Review of Telecommunications Specific Competition Regulation

Initial Submission by PowerTel Ltd

The Commonwealth Government has directed the Productivity Commission to inquire and report within twelve months into telecommunications specific competition regulation. PowerTel is pleased to provide the following initial submission to the Commission in response to the issues paper circulated in June 2000.

1. POWERTEL LTD

PowerTel, as it now is, officially came into existence on 14 August 1998. It is listed on the Australian Stock Exchange (code: PWT). A consortium of three energy companies in Australia owns the largest shareholding, namely EnergyAustralia (NSW), CityPower (Vic) and Energex (Qld). The US based energy and telecommunications multinational Williams Group, and a public shareholding as listed on the Australian Stock Exchange share the remainder. Williams were the first company to offer a number of important breakthrough technologies and services, including ATM and Frame Relay, helping businesses work faster and more efficiently.

In terms of infrastructure deployed, PowerTel is now the third largest fixed network telecommunications carrier in Australia. The Brisbane to Melbourne fibre backbone build, and initial CBD networks in Sydney, Melbourne and Brisbane have been completed. PowerTel's goal is to have 325 buildings with equipment installed by the end of 2000. PowerTel has forged strong strategic partnerships with some of the world's most successful and experienced technology providers – namely, Cisco Systems, Nortel Networks and Oracle.

PowerTel offers voice (managed and standard), data (leased lines, frame relay, ATM and managed solutions) and Internet (IP/VPN, telehousing, dial up and dedicated) services.

2. OBJECTIVES FOR TELECOMMUNICATIONS SPECIFIC REGULATION

The original objectives for telecommunications specific legislation arose from the Hilmer report in the late 1980s. In our view, the two key themes that arose from the Hilmer report, and still applicable to the Productivity Commission's current review, are the need:

- to increase the efficiency and competitiveness of the industry; and
- for efficient allocation of resources to avoid unnecessary and uneconomic duplication of infrastructure and resources.

Together with the Hilmer objectives, we believe the Productivity Commission's review should focus on delivering the following objectives for the industry and the economy generally:

- regulatory certainty over a reasonable period of time, which recognises the interconnected nature of the telecommunications industry and the overall need for any to any connectivity;

- emphasis on the paramountcy of commercial negotiation, backed up by effective regulatory intervention powers and processes where commercial negotiation is frustrated or delayed on access to bottlenecks of the dominant incumbents in fixed (Telstra) and mobile (Telstra, Optus and Vodafone) services;

- justifiable and rational pricing outcomes which encourage efficient resource allocation;

- transparency and timeliness of regulatory decision making; and

- effective enforcement of regulatory decisions.

3. DISCUSSION OF MAJOR PROVISIONS IN THE CURRENT FRAMEWORK

The following is a brief review of the legislative provisions and outcomes since enactment in July 1997.

3.1 PART XIB – ANTI-COMPETITIVE CONDUCT & RECORD KEEPING RULES

Part XIB of the Trade Practices Act ("the TPA") sets up a special regime for regulating anti-competitive conduct in the telecommunications industry, in addition to Part IV, and sets out the circumstances in which carriage service providers ("CSPs") are said to engage in anti-competitive conduct. A CSP may not engage in anti-competitive conduct (the competition rule). The ACCC may issue a competition notice stating that a CSP is breaching the competition rule. Exemptions may be granted from the competition rule.

Further, this part of the TPA also provides for the ACCC to

- direct CSPs to file tariff information,

- make record keeping rules and require CSPs to comply with those rules.

The ACCC (Anti-competitive Conduct in the Telecommunications Markets – An Information Paper, August 1999) has proposed a series of indicative timeframes designed to provide a measure of certainty as to the time it would take to investigate and decide whether or not to issue competition notices:

1. *a preliminary phase* during which the ACCC decides whether or not it has reason to suspect that a contravention of the competition rule has occurred and whether to proceed with an investigation – 30 days;

2. *an investigative phase* commencing once the ACCC has decided that it has reason to suspect a contravention of the competition rule and concluding with a decision as to whether there is reason to believe that anti-competitive conduct is occurring. This phase is to be completed within 3 months unless the matter is particularly complex in which case investigation may take longer;

3. *a decision making phase* – during this phase, the ACCC considers the information gathered during the investigation, whether there exists a reason to believe that anti-competitive conduct is occurring and whether to issue a competition notice in relation to that conduct. This phase is to be completed within 30 days of the conclusion of the investigation.

