Issues associated with a possible updating mechanism for the Final Access Determination governing the Domestic Transmission Capacity Service

This memorandum is written in response to a Letter of Engagement from King & Wood Mallesons, acting on behalf of Telstra Corporation Ltd ('Telstra'). It is structured as follows;

1. Executive Summary
2. Background on the issue under consideration: calls by certain industry participants to introduce an updating mechanism to the prices specified by the Final Access Determination (FAD) governing the Domestic Transmission Capacity Service (DTCS)
3. Background on the author
4. Approach adopted in this document
5. Overall issues with the methodology proposed under the FAD
6. Rationale for frequent pricing updates
7. Specific issues with respect to any pricing updating mechanism

1. Executive Summary

I have been asked to consider calls by certain parties for the pricing mechanism proposed under the FAD for DTCS to be updated frequently. To assess this issue in proper context, I have considered the overall approach of the FAD to price setting.

All methods of price setting have their strengths and weaknesses, and it seems to me that in the case of the FAD approach there is a likely upward bias, since the approach:

- Does not take into account likely cost differences between competitive and declared routes (related, for instance, to utilisation)
- Bakes in 'term discounts' embedded in the input price data (for at least a portion of contracts) to generate month-to-month prices on declared routes, essentially giving a level of 'free' term discount to access seekers on those routes
- Generates a significant degree of route-by-route volatility in prices. While overall the model may be a good fit for the data, any given point may lie materially above or below 'the line' (the price generated by the model). While this effect may balance out for the market as a whole, for any individual access seeker it will not

These features of the approach may create disincentives to growth, investment and market entry. I believe these disincentives may be increased by frequent updates or reruns of the model.

Those calling for such updates contend that competitive routes see steady price declines, and these should carry over directly to declared routes. However, the underlying economics does not support a direct linkage. A key driver of lower costs (and hence prices) is increasing economies of scale. However declared routes are likely to see slower growth (and those that see high growth are likely to cease to be declared, since they will attract market entry). Moreover, since declared routes have lower utilisation, they are less likely to see the deployment of new, lower cost equipment. Thus it is

not a safe assumption that prices on declared routes should see price declines matching those on competitive routes.

Frequent updates could also have a number of unintended adverse consequences.

- Given the sensitivity of the model, frequent updates are likely to introduce price volatility over time. This will introduce artificial risk into the market (for all players), requiring greater returns to compensate or alternatively discouraging investment
- This volatility will also create disincentives to longer term contracts, otherwise a very standard feature of a healthily functioning market
- Updates will also create the opportunity for gaming. The very companies that are access seekers on declared routes are access providers on the competitive routes, providing input prices to the model. There are numerous (cost free) ways in which such players might artificially suppress prices on competitive routes, to secure for themselves lower prices on declared routes at the time of the next rerun of the model

More generally, I have an overall concern with the price review mechanism envisaged by certain industry participants responding to the draft FAD – it does not seem to be simple and, in a relatively small part of the telecoms market in Australia, it seems to me to be disproportionately intrusive.

These are general points which apply to the mechanism overall. However, the latest possible permutation to the FAD, the updating mechanism, applied to a 30 month instrument, seems to be wildly out of proportion to the severity of the problems the mechanism is setting out to resolve.

2. Background on the issue

Some DTCS routes are highly competitive in Australia – those between large metropolitan centres, for example, such as the Melbourne-Sydney route. Others are only served by a small number of suppliers, or by Telstra alone – typically the smaller routes where there is limited demand. Where there is limited or no competition, the ACCC is proposing a price control mechanism which is elaborated in the draft FAD. The mechanism involves looking at the statistical relationship between price and various 'driving' metrics such as speed and distance on competitive routes and applying this relationship to uncompetitive routes to derive prices for those routes. The draft FAD does not currently specify any updating mechanism for prices during its proposed 30 month term.

Certain interested parties are now lobbying the ACCC to secure that the FAD allows for the prices derived in this way to be frequently updated. It is the merits of this proposal which I have been asked to consider. More specifically, in the Letter of Engagement, four concerns are raised:

- Frequent price reviews may undermine investment incentives; This issue is raised as one affecting access-seekers incentives, but it may also apply more widely (see below)
- Frequent price reviews may also reduce incentives to negotiate 'whole of business' contracts, applying more widely than the DTCS service under consideration
- Frequent price reviews increases the risk of regulatory error
- Frequent price reviews also intrude in an unwarranted fashion into commercial negotiations.

