



EXECUTIVE OFFICE

Your ref: 44361
Contact officer: Steve Goodridge
Contact phone: (03) 9290 1435

Level 17, 2 Lonsdale Street
Melbourne Vic 3000
GPO Box 3131
Canberra ACT 2601
tel: (03) 9290 1800
www.accc.gov.au

6 December 2021

Jason Lange
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600

Email: helpdesk-OBPR@pmc.gov.au
CC: Jason.MacKenzie@pmc.gov.au
CC: Melissa.Head@pmc.gov.au

Dear Mr Lange

Certification of independent review: Wholesale ADSL Service declaration 2021

The ACCC has recently undertaken a public inquiry to determine whether to extend declaration of the Wholesale ADSL (WADSL) service under Part XIC of the *Competition and Consumer Act 2010* (CCA). The current WADSL service declaration is due to expire on 13 February 2022.

I am writing to certify that the ACCC has undertaken an independent review and conducted an assessment equivalent to a Regulatory Impact Statement (RIS). This is detailed in the attached *Wholesale ADSL service declaration inquiry - final decision* report.

I certify that the final decision adequately addresses all seven RIS questions, as required by the Australian Government guidelines and is submitted to the Office of Best Practice Regulation (OBPR) for the purposes of satisfying the regulatory impact analysis requirements.

Extending declaration of the WADSL service until 30 June 2024 will mean that until that date Telstra must continue to provide access to the service upon request and, where commercial agreement cannot be reached, the regulated price and non-price terms will apply.

The ACCC declared the WADSL service in 2012 and extended the declaration for five years in 2017. Without declaration, Telstra has the ability and incentive to restrict access and/or set unreasonable terms of access in the form of high access prices with anti-competitive implications for downstream retail broadband services. The CCA requires the ACCC to conduct a public inquiry into declaration of services before a declaration expires.

The ACCC consulted publicly on its inquiry and received broad stakeholder support to maintain declaration of the WADSL service. The public inquiry provided access providers

and access seekers, as well as other interested stakeholders, the opportunity to comment on the proposal to extend the declaration until 30 June 2024. The ACCC commenced its public inquiry with the release of a consultation and position paper in July 2021 following preliminary consultation with stakeholders in April 2021. The ACCC's decision to extend declaration is expected to be finalised with the release of the final decision report on 9 or 10 December 2021.

The consultation and position paper and the final decision report provide detailed reasons as to why continuing the declaration is the best option, with respect to the statutory criteria. As the only options are to declare or not to declare a service, there is no scope to vary the implementation of the decision.

Extending the existing WADSL service declaration will not result in a change in regulatory burden from the original declaration (\$68,000 p.a.). We have engaged with the OBPR on this matter and received confirmation that we are to report the following:

| Average annual regulatory costs (from business as usual over 2 years) | | | | |
|--|----------|-------------------------|-------------|-----------------------|
| Change in costs | Business | Community organisations | Individuals | Total change in costs |
| Total, by sector | \$0 | \$0 | \$0 | \$0 |

Accordingly, no offsets are required. I am therefore satisfied that the attached final decision is consistent with the Australian Government Guide to Regulatory Impact Analysis.

Yours sincerely



Sarah Proudfoot
Acting Chief Operating Officer

Attachment: *Wholesale ADSL Service declaration inquiry - final decision* (under embargo until public release)