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January 23, 2004

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Attention: Section 1377 Comments
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Re: Australia: Reply Comments of Telstra Corporation Ltd.

Dear Ms. Blue:

These reply comments are filed on behalf of Australia's Telstra Corporation Ltd. (Telstra) in response to the request of the United States Trade Representative (USTR) for comments pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. §3106, concerning implementation of the World Trade Organization (WTO) Basic Telecommunications Agreement and the related regulatory Reference Paper.

Only two parties, the Comptel/ASCENT Alliance and AT&T Corp., have docketed comments concerning Australia. Accordingly, Telstra's reply is limited to the issues raised by these parties. Comptel/ASCENT contend in comments dated January 7, 2004 that Telstra's charges for local leased lines are not cost-oriented and are excessive, in contravention of §2.2(b) of the Reference Paper. These U.S. trade associations further allege that Australian fixed-to-mobile (FTM) termination rates are also excessive.

Local Leased Line Rates

The most recently available evidence shows that Telstra's rates for local leased lines are indeed cost-oriented as required by the Reference Paper and are not "excessive." Telstra has demonstrated as much previously in its January 24, 2003 Section 1377 reply comments and its subsequent informational filing of November 10, 2003. See Attachment 1 hereto. The comments of Comptel/ASCENT completely fail to take into account Telstra's 2003 submissions and merely recycle the outdated and misleading evidence which CompTel advanced in its own 2003 Section 1377 comments.

In particular, Comptel/ASCENT contend that "according to industry information," which is not cited, Telstra's charges for a 2 km, 2 Mbs structured local access circuit "are twice EU best practice and twice those in the U.S. and Taiwan." (Comptel/ASCENT Comments at 7) First, to the extent Comptel continues to rely upon a pricing report prepared by the Organization of Economic Cooperation and Development (OECD) and cited by the Australian National Office for the Information Economy (NOIE), the data is outdated and quite misleading. As Telstra noted in its 2003 Section 1377 reply comments, the OECD report reflects national not local leased line rates and, in any case, relies upon August 2000 data. More recent OECD data suggests that Australia's national leased line charges are approximately the same as charges in nations with comparable topography, such as Canada.[1]

Second, as documented in Telstra's November 10, 2003 submission to the USTR, a direct comparison of the wholesale rates for local transport services provided by the U.S. Regional Bell Operating Companies (RBOCs) and Telstra shows the charges to be closely comparable. Specifically, as detailed in Telstra's submission, the company's rates for a ten-mile 2 Mbit/s circuit in metropolitan areas, assuming five year term commitments, is approximately $420 as compared to the reported rates of $391 to $510 for a 1.544 Mbit/s circuit offered by the RBOCs. Considering that a 2 Mbit/s circuit is 30% larger than a 1.544 Mbit/s DS1 circuit, Telstra's term rates are actually less than those offered by the U.S. RBOCs as reported in the recent policy study that was used for comparison.[2]

In view of the foregoing evidence from the OECD and Telstra's own rate schedules, any claim that Telstra's local leased line rates are not cost-oriented and are excessive simply does not bear scrutiny and should not be erroneously credited by the USTR in this year's Section 1377 review.

Mobile Termination Rates

Comptel/ASCENT Alliance and AT&T Corp further allege that Australian fixed-to-mobile (FTM) termination rates are excessive. AT&T, in comments dated January 5, 2004, also maintains that Australian FTM termination rates are above cost-oriented levels which AT&T states, based upon long run incremental cost (LRIC) studies in the United States and the U.K., are estimated to range between $.04 and $.07 per minute. Both comments concede, however, that the Australian Competition and Consumer Commission (ACCC) is currently reviewing the regulation of mobile termination rates in Australia and urge the USTR to monitor closely the results of the ACCC proceedings "to ensure that Australia's mobile termination rates are reduced to cost-oriented levels" (AT&T Comments at 4). Whilst these comments are not directed at Telstra, as one of many mobile carriers in Australia, Telstra considers it is appropriate to point

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[1] *Measuring the Information Economy*: "Price Of Leased Lines in the OECD Area, May 2002" 57 (2002), *available at* http://www.assinform.it/download/OECD_Measuring%20the%20Information%20Economy%202002.pdf

[2] Ford, George S., and Spiwak, Lawrence J., *"Set it and Forget it? Market Power and the Consequences of Premature Deregulation in Telecommunications Markets,"* Phoenix Center Policy Paper No. 18, Phoenix Center for Advanced Legal and Economic Public Policy Studies (July 2003).

out that pending release of the ACCC's determination and implementation of any proposals that the regulator might make, it would be premature for the USTR to judge the efficacy of the ACCC's activities.

The Australian mobiles market is highly competitive with a number of players in the market. But, even assuming that any Australian cellular providers can be considered "major suppliers" under the Reference Paper, the Paper does not mandate any particular method for determining whether a supplier's rates are cost-oriented. Rather, as the USTR's office has itself stated in testimony before Congress,[3] the GATS parties granted national regulators a reasonable freedom of action to determine how best to implement the cost standard. In these circumstances, even though Comptel/ASCENT and AT&T may take issue with the results of the ACCC's current retail minus benchmarking approach for regulating wholesale rates, it is indisputable that the ACCC's methodology is expressly designed to promote cost-orientation at the wholesale level.

Telstra expects that the ACCC will release its recommendations on FTM regulation shortly. Once this occurs, Telstra believes it is appropriate that the ACCC's determination be taken into account in the USTR's findings.

Any questions regarding this submission should be directed to the undersigned at (202) 639-6744.