This is a total of 5 months (unless the matter is complex, in which case an even longer period will apply).

The introduction of Part A competition notices occurred in 1999 as a result of criticisms of the previous regime (which now equates to Part B competition notices). Part A competition notices were intended to enable the ACCC to move more quickly to stop anti-competitive conduct. Competition notices are also a trigger – affected private parties are unable to bring action for breach of the competition rule unless a competition notice has been issued.

Set out in *Attachment 1* is a table of all competition notices issued under the telecommunications regime since 1 July 1997. All notices issued so far were issued prior to the 1999 amendments.

No Part A competition notices have yet been issued.

3.2 PART XIC – ACCESS REGIME

Part XIC of the TPA provides that eligible carriage services may be "declared" either on recommendation of the Telecommunications Access Forum ("TAF") or after public inquiry by the ACCC. Once a service is declared, carriers and carriage service providers supplying the declared service to themselves or others are subject to standard access obligations ("SAOs"). These obligations constrain the way in which carriers and (CSPs) conduct themselves in the supply of the declared service or services. The terms and conditions on which CSPs are required to comply with the SAOs are subject to agreement, and if agreement cannot be reached:

- if the service provider has given an access undertaking, the terms and conditions are as set out in the access undertaking;

- if the service provider does not have an operational access undertaking, the terms and conditions are as determined by the ACCC as arbitrator.

The ACCC may conduct an arbitration in relation to a dispute over access to declared services. CSPs or related bodies must not prevent or hinder access to a declared service.

In a document called “Declaration of Telecommunications Services – A Guide” dated July 1999, the ACCC outlined its general approach to the declaration of services under Part XIC. In relation to timeframes, the ACCC provided the following indications:

- Declaration following a recommendation from the TAF – the ACCC's role is to ensure that the TAF has undertaken appropriate consultation with representatives of likely access seekers and consumers and to make a written instrument formally declaring the service. The Commission is not required to undertake a public inquiry into declaration of the service. As a result it was anticipated that services could be declared sooner as a result of TAF recommendation than if the ACCC were to hold a public inquiry. [*The reality has been that the TAF has generally been ineffective in reaching consensus on services to be declared.]*

- Declaration following a public inquiry – the Commission may decide to initiate a public inquiry itself. If it receives a request by a person to hold a public inquiry, it will generally determine whether or not to hold an inquiry within 30 days of receiving the written request.

The ACCC paper (called "Declaration of Telecommunications Services – a Guide") states that in the case of a major or complex declaration inquiry where the Commission considers the release of a draft report appropriate, it would aim to release a discussion paper, hold hearings and issue a draft report within 6 months. It would then expect to release a final report within a further 3 months.

In the case of other declaration inquiries, the ACCC would endeavour to complete its work and issue a final report within 6 months of commencing the inquiry.

As a consequence, it was anticipated that for major matters the process would take a maximum of 10 months (including 1 month to consider whether to hold an inquiry) and a maximum of 7 months for other declaration inquiries (again including the time taken to decide whether to hold an inquiry).

Attachment 2 is a table of declarations and declaration inquiries since 1997.

However, it is also interesting to note the history of the arbitration process, and the lack of transparency of outcomes that the process has delivered. *Attachment 3* contains a list of arbitrations of which PowerTel is aware.