The Letter of Engagement also asks my opinion on two overlapping and general points, namely the distortion of investment and the value of regulatory certainty. The Letter of Engagement is attached to this document for those who wish more detail.

3. Background on the author

I am a previous board member of Ofcom, the UK's telecoms and media regulator (2003 until 2007) and, while at Ofcom, was Chairman of the European Regulators Group (the predecessor of the Body of European Regulators for Electronic Communications (BEREC)). In 2009, I was appointed by the UK Government to be the Independent Spectrum Broker, arbitrating between the spectrum demands of the UK's mobile operators. I am currently a director of Communication Chambers, a group of senior communications industry professionals, providing expertise to the industry and am a senior adviser to Everything Everywhere, the joint venture in the UK between Orange and T-Mobile.

My detailed curriculum vitae is attached to this document.

4. Approach adopted in this document

There are two different types of issue associated with the proposal to update the uncompetitive (or 'declared') prices regularly – instances where such an update exacerbates an existing problem with the methodology and instances where a new problem is created. So that the discussion of the first type of problem is clear, the next section briefly elaborates on the issues with the overall mechanism, as I see them. The subsequent section briefly considers the arguments in favour of frequent updates. The final section explains the difficulties that are specific to the proposal to update prices regularly. This final section is the nub of my response and addresses both issues raised by Telstra and other issues that seem to me to be problematic.

One methodological point – there is no proposed definition from the regulator of what is meant by 'regular' or 'periodic' updating, as there is, as yet, no formal proposal (i.e. it has been raised by certain industry participants in response to the draft FAD). However the draft FAD has a 30 month term and it seems to me that for the purposes of this document, it is sensible to assume that the pricing review, if it was to be sanctioned, could happen once or, at the extreme, twice in the period. In my view, this proposal should be discouraged.

5. Overall issues with the methodology proposed under the FAD

I see four weaknesses particular to the approach taken in the draft FAD, in that it:

- Does not appear to account fully for legitimate cost differences between competitive and declared routes, particularly cost differences relating to utilisation
- Does not address term issues
- Introduces price-volatility on a route-by-route basis
- Discourages entry and investment

Note that I set these out here not to dispute the approach taken – any methodology for setting prices will have its own strengths and weaknesses.

Accounting for legitimate cost differences between competitive and declared routes

The underlying assumption in the draft FAD appears to be that the prices on declared routes should be similar to those on competitive routes and, if they are not, this must be a simple function of the lack of competition – according to this view, the player with the most significant market share must be using that to charge above true costs.

In reality, however, there could be another explanation for the difference in price, which is that declared routes exhibit different economic characteristics and different cost structures, particularly as a consequence of their levels of utilisation. Indeed, it is highly likely these routes have not attracted multiple competitors precisely *because* of those different economic characteristics.

This is, in part, reflected in the approach the Commission has proposed in applying an uplift factor in respect of the Melbourne to Hobart route to account for costs associated with the submarine cable. However, the differences in economic characteristics extend beyond direct infrastructure build costs.

Imagine a DTCS between two small towns in Central Australia – the capacity and utilisation of the link would be lower than a Melbourne-Sydney service, the capital costs of establishing the link could be high, as could the operational costs. However, when the service is priced, the relationship between revenues and costs would be unfavourable relative to the Melbourne-Sydney route. A higher per megabit price could be entirely justified by the difference in economics of the route.

It is therefore imperative that all key points of differentiation between competitive and non-competitive/declared routes are considered. It may well be the case that non-competitive routes are legitimately priced very differently from competitive routes.

Does not address term issues

My understanding is that the input data provided by Telstra for the regression analysis was derived from monthly charges from Telstra's billing systems. These charges were against contracts of a variety of lengths – month-to-month, annual, multi-year and so on. Accordingly, for longer term contracts supplied by Telstra, any term discounts will be effectively 'baked in' to the regression analysis.

