



**Submission by AAPT Limited & PowerTel Limited
to the Australian Competition and Consumer Commission
in response to**

Telstra's PSTN Originating Exemption Applications

December 2007



Introduction

1. AAPT and PowerTel¹ welcome the opportunity to respond to the Australian Competition and Consumer Commission's (the **Commission**) Discussion Paper released November 2007 (**Discussion Paper**) in response to Telstra's PSTN Originating Access exemption applications (**PSTN OA Exemption Applications**).
2. AAPT strongly opposes the PSTN OA Exemption Applications.
3. The PSTN OA Exemption Applications cover 17 exchange service areas (**ESAs**) in the five main CBD areas (**the CBD exemption area**) and 387 ESAs in metropolitan Australia (**the metropolitan exemption area**) and follows Telstra's July 2007 and October 2007 exemption applications in relation to the supply of the local call service (**LCS**) and the wholesale line rental (**WLR**) service (together, **Telstra's LCS and WLR Exemption Applications**).
4. AAPT notes that the ESAs covered by the metropolitan exemption area are the same ESAs the subject of Telstra's LCS and WLR Exemption Applications. Indeed, the 'decision rule' relied on by Telstra in support of the PSTN OA Exemption Applications is identical to the decision rule cited by Telstra in support of Telstra's LCS and WLR Exemption Applications. That is, Telstra submits that it is appropriate that regulation of the supply of PSTN Originating Access be wound back by exempting supply in those ESAs where there is at least one DSLAM-based competitor.
5. AAPT submits that the fact that Telstra seeks to rely on the same decision rule employed in support of Telstra's LCS and WLR Exemption Applications is an acknowledgement by Telstra that PSTN OA, like LCS and WLR, is an essential input for the provision of PSTN voice services and that the matters taken into account by the Commission in the context of Telstra's LCS and WLR Exemption Applications are also relevant to any assessment of Telstra's PSTN OA Exemption Applications.
6. In these circumstances, in the event that Telstra's LCS and WLR Exemption Applications are rejected – as AAPT submits they should be for the reasons set out in its 1 November 2007 submission – then AAPT submits that the PSTN OA Exemption Applications must also be rejected. To do otherwise would render the LCS and WLR declarations meaningless for the majority of the fixed services market. As noted by Telstra in its submission in support of the PSTN OA Exemption Applications, "*the vast majority of pre-selection carriers also acquire WLR and LCS, and provide retail voice bundles. The class of carriers that use PSTN OA but not LCS/WLR is very small indeed*"².
7. Further, AAPT submits that Telstra has failed to discharge the onus of satisfying the Commission as to the reasonableness of the PSTN OA Exemption Applications. In these circumstances, AAPT submits that the Commission has no legislative option but to reject the PSTN OA Exemption Applications.
8. Were the Commission to grant the PSTN OA Exemption Applications, AAPT submits that end users will suffer from an increase in prices and a decrease in choice of supplier, not only for PSTN equivalent voice services, but also for high speed data services (given end user bundling preferences).

¹ Throughout this submission, references to AAPT should be taken to be references to both AAPT and PowerTel.

² Telstra Corporation Limited, Submission to the Australian Competition & Consumer Commission in support of PSTN OA Exemption Applications, 8 October 2007, at 45.

Telstra has failed to discharge the onus of establishing that the PSTN OA Exemption Applications is in the long term interests of end users

