

7 October 2009

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

Dear Sir/Madam,

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

Primus Telecom (Primus) welcomes the opportunity to comment on the Government's historic reforms to telecommunications regulation. In the view of Primus, these reforms are well overdue and have the potential to foster significant competition in the communications industry, as well as drive growth and innovation across all sectors of the economy.

Since acquiring its carrier license in 1997 Primus has evolved into one of the leading service providers in Australia, offering a full range of voice, data and broadband services. Primus was instrumental to the introduction of competition in the Australian telecommunications market, and has since been a leading advocate for the necessary reform of the telecommunications industry. Primus takes this opportunity to make some brief comments on the legislative reform package.

As often remarked, the history of telecommunications competition in Australia has been blighted by the absence of an independent and open access network service provider. The vertically integrated structure of Telstra and the absence of sufficiently robust regulation has led to continuing acrimony, dispute and litigation by Telstra against access seekers, the ACCC and the government. Many issues still remain unresolved despite attempts over many years to resolve them. Of more critical concern however, the lack of accountability and the lack of incentives on Telstra to service the competitive market has significantly retarded the development of broadband and telecommunications competition in