".

The Commission also states that:

"In general, access seekers have argued that geographic averaging would adversely affect competition and distort usage and investment decisions.

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[8] Europe Economics, 2009, Pricing Principles for the Unconditioned Local Loop Service (ULLS) in Australia, The Conceptual Framework, p.16

[9] Optus, *Submission to ACCC*, p.5 (2.10)

[10] Europe Economics, 2009, Pricing Principles for the Unconditioned Local Loop Service (ULLS) in Australia, The Conceptual Framework, p.24

[11] Optus, *Submission to ACCC*, p.5 (2.11)

[12] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.20-21

Differences between costs in the different bands are significant to the extent that competition would be materially distorted if prices were averaged. In this sense a de-averaged approach to ULLS pricing is more directly cost reflective and would provide a more appropriate basis for build or buy decisions by prospective competitors than a fully averaged prices.

The ACCC's view has been that it was not satisfied that the averaged ULLS charges proposed by Telstra in undertakings were reasonable. Apart from problems with Telstra's modelling, the ACCC considered that particularly because of the distortionary effects described above, fully averaged pricing would adversely affect competition in the markets for basic telephony and broadband services, and distort usage and investment decisions, resulting in the inefficient use of, and investment in, telecommunications infrastructure."

Given this approach, and the adoption of geotype classification of ESAs in the Analysys cost model for the ULLS, it is interesting to see that the Commission then considers it appropriate to group geotypes 1 to 10 in to one zone (Zone A) and average the price and group the remaining geotypes into another zone (Zone B) and average their price. The basis outlined by the Commission for the grouping of geotypes 1 to 10 in Zone A is that they share *similar characteristics* and as a result would not provide a distortionary effect on investment or competition. Zone B would therefore include the remaining geotypes 11 to 15. It would be helpful if the Commission could elaborate on how ESAs in geotypes 1 to 10 share *similar characteristics* that warrant their grouping and price structure into the one zone (Zone A).

With 646,708 (99.78%) of existing ULLS lines grouped into Zone A, this effectively moves towards a ***fully averaged*** price structure, which is somewhat contradictory to the Commission's approach to a ***de-averaged*** approach to ULLS pricing, and its views that:

"fully averaged pricing would adversely affect competition in the markets for basic telephony and broadband services, and distort usage and investment decisions, resulting in the inefficient use of, and investment in, telecommunications infrastructure,"

as stated previously.

The Commission indicates in its Consultation Paper that:[13]

"Consideration of pricing principles and indicative prices for the fixed services has occurred in the context of the Government's National Broadband Network (NBN)".

John de Ridder, a Telecommunications Economist[14], has indicated that an average NBN wholesale access price and the existing ULLS pricing structure could not co-exist efficiently; and there would need to be some glide path to reduce any effects of

[13] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.1
[14] http://www.deridder.com.au/about

a price shock to get copper-based access pricing on to the same plane as NBN access pricing.[15]

The zoning structure proposed by the Commission for ULLS could be seen as a mechanism to achieve that, but it should not be at the detriment to investment, competition or the LTIE, during the transition period to the NBN. [emphasis added]

In the Optus submission to the ACCC on Analysys cost model, Optus is of the view that:[16]

> *"the Analysys model structures the monthly service charges on a de-averaged basis."* and
>
> *'Optus strongly supports this approach and submits that this is consistent with the findings of the Tribunal which rejected Telstra's proposal to average ULLS charges on the basis that such charges could not be considered to be reasonable."* [17]

Optus then goes on to state that:

> *"the current system of four broad bands results in significant price averaging within each band. The introduction of 'sub-bands' would mean that the monthly charge more closely matches the actual cost of providing services in each geotype. The value of de-averaged cost-reflective pricing for encouraging efficient investment and promoting competition has been affirmed many times by the ACCC and also by the Tribunal. These benefits are also likely to apply to further de-averaging within the four broad bands."*[18]
>
> *'Whilst these benefits must be weighed against the administrative burden as noted above, there is likely to be room for some further disaggregation, particularly in Bands 3 and 4 (in which access seekers have rented relatively few unbundled lines to date). Further de-averaged pricing would encourage access seekers to purchase more services in these Bands, thus having the flow on-effect of increasing the level of access-based competition in these ESAs. This would be a desirable outcome and would improve the type of services available to consumers in rural and regional areas."*[19]