However, the output of the analysis is being used to generate a price that access seekers will be able to receive without making any term commitment whatsoever. The non-price terms in the FAD do not appear to create any lock-in at all (even if the regulator has sought to benchmark the prices on the basis of a one year service term). Thus the effect is that prices are artificially deflated, by offering a measure of term-discount to access seekers who make no term-commitment.

Introduces price-volatility on a route-by-route basis

It is the nature of a regression analysis that it seeks a line of best fit through a cloud of points. However, in practice any individual point may lie some distance from the line and (crudely) half will be above it and half below it. This does not indicate a faulty model – rather it is an inevitable consequence of taking a regression approach. Nor, at a theoretical, aggregate level, does it suggest an inequitable result. While some prices set may be too low (the line passes below the point), and some may be too high, because the model is that of best fit, it should balance out overall.

However, in practice individual access seekers do not operate at an 'aggregate level', buying a nationally representative basket of circuits. If the price set for the route they need is set too high, it is cold comfort that the price is set too low on a route they don't need. Prices that are set too high may artificially suppress demand, leaving Telstra little choice but to offer prices lower than those set in the model. However, there is no symmetry on the routes where prices are set too low. Telstra will not have the option to raise them to economic levels, and thus will be deeply discouraged from investment.

Discourages entry and investment

All of the above factors are likely to lead to pricing on declared routes that are below those that the underlying costs might suggest. A consequence of this will be to discourage investment, both by the existing supplier(s) and by potential new entrants. Moreover, if prices are such that existing suppliers have no motive to expand capacity, then the route may never grow to a volume that it would sustain facilities based competition (even if prices were corrected).

I note that given the above downward biases in prices calculated by the model, it may be appropriate to set prices somewhat above the 'mid-point' model calculation – this would reduce the risk of unintended disincentives to investment and competition. One method might be the '75th percentile' approach set out by Prof Breusch.[1]

6. Rationale for frequent updates

In the submissions of those seeking frequent updates, there is a consistent rationale – competitive routes are likely to see steady declines in cost for access seekers, and this should be carried over to prices on declared routes.

Certainly the price paid per Mbps has steadily declined for DTCS services. However, there are fundamental cost reasons to expect the decline to be slower for declared than for competitive routes, as I will set out.

Broadly, the price paid per Mbps falls due to three factors:

1. Individual access seekers may buy larger circuits, bringing a lower unit cost to them
2. Overall demand on a route may grow, amortising the fixed cost over more bandwidth and reducing unit cost (to the access provider and in turn to all access seekers)
3. Technology enables equipment upgrades that bring lower cost

The first of these three factors will be available to access seekers with or without a price update. The prices generated on the model embed a lower unit cost for higher bandwidth circuits on the declared route.

The significance of the second factor depends on the rate of growth of the route in question. However, we might expect that the rate of growth will be higher on competitive rather than on declared routes. Rapid growth (or the scale it has resulted in) is precisely one of the factors that will have attracted competitors to the competitive routes. Moreover, currently declared routes that

[1] See Professor Trevor Breusch, *Report on ACCC's Draft FAD for the DTCS (December 2011) and the associated econometric modeling by DAA (November 2011)*, February 2012

enjoy good growth may well see increasing competitive activity, and thereby 'graduate' to competitive status. Conversely the declared routes with minimal growth will be more likely to remain declared.

If the rate of growth of competitive routes is higher than that on declared routes, then the obvious consequence is that prices on competitive routes are likely to (and should) see steeper declines than those on declared routes.

The third factor above, technology, is also likely to be less important in driving unit cost declines on declared routes. In practice, technology is upgraded on a route in response to demand growth. When current capacity is nearing exhaustion, new (likely more efficient) technology may be installed to provide the incremental capacity or indeed the total required capacity.

On competitive routes with steady growth, such a capacity upgrade is often foreseeable in the short to medium term. However, on long, thin routes such as those likely to be declared, utilisation is lower, and therefore upgrades are likely to be more distant and/or less frequent. This means that declared routes are slower to see the benefit of equipment cost declines.

For all the above reasons, it is a flawed premise that because competitive routes see steady price declines, declared routes should also see matching declines. If this premise is flawed, then the rationale for frequent price reviews is significantly weakened.

