EXPLANATORY STATEMENT

Pricing Principles for the Line Sharing Service
Trade Practices Act 1974

Legislative Provisions

In April 2007, the Australian Competition and Consumer Commission (the Commission) initiated an inquiry into the declaration of the Line Sharing Service (LSS), in accordance with subsection 152ALA(7) of the Trade Practices Act 1974 (the Act). As a result of that inquiry the Commission decided to extend the declaration of the LSS until 31 July 2009, pursuant to section 152ALA of the Act.

At the same time, the Commission also made the Pricing Principles for the Line Sharing Service (the Determination) in accordance with section 152AQA of the Act.

The LSS is a service that allows access seekers to provide high-speed broadband services to end-users via access to the higher frequency part of the copper line, while the access provider supplies the underlying PSTN voice service over the same copper line.

Subsection 152AQA(1) of the Act provides that the Commission must, by writing, determine principles relating to the price of access to a declared service. Subsection 152AQA(2) of the Act provides that the determination may also contain price-related terms and conditions relating to access to the declared service. The price-related terms and conditions are typically referred to as “indicative prices”.

Subsection 152AQA(6) of the Act provides that the Commission must 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. However, the pricing principles are not binding on the Commission. Parties to arbitrations are still able to address the Commission on the relevance and applicability of the pricing principles to the circumstances of their particular dispute.

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

Purpose

The purpose of the Determination is to inform industry, government and other interested parties of the principles and price-related terms and conditions that are likely to guide the Commission when considering an access dispute or assessing an undertaking in relation to pricing for the LSS.
The Commission considers that the Determination will guide commercial negotiation of access by providing greater certainty regarding the Commission’s views on reasonable access prices.

**Background**


In April 2007, the Commission commenced a public inquiry regarding the declaration of the LSS. The Commission also sought public comment about the appropriate principles related to the price of access that should apply to a declared LSS, should the service continue to be declared. Following the public inquiry, the Commission has made the decision to extend the declaration of the LSS until 31 July 2009. The Commission’s decision is set out in its October 2007 report *Review of the Line Sharing Service declaration—final decision*, which is available on the Commission’s website at www.accc.gov.au.

The inquiry also concludes with the making of the Determination. The Commission’s analysis regarding the pricing principles and indicative prices that are to apply to the LSS is also set out in the Commission’s report *Review of the Line Sharing Service declaration—final decision*.

**Regulation Impact Statement**

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 the Determination.

**Consultation**

Before making a pricing principles determination, the Commission is required by subsection 152AQA(4) to publish a draft determination, invite people to make submissions and consider any submissions received.

In April 2007, the Commission released a paper, *Fixed services review – a second position paper* as part of its strategic review of the regulation of fixed network services. Among other things, the paper sought submissions from interested parties on various issues relevant to whether the LSS should be declared, and if so, what pricing principles should apply to the LSS. Eleven submissions from ten interested parties were received in response to the discussion paper.

Draft LSS Pricing Principles (including draft indicative prices) were published in the Commission’s August 2007 *Review of the Line Sharing Service declaration—draft decision*. The draft decision was published on the Commission’s website.
and submissions from interested parties were sought at that time. Eight submissions from seven interested parties were received in response to the draft decision.

The Commission has taken all of these submissions into account in making the Determination.

**Commencement of Determination**

The Determination commences on the day it is made.
Notes on the Determination

The Commission’s principles relating to the price of access to the declared LSS are set out in Part 1 of Schedule 1 of the Determination. An explanation of the principles is set out below.

The Commission’s price-related terms and conditions relating to access to the declared LSS are set out in Part 2 of Schedule 1 of the Determination. An explanation of the price-related terms and conditions is set out below.

Schedule 1

Part 1 – Pricing Principles

The Commission’s pricing principles for the LSS address the following issues:

- the TSLRIC+ pricing principle;
- a specific cost component;
- whether to include a contribution for line costs; and
- connection and disconnection charges.

TSLRIC+ pricing principle

The Determination provides that a TSLRIC+ pricing principle should be applied to the LSS. 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” 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” 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+).

Specific cost component

The Determination provides that a specific cost component should be included in the LSS monthly price, calculated by combining ‘LSS-specific costs’ with ‘ULLS-
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 LSS 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 these categories of costs when:

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

**Contribution for line costs**

The Determination provides that a contribution for line costs will not be recovered in the LSS monthly price. LSS is provided over the high frequency part of a copper line. The LSS service description specifies that the LSS is only provided in association with the provision of an underlying PSTN voice service on the same copper line. The line costs are the costs of the copper line that is shared between the LSS and the underlying PSTN voice service.

**Connection and disconnection charges**

The Determination provides that connection and disconnection 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 vehicle costs for the technicians, back-of-house costs and materials costs.
Part 2 - Price-related terms and conditions

The Commission issued price-related terms and conditions (also known as indicative prices) relating to access to the declared LSS that apply from 1 January 2008 to 31 July 2009, the expiry date of the LSS declaration. An explanation of these terms and conditions is as follows:

Managed network migration (MNM)
A managed network migration is a transfer or migration of services that is achieved by the project management by Telstra of a coordinated cancellation and connection of services.

LSS monthly charge
The LSS monthly charge is an ongoing rental charge paid by an access seeker to the access provider on a monthly basis for the use of the LSS.

LSS connection not made in a managed network migration (MNM)
The charge for a LSS connection not made in a managed network migration (MNM) is a once-off charge paid by an access seeker to the access provider for work performed to connect a LSS.

The charge applies to LSS connections not made as part of a MNM.

LSS disconnection not made in a managed network migration
The charge for a LSS connection not made in a managed network migration (MNM) is a once-off charge paid by an access seeker to the access provider for work performed to disconnect a LSS. A disconnection charge is not payable where the disconnection is made under certain circumstances.

The charge applies to LSS disconnections not made as part of a MNM.

LSS managed network migration - fixed amount
The charge for LSS managed network migration - fixed amount is a once-off charge per MNM for work performed to connect services as part of a MNM.

LSS managed network migration - variable amount
The charge for LSS managed network migration - variable amount is a once-off charge per connection for work performed to connect services as part of a MNM.

LSS managed network migration - minimum charge
The LSS managed network migration – minimum charge specifies the minimum charge per exchange for any MNM requested by an access seeker, irrespective of the number of services connected.

LSS managed network migration - disconnection charge
The LSS managed network migration – disconnection charge specifies the charge per disconnection for any disconnection made as part of a MNM. The Determination specifies that a charge is not payable for such disconnections.