4. KEY ISSUES

4.1 CONTINUING NEED FOR INDUSTRY SPECIFIC REGULATION

The history of telecommunications deregulation since 1991 (including under the current regulatory regime), is that:

- the telecommunications industry remains dominated by Telstra. Only C&W Optus is able to exert any real commercial pressure on Telstra;

- the experience in relation to competition notices and arbitrations (details of which are provided in Attachments 1 & 3) has demonstrated that even telecommunications specific regulation in its current form is not sufficient to restrain Telstra's market power and deliver timely competitive outcomes in the telecommunications industry

- international precedent clearly supports the retention of industry specific regulation – indeed New Zealand is now moving to impose stronger regulation on wholesale activities

Telstra remains by far the dominant carrier in terms of the local loop – we estimate its share would be in excess of 95%. The rest of the market structure clearly indicates the substantially dominant position of Telstra (as the ACCC noted in "A Report on the Assessment of Telstra's Undertaking for the Domestic PSTN Originating and Terminating Access Services – July 2000")

(1) FIXED	***National Long Distance***	***International***
Telstra	75%	48%
Optus	16%	18%
Others	9%	34%

(2) MOBILE

Telstra	50.5%
Optus	32%
Vodafone	17.5%

4.2 PART XIB – ANTI-COMPETITIVE CONDUCT & RECORD KEEPING RULES

The ACCC appears reticent to issue notices in the time frames during which anti-competitive conduct needs to be reviewed.

PowerTel considers it would be appropriate to introduce a new mechanism which enables the ACCC to issue "stop orders" where it reasonably suspects anti-competitive behaviour. This provides an interim process, which enables the ACCC to consider whether the issue of a full competition notice is appropriate. The recipient of the notice should not be permitted to slow down progress of consideration of the issue of the notice by procedural fairness and arguments as to form. Unless such a process is put in place, the offending party is able to continue to engage in the disputed conduct, to the commercial detriment of the affected party. Further, Section 151 BY should be amended to enable an affected party to commence court proceedings for a breach of the competition rule prior to the issue of a competition notice.

The position in respect of record keeping rules, and the extent to which they have been relied upon to assess anti-competitive conduct is unclear. There appears to be insufficient transparency in the application of these rules and their application to particular parties. There is a need to address these concerns, otherwise the usefulness of the arrangements cannot be properly assessed.

Part XIC also has as its object the promotion of the long term interests of end-user of carriage services. While PowerTel believes this interest test has provided an appropriate hurdle in the context of regulatory review, it considers that the test could be strengthened by review of whether wholesale arrangements contribute to the long term interests of end users. It is therefore proposed that where the access regime conducts a regulatory review of any access arrangement, the test be specifically applied to those wholesale arrangements.

4.3 PART XIC – ACCESS REGIME

(a) Declaration

The "declaration" process is flawed because it takes too long and does not provide the flexibility necessary to bring new services within reach of access seekers.

The declaration process does not encourage the development of efficient technical interconnection arrangements. Inevitably new entrants are forced to comply with outdated rigid processes and labour intensive arrangements for technical interconnection. PowerTel's attempts to develop more efficient fully automated arrangements are strongly resisted by the dominant incumbent, for example at the optic fibre level. Unfortunately this sets the pattern for rest of industry.

Declaration permits a party to obtain the benefit of the SAOs and enable it to take advantage of the dispute resolution procedures. However, even when services are declared (for example, transmission services) the process requires follow through to dispute resolution by arbitration before pricing certainty can be achieved. In the case of transmission services, even though the services are declared, the prices at which the services are made available reflect the fact that no full arbitration decisions have been sought. The outcome is that prices have fallen substantially where competition exists (ie more than 2 carriers) and fallen only incrementally where no competition exists. This has implications for the delivery of competitive services to rural and remote communities.

By the time a service declaration process is complete, the incumbent access provider has invariably made a similar commercial service available, effectively rendering the achievement of the declaration less significant. The dominant incumbent through management of the self-regulatory process manages the competitive process.

(b) Industry Self Regulation & Role of TAF

The advisory role of the TAF in the declaration process is meant to enable industry, through self-regulation, to develop the most efficient arrangements in respect of declared services. However, the incumbent approaches the TAF as a potential bilateral negotiation, and is reluctant to concede any commercial position in this forum. TAF has been forced to spend interminable amounts of time on line-by-line analysis of procedural issues, instead of focussing on efficient outcomes and the most effective means of delivering those outcomes.