Sincerely,

/s/ Gregory C. Staple

Gregory C. Staple

[3] Testimony of Florizelle B. Liser, Assistant U.S. Trade Representative for Industry and Telecommunications, United States Trade Representative, in her testimony in the Hearing before the Subcommittee on Commerce, Trade, and Consumer Protection of the Committee on Energy and Commerce, House of Representatives, 107th Congress, 2nd Session, October 9, 2002, Serial No. 107-138, at page 34. *Available at* http://energycommerce.house.gov/107/action/107-138.pdf
http://www.assinform.it/download/OECD_Measuring%20the%20Information%20Economy%202002.pdf

Attachment 1

**Telstra Corporation Ltd.
November 10, 2003 Submission to USTR
Comparing U.S. and Australian
Rates for Local Leased Lines**

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November 10, 2003

Jonathan R McHale
Director, Communications and Electronic Commerce
Office of Industry and Telecommunications
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Kenneth Schagrin
Director, Telecommunications and E-Commerce Trade Policy
Office of Industry and Telecommunications
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Further Comments of Telstra Corporation Limited Regarding 2003 NTE Report and Pricing for Wholesale Local Transport Facilities

Dear Messrs. McHale and Schagrin:

This letter is written on behalf of Telstra Corporation Limited (Telstra) to provide additional information responsive to a question which was raised during a meeting with your office on August 5, 2003. More specifically, Telstra was asked to support its previous assertion that the level of Telstra's wholesale rates for local access leased lines were comparable to those in countries of similar characteristics, such as the United States (see, for example, Telstra's January 24, 2003 USTR submission). In that regard, during the meeting, your office provided excerpts from U.S. carrier tariffs for special access services and a table from a report by a U.S. think tank (the Phoenix Center) summarizing special access rates for Verizon and three other incumbent local exchange carriers (ILECs) as of January 2003.

Telstra's staff has now had an opportunity to analyze this information and to try and compare the special access services with analogous local services offered by Telstra so that an "apples to apples" comparison of wholesale rates could be prepared. The results, which are summarized in Exhibit 1 hereto, show that although Telstra's published "rack rates" may be higher than the rates stated for ILECs in the aforementioned table, Telstra typically offers substantial discounts (e.g., of 40% or more) for term and volume commitments. These discounts would make Telstra's prices at or below the prices for comparable services in the United States.

We hope the foregoing is responsive to your inquiry but please call me if you have additional questions or require additional information from Telstra.

Sincerely,

Gregory C. Staple

Enclosure

Submission to the
United States Trade Representative
Telstra Corporation Limited
November10, 2003

Exhibit 1
U.S. v. Australia Local Leased Line Rates

A paper from the Phoenix Center[1] reports the prices of transmission tails from a number of U.S. ILECS. The table [2] in the paper is reproduced below. It refers to the monthly charges in the CBD/Metro area for a five-year term plan. The charges include the fixed and per-mile charge for the inter-exchange radial distance (assuming 10 mile distance in the table), customer access from the end-user to the originating local exchange and customer access from the terminating exchange to the access seeker's premises.

	Monthly charges in U.S. dollars in January 2003			
	Bell South	SBC	Verizon	Qwest
DS1 (1.544 Mbit/s)	391	371	510	399
DS3 (44.736 Mbit/s)	4575	2817	3752	2783

We now turn to comparable rates for Telstra. The company's standard published rates or "rack" rates for monthly service are $AU1,189 and $AU11,885 for 2 Mbit/s and 45 Mbit/s, respectively. Over the 2002-2003 financial year, the average exchange rate was 58.84 U.S. cents to an Australian dollar. We have thus converted Telstra's rack rates into U.S. dollars using this exchange rate and we have also applied a typical 40% discount level which Testra's customers receive for a five-year term commitment. Making these adjustments we have a monthly Telstra rate of $US420 and $US4,196 for 2 Mbit/s and 45 Mbit/s, respectively. See Table A hereto for the methodology used to establish comparable tail circuits for comparison with those of the U.S. ILECs. (Note: All rates in the table, however, are in $AU.)

Considering that a capacity of 2 Mbit/s is 30% larger than that of a DS1, Telstra's discounted rate for term service is actually less than all the U.S. ILECs cited in the Phoenix report. For DS3 capacity, Telstra's price is more favorable than Bell South but less favorable than SBC, Verizon and Qwest.

Given the transmission access market is 13.3 billion U.S. dollars [3], which is at least one order of magnitude larger than the Australian market if not close to two orders of magnitude, Telstra's prices are favorable. Telstra's prices may prove to be even more favorable when considering that all Telstra inter-office routes are fully protected with the use of ring topology and route diversity.

[1] "Set it and Forget it? Market power and the Consequences of Premature Deregulation in Telecommunications Market", Phoenix center Policy Paper Number 18, Phoenix for Advanced legal & economic public policy studies.
[2] Ibid page 34
[3] Ibid. page 3

Exhibit 1

Table A

Monthly rack rates in Australian dollars	X.162 - Service going from Telstra's office to access seeker's office		X.163 - Service from end-user premises to access seekers' office	
10 mile radial distance between Telstra originating office and Telstra terminating office	Metro	Regional	Metro	Regional
2 Mbit/s (closest to US DS-1 which is 1.54Mbit/s)	$944	$944	$1,189	$1,189
45 Mbit/s (US DS-3) and 34 Mbit/s	$9,438	$9,438	$11,885	$11,885

Notes:

Same rate is charged for 45 Mbit/s and 34 Mbit/s
Same rate is charged for metro and regional
Distance is defined as the radial distance between Telstra originating and terminating local exchanges. In this respect, the definition is the same as that used by Verizon.