Optus also indentified in its submission that:

> *"The Commission has not listed Analysys' geotype classification system as an area for specific comment. Optus would assume that if and when the Commission considers moving away from the current system (ULLS Bands 1 to 4) this will need to be raised in a separate and formal inquiry."*[20]

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[15] http://www.deridder.com.au/files/Economuse-64-Digital-Britain.pdf
[16] Optus, *Submission to ACCC*, p.21 (6.29)
[17] Australian Competition Tribunal, Telstra Corporation Ltd (No3) [2007] ACompT 3, para 291.
[18] Optus, *Submission to ACCC*, p.22 (6.37)
[19] Optus, *Submission to ACCC*, p.23 (6.38)
[20] Optus, *Submission to ACCC*, p.22 (6.31)

TransACT would also like to understand in more detail the process by which the Commission has subsequently grouped the 16 geotypes into two broad zones. It would be helpful if the Commission could elaborate further on how ESAs in geotypes 1 to 10 share *similar characteristics* that warrant their grouping and price structure into the one zone (Zone A) and therefore the remaining geotypes 11 to 15 falling into Zone B.

TransACT agrees in principle with the following characteristics proposed by the Commission in the adoption of an adjustment path for Zone A ULLS:[21]

- *The glide path should proceed from the ACCC's indicative price for the previous year ending on 31 July 2009*
- *The end price should be set at the best estimate of the TSLRIC+ cost of supplying the service*
- *For the purposes of indicative prices the glide path should commence on 1 August 2009 and conclude on 31 July 2012*
- *Increments should be made on an annual basis, and*
- *Each increment between the start price and end price should be of an approximately equal percentage.*

However, TransACT would question the immediate price shock in 2009-10, proceeding from the ACCC's indicative prices for the previous year ending on 31 July 2009, as described in the section above, *Adoption of an adjustment (glide) path*.

As previously indicated, TransACT believes that the end price should not only be set at the best estimate of the TSLRIC+ cost of supplying the service, as a direct output of the Analysys cost model, but, in deriving the end price, international benchmarking should also be included as an input to that model and weighted appropriately.

Although TransACT agrees with the Commission that each increment between the start price and end price should be of an approximately equal percentage per annum, it is interesting to note that for the period 2009-12 the incremental percentage for Zone A is approximately 18% per annum, compared to the previous incremental percentage of past indicative prices for Bands 1-3 for the period 2005-08 of approximately 7.6% per annum. This represents an ULLS increase per annum of more than 130% for the period 2009-12 when compared to the previous 3-year period 2005-08, to effectively get to an end price for Zone A in 2011-12 of $23.60

Wholesale Line Rental (WLR)

For WLR, TransACT believes that moving from an RMRC pricing principle to cost-based pricing provides some consistency with the ULLS methodology. As indicated by the Commission in 2006[22] and again in 2008[23] the intention was to move towards

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[21] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.40

[22] ACCC, Pricing principles and indicative prices: local carriage service, wholesale line rental and PSTN originating and terminating access service – Final Determination and Explanatory Statement, 29 November 2006.

a cost-based pricing approach when a robust model was available. It would make sense that if a consistent TSLRIC+ approach is to be adopted, then WLR would also adopt that same approach.

TransACT agrees that the Commission should seek further information from access seekers and access providers on the number of WLR services in each Zone to fully assess the impact of the proposed pricing structure. Initial assessment of indicative prices for WLR, using a cost-based pricing model and international benchmarking in lieu of the previously adopted Retail-Minus-Retail-Cost (RMRC) principle, appears reasonable with minimal price shock from past indicative prices. There also seems to be little impact associated with each increment between the start price in 2009-10 and the end price in 2011-12, which is represented by only a two percent (2%) increase over the entire period.

TransACT assumes that, should the Commission consider it appropriate to set a cost-based indicative wholesale price for WLR in Zone B at a future time, it would be subject to further consultation.

