



Australian Government
Department of Resources
Energy and Tourism

John Hawkins
Secretary
Senate Standing Committee on Economics
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Dear Mr Hawkins

Inquiry into the Trade Practices Amendment (Infrastructure Access) Bill 2009 (the bill)

I refer to your email to the Secretary of this Department dated 1 December 2009.

The bill proposes amendments to Part 111A of the *Trade Practices Act 1974* relating to the National Access Regime. The changes being considered are designed to improve certainty and streamline the administrative processes associated with regulating third party access to nationally significant infrastructure.

The submission of the Department of Resources, Energy and Tourism (RET) is as follows:

1. RET supports the different measures which will add to the efficiency of process under the National Access Regime, including time limits on decision making bodies and Ministers, and the limited merits review process.
2. RET supports the new measures designed to improve regulatory certainty for prospective investors in major infrastructure, in particular the possibility to seek an exemption from declaration for a period of at least 20 years, and the ability for service providers to include fixed principles in access undertakings.
3. The removal of the health and safety criterion from the declaration criteria is sensible given these matters are dealt with in other regulatory instruments.
4. The clarification that once a state or territory access regime has been certified as effective, access seekers must use that regime to gain access to the infrastructure under it, and cannot seek declaration of that infrastructure or submit an access undertaking under the National Access Regime, is a further improvement to regulatory certainty.

5. Following the declaration of a service, the ability for an access seeker to commence negotiations with the infrastructure owner immediately or commence arbitration through the ACCC, even if the declaration decision is appealed, is a helpful amendment that will reduce the incentive for infrastructure owners to seek to delay granting access after declaration through a lengthy appeals process.

The contact office for this submission is Mr Ben Jarvis, Manager, Minerals Development Section, Resources Division, Department of Resources, Energy and Tourism (02) 6213 7182.

Yours sincerely

Nicola Morris
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Enabling Services

24 December 2009