7. Specific issues with respect to the price updating mechanism

The following issues are covered:

- Reduced investment incentives due to increased volatility
- Reduced likelihood of long term contracts
- Risk of gaming
- Creation of disproportionate regulatory overhead
- Unnecessary regulatory intrusiveness

Not all of these effects will be powerful in themselves – but in aggregate they will exacerbate the distorting effects of the price review mechanism, discussed in section 5.

Reduced investment incentives due to increased volatility

As I have discussed above, the model (unavoidably) generates 'volatile' prices – prices that may vary materially from 'true' on any given route. Frequently rerunning the model, or updating prices using a revised model, exacerbates this problem by introducing volatility over time, as well as by route. As I understand it, the model is highly sensitive to its input figures.[2] Any revised model used to update prices is likely to be similarly sensitive. Consequently, if rerun or run through an updated model, there is no guarantee that on a route by route basis prices will vary smoothly. Overall prices may drop by (say) 10%, but on a given route/bandwidth combination, prices could drop by more than this, or alternatively rise.

[2] See the reports prepared by Professor Trevor Breusch, in particular, his comments in relation to model fragility.

Such volatility introduces risk for all parties. An access seeker may have made the decision to plan their network to incorporate a given circuit at a given price, only to find that price rise on them – again, it will be cold comfort to that access seeker to know that *overall* prices have dropped by 10%. Conversely, access providers will be less incented to invest on a given route if they know they may face an arbitrary steep drop in prices on a given route.

The more frequently the model is run, the more serious this problem becomes. Volatility represents risk, and it is axiomatic that risk requires greater return. Thus it is not in the interests of end users to introduce greater risk into the system by introducing artificial volatility.

Reduced likelihood of long term contracts

Long term contracts are a standard feature of healthy competitive markets for DTCS. They can reduce risk for both the access seeker and the access provider, and thereby encourage investment. However, volatile prices will reduce their likelihood. If a price on a given route is too high, the access seeker will be reluctant to 'lock in' a price using that as a benchmark – they will prefer to await the next iteration which may bring prices closer to 'true'. Conversely, if the price on that route is too low, the access provider will have a similar reluctance to offer a long term contract.

The more frequently prices are updated, the more such volatility is introduced, and by extension the greater the disincentive to sign long term contracts.

A further issue is that for practical purposes the model is a 'black box'. It is an engine of great statistical sophistication, but is likely to be utterly opaque to the typical telecoms purchaser or sales person. If the next iteration of prices is near and its likely movement uncertain, then it is very difficult to have a meaningful conversation about a reasonable discount for a term contract. This contrasts to the situation where both parties have reasonable knowledge about likely market price trends, or to a situation where benchmark prices are fixed for a moderate period.

Risk of gaming

The proposed declared-route prices generated under the FAD are based on genuine competitive route input prices. However, if the model is to be rerun based on future prices, there is the risk that competitive access providers will 'game the system' in setting those prices, in order to secure lower input prices for themselves on declared routes.

There are many mechanisms by which this could happen. Examples include:

- A competitive access provider could embed low prices for DTCS within a wider 'whole of business contract', recovering the loss from other services. Since for both the customer and the provider it would be the total price that mattered, such a cross-subsidy would not matter to either of them. However, it would create a false 'input price' for the model, leading to artificially low prices on declared routes.
- Two competitive access providers who buy DTCS from each other on different routes could agree to do so at much lower prices that nonetheless left the net payment unchanged. Again, this would involve no direct net cost to either player, but would reduce both players' costs on declared routes by generating lower input prices for the model.
- A competitive access provider might offer a discount for the initial or final months of a DTCS contract (whichever happen to cover the relevant date for data gathering for the next run of

the model). Since the model is based on billing data at a given point in time, this would create a low input price at minimal cost to the provider (or zero cost, if the discount was recovered from the remainder of the contract).

While the impact of any one competitive access provider on the prices generated by the model might be small, it will of course be in the interests of all such players to suppress the modelled prices (to the extent to which they are customers on declared routes).

Such gaming, enabled by rerunning the model on prices struck after the FAD is in place, would artificially depress prices on declared routes.

