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ACCC Draft Decision and Proposed Class Exemption
Telstra's LCS and Wholesale Line Rental exemption applications

ATUG's comments on the Draft Decision are:

The ACCC's interpretation of the phrase "Promotion of competition" is too narrowly defined by reference to "promotion of ULLS based competition". The preference for infrastructure based competition over re-sale competition is understood but the future of the market for telecommunications is less clear than the draft decision assumes. ATUG believes it is too early to conclude that ULLS investment will continue at recent rates, given concerns about "stranded assets" in the face of NBN developments. In ATUG's view it would be better to defer granting of the exemptions until the recently announced NBN RFP outcomes, and their implications for copper network based ULLS competition, are known.

Moreover, ATUG notes recent initiatives by the ACCC to shore up competition based on ULLS including writing to Communications Alliance in regard to industry code development and introducing a Record Keeping Rule to deal with problems of Exchange Access (15th May). These recent measures suggest to ATUG that ULLS based competition is not yet working as effectively as the Draft decision assumes. The effectiveness of these measures should be assessed before exemptions are granted.

The importance of current demand side experience in the operation of the market needs to be taken into account in the draft decision. The difficulties in switching broadband providers would need to be eliminated before ATUG would regard the broadband market as sufficiently competitive to warrant

granting exemptions from access requirements. Industry work in this area needs to be accelerated. Mobiles is an example of a sector where there is infrastructure based competition supported by effective demand side switching procedures e.g., mobile number portability – the combination leading to less need for regulatory intervention.

In any case, given the importance of the conditions underpinning an ACCC decision to grant exemptions, ATUG would like to see an active monitoring arrangement put in place by the ACCC with industry involvement ahead of the need to rely on the more reactive process of Part XIB Anti Competitive Conduct provisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'RSinclair'.

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