9. Pursuant to section 152AT of the *Trade Practices Act 1974* (Cth), the Commission **must not** make an order exempting an applicant from one or more of the standard access obligations *unless* the Commission is satisfied that the making of the order will promote the long-term interests of end-users (LTIE)³.
10. In other words, the **onus is on Telstra** to satisfy the Commission that just 15 months after the Commission re-declared PSTN OA, the competitive landscape has developed to justify effectively reverse the Commission's 2006 decision in relation to the vast majority of fixed services in operation.⁴
11. AAPT submits that **Telstra has not discharged that onus**.
12. Further, AAPT submits that Telstra could not reasonably have expected to be able to discharge that onus.
13. In July 2006 the Commission found that it was in the long-term interests of end users to re-declare the PSTN OA given:
 - (a) Telstra's PSTN network remained the dominant source of customer access and therefore underpinned the provision of most downstream voice services. The Commission noted that the vast majority (87%) of wholesale and retail customer access services relied on Telstra's customer access network⁵;
 - (b) the substantial barriers to entry in deploying access infrastructure;
 - (c) the lack of effective competition at the originating access level; and
 - (d) the uncertainties surrounding alternative networks and next generation network (NGN) developments such as the transition to an IP-based core.
14. AAPT submits that:
 - (a) the vast majority of wholesale and retail customer access service still rely on Telstra's customer access network. and Telstra's retail market share for PSTN voice services remains relatively stable (with any drop in fixed line services revenue being felt across the industry generally). In its *Telecommunications Competitive Safeguards Report, 2005-06*, released 2007, the Commission assessed the state of competition in local telephony as follows:

*"While resellers have made some inroads to Telstra's retail market share in the provision of basic access and local calls, this has been minimal and there are significant barriers to new entrants obtaining sufficient scale to compete sustainably. Further, the overriding characteristic of the market is that there is still a large degree of reliance on Telstra's network for the provision of local telecommunications services; hence there is very little infrastructure-based competition. These factors combine to provide the major source of Telstra's profitability and market power."*⁶
 - (b) barriers to entry remain high;

³ *Trade Practices Act 1974* (Cth), section 152AT(4).

⁴ AAPT submits that PSTN OA is an essential input for voice resellers. The metropolitan exemption area is identical to the exemption area covered by Telstra's LCS and WLR Exemption Applications. On Telstra's own estimate, the LCS and WLR Exemption Application affected "77% of metropolitan services or just over 50% of all PSTN [services in operation]." See Telstra Corporation Limited, Submission to the Australian Competition & Consumer Commission: Telstra's Local Carriage Service and Wholesale Line Rental Service Exemption Applications, Public Version, July 2007, at 9.

⁵ at 17

⁶ Australian Competition & Consumer Commission, ACCC telecommunications reports 2005-2006.

- (c) there is still a lack of effective competition at the originating access level; and
 - (d) if anything, the level of uncertainty surrounding alternative networks and NGN has increased as a result of the change in Federal Government and Senator Conroy's termination of the Coalition's Expert Taskforce initiative.
15. That is, there have been **no** developments since the Commission re-declared the PSTN OA that would warrant either the Commission granting the PSTN OA Exemption Applications or Telstra holding any genuine belief that it could satisfy the Commission that the PSTN OA Exemption Applications are in the long term interests of end users.
16. In these circumstances, AAPT submits that, like the WLR and LCS Exemption Applications, the PSTN OA Exemption Applications represent yet another example of Telstra using regulatory process to increase industry uncertainty, introduce further piecemeal regulatory reviews and, in turn, deter competitive activity.

The PSTN OA Exemption Applications are based on a fundamentally flawed "decision rule"

17. For the reasons set out in AAPT's 1 November 2007 submission, AAPT submits that Telstra's "decision rule" is incapable of identifying areas within which competition is effective and, as such, is fundamentally flawed.
18. **First**, AAPT submits that having one or more competitors located in an exchange service area (**ESA**) does not constitute effective competition. It is simply a move from a monopoly arrangement to a duopoly arrangement.
19. **Second**, Telstra's decision rule ignores the commercial reality that, irrespective of whether there is one or twelve competitor DSLAMs deployed in an ESA, Telstra's customer access network serves the majority of fixed services customers in the relevant exemption areas. As recently acknowledged by the Commission in August 2007 this poses a formidable obstacle to Telstra's competitors:

"there are significant barriers to entry in the provision of wholesale broadband and fixed voice services, including high sunk costs of infrastructure investment; economies of scale and scope arising from Telstra's control of the ubiquitous copper network; and significant time delays in developing alternate networks. The ACCC notes that there are a number [of] fixed and mobile wireless networks currently being deployed that are capable of providing voice and broadband services. However, these developments are still in their early stages and it is an open question as to what extent services on these new networks will offer viable alternatives to those services provided via Telstra's copper CAN."⁷

20. Even if a wholesale market were to emerge in certain ESAs in response to anti-competitive conduct by Telstra⁸, the commercial reality is that it is not workable for access seekers to obtain wholesale inputs on an exchange by exchange basis.
21. **Third**, it is also highly relevant that Telstra's decision rule ignores that the viability of DSLAM deployments is dependent upon both:
- (a) access seekers being granted access to the LSS and ULL – services over which Telstra is the monopoly supplier and over which access has been highly contentious.

In this regard AAPT notes:

⁷Australian Competition & Consumer Commission, Review of the Line Sharing Service Declaration Draft Decision, August 2007, at 36-37.

⁸ Which AAPT submits is unlikely, given the insufficient economies of scale that an ESA offers.

- (i) Access to the ULL and LSS is not guaranteed, and is subject to Telstra having sufficient capacity for its own needs. That is, Telstra is the only carrier on which other carrier's can at all times rely on to supply fixed services.
 - (ii) Telstra has commenced proceedings in the High Court of Australia seeking a declaration that the provisions of the *Trade Practices Act 1974* (Cth), that require it to supply access to the ULL and LSS, are unconstitutional. In the event that Telstra were successful, it can only be assumed that Telstra would immediately move to withdraw supply of the ULL and LSS, with the practical effect that any competitor DSLAM infrastructure would be commercially worthless and unable to provide competitive offerings at either the retail or wholesale level.
- (b) the ability of access seekers to use those DSLAMs to supply services using the copper CAN. However, it is clear from the current fibre to the node (**FTTN**) debate that the long term interests of end users may not be serviced over Telstra's copper CAN. For example, in the event of a Telstra driven FTTN upgrade, competitor DSLAM infrastructure would be rendered redundant. As noted by the Commission in its 2005-2006 telecommunications report:

*"While there has been improvements in service quality and price competition resulting from these substantial and rapid increases in infrastructure investment, competition for the delivery of services to end users remain fragile. Access seekers remain reliant on Telstra's ULLS and LSS. They are therefore exposed to **substantial risk** from unforeseen changes to the price and non-price terms and conditions of access. This may inhibit their access to Telstra's network. Furthermore, competitors are also exposed to **significant risks** arising from the prospective roll-out of an FTTN network upgrade."*⁹ (emphasis added)

22. **Fourth**, Telstra's decision rule draws no distinction between usage of the LSS or ULL. The result is that Telstra's "decision rule" works to artificially increase the perceived breadth of competitive infrastructure based offerings within the Exemption Area.
23. **Fifth**, Telstra's decision rule is based on an assumption that there is a second hand market for DSLAM infrastructure, such that any exit by a competitor will result in an alternative competitor quickly moving in to take over deployment of that infrastructure. AAPT strongly refutes the validity of this assumption.
24. **Sixth**, and of critical importance, Telstra's decision rule relies on the validity of defining markets by reference to ESAs. In this regard AAPT refers to its submission to the Commission's Second Fixed Services Review Position Paper¹⁰. In that submission AAPT strongly refutes the legitimacy of an exchange based market approach, including for the following reasons:
- (a) exchange based markets are unlikely to be economically significant trade areas;
 - (b) exchange boundaries are not applicable across all fixed services technology platforms. AAPT submits that this is particularly relevant to the Exemption Application given line rental is an essential input for the delivery of all fixed services. As noted by the Competitive Carriers' Coalition, *"on an exchange basis, end user access still depends on the regulated access to the last mile from the exchange, no matter how many independent DSLAM owners operate in that exchange."*¹¹;

⁹ Australian Competition & Consumer Commission, "ACCC telecommunications reports 2005-2006", Report 1, at 1-2.