Creation of disproportionate regulatory overhead

It clearly has been an involved process to reach the current model. Rerunning the model will also carry cost for all market participants. Revised data will need to be gathered, the model will need to be rerun using that data and the model itself may need to be revised. (There is no guarantee that the relationships implicit in the current model will necessarily sustain). Particularly if the model needs revision, rather than rerunning, a whole further round of consultation may be necessary. Given the relatively short period in which the revised prices might run and the likely moderate price movement appropriate to declared routes, such a regulatory overhead is potentially disproportionate.

Unnecessary regulatory intrusiveness

As an ex-regulator, my starting point is that the following principles should apply to regulatory issues:

- There should be a bias against regulation: it should be the last , not the first instrument, policy-makers should reach for
- Regulation should be simple to avoid unintended consequences
- Regulation should preferably be time-limited
- The least intrusive form of regulation should be adopted to achieve the objective
- But, where regulation is needed, it should be effective

I have an overall concern with the price review mechanism envisaged by certain industry participants responding to the draft FAD – it does not seem to be simple and, in a relatively small part of the telecoms market in Australia, it seems to me to be disproportionately intrusive.

These are general points which apply to the mechanism overall. However, the latest possible permutation to the FAD, the updating mechanism, applied to a 30 month instrument, seems to be wildly out of proportion to the severity of the problems the mechanism is setting out to resolve.

Attachment 1 – Letter of Engagement

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Legally privileged and confidential

16 April 2012

Mr Kip Meek
Communications Chambers
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Copy to
Mr Rob Kenny
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Dear Mr Meek

Domestic Transmission Capacity Service - Review of proposal for price updating mechanism

1 Introduction

1.1 As discussed during our telephone calls on 11 and 13 April 2012, we act for Telstra Corporation Ltd ("**Telstra**").

1.2 Telstra has asked us to provide legal advice in relation to the impending Final Access Determination ("**FAD**") by the Australian Competition and Consumer Commission ("**ACCC**") concerning the Domestic Transmission Capacity Service ("**DTCS**"). Once made, the FAD will set out the price and non-price terms that will govern access to the DTCS in the absence of any contrary agreement between an access provider and access seeker.

1.3 The price terms of the draft FAD issued by the ACCC on 9 December 2011 (**Attachment 1**) are based on a domestic benchmarking approach using a linear regression model. The draft regression model seeks to use prices on competitive transmission routes to determine the prices that would be expected for declared routes if those routes were priced competitively by the market.

1.4 In their respective responses to the ACCC's draft FAD, a number of parties have suggested that the FAD should incorporate a mechanism to review and update regulated prices on a periodic basis during the term of the FAD. While those submissions do not provide any significant detail in relation to a specific updating methodology (and the ACCC has not yet issued any formal position in relation to this issue), Telstra has a number of concerns with this proposed approach and wishes to draw those concerns to the ACCC's attention.

1.5 For the purpose of us providing legal advice to Telstra in relation to the FAD, and specifically on this issue, we are instructed to engage you, on behalf of Telstra, to prepare a written report which addresses the matters set out in section 3 of this letter. In summary, those matters involve the

provision of your expert opinion in relation to the economic and regulatory risk issues likely to be raised by any proposal to adopt periodic regulatory pricing updates during the course of the FAD (which will set default regulated price terms until 31 December 2014).

1.6 The information contained in this letter is legally privileged and is provided to you for the purpose of assisting us to provide legal advice to Telstra.

2 Background

The DTCS

2.1 Telstra is the largest provider of the DTCS in Australia.

2.2 The DTCS is a generic telecommunications service that can be used for the carriage of voice, data or other communications using wideband or broadband carriage. A detailed description of the DTCS is contained in **Attachment 2**.

Regulatory background - Access Determinations

2.3 The DTCS was deemed a "declared service" in 1997. Once a service has been "declared", the provider of that service (the "access provider") is required to provide access to the service (to "access seekers") in compliance with standard access obligations set out in Part XIC of the *Competition and Consumer Act* 2010 (Cth) ("**CCA**").

