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Dr Tony Warren
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cc: Paul McLachlan
Legal Counsel
Regulatory Legal Group
Telstra Corporation Limited
Level 11, 231 Elizabeth Street
SYDNEY NSW 2000

By facsimile: 02 9261 8390

By facsimile: 02 9261 2401

Dear Dr Warren

Telstra's domestic transmission capacity service exemption application lodged with the Commission on 24 August 2007 ('first transmission exemption application')

I am writing in response to your letter of 28 March 2008 in which you provided Telstra's response to the Commission's request for information under section 152AU of the *Trade Practices Act 1974* (the Act) dated 4 January 2008 (the information request) in respect to Telstra's first transmission exemption application. Commission staff met with Telstra on 23 April 2008 to discuss the response, explain the Commission's information requirements and understand any reasons why Telstra considers that it is unable to provide all the information requested by the Commission.

In the Commission's view several aspects of the information request remain outstanding. Specifically, the Commission considers that Telstra has not provided the following information requested by the Commission:

- Question 1: Identity of competing providers
- Question 1(b): The addresses used by Market Clarity for Point of Presence for each competing provider

- Question 1: The identity of alternative transmission providers within 1km of the regional post office on each of the capital-regional routes
- Question 3(a): Telstra's estimate of the total demand for transmission services on each of the capital-regional routes
- Question 5: Telstra's projected take-up of transmission services in each of the capital-regional routes over the next two years in each of the capital-regional routes

At the meeting of 23 April 2008, the Commission indicated that the reason it wished to know the names of the competing providers was to be able to assess, through market inquiries, the degree to which these alternative providers were providing effective competition on the relevant routes. Therefore, it was suggested that a possible alternative to the provision of the names of the competing providers as required under Question 1, was for Telstra to provide certain other information available from Market Clarity's data. This will allow the ACCC to have the relevant information made available for consideration without necessitating contact with each of the alternative providers. The ACCC, accordingly, seeks the following information for each provider on each of the relevant routes:

- All transmission capacity services currently being offered and the potential capacity which could be offered by each alternative provider using currently available technology
- The quality of service levels offered by each alternative provider (for each service offered by each provider)
- The level of redundancy offered by each alternative provider
- The market shares in terms of traffic and customers held by each alternative provider for each route the subject of the exemption application
- An estimate of the projected take up of transmission services over the next two years for each of the alternative providers
- Confirmation that each of the alternative providers owns the transmission infrastructure and is not reselling capacity purchased from others

Please indicate whether this information can be provided to the Commission as an alternative to the provision of the names of the competing providers and, if so, the timeframe for provision of the information, **by no later than 5:00pm 30 May 2008**.

Nothing in this letter should be taken to be a withdrawal of the original information request in whole or in part. The ACCC still requires Telstra to provide the information set out in Questions 3(b) and 5. Upon receipt of the additional information for each provider on each of the relevant routes, the ACCC will consider whether to withdraw the existing information request in relation to Question 1.

You are reminded that, pursuant to s 152ATA(4), any day during which any part of an information request remains unfulfilled is not counted for the purpose of the calculating the period within which the Commission must make a decision about the exemption application.

Further information request pursuant to section 152AU

The ACCC requests, pursuant to section 152AU of the Act, that Telstra give the ACCC some further information about the first transmission exemption application. Specifically, the ACCC requests that Telstra provide the ACCC with a list of all the primary documents and other materials upon which a decision to record an owner as a 'fibre owner' was made for the purposes of preparing the Market Clarity report 'Telecommunications Fibre Backhaul Infrastructure Summary for Selected Routes' (August 2007).

The ACCC requests that Telstra provide to the ACCC in writing, an estimated date when it will provide information in compliance with this request **by no later than 5:00pm 30 May 2008**. The ACCC advises that it will make an assessment regarding the estimated response date and form a view on whether it is reasonable. If the ACCC does not consider it to be reasonable the ACCC will set a deadline for compliance with this request which it considers to be reasonable. In the event that Telstra fails to comply with this request by Telstra's estimated response date or such other time that the ACCC considers reasonable, the ACCC may proceed to make a decision on the exemption application without considering any information provided in response to this request.

Should you have any queries regarding this request, please contact John Bahtsevanoglou on (03) 9290 1849 or Nicole Hardy on (03) 9290 1957.

Yours sincerely



Robert Wright
General Manager
Compliance and Regulatory Operations
Communications Group