There is a need to restructure the TAF and the way in which members participate in that forum in giving advice to the ACCC on service declaration matters. It may be appropriate to consider whether the TAF should be recreated as an ACCC advisory body, where the relevant industry participants are invited to participate. All relevant members of the industry could be invited to supply a panel list from which the ACCC could make a selection with a view to achieving an appropriate mix of expertise. The TAF would then be bound by ACCC requirements on procedure and advice, rather than commercial matters.

(c) Arbitrations

Attachment 3 highlights the inefficient arbitration process and the inherent duplication that wastes the time and resources of smaller carriers and CSPs. It is not appropriate, in the absence of agreement on price, to require each access seeker to carry out its own arbitration with the access provider – as for example there are with the Telstra PSTN pricing. There are also too many procedural difficulties where a party wishes to join arbitration – for example, confidentiality, commercial conflict, and repetition of costing evidence.

The regime is unable to deliver certainty even on the most basic pricing issue facing all operators, being access to and termination on Telstra's PSTN (while the ACCC has issued its final report on PSTN pricing, there is still some uncertainty about its application, after 3 years of debate, extensive & expensive modelling and arbitrations).

It is also now likely that all facilities based carriers will need to arbitrate termination rates for each of their networks with Telstra. This will only increase the burden on industry in general and the ACCC in particular.

One solution may be that following the first arbitration on a particular "class" of carrier or "category" of issue, the ACCC has the power to set a "benchmark ceiling" rate, that is, a maximum rate the provider is permitted to charge for access. Parties could be free to negotiate below this rate. Alternatively, once an arbitration is notified in respect of a particular subject, the ACCC must publish a report on the subject, whatever the outcome may be – the proposal that the outcome acts as a ceiling would also apply. In any event, once an arbitration has been commenced, the outcome must be published.

(d) Pricing Principles

There is some concern at outcomes emerging from the current pricing regime. Of particular concern are

- the issue of reciprocity of pricing for like services (eg PSTN origination and termination) between carriers (with the potential imposition of a higher cost structure on all new entrants)

- the high level of termination rates for calls from fixed network operators to mobile networks.

In seeking to negotiate interconnection charges it pays to new operators, the incumbent is effectively seeking to leverage a reduction in the charges it pays vis a vis the charges paid to it. Further, as more and more new operators directly connect customers, the issue of termination rates payable between the new operators could become another layer of complex negotiation/arbitration/ACCC determination. In view of the materiality of traffic involved between new operators (compared to traffic to and from the incumbent) it may be appropriate to adopt a principle of reciprocity in charging between all carriers, possibly for an interim period of 3 years, until new operators are more established in the marketplace and the traffic develops some significance.

Mobile termination charges are also of concern, and this is reflected in the number of arbitrations notified. Notwithstanding claims by mobile operators that the industry is competitive, the distinction between retail competition on the one hand and access to the bottleneck facility (the end user connected to a particular mobile operator) must not be lost. There are a large number of pricing packages offered by mobile operators to retail customers for peak and off peak calls both on an "on-net" and "off-net" basis either to other mobile or fixed operators. A large number of these packages are priced substantially below wholesale carrier to carrier charges, and this position cannot be sustained. It clearly demonstrates that there is considerable scope for detailed regulatory review of the current single rate termination charge imposed by all mobile operators (which are also coincidentally at a similar level).

PowerTel notes that discrimination and bundling provisions were contained in the 1991 Telecommunications Act, and these were not continued under the 1997 Act. PowerTel and other services based operators are competing with operators who have both a mobile and fixed operation. The current approach to pricing of mobile termination services, together with a lack of regulation of bundling, appears to be allowing integrated operators (and mobile operators) to transfer price internally and bundle fixed and mobile services for customers in a way in which inhibits services based competition in fixed to mobile or in whole of service offerings.

As noted above, the relative lack of pricing flexibility for transmission capacity to, and within, rural and remote locations (ie non capital city) is also of concern. The small reductions in these prices have occurred at a far slower rate than transmission capacity pricing in those routes where competition exists (ie more than 2 carriers, and particularly in the Brisbane-Sydney-Melbourne route).