PSTN OTA, LCS and LSS

For PSTN OTA, LCS and LSS, TransACT agrees with the Commission's approach of moving to a single national rate. Although representing a change in pricing methodology for PSTN OTA from a two part pricing (flagfall and end minute of use) basis to a single rate, TransACT agrees that the similarity of transit costs of a call through the network regardless of the location of the end user, supports this approach.

Public Switched Telephone Network Originating and Terminating Access (PSTN OTA)

As indicated by the Commission, PSTN OTA pricing has been widely scrutinised on many occasions over the past ten years, with a number of undertakings and determinations assessed and implemented. TransACT agrees that a better reflection of a TSLRIC+ approach for PSTN OTA is to move towards a single uniform price based on efficient conveyance only charges. This is not only in the LTIE but it also applies a more simplistic approach than current disaggregated rates, with a flagfall and EMOU charge. It also provides consistency with the Mobile Terminating Access Service (MTAS) where a single per minute rate is currently set as the national indicative price.

In setting indicative prices for PSTN OTA, the end price of 0.80 in 2011-12, is validated by the outputs derived from the Analysys cost model and international benchmarking.

[23] ACCC, *Local carriage service and wholesale line rental – final pricing principles and indicative prices for 2008–2009*, 6 August 2008.

Similarly for ULLS and LCS, TransACT believes that the application of an adjustment path is appropriate for PSTN OTA as it reduces the impact of a price shock. The adjustment path appears to be consistent with the characteristics adopted by the Commission, in that:

- it moves from the ACCC's previous indicative price in 2006-07 to the end price, of 0.80 in 2011-12, in decrements of approximately equal percentage;
- the glide path adopted minimises any potential price shock; and
- each decrement is made on an annual basis.

Local Carriage Service (LCS)

TransACT is of the view that past indicative prices for LCS, on the basis of a retail-minus-retail-cost (RMRC) pricing principle, have not been truly reflective of the underlying costs to provide the service. TransACT is pleased that the Commission is now moving to a cost-based pricing model for LCS based on a TSLRIC+ approach. TransACT's view appears to have been validated when assessing the outputs of the Analysys cost model and international benchmarking, as relied on by the Commission, in setting the new indicative prices. It can be seen that there is a significant difference between previous RMRC prices, and RMRC prices calculated by the Commission using Telstra's first half 2008-09 regulatory accounting framework (RAF) data, when compared with TSLRIC+ indicative cost model prices.

TransACT believes that the application of an adjustment path is also appropriate for LCS as it reduces the impact of any price shock. The adjustment path appears to be consistent with the characteristics adopted by the Commission, in that:

- it moves from the ACCC's previous indicative price of 17.36 cents, for the previous year ending on 31 July 2009, to the end price, of 7.90 cents in 2011-12, in decrements of approximately equal percentage;
- the glide path adopted minimises any potential price shock; and
- each decrement is made on an annual basis.

TransACT notes that the first year price shock for LCS, moving from 17.36 cents in 2008-09 to 13.30 cents in 2009-10, represents an equivalent percentage decrement to pricing in the following years of approximately 30% per annum. However, TransACT would ask that the Commission consider applying a similar principle to ULLS in the first year of transition. As stated previously, the ULLS price shock in the first year of transition is not equivalent to subsequent years. This represents an inconsistent approach when transitioning to the new indicative prices, between LCS and ULLS, which may impact significantly on an access seeker or an access provider.

Line Sharing Service (LSS)

Currently, TransACT is not a significant user of LSS, but will be assessing the future viability of utilising the LSS given the significant changes to the six declared wholesale access services.

TransACT supports the continued application of a TSLRIC+ methodology in setting prices for the LSS. TransACT notes that the Commission has provided much guidance on how it considers TSLRIC+ pricing should be applied in setting LSS access charges, since it was declared in 2002, as well as additional price terms set by the Commission in subsequent arbitrations.

TransACT believes that the materials relied upon by the Commission to develop future LSS pricing principles are reasonable and sound. TransACT also notes that the LSS model prices are not a result of a revised pricing principle, but only a revision of the inputs, the period of application and the adoption of annual levelisation to the existing "Specific costs" cost model.

