

The Hon Stephen Conroy
Minister for Broadband, Communications and the Digital Economy
Parliament House
Canberra ACT 2600

6 October 2009

Dear Minister,

The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009

iiNet Limited welcomes and congratulates the Government on its historic legislative reform of the Australian telecommunications industry with the introduction of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009.

As a key industry player and Australia's third-largest Internet Service Provider, iiNet has garnered tremendous practical experience with the telecommunications access regime in Part XIC of the *Trade Practices Act 1974*.

While welcoming the majority of the amendments proposed in the Bill, iiNet will take this opportunity to suggest a number of amendments which, we believe, when enacted, will better reflect the Government's legislative intent and does not produce unintended consequences. iiNet also suggests the Government give further consideration to its proposed amendments to Part XIB.

We have provided an attachment to this letter, which sets out in detail the main areas of concern and amendments that iiNet suggests the Government consider. In summary, these are:

- (Part XIC) the application of the proposed 'access determinations' and 'binding rules of conduct' may be more limited than what was intended by the Government;
- (Part XIC) the ACCC's transitional power to terminate arbitrations, if exercised, has the potential to lead to unjust outcomes;
- (Part XIC) the current scope of the proposed 'interim access determinations' and 'binding rules of conduct' may not give the ACCC sufficient power to deal with all the urgent issues that arise;



- (Part XIC) while it does not appear to be the Government's intention to limit the ACCC's jurisdiction with respect to the subject matter over which it may determine terms and conditions, the drafting, as currently proposed, could potentially have this effect;
- (Part XIC) there is no reason in principle why the ACCC should not be able to have regard to all of its previous enquiries and findings (e.g. all relevant findings that pre-date the Bill) in relation to an access determination, rather than only those in relation to previous 'access determinations'; and
- (Part XIB) the proposed amendments to Part XIB address, at a bare minimum, the procedural inadequacies with the telecommunications competition notice regime but not the substantial failings.

iiNet welcomes an opportunity to discuss these issues in more detail with you at any time. In this respect, please feel free to contact me on (08) 9213 1371 to arrange a meeting.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Dalby', enclosed in a light blue rectangular box.

Stephen Dalby
Chief Regulatory Officer
iiNet Limited