



**Submission by AAPT Limited to the Australian Competition
and Consumer Commission in response to the draft decision**

Telstra's domestic transmission capacity service exemption

applications, September 2008



Introduction

1. AAPT Limited (**AAPT**) welcomes the opportunity to comment on the Australian Competition and Consumer Commission's (the **Commission's**) September 2008 draft decision relating to Telstra's domestic transmission capacity service (**DTCS**) exemption applications.
2. AAPT supports the Commission's decision to reject Telstra's:
 - proposed 5% rule for capital – regional routes; and
 - proposed exemption for tail end transmission services in both CBD and metropolitan areas.
3. However, AAPT does not in principle agree with initiatives which remove or reduce regulations relating to Telstra given its dominant position in every wholesale and retail telecommunications market across the country.
4. AAPT relies heavily on acquisition of DTCSs from Telstra (which has a ubiquitous network) as an essential input for the provision of both wholesale and retail services to its own customers.

Queensland capital - regional routes

5. AAPT has real concerns about the Commission's proposal to grant Telstra an exemption from the standard access obligations (**SAOs**) in relation to four capital – regional routes in Queensland, specifically:
 - Brisbane – Townsville;
 - Brisbane – Rockhampton;
 - Brisbane – Bundaberg; and

- Brisbane – Maryborough,
(the **Queensland Routes**).
6. In forming its draft view to grant the exemptions for the Queensland Routes, the Commission applied a methodology whereby it identifies two infrastructure owners in addition to Telstra with an existing optical fibre network that passes within a 1 km radius from the GPO of the relevant regional town.
 7. The infrastructure owners were not identified but the Commission did indicate that it intended to request the relevant fibre owners which offer services on the Queensland Routes (and other routes) to consent to the publication of their identity.
 8. AAPT considers that the only suppliers of DTCSs on the Queensland Routes are Telstra and Optus, via the Reef Network. While AAPT is aware of the construction of a fibre network by another entity which may bring the number of DTCS suppliers to three including Telstra on some or all of the Queensland Routes (although this has not been confirmed), access to that new network, once complete, can not be guaranteed and in any event its construction is not due for completion for some time to come.
 9. Accordingly, if the proposed exemptions were granted for the Queensland Routes, AAPT considers that it would left with a duopoly supplier situation when acquiring DTCSs on those routes. Telstra and Optus could then charge supra-competitive prices and AAPT considers that this would not be in the long term interests of end users.



10. In any event, AAPT understands that there is no spare capacity available on the Reef Network at present and while a capacity upgrade is currently underway, AAPT is not aware when the additional capacity will be available on a wholesale basis.

Other issues

11. AAPT is also concerned that the Commission may not be fully aware of the level of investment required to break a backbone fibre network and extend a link into a regional town¹:

The ACCC considers that the presence of optical fibre networks which meet the 1 km criteria for a capital-regional route or have a point of interconnect at a Telstra exchange for inter-exchange transmission is a strong indication that transmission services are capable of being provided using the optical fibre without prohibitive sunk costs.

12. AAPT has not provided any estimates of the investment required in this submission, however, AAPT would like to indicate to the Commission that such an investment would be substantial and would not be something that AAPT would undertake without a strong business case in support involving a number of significant wholesale transmission opportunities. This is particularly the case in the current economic environment where access to credit is much more difficult and a significantly more cautious approach to capital expenditure prevails.

¹ Page 5, Draft decision



13. Finally, AAPT is concerned that the individual exemptions relating to Telstra exempt specific routes from the standard access obligations until the earlier of 31 December 2012 or the expiry or revocation of the DTCS declaration. This raises the issue of what happens if merger and acquisition activity or a bankruptcy event results, for example, in the number of fibre network owners within 1 km of the GPO of a regional centre being reduced from Telstra plus two to Telstra plus one. There is no mechanism that enables the automatic adjustment of the exemption to reflect the new paradigm.