TransACT agrees with a continued LSS rental charge per month and the proposed indicative prices of $1.00 per month for each of the next three years to 2011-12. TransACT also agrees with the Commission that, in order to maintain an additional $10 million allowance in the capital base for operation support system (OSS) enhancements, there is a need to ensure that the associated LSS and ULLS OSS enhancements are effectively brought into operation by Telstra. Failure by Telstra to comply should prompt the Commission to re-assess its position in relation to this allowance and any associated impact on the indicative price.

It is TransACT's view, as indicated by the Commission, that the change in the rental charge per month from the past indicative price does not constitute a price shock, given that the industry has been made previously aware of a likely price drop through the 2007 LSS Final Determination.[24]

TransACT believes that the ULLS and LSS discrete charges, as proposed in Appendix 4[25], are reasonable and agree with the Commission's preliminary view that:[26]

> *"there should not be a disconnection charge when a ULLS or LSS is cancelled."*

The Commission's view[27] that LSS charges should not contribute to the costs of the line is supported by TransACT.

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[24] ACCC, *LSS access dispute – Telstra / Agile, Reasons for Final Determination*, December 2007.
[25] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, Appendix 4.
[26] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.87
[27] ACCC, *Draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS, LSS,* August 2009, p.85

The way forward

It is important that the draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS and LSS, as implemented by the Commission, provide a level of regulatory certainty that will continue to promote industry investment, competition and the long-term interests of end users.

While there may be advantages and disadvantages to access seekers and access providers alike, TransACT believes that implementing appropriate pricing principles and getting the correct balance of access prices across all six declared services will potentially dictate the level of certainty that determines future industry investment.

TransACT supports the Australian Government's recent NBN announcement to invest up to $43 billion, over an eight year build period, and connect ninety percent of all Australian homes, schools and workplaces with broadband services with speeds up to 100 megabits per second.[28] However, TransACT believes that, since the NBN announcement, there has been a degree of uncertainty within the industry which has stifled investment. While the vision of the NBN is relevant to where the industry in Australia needs to be, pricing of declared fixed wholesale access services needs to ensure that there is continued investment during the transition period.

TransACT has already addressed concerns with the proposed price increases to the ULLS, providing its support to the Competitive Carriers Coalition (CCC) letter to the Commission, of 9 September 2009.[29] Telstra subsequently wrote to the Commission[30] on 11 September 2009, stating that the CCC letter *"provides a narrow view of the issues"* as it, *"selectively highlighted the one proposed price change that negatively affects them".*

TransACT does not believe it was providing a *"narrow view" of the issues,* as eluded to in Telstra's letter, but was in support of the other six carriers to immediately highlight to the Commission its concerns with the draft principles and prices for the ULLS. In this response, TransACT has elaborated on its views associated with the draft principles and prices for the ULLS and has put these views into the context of the *complete picture* across all six fixed wholesale services.

TransACT has undertaken preliminary modelling in an attempt to better understand its potential impacts on both, existing investments which utilise declared fixed wholesale access services, and future investment opportunities and decisions. Given the timeframe to comment on the Commission's Consultation Paper, TransACT's modelling is indicative only at this time.

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28 http://www.minister.dbcde.gov.au/media/media_releases/2009/022

29 Joint CEO letter on fixed line prices FINAL.doc

30 Telstra Letter 11 September 2009 - Fixed Line Prices.pdf

It is TransACT's view that an increase in the ULLS and decreases in LCS, WLR and LSS may directly influence TransACT's future investment decisions. While the Commission states that:

- *"The pricing structure is such that consumers are still more cost effectively served through a ULLS based service than through a combined line rental and LSS combination"*

TransACT believes that this may only be the case where existing backhaul and ULLS DSLAM investments have already been made. TransACT does not agree entirely with the Commission that:

- *"Overall, the cost based pricing structure results in clear incentives to invest in alternative DSLAM infrastructure by taking the ULLS"*

when considering future investment opportunities.

TransACT hopes that the Commission carefully considers all aspects of the draft pricing principles and indicative prices for LCS, WLR, PSTN OTA, ULLS and LSS, and those addressed by TransACT in this response, before reaching a decision on its final indicative prices.