¹⁰ AAPT Limited, Submission by AAPT Limited & PowerTel Limited to the Australian Competition & Consumer Commission in response to Fixed Services Review: A Second Position Paper – April 2007, August 2007, at 2-3, 8-9.

¹¹ Competitive Carriers' Coalition, Submission to the Fixed Services Review; Second Position Paper, 31 July 2007, at 3.

- (c) there is no guarantee that a FTTN would continue to use the exchange as the point of handover for services, yet implicit in exchange based delineation appears to be the assumption that the exchange operates as the nucleus of competitive activity in the delivery of telecommunications services;
- (d) exchange based market definitions are likely to result in anomalous findings of "market power", despite lack of control over key inputs. Indeed, defining markets by references to ESAs only serves to artificially dilute Telstra's perceived market power by ignoring the commercial reality that a single ESA fails to provide the requisite economies of scale to justify the roll-out of a competitive wholesale offering, let alone the high operational and marketing costs of taking a competitive retail offering to market, nor the rollout of a competitive wholesale offering;
- (e) exchange based market definitions are incapable of offering certain market boundaries (including because their geographical boundaries are a construct of the incumbent), increasing the regulatory risk to which entrants are exposed; and
- (f) exchange based markets are administratively unworkable, both for the Commission (resulting in less effective regulatory enforcement and monitoring) and for industry participants whose regulatory resources are already strained. In the context of the Exemption Applications, what level of oversight would be exercised to ensure each of the 371 exchanges in the Exemption Area continued to meet Telstra's "decision rule".

Need for regulatory certainty

- 25. AAPT submits that granting the PSTN OA Exemption Applications can only undermine the process which underpins the telecommunications regime.
- 26. Effectively "un-declaring" services after the completion of a detailed regulatory review is antithetical to the declaration process. Certainty of input is critical in any investment decision. As such, granting the PSTN OA Exemption Applications will signal to those considering investment in the industry that regulatory decisions cannot be relied on, and will almost certainly deter new entry.
- 27. Finally, AAPT notes that the Commission itself acknowledges the relevance to the PSTN OA Exemption Applications of the Fixed Services Review and the proposed Infrastructure Audit Record Keeping Rule, neither of which have been completed. AAPT would add to the list of matters relevant to the PSTN OA Exemption Applications the current FTTN debate – which has been plunged into further uncertainty following Senator Conroy's recent termination of the Liberal Party's Expert Taskforce - and Telstra's High Court challenge. AAPT submits that these initiatives and developments must be completed, and the outcome of Telstra's High Court challenge known, before the Commission would have before it the information necessary for it to evaluate and be satisfied about any claims that Telstra's Exemption Applications are in the long term interests of end users.

APPENDIX TO AAPT SUBMISSION IN RESPONSE TO TELSTRA'S PSTN OA EXEMPTION APPLICATIONS

Adopting the same headings used by the Commission in the Discussion Paper, AAPT sets out below its response to specific questions raised in the Discussion Paper. AAPT has not responded to each question in the Discussion Paper. Rather, AAPT has only sought to respond to those questions which do not cover matters already addressed in AAPT's submission and in relation to which it can offer input of value.

What are the relevant markets that would be affected by the granting of the exemption?

1. AAPT submits that the markets that would be affected by the granting of the PSTN OA Exemption Applications are those identified by the Commission as part of its 2006 ULLS, PSTNOTA and CLLS declaration inquiry. Namely, the relevant markets are the markets for:
 - (a) wholesale and retail supply of fixed voice services;
 - (b) retail supply of mobile telephony services;

Is the data that Telstra uses, based on publicly available information, sufficiently robust to allow the ACCC to be confident about the deployment of DSLAMs in the proposed exemption area?