2.4 On 1 January 2011, amendments to Part XIC of the CCA replaced the negotiate / arbitrate model (which previously applied in respect of declared services) with new *ex ante* pricing powers for the ACCC. Rather than arbitrating any disputes which may arise in negotiating the provision of declared services (and then issuing an Access Determination), the ACCC is now required to make upfront Access Determinations in relation to declared services which may, amongst other matters:

(a) "*specify any or all of the terms and conditions on which a carrier or carriage service provider is to comply with or any or all of the standard access obligations applicable to the carrier or provider*"; or

(b) "*specify any other terms and conditions of an access seeker's access to the declared service*".

2.5 An Access Determination or "FAD" must include terms and conditions relating to price or a method of ascertaining price.

The draft FAD for the DTCS

2.6 The ACCC issued its draft FAD in relation to the DTCS on 9 December 2011. The draft FAD sets out a statistical regression model from which the ACCC will derive prices for the DTCS using a number of pricing observations provided to the ACCC by industry participants.

2.7 The draft FAD proposes that the FAD pricing will expire on 31 December 2014. It does not currently contemplate any pricing re-sets during that term. However, as set out above, a number of industry participants have, in their submissions in response to the draft FAD suggested that the FAD should incorporate a mechanism to review and update regulated prices on a periodic basis during the term of the FAD. See in particular:

(a) the submission by AAPT (paragraphs 7, 16 and 25);

(b) the submission by Macquarie (page 4);

(c) the submission by Optus (paragraph 1.5(c)); and

(d) the submission by Primus (page 1).

(See **Attachment 3**).

2.8 A copy of Telstra's submission in response to the draft FAD is set out in **Attachment 4**. Please see Section 9 (and in particular paragraph 123).

2.9 The ACCC has not responded with any formal position in relation to this issue. However, Telstra understands that it is an issue that the ACCC is currently giving serious consideration.

2.10 Telstra wishes to respond to, and provide further information in relation to the economic and regulatory risks associated with this approach, prior to the ACCC issuing its FAD. Telstra understands that the ACCC proposes to issue the FAD in late May 2012.

3 Questions

Telstra's concerns

3.1 Telstra is concerned that the introduction of periodic regulatory pricing reviews during the course of the FAD may undermine incentives for access seekers to enter into long-term commercial agreements for the supply of the DTCS. As set out in Telstra's submission in response to the draft FAD, long-term contracts (i.e. 1-3 years) are an important means by which access providers are able to secure certainty in relation to obtaining a return on their investment in the relevant infrastructure and new technologies, and provide an important base to facilitate additional investment by access providers (see section 9). Telstra is concerned that a regulatory environment which discourages longer term contracts may also distort investment in, and the development of, new technologies and higher bandwidth services.

3.2 In addition, periodic regulatory updates in relation to DTCS pricing may distort the incentives for access providers and access seekers to enter into whole-of-business contracts with access seekers which incorporate commercially negotiated terms relating to the DTCS (i.e. with access seekers instead preferring to rely on the default regulated terms as updated). This may have the further potential to distort the development of commercially negotiated discounts which benefit both access seekers and access providers.

3.3 Telstra is also concerned about the increased uncertainty and risk of regulatory error which may arise from the need for the ACCC to make ongoing decisions concerning appropriate data inputs and use of or re-estimation of the benchmarking regression model.

3.4 The proposal also raises the broader issue of the appropriate role of a regulator in intervening in commercial negotiations with frequent and scheduled regulatory pricing updates. This would seem to be inconsistent with the primacy accorded to commercial negotiations under Part XIC of the CCA.

Questions for your expert report

3.5 To assist us in providing legal advice to Telstra, we request that that you provide your views in relation to this issue, based on your economic expertise and your experience in telecommunications regulation and commercial arrangements in the United Kingdom and other jurisdictions. In particular, we would appreciate receiving your views on the extent to which:

(a) overly-frequent periodic regulatory pricing reviews may distort competitive outcomes and/or undermine incentives for efficient investment and access to telecommunications, especially given that the currently proposed term of the FAD is only 2.5 years (which suggests that any "periodic" updates would need to be significantly more frequent or "shorter term" than this); and

(b) regulatory certainty (for a reasonable period) is a key outcome that should be sought by regulators, including in the context of the FAD for the DTCS. In this regard, we note the ACCC's comments in relation to this issue in its Access Determinations relating to fixed line services.[1]

3.6 Please also provide your views in relation to any other matters that you consider relevant.

4 Timing and requirements for report

Timing

4.1 Given the ACCC's timing requirements for issuing a FAD, we would appreciate receiving your draft report by 25 April 2012 (UK time).

