



Australian  
Competition &  
Consumer  
Commission

# NewsRelease

Attn: Communications writers

## Competition Notice lifted

The Competition Notice issued in relation to Telstra's wholesale line rental price increase has been revoked by the Australian Competition and Consumer Commission.

The Competition Notice was issued because the ACCC had reason to believe that Telstra's wholesale and retail pricing was anti-competitive. A competition notice must be issued before third parties can seek compensation. It also allows for penalty proceedings to be commenced if the ACCC later decides that enforcement action is necessary to resolve its concerns.

In light of the changing regulatory circumstances, including the declaration of the Wholesale Line Rental service, it was not necessary to keep the notice in force. This decision followed consultation with industry about developments since the service was declared, and the ACCC also took into account some changed market circumstances that were reported in this consultation.

The declaration of the Wholesale Line Rental service came into effect on 1 August 2006. The declaration was made at the same time as the declaration of three other key telecommunications services and formed part of the ACCC's strategic review of fixed network services. Declaration provides options for the resolution of disputes about wholesale access to and pricing of the service. The ACCC issued Pricing Principles and Indicative Prices for the service on 29 November 2006 and published an Interim Determination about pricing on 8 February 2007.

In administering the competition notice provisions of the *Trade Practices Act 1974*, the ACCC's primary objective is stopping and preventing any anti-competitive conduct. The more involved regulatory processes attached to declaration of the service now enable competitive outcomes to be achieved. Consequently, the ACCC does not see a need for the Competition Notice to remain in force.

The ACCC considers that competition concerns relating to pricing of the Wholesale Line Rental service can be effectively addressed by the declaration processes that it has instituted. In consideration of all relevant factors, including an assessment of the alleged effects of Telstra's pricing conduct and the evidence obtained, further enforcement action is not warranted.

### Media inquiries

- Mr Graeme Samuel, Chairman, (03) 9290 1812, or 0408 335 555
- Mr Ed Willett, Commissioner, 0414 559 999
- Mr Michael Cosgrave, Group General Manager, Communications Group, (03) 9290 1914, or 0416 043 160
- Ms Lin Enright, Director, Public Relations, (02) 6243 1108, 0414 613 520

### General inquiries

- Infocentre 1300-302-502

Release # MR 051/07

Issued: 2<sup>nd</sup> March 2007

## Background

The wholesale line rental (WLR) service is an access service which allows an end-user to connect to a carrier or carriage service provider's public switched telephone network, and provides the end-user with the ability to make and receive any 3.1 kHz bandwidth calls (subject to any conditions that might apply to particular types of calls), including, but not limited to, local calls, national and international long distance calls and a telephone number. The WLR service was declared for the first time on 1 August 2006 pursuant to Part XIC of the TPA.

Part XIC of the TPA vests in the ACCC arbitration powers. For the ACCC to engage in arbitration, an access seeker and/or an access provider must notify the ACCC of an access dispute. The ACCC may arbitrate an access dispute only where:

- a declared service is supplied or proposed to be supplied by a carrier or carriage service provider
- one or more standard access obligations apply or will apply to the carrier or carriage provider in relation to the declared service, and
- an access seeker is unable to agree with the carrier or carriage service provider regarding the terms and conditions on which the carrier or carriage service provider is to comply with the standard access obligations.

Where a dispute cannot be resolved after private negotiations, mediation and/or conciliation, either of the access parties may refer the matter to the ACCC. Arbitration by the ACCC would be considered as a final solution for the parties in dispute. Where the ACCC is notified of an access dispute the ACCC must determine the matter, unless it decides to terminate the arbitration or the notification is otherwise withdrawn. Arbitrated prices may be applied for periods prior to the date of the final arbitration determination in certain circumstances.

Section 151AK, contained in Part XIB of the TPA, specifies that a carrier or carriage service provider must not engage in anti-competitive conduct – this is known as the competition rule. Section 151AJ specifies circumstances in which a carrier or carriage service provider engages in anti-competitive conduct. This includes taking advantage of a substantial degree of power in a telecommunications market with the effect or likely effect of substantially lessening competition.

Section 151AKA(8) specifies that the ACCC may issue a Part A competition notice if the ACCC has reason to believe that the carrier or carriage service provider concerned has engaged, or is engaging, in at least one instance of anti-competitive conduct of that kind.

In December 2005, Telstra raised the price of its Home Access product, which is an input used by Telstra's wholesale customers to provide line rental and local call services to consumers. The price increase resulted in Telstra's retail prices for the line rental component for the majority of its fixed voice products being below Telstra's wholesale price for line rental.

On 12 April 2006, the ACCC issued a Part A Competition Notice to Telstra in relation to its decision to raise its wholesale price for Home Access. The Notice came into force on 13 April 2006 and was to remain in effect until 12 April 2007. Under section 151AOB, the ACCC may change the date that the notice is in effect, by revoking the notice. This occurred on 28 February 2007, leaving the Notice in force for the period 13 April 2006 until 27 February 2007.