2. Any knowledge AAPT has as to the location of competitor DSLAMs is based solely on publicly available information and the presence (or lack thereof) of competitor DSLAMs in exchanges where AAPT has a DSLAM deployed.
3. As the owner of the exchanges in which competitor infrastructure is deployed, AAPT submits that Telstra can and should be required to provide the Commission with accurate records of deployed infrastructure.

What further data, if any, would the ACCC need to determine the deployment of DSLAMs in the proposed exemption area?

4. AAPT again submits that Telstra is in a position to provide detailed information about infrastructure deployments within its exchanges.
5. To supplement that information, AAPT submits that the Commission should obtain proprietary data from industry participants that operate within the exemption area as to the type of DSLAMs deployed by those participants. AAPT notes that the Commission intends on obtaining this information via the release of a Record Keeping Rule in furtherance of its Infrastructure Audit Review.

What alternative providers to Telstra of PSTN OA currently operate in the wholesale market? Do these providers offer any significant competitive constraint on the pricing of the PSTN OA?

6. There are no alternatives.

Is competition in downstream markets currently effective?

7. The market long distance voice and international voice are generally considered to be quite competitive but this is due in large part to the pre-selection obligation and the declaration of the PSTN OA service. The fixed to mobile market is not considered to be competitive because of the high mobile terminating access charges levied by the mobile operators over recent years. AAPT submits that competition in the relevant downstream markets is dependant on the PSTN OA service.

What percentage of DSLAMs currently deployed would be capable of providing PSTN voice services?

8. None of the DSLAMs currently deployed by AAPT are capable of providing PSTN voice services. Significant investment would be required to support voice services. Upgrade costs would include the cost of replacing the existing DSLAM with an MSAN, and rewiring the rack. Investment in switching, transmission and IT would also be required.

Are PSTN voice services replicable through the use of:

- (a) **DSLAMs**
- (b) **Traditional voice switching equipment**
- (c) **Soft switches**
- (d) **VoIP**
- (e) **Alternative infrastructure such as fixed wireless HFC?**

9. If loss of service due to a power failure at the customer's premises is an **unacceptable** service outcome, then none of the above devices can replicate the delivery of a PSTN voice service, as an Multi Service Access Node (**MSAN**) would be required in the exchange (an MSAN provides 50V down the ULL).
10. If, however, loss of service due to a power failure at the customer's premises is an acceptable service outcome, then the equipment listed above may be used to replicate PSTN voice services as follows:
- (a) DSLAMs – only if bundled with an Integrated Access Device (**IAD**) on the customer's premises and a soft switch (plus other supporting infrastructure, like backhaul, routers, switches, etc).
 - (b) Traditional voice switching equipment –assuming this is a LAS, etc.
 - (c) Soft switches –only if bundled with an IAD and DSLAM;
 - (d) VoIP – see use of DSLAMs above;
 - (e) Alternative infrastructure such as fixed wireless HFC – only if bundled with other support infrastructure (soft switch, etc).

What are the technical and cost differences in DSLAMs that can be used to provide voice and those that can only be used to provide xDSL (i.e. ULLS-based DSLAMs vs LSS-based DSLAMs)?

11. The additional costs involved in using LSS compared to ULLS include costs related to:
- (a) external splitters;
 - (b) additional copper cable infrastructure;
 - (c) additional racks and the space required to accommodate the additional racks in each Telstra exchange; and
 - (d) additional operation and maintenance and installation costs

Are planned investments representative of the likely deployment of DSLAMs in the proposed exemption area by the end of 2007? How cautiously should the ACCC regard these planned deployments?

