EXPLANATORY STATEMENT

Pricing Principles for the Unconditioned Local Loop Service

Trade Practices Act 1974

Legislative Provisions

The Pricing Principles for the Unconditioned Local Loop Service (the Determination) has been made by the Australian Competition and Consumer Commission (the Commission) in accordance with section 152AQA of the Trade Practices Act 1974 (the Act).

Section 152AQA(1) of the Act requires the Commission to, by writing, determine principles relating to the price of access to a declared service.

Section 152AQA(6) of the Act requires the Commission to have regard to the determination if it is required to arbitrate an access dispute under Division 8 of the Act in relation to the declared service.

The Determination is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Background


Following the declaration, the Commission conducted a public inquiry into the appropriate principles relating to the price of access to the declared ULLS.


The Determination sets out the principles to which the ACCC will have regard in arbitrating access disputes in relation to the ULLS.

The Determination is named the Pricing Principles for the Unconditioned Local Loop Service.

Regulation Impact

The Commission has obtained the advice of the Office of Best Practice Regulation (formerly the Office of Regulation Review) that a Regulation Impact Statement is not required for Pricing Principles made in accordance with s 152AQA.
Consultation

Draft Pricing Principles were published in Chapter 7 of the Commission’s July 2006 Declaration inquiry for the ULLS, PSTN OTA and CLLS—final decision report. The report was published on the Commission’s website www.accc.gov.au and submissions from interested parties were sought at that time.

Three submissions were received at that time. However the Commission did not finalise the pricing principles at that time given that there were a number of ULLS pricing issues being considered in relation to Division 5 undertakings (including a review by the Australian Competition Tribunal).

The Commission moved to finalise the pricing principles in October 2007. Because of the time that had elapsed since the July 2006 consultation, the Commission sought further submissions in October 2007 by publishing a report titled Fixed services review—further consultation on draft ULLS pricing principles. The report was published on the Commission’s website www.accc.gov.au.

The ACCC received a further six submissions in response to this additional consultation.

Commencement of Determination

The Determination commences on the date it was made.
Notes on the Determination

The Commission’s principles relating to the price of access to the declared ULLS are set out in Schedule 1 of the Determination.

The Determination confirms that the Pricing Principles apply to the Unconditioned Local Loop Service (ULLS). The ULLS was re-declared in July 2006.

The Determination commences on the date that it is made.

Schedule 1

The Determination provides that a TSLRIC+ pricing principle should be applied to the ULLS. The TSLRIC+ approach can be considered by breaking the concept into components:

- “Total service” refers to the cost of production of an entire service, rather than the cost of a particular unit. The cost is usually expressed on a per-unit basis by dividing by the number of units supplied.

- “Long run” means that the concept refers to a period where all factors of production can be varied, as opposed to the short run, where the amount of at least one factor of production is fixed.

- “Incremental cost” means that the concept refers to the additional costs of supplying the service over and above the situation where the service was not supplied, assuming the scale of all other production activities remains unchanged. Strictly speaking, the concept refers to only those costs that can be attributed to the production of the service. In practice, the strict TSLRIC concept is often expanded to include a contribution for indirect and overhead costs (TSLRIC+).

The Determination provides that a specific cost component should be included in the ULLS monthly price, calculated by combining ‘ULLS-specific costs’ with ‘LSS-specific costs’ and Telstra’s internal equivalent costs for ADSL, and allocating those costs across the number of active ULLS, LSS and ADSL lines. Specific costs are costs incurred by Telstra to allow for supply of the declared ULLS and other products. The costs typically claimed by Telstra are IT system development and operational costs, front-of-house connection group costs, wholesale product management costs and indirect costs. An access provider will face the above categories of costs when:

- supplying the ULLS (or LSS) to another service provider, or

- when providing line sharing to itself – that is, when it uses a copper loop to supply both voice and data services (either retail or wholesale) on the line.

The Determination provides that the ULLS charges should be geographically de-averaged. Geographic de-averaging provides that prices are set for the ULLS such that they reflect significant cost differentials in different geographic regions.
The Determination provides that connection charges should be set with reference to the amounts charged by third party contractors to Telstra for jumpering work in exchanges, indirect costs and back-of-house costs. Connection charges recover the costs of technicians performing jumpering work inside Telstra exchanges, travel and vehicles costs for the technicians, back-of-house costs and materials costs.