



## SENATOR THE HON STEPHEN CONROY

MINISTER FOR BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY  
DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE

---

Mr Solomon Trujillo  
Chief Executive Officer  
Telstra Corporation Limited  
40/242 Exhibition Street  
MELBOURNE VIC 3000

Dear Mr Trujillo <sup>Sol</sup>

### ADSL 2+ Services

I am writing to you regarding ADSL 2+ services in Australia. The Government understands that telecommunications services, and in particular broadband has an integral role in the modern economy, and its availability is related to Australia's prosperity. As such, the importance of broadband to the Australian economy cannot be underestimated.

I understand Telstra is in a position to enable ADSL 2+ in a number of exchanges across Australia, in metropolitan, regional and rural areas. However, you have raised concerns regarding regulatory certainty, and in particular the potential for the Australian Competition and Consumer Commission (ACCC) to seek to regulate access to a wholesale Telstra ADSL2+ service in exchange areas where Telstra is the only provider of these services.

Given that the declaration of services under the telecommunications access regime is a matter for the ACCC, in accordance with Part XIC of the *Trade Practices Act*, I have sought advice from the ACCC on this matter and the Chairman of the ACCC, Mr Graeme Samuel. Mr Samuel has advised:

The ACCC has previously indicated that a compelling case *has not been made* for declaring and regulating third party access to a wholesale xDSL service (including ADSL and ADSL2+ services).

In addition Mr Samuel has directed me to a number of public statements he has made to this effect since the release of the ACCC's June 2006 position paper, *A Strategic Review of the Regulation of Fixed Network Services*, where the ACCC stated it:

considers that a compelling case for declaration of a wholesale xDSL service at this time has not been made. In the face of potentially significant growth in the ULLS [unconditioned local loop service], wholesale declaration could encourage greater reliance on resale of xDSL services in place of greater take-up of the ULLS, which could drive lower wholesale xDSL prices and innovation (by Telstra or a ULLS-based competitor).

Mr Samuel has informed me that this position has been reiterated publicly on several occasions, including in an address to the RACV Club 501 Business Forum on 26 October 2006 and to the Australian Telecommunications Users Group Annual Conference on 7 March 2007.

Moreover, I understand that as recently as 17 December 2007, the ACCC publicly reaffirmed in its *Assessment of FANOC's special access undertaking in relation to the broadband access service that:*

Wholesale xDSL products are not currently declared or being considered for declaration in Australia.

Mr Samuel has also advised me that the ACCC recognises the more enduring benefits of efficient facilities-based competition, including the uptake of the ULLS to provide high speed retail xDSL services, as opposed to competitors merely reselling a Telstra wholesale xDSL service. Furthermore, Mr Samuel has advised that on the basis of current market conditions, including the availability of the ULLS, the ACCC considers declaration of a wholesale ADSL 2+ service is unlikely to be necessary should Telstra extend its current ADSL 2+ footprint.

Given the consistency of the ACCC's statements on this matter, I believe there is a high degree of regulatory certainty in relation to the ACCC's approach to wholesale ADSL2+ services. Whilst a matter for the ACCC, I agree that a compelling case for the declaration of wholesale xDSL services has not been made at this time. It is my understanding that there is continuing uptake of both the ULLS and the Line Sharing Service (LSS), which I believe would be a highly relevant factor in the event that the declaration of a wholesale ADSL2+ service were to be sought.

I would welcome a decision by Telstra to switch on ADSL2+ services in as many exchange areas as possible. Switching on these services would benefit the national interest, delivering significant economic and social benefits to Australian consumers who cannot currently access high speed broadband.

Yours sincerely



Stephen Conroy

Minister for Broadband,  
Communications and the Digital Economy