12. AAPT submits that the Commission should be extremely cautious when considering the likelihood of previously planned DSLAM deployments proceeding.
13. As noted by the Commission in its 2005-2006 telecommunications report:

*“The unresolved status of Telstra’s proposed FTTN deployment ... risks **substantially inhibiting ongoing investments** in competing DSLAMs and backhaul infrastructure for all carriers other than Telstra.”¹² (emphasis added)*

14. AAPT expects that the Commission will be better able to assess the impact of current market uncertainty, including in relation to next generation networks, upon receipt of information in response to its proposed Record Keeping Rule (once finalised). The Commission has itself noted that *“before any [infrastructure] audit has taken place, it would not be possible ... to assess how the presence of alternative infrastructure would affect the level of competition.”*¹³
15. Telstra’s submission in support of the PSTN OA Exemption Applications fails to fill the information gap intended to be addressed via the Commission’s proposed Infrastructure Audit Record Keeping Rule. Without this information, the Commission cannot be satisfied that granting the PSTN OA Exemption Applications would be in the LTIE and must, in AAPT’s submission, refuse to grant the applications.

Would access seekers using DSLAMs and the ULLS, or providing VoIP services, be able to provide voice services of equivalent quality to Telstra’s voice services?

16. In its August 2007 draft decision to extend the declaration of the LSS, the Commission expressed the view that:

*“In terms of voice functionality ... it is premature to consider VoIP services as competitive substitutes to PSTN voice services. ... there are consumer concerns with respect to the universality, security and quality of VoIP that need to be addressed before it can become a credible threat to Telstra’s dominance.”*¹⁴

17. To expand on the above, AAPT submits that VoIP is not an effective substitute for existing voice band analogue voice, for *at least* the following reasons:
 - (a) unlike traditional phone services, the quality of a VoIP service depends on the quality of each of the end-user’s handset and home network, broadband connection, VoIP service provider and the internet;
 - (b) the ability of an end user to place a call to a B party over a VoIP service may depend on: (a) the equipment used by the B party; and (b) if the B party uses also uses a VoIP service, whether the B party uses the same VoIP service provider;
 - (c) intelligent networks may not recognise the location of the A party and may be unable to map, or correctly map, the call;
 - (d) security vulnerabilities exist in IP telephony protocols which expose end-users to security risks such as eavesdropping, denial of service, identity-related attacks, voicemail spam and viruses; and
 - (e) VoIP services rely on mains power, while a traditional voice service is powered via the phone line. As such, an end-user relying upon a VoIP service as their primary telephone line would not be able to make phone calls during a power failure. In the case of an emergency, this could be life threatening.

What non-price barriers to entry exist for the use of DSLAMs to supply PSTN services?

18. Some of the non-price barriers to entry for the use of DSLAMs to provide PSTN services are:
 - (a) Use of RIMS in some exchange areas - a number of the exchanges in the exemption area (for example, Castle Hill, Mascot & Pymble) contain RIMs and areas with large

¹² Australian Competition and Consumer Commission “Telecommunications Reports 2005-2006” April 2007 at 2.

¹³ *ibid* at 40.

¹⁴ Australian Competition & Consumer Commission, “Review of the Line Sharing Declaration Draft Decision”, August 2007, at 36.

pair gain systems. As DSL services cannot run over fibre, access seekers can only service end-users if there is copper continuity between the exchange and the end-user's premises. Where end-users are connected to RIMS, rather than at the exchange, those end-users are not contestable for DSL providers like AAPT and Optus;

- (b) Telephone exchange business access (**TEBA**) – Telstra's processes allow for only one access seeker to install equipment in an exchange at any one time resulting in artificial constraints being placed on rack utilisation. To give effect to Telstra's processes, TEBA requests are queued, with access allowed one access seeker at a time for a 3 month period. The result is that if an access seeker is 5th in the queue it can take up to 18 months from the queued date to the date that seeker's infrastructure installation is complete. Further, a number of exchanges (eg. Carlton) are full, meaning access seekers cannot install competitive infrastructure to service end users connected to those exchanges;
- (c) Business complexity of having relationships with multiple suppliers in circumstances where there is no alignment between those suppliers' wholesale offers. Without uniformity of offering, a carrier's ability to offer a simple message and end user experience is impeded, resulting in higher priced services for end users;
- (d) Lack of a simple process to align the ULLS cutover with Category A port (LNP), and complete lack of process to enable the seamless migration of a Telstra POTS service to a ULLS (supplied to carrier A) coupled with a category A port (LNP) of the Telstra POTS service to another carrier (carrier B);
- (e) Inability to guarantee broadband quality given the definition adopted by Telstra of "ULLS Fault" in its Operations & Maintenance Manual (**OMM**):

