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September 28, 2004

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 114(2) Issuer Bids - Exemption from the formal issuer bid requirements in Part 13 of the Act - An issuer wants to complete an issuer bid that meets some, but not all, of the conditions of the exemption set out in s. 99(h) of the Act (*de minimis* exemption) - Issuer bid satisfies all conditions of the *de minimis* exemption except that it has more than 50 shareholders in British Columbia, and the issuer bid will be made in compliance with applicable laws of Australia, which is not a recognized jurisdiction; BC shareholders will receive same information as shareholders in Australia; the laws of Australia relating to issuer bids are substantially similar to those of a recognized jurisdiction

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 114(2)

In the Matter of
the Securities Legislation
of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova
Scotia and Newfoundland and Labrador (the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Telstra Corporation Limited (The Filer)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the requirements contained in the legislation relating to the delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods withdrawal rights, take-up of and payment for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, identical consideration and

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collateral benefits (collectively, the Issuer Bid Requirements) do not apply to the proposed issuer bid (the Issuer Bid) by Telstra (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. Telstra is a corporation governed by the laws of Australia.
2. Telstra is a provider of telecommunications and Internet services in Australia.
3. Telstra is a reporting issuer, or the equivalent, in each of the provinces of Canada.
4. The common shares in the capital of Telstra (the Telstra Shares) are listed on the Australian Stock Exchange, the New Zealand Stock Exchange and the New York Stock Exchange (through American Depositary Receipts).
5. Telstra proposes to make an offer to purchase a number of Telstra Shares from its shareholders.
6. The Issuer Bid will be conducted by way of a “Dutch auction” in compliance with the laws and requirements of the Australian *Corporations Act* 2001.
7. The details of the Issuer Bid will be contained in an offer document (the Circular) which will be distributed to all holders of Telstra Shares (the Telstra Shareholders) and which will comply with all Australian law requirements.
8. As of August 27, 2004, there were 12,628,359,026 Telstra Shares issued and outstanding. There are, according to Telstra’s share register, 298 Telstra Shareholders resident in Canada (the Canadian Shareholders), holding in the aggregate 380,177 Telstra Shares as follows:

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<u>Province of Residence</u>	<u>Number of Shareholders</u>	<u>Number of Telstra Shares</u>
Ontario	108	164,985
British Columbia	85	112,645
Alberta	61	52,677
Saskatchewan	1	1,000
Manitoba	5	8,000
Quebec	21	20,210
Nova Scotia	4	9,700
Newfoundland	7	7,230
Prince Edward Island	3	2,130
Yukon	1	400
Northwest Territories	2	1,200

9. The Issuer Bid will be made by way of an invitation to all Telstra Shareholders as at a specified record date (currently anticipated to be October 8, 2004) to make an offer to sell a specified number of their Telstra Shares to Telstra.
10. Telstra Shareholders will be invited to tender up to 100% of their shareholdings. However, Telstra does not intend to purchase more than approximately 210 million Telstra Shares pursuant to the Issuer Bid, with Telstra's total spending on the Issuer Bid to be no more than approximately Aus\$750 million (Cdn\$690 million) (the Purchase Limit).
11. Telstra Shareholders will be required to specify in their offer the minimum price(s) at which they are willing to sell their Telstra Shares and the number of shares they wish to sell. The price(s) must be chosen from set prices within a range specified by Telstra in the Circular. This range will be set before the Issuer Bid tender period opens and will be around the prevailing market price of Telstra Shares. Alternatively, Telstra Shareholders who do not wish to specify a price may make a "final price tender". Telstra Shareholders who choose to make a final price tender offer will be paid the final Issuer Bid price determined by Telstra, which will be one of the nominated prices within the range specified by Telstra. Telstra Shareholders with 600 Telstra Shares or fewer will only be able to tender their Telstra Shares at one price in the specified range or as a "final price tender".
12. The final Issuer Bid price (the Issuer Bid Price) will effectively be determined by Telstra Shareholders through the tender process. The price will be the lowest price at which Telstra can purchase its desired number of shares up to the Purchase Limit. Under the tender process, Telstra will be able to select the price at which it can purchase the amount of capital that is desired. However,

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the Issuer Bid terms will include a scale-back procedure to cover the situation where more tenders are received at and below the Issuer Bid Price and as “final price tenders” than the number of shares targeted to be purchased. The scale back procedure will be described in full in the Circular.

13. All successful Telstra Shareholders will be paid the Issuer Bid Price even where they tendered a price that was below the Issuer Bid Price determined by Telstra.
14. Telstra Shareholders who tender a price which is greater than the Issuer Bid Price will not have their Telstra Shares bought back.
15. Telstra Shareholders will be able to withdraw their tender up until the tender closing date which will be at least 14 business days after the tender period commences.
16. All of the Telstra Shareholders to whom the Issuer Bid is made will be treated equally, subject to minor technical exceptions required to:
 - (a) minimize the creation of small Telstra shareholdings by only allowing Telstra Shareholders with 600 Telstra Shares or fewer to tender Telstra Shares at one price;
 - (b) facilitate participation in the Issuer Bid by certain employee share plan participants;
 - (c) restrict participation in the Issuer Bid by persons whose participation is not permitted by the laws of the jurisdiction in which they are resident; and
 - (d) prevent a contravention of Australian laws in relation to levels of ownership of Telstra Shares by the Commonwealth of Australia and foreign persons.
17. The *de minimis* issuer bid exemptions found in certain of the Jurisdictions are not available in respect of the Issuer Bid since the bid is not being made in compliance with laws of a jurisdiction that is recognized by the applicable Decision Makers to the purposes of the *de minimis* issuer bid exemptions. Also the *de minimis* issuer bid exemptions found in certain of the Jurisdictions is not available in respect of the Issuer Bid since the number of Telstra Shareholders resident in such Jurisdictions is over 50.
18. The percentage of total outstanding Telstra Shares held by Telstra Shareholders resident in each of Ontario, British Columbia and Alberta is well

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below the 2% *de minimus* threshold (being approximately 0.0013%, 0.0009% and 0.0004% respectively).

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

1. the Issuer Bid (and any amendments thereto) is made in compliance with applicable Australian laws; and
2. all materials relating to the Issuer Bid and any amendments thereto which are sent by or on behalf of the Filer to holders of Telstra Shares in Australia are concurrently sent to Canadian Shareholders and copies thereof are concurrently filed with the Decision maker in each Jurisdiction.

Paul Moore
Commissioner,
Ontario Securities Commission

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Commissioner,
Ontario Securities Commission