MAPLE-BROWN ABBOTT
Investment Managers

6 October 2009

Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts
PO Box 6100
Parliament House
Canberra ACT 2600

By email: eca.sen@aph.gov.au

Dear Sir

Re: Inquiry into the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009

Maple-Brown Abbott Limited ("MBA") welcomes the opportunity to contribute to the Senate Standing Committee on Environment, Communications and the Arts' Inquiry into the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 (the "Bill").

MBA is an Australian owned and based funds manager with funds under management of approximately $12 billion. On behalf of our clients, we are a longstanding, significant shareholder in Telstra Corporation Limited ("Telstra"), holding a more than 1.5% shareholding in the company.

Background
The Bill requires Telstra to structurally separate its wholesale and retail arms if it wants to acquire additional spectrum for advanced wireless services and keep its hybrid fibre coaxial cable network and its interests in Foxtel. It faces structural separation by voluntary means, or functional separation by Government imposed means.

The Bill also gives expanded powers to the Australian Competition and Consumer Commission ("ACCC"), with reduced rights of appeal.

Concerns
The Bill is likely to deliver a number of negative outcomes both to Telstra, including the possible destruction of shareholder value, and to Australia, including a loss of confidence in the Australian regulatory environment.

1. Sovereign Risk
MBA is a strong supporter of the need for a stable investment climate in Australia. The Australian Government has an enviable reputation globally as a dependable and reasonable governing body, representing very low sovereign risk for

investors. It has emerged from the current global financial crisis as one of the most capable financial managers due, in part, to the strong and predictable regulatory environment in Australia.

The effects of the Bill are unprecedented in this country. If investors become concerned about exposure to acts of government such as legislative and regulatory impositions, it could have a detrimental impact on the valuation of many financial assets, not only Telstra and the wealth of its 1.4 million shareholders. Of major concern is that the Bill may damage Australia's sovereign risk rating.

2. *Competition and Regulatory Risk*

A number of industries in Australia are dominated by a few large companies, such as the telecommunications, airline, brewing and supermarket sectors. This is to be expected in a country the size of Australia. If the Government imposes severe measures on a major listed company in the telecommunications industry, other industries also may be seen to be at risk.

The greatly expanded role of the ACCC under the Bill may well discourage competition and investment in the telecommunications sector. The powers of the Australian Energy Regulator for instance are tempered with constraints and guidelines for the regulator to follow. We understand that limited guidelines only are proposed for the ACCC under the Bill. The resulting uncertainty is likely to be negative for the development of the telecommunications sector.

3. *Future Privatisations*

Telstra was sold by the Government with warnings about the risk of regulatory change. However no-one could have reasonably foreseen the extent of the changes the Bill proposes. Shareholders have funded major improvements to the company since the public sale of Telstra, including the popular Next G network, the value of which may be diminished in the event of the imposed changes.

The Bill may well affect the extent to which future privatisations are embraced by the market. There will be an understandable reluctance by investors to participate.

4. *Innovation*

Disproportionate regulation and excessive powers for the ACCC are likely to discourage innovation and the taking of business risk, leading to an end result at odds with the Government's stated objectives for introducing the Bill. In our view this will see less capital allocated to this key sector over the longer term.

5. *National Interest*

MBA encourages support for Australian companies where possible, ahead of any priority being afforded to those from overseas. It is clearly against the national interest for Telstra to be disadvantaged in favour of foreign interests, which may occur if Telstra is excluded from any future mobile spectrum auctions.

Fair Value
MBA understands that the Bill has resulted from the Government's desire to see Telstra participate in the National Broadband Network ("NBN") and help ensure the viability of the NBN. We believe that it is in the interests of both the Government and the country to work cooperatively with Telstra to ensure the successful and timely completion of the NBN. A commercially negotiated solution, without the threat of regulatory intervention, would allow Telstra to achieve fair value for its assets and allow the Government to achieve its agenda and reforms at lower cost and faster implementation.

Conclusion
The Bill represents a high risk strategy to deliver the NBN and more competition in the telecommunications sector. It runs the risk of damaging Australia's sovereign risk rating as well as stifling investment and innovation in the telecommunications sector. It places too much power in the hands of the ACCC.

It is therefore appropriate for the Government to reconsider the Bill without delay.

Yours sincerely
Garth Rossler
Managing Director