"ULLS Fault means physical damage to, or degradation of, the Communications Wire where the DC line characteristics or Voice Frequency Spectrum does not meet line specifications according to Attachment 1 or the Communications Wire is otherwise outside standard engineering practice for telephony. For the avoidance of doubt, an Interference Problem is not a ULLS Fault. Adverse effects to the service (or any services supplied by the Customer to its End Users using the Service) as a result of a Network Upgrade are not ULLS Faults." ...

"Voice Frequency Spectrum means frequency spectrum between 300 hertz and 3400 hertz"

As the minimum frequency that ADSL uses is higher than 3400Hz, carriers using the ULL to supply ADSL are not guaranteed the ULL will support ADSL/broadband quality. A solution using the broadband component of the ULL is therefore unable to provide equivalent quality as a wholesale line rental solution.

- (f) Operational processes tend to be Telstra-centric, and are often subject to change at Telstra's discretion.

Economically efficient use of, and investment in, infrastructure

19. Ideally market forces would drive the efficient use of and investment in infrastructure. However, given the structure of the telecommunications market where Telstra is the monopoly supplier of the majority of key inputs and services, there is a need for regulation. In particular, there is a need for the declaration of services.

20. Whether the efficient use of infrastructure is promoted by declaring a service is closely related to the price being charged for the service. Therefore, the comparison between the costs of providing the service and the price at which the service is offered is the main determinant of whether or not a service should be declared¹⁵.
21. In the absence of declaration, it is likely the prices charged to access seekers will increase which will only serve to widen the gap between costs of provision and prices charged. Such distorted price signals will result in underutilisation of the service, which is an inefficient outcome.
22. To claim that regulators are likely to set prices too low is not supported by the due process by which they are set. Indicative pricing principles are set by the regulator based on the prices they observe in the market place and the costs of providing the service. Given cost information is in the majority of cases provided by Telstra as the monopoly supplier of services, the costs of provision are highly unlikely to be understated. To the contrary, it is in Telstra's best interests to overstate the cost.
23. In the context of the PSTN OA Exemption Applications, AAPT submits that the Commission's conclusions in July 2006 with respect to whether the declaration of PSTN OA would promote the economically efficient use of infrastructure remain valid. The Commission then concluded:

"Declaration of the PSTN OTA enables access seekers to combine existing customer access and switching infrastructure with their own equipment so as to provide end-to-end retail and wholesale local and long-distance voice services to end-users, as well as to other service providers.

*This enables end-users to gain access to an increased choice of telephony service providers, therefore improving their access to those services and providing greater scope for price competition as well as product and service improvements. The competition that results from the ability of competitors to access customers by using the PSTN OTA service encourages product differentiation and the creation of new and innovative bundled product packages, increases the likelihood of price competition in the supply of voice services, and is therefore likely to enhance productive and allocative efficiency in those markets."*¹⁶
24. AAPT submits that Telstra has put no information before the Commission capable of satisfying the Commission that this is no longer the case.

¹⁵ Australian Competition & Consumer Commission, "Telstra's local carriage service and wholesale line rental exemption applications – Discussion Paper", August 2007, at 35.

¹⁶ Australian Competition & Consumer Commission, "Declaration inquiry for the ULLS, PSTN OTA and CLLS Final Determination", July 2006, at 43.