(e) Access Seeker Obligations

There is a significant shortcoming in the operation of the current access regime. The SAOs capture the supply of services by access providers (for example, when PowerTel provides terminating access to Telstra), but there is no obligation on the access seeker (ie Telstra in this example) to provide sufficient capacity to deliver traffic to the access provider in a timely, expeditious manner. Delays in excess of 6 months in the delivery of such capacity can have a substantial competitive impact . The incumbent is able to choke off the supply of traffic and reduce the attractiveness of new entrants' networks to potential customers, particularly at the wholesale level, where competition is the weakest.

A possible solution to this issue could be to amend the legislation for a mechanism to support a "default" position where the provider of terminating access can require the incumbent access seeker to demonstrate that capacity issues will not be used in a manner which leads to anti-competitive outcomes. The ACCC should have the power to arbitrate such disputes, as this is clearly an access issue.

4.4 OTHER ISSUES

(a) Part 17 of the Telecommunications Act (TA) – Preselection

The requirements for preselection arrangements are now working satisfactorily and do not appear to require further modification.

(b) Division 5 of Part 21 of the TA – Technical Standards for Interconnection

We are not aware of whether these provisions have been sufficiently tested by the ACCC, the ACA or the industry as a whole.

(c) Part 22 of the TA – Number Portability

It is too early to determine whether the number portability arrangements are working effectively on an industry wide basis.

(d) Division 3 of Part 25 of the TA – ACCC Inquiries

These provisions have not appear to have been widely used to address common industry issues.

(e) Parts 2 to 5 of Schedule 1 of the TA – Licence Conditions

There do not appear to be any outstanding issues with these provisions.

5. CONCLUSIONS

Removal or even diminishing telecommunications specific regulation in Australia is inappropriate at this time. Telstra remains the dominant operator in all markets in Australia.

The current regime has delivered a reasonably efficient "lowest common denominator" (LCD) basic connectivity, and assurance of end to end connectivity. It is appropriate to now raise the bar and ensure that future arrangements deliver more than just the LCD outcomes.

In terms of pricing outcomes, the current regime has delivered a somewhat opaque and uncertain regulatory environment, and the regulatory process has led to delays in important determinations, and even the PSTN pricing outcome is not yet certain.

The industry, and the dominant incumbents in particular, need to demonstrate a degree of maturity in commercial access dealings, which is not evident at this time. Industry self-regulation arrangements are at an early stage of development, and are incapable of delivering efficient outcomes without a regulatory safety net.

The perceived problems with the existing access regime can be rectified to meet the needs of the industry without having to resort to wholesale change, by:

- the removal of the need for repetition of the arbitration process for each and every operator;

- the avoidance of the potential for distorted pricing outcomes by rigorously applying correct and consistent pricing principles across market sectors;

- the restructuring of the TAF and its involvement in the declaration process (given TAFs current membership & voting structure);

- the tightening of the competition notice process;

- enhanced provisions for regulatory enforcement of action against anti-competitive behaviour (the effect of any penalty so far would be equivalent to less than a parking fine on an ordinary individual person);

In view of the interdependencies between network operators, and the need to provide any to any connectivity, the regulation should be focussed primarily on the wholesale carrier to carrier/ carriage service provider level.

The regulatory process needs to be carefully and strategically managed in the context of the objectives noted below, in order to ensure end use retail consumers (business and residential) of all telecommunications carriers/ carriage service provider will have the opportunity to benefit from service choice, price reductions, and service innovation through the use of alternate technology and creation of new products.

A REPORT CARD

GOALS OF THE CURRENT REGIME

Current provisions aimed at providing the basis for:

- ***a vigorous facilities and services based competitive regime***
- ***primacy of commercial negotiation***
- ***a regulatory safety net where competitive commercial process did not produce outcomes***
- ***industry consultative arrangements to support the competition process***
- ***promotion of the long term interests of the end user***

WHERE ARE WE?