Requirements for report - independence

4.2 Your expert opinion is sought for the purpose of us providing legal advice to Telstra. However, it is possible that any FAD by the ACCC may in the future be the subject of litigation. Accordingly, we request that you familiarise yourself with the Australian Federal Court's Practice Direction entitled "Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia" (see **Attachment 5**), and prepare your report in accordance with those Guidelines.

4.3 Please also attach a copy of CV and summary of your relevant experience to your report.

[1] See for example, ACCC, *Inquiry to make final access determinations for the declared fixed line services: Final Report,* July 2011, 7, 9-11, 24, 26, 31-32, 75-76, 127, 129, 133-134, 147-152 available at <http://www.accc.gov.au/content/item.phtml?itemId=998438&nodeId=23b563686914b4f6662f2451aa1470e7&fn=FADs%20for%20Fixed%20Line%20Services%20-%20Final%20Report%20-%20public%20version.pdf> (accessed 16 April 2012).

KING&WOOD MALLESONS

16 April 2012

5 Further information

5.1 Please contact us if you require any further information or documents in order to provide the requested report.

Yours sincerely

per

PP

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Direct line +61 2 9296 2327
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Attachment 2 – Kip Meek curriculum vitae

Kip Meek

Profile

Kip is a founding director of the Communications Chambers, a Senior Adviser to Everything Everywhere and a Director of the Radio Centre.

He was appointed 'Independent Spectrum Broker' by the UK government in February 2009 with the objective of facilitating the highly contentious 'refarming' process, associated with the 900 MHz spectrum band.

Between 2003 and 2007, Kip was a Board member of Ofcom where he held a variety of responsibilities, including chairing the European Regulators Group. Kip led the negotiations with British Telecom (BT) that lead to the establishment of Openreach, the functionally-separated division of BT. He also ran the Content & Standards group in Ofcom and was heavily involved with the first and second Public Service Broadcasting Reviews.

Before joining Ofcom, he was founder and Managing Director of Spectrum Strategy Consultants (Spectrum). Spectrum provided strategy consulting services to telecoms and media companies, from offices in London, Singapore, Sydney and Rio de Janeiro.

Employment History

Current roles

Communications Chambers — **2011 – present**
Founder of network of senior Communications industry professionals

South West Screen — **2010 – present**
Chairman

South West Screen is the public agency devoted to developing the creative industries in the South West of England; it is in the process of being merged into Creative England

Everything Everywhere — **September 2010 – present**
Senior Public Policy Adviser

Everything Everywhere is the JV between Orange and T-Mobile in the UK

Radio Centre — **2007 – present**
Board member
Non-executive Director

The Radio Centre is the body representing the interests of commercial radio in the UK

Previous roles

YouView — **2010-2011**
Chairman during period of incorporation

Ingenious Media Board member		**2007-2010**
Broadband Stakeholder Group Chairman		
Ofcom Executive Board Member, Senior Policy Partner and Chairman of the European Regulators Group Key achievements: creation of BT Openreach, chairmanship of the European Regulators Group, extension of self-regulation to broadcast advertising, reduction in prices of unbundled local loops		**2003-2007**
Spectrum Strategy Consultants Founder & Managing Director Key achievements: establishment of new business and progressive expansion across multiple geographies ; high professional reputation for spectrum		**1993-2003**
Coopers & Lybrand Partner, Head of the Media Practice		**1988-1993**
Octagon Services Ltd Managing Director		**1986-1988**
British Telecom Deputy Director, Marketing		**1984-1986**
McKinsey & Co, London Consultant		**1981-1984**
Boston Consulting Group, Boston USA Consultant		**1977-1979**
Education	**1973-76**	Magdalen College, Oxford, First Class Honours, Modern History
	1979-81	London Business School, MSc with Distinction
Publications	**2008**	'Public Service Broadcasting in the United Kingdom' (with Robin Foster)
	May 2009	'Report of the Independent Spectrum Broker'