



5 November 2008

Mr Robert Wright
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Copy to

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Australian Competition and Consumer Commission
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Dear Mr Wright

ACCC's Draft Decision in relation to Telstra's domestic transmission capacity service (DTCS) exemption applications of 21 December 2007 - submission

1 Market Clarity supplementary report on competitive fibre in Brisbane CBD

Further to Telstra's submission on 24 October 2008 on the Commission's Draft Decision in relation to Telstra's four (4) domestic transmission capacity service (DTCS) exemption applications of 21 December 2007 ("**Second set of Applications**"), Telstra provides a confidential "ACCC only" report from Market Clarity dated 4 November 2008 (see Attachment 1). This report provides information on competitive (non-Telstra) fibre in the CBD area of Brisbane. Telstra submits that the Market Clarity report is reliable evidence of effective fibre-based competition in the CBD area of Brisbane, and the Commission should exempt tail transmission in Brisbane as well as in Melbourne and Sydney.

2 PSTN OA Final Decision is relevant to the DTCS exemption

The Commission has now made a final decision to exempt domestic PSTN Originating Access ("**PSTN OA**") from standard access obligations in the 17 ESA that comprise the CBD areas of Queensland, NSW, Victoria, South Australia and Western Australia. In making this decision, the Commission found that "there are a number of alternative infrastructure providers that ... are capable of providing voice and broadband services" in the CBD areas¹.

This finding is relevant to Telstra's application of December 2007 for an order to exempt DTCS from standard access obligations in CBD Exemption Areas as defined in Telstra's application. The CBD Exemption Areas are identical to the 17 ESAs that are the subject of the Commission's final decision to exempt domestic PSTN Originating Access.

Telstra asks that the Commission makes its decision on Telstra's application to exempt DTCS in CBD and metropolitan areas taking into account the findings in its final decision to exempt PSTN Originating Access, including in particular, its finding that there are alternative infrastructure providers in the CBD areas and any evidence (including

¹ ACCC (October 2008), Telstra's PSTN Originating Access exemption applications - CBD and metropolitan areas, Final Decision and Class Exemption, p 193

information obtained under the Commission's record keeping rules) relevant to this finding. Telstra also relies upon the Commission's PSTN OA final decision for the purposes of its DTCS exemption applications.

Telstra is happy for this letter to be published on the Commission's website. The Market Clarity report should not be published on the Commission's website.

If you have any questions about this letter or the attachments to it, please contact Paul McLachlan on 02 9298 5559.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tony Warren', with a stylized flourish extending to the right.

Tony Warren
Executive Director Regulatory Affairs
Public Policy and Communications

Attachment 1: Confidential Market Clarity report (ACCC only)