A VIGOROUS FACILITIES AND SERVICES BASED COMPETITIVE REGIME

Outcomes:

i) ***Generally a good result as far as new participants are concerned****. A number of new facilities and services based operators have entered the market.* ***Progress however is steady at best and tedious in reality****. Incumbents are able to limit new entrants business models by virtue of their unwillingness to offer true wholesale services and products.*

ii) ***Current regulatory structure has delivered only the most basic level of declared services and connectivity arrangements****. Moves to extend the range of declared services are met with commercial opposition in "self-regulatory" fora, often rendering the process ineffective.*

iii) *After eight years of managed deregulation Telstra remains by far the dominant operator in most fixed, mobile, and internet* ***market structure continues to deliver the competitive baggage inherent in a vertically integrated dominant industry participant.***

PRIMACY OF COMMERCIAL NEGOTIATION

Outcomes:

i) ***Commercial Negotiation has clearly a lot of ground to recover****. The regulatory "safety net" has now effectively become the primary process for delivering commercial outcomes for non-dominant industry players. The number of interventions and arbitrations currently before the ACCC highlight the inadequacy of the current process.*

A REGULATORY SAFETY NET WHERE COMPETITIVE COMMERCIAL PROCESSES DO NOT PRODUCE OUTCOMES

Outcomes:

I. *Up to 23 arbitrations notified to the ACCC, many dating as far back as two years with no result to hand demonstrates the flawed process.* ***The regulatory safety net has become the prime negotiator*** *– it was not equipped, nor was it intended, that it should fulfil this role.*

II. ***The regulator needs revival****. The structure of the regulatory safety net itself requires refinement in order to deliver more timely and effective outcomes for the industry. Further, the regulatory outcomes need to be capable of timely implementation and enforcement. The current processes do not enable such intervention.*

INDUSTRY CONSULTATIVE ARRANGEMENTS TO SUPPORT THE COMPETITION PROCESS

Outcomes:

I. *Industry self regulation arrangements reflect the disparity in resources available to members to guide industry standards.*

II. ***Members are unable to develop industry processes where commercial advantage is perceived to be at stake.*** *The excessive time taken to bring to introduce "new" services through operational codes developed by industry demonstrates that the commercial risk slows down the process. The major industry codes that have been implemented in a timely fashion have been championed by the regulatory agencies – for example, the Commercial Churn Code, Preselection and Local Number Portability.*

PROMOTION OF THE LONG TERM INTERESTS OF THE END USER

Outcomes:

I. ***The current provisions have made a substantial contribution towards promotion of the long term interests of the end user by serving as a focal point for regulatory review of commercial activity – but is it enough?***

GET THE GAME TO THE GOAL POSTS

- *International precedent continues to acknowledge need for telecommunications industry specific regulation – no country with substantial competition has removed these controls. On the contrary, New Zealand which did not favour industry specific regulation is now moving to introduce such regulation.* ***Australia should also retain industry specific regulation, and make it more effective by refining existing provisions***

- ***Encourage more efficient and flexible technical and commercial interconnection arrangements****. This will stimulate the development of a wider range and cross section of services to customers of all carriers. Breaking down these inflexible arrangements will encourage product innovation*

- ***Encourage consistency of pricing outcomes*** *between fixed and mobile markets, and between dominant and non-dominant operators in the fixed market. This can be achieved through application of consistent pricing principles*

- ***Make the declared services regime work by strengthening regulations applying to declared services***

- ***Revamp the role of the industry consultative bodies*** *and in particular, the TAF, within the declared services and broader regulatory context to provide for an effective channel for industry expertise and advice to be made available to the regulators*

- ***Include a requirement for the test of the long term interests of end users to include review of whether restrictive wholesale arrangements between carriers impact on customer choice***

- ***Empower the regulator*** *to provide for effective enforcement of decisions made under Part XIB and Part XIC so as to avoid delay and obfuscation on process and procedural grounds*

- ***Encourage the retention of regulatory expertise*** *and resources in telecommunications matters within the regulatory agencies, and the ACCC in particular*

ATTACHMENT 1

COMPETITION NOTICES DEALT WITH UNDER PART XIB

Issue	Industry Complaints	Date Competition Notice(s) Issued	Litigation	Date Issue Resolved
Telstra internet peering arrangements	Late 1997	28 May 1998 – replacement notice issued 18 June 1998	No – there was a negotiated settlement	22 June 1998, notice withdrawn
Telstra Commercial churn	Late 1997/early 1998, ACCC announced investigation on 26 February 1998	10 August 1998, fresh notices issued on 14 October 1998, 3 further notices issued on 2 December 1998, further notice issued on 9 April 1999	Yes, proceedings issued on 24 December 1998, final Statement of Claim filed on 23 April 1999	23 February 2000

ATTACHMENT 2

Declarations and declaration inquiries since 1 July 1997

Date Inquiry Announced	Service	Date of draft Report	Date of Final Report	Result
24 November 1997	Intercarrier Roaming – 800 MHz and 1.8 GHz	-	3 March 1998	No declaration
22 December 1997	Digital Data Access (refinement)	30 April 1998	October 1998	Refinement
22 December 1997	Transmission (refinement)	11 May 1998	October 1998	Refinement
22 December 1997	ISDN Originating and Terminating Access	30 April 1998	October 1998	Declaration
19 March 1998	Local Call Resale, Local Interconnection and Unbundled Local Loop	23 December 1998	22 July 1999	Declaration*
8 October 1998	Mobile to fixed	23 August 1999	14 January 2000	No declaration
23 December 1998	Declaration of pay television services – amendment of analogue description and extension to technology neutral service (ie. add digital)	3 June 1999	30 August 1999	Existing analogue service description amended (no change in substance). No declaration in relation to digital services
6 June 2000	Transmission capacity variation/revocation	-	-	-

*** ACCC announced on 29 June 2000 that Telstra had lodged an application for exemption under Part XIC from its obligations to supply local call resale in CBD areas.**

ATTACHMENT 3

ACCESS DISPUTES UNDER PART XIC

Service	Access Provider	Access Seeker	Date of Notification to ACCC	Result
GSM terminating access	Vodafone	Telstra	15 July 1998	Notification withdrawn by Telstra on 15 November 1998
Domestic PSTN originating and terminating access	Telstra	AAPT Limited	17 December 1998	Not public
Domestic PSTN originating and terminating access	Telstra	Optus Networks & Optus Mobile	17 December 1998	Not public
Transmission capacity and Domestic PSTN originating and terminating access	Telstra	Primus Telecoms	22 February 1999	Not public
Domestic transmission, GSM originating and terminating access, digital data access	Telstra	AAPT Limited	26 March 1999	Not public
ISDN originating and terminating access	Telstra	C & W Optus	27 May 1999	Not public
Digital data access service	Telstra	Macquarie Corporate Telecommunications	10 June 1999	Not public
Domestic PSTN originating and terminating access	C&W Optus	AAPT Limited	21 June 1999	Not public
GSM originating and terminating access	C&W Optus	AAPT Limited	6 July 1999	Not public
Local carriage service (local call resale)	Telstra	Optus Networks	13 September 1999	Not public
Broadcasting access and analogue subscription television broadcasting carriage service	Telstra Multi-media	Television & Radio Broadcasting Services Australia Pty Ltd	24 September 1999	Not public

Domestic GSM originating and terminating access	Telstra	Primus Telecommunications	13 October 1999	Not public
Domestic GSM originating and terminating access	Optus Mobile	Primus Telecoms	13 October 1999	Not public
Domestic GSM originating and terminating access	Vodafone	Primus Telecoms	13 October 1999	Not public
Domestic PSTN terminating access service	AAPT Limited	Telstra	29 November 1999	Still in progress
Domestic PSTN originating and terminating access	Telstra	C&W Optus	29 November 1999	Not public
Domestic GSM originating and terminating access	Vodafone	AAPT Limited	7 December 1999	Not public
Local carriage service	Telstra	Macquarie Corporate Telecommunications	5 January 2000	Not public
Domestic PSTN originating access service	Telstra	FLOW Communications	25 January 2000	Not public
Local carriage service	Telstra	Primus Telecommunications	7 March 2000	Not public
Local carriage service	Telstra	AAPT Limited	21 March 2000	Not public

In addition to this, under section 462 of the *Telecommunications Act 1997*, C&W Optus notified an access dispute in relation to Telstra's proposed solution to the routing of Telstra calls to ported numbers. This access dispute was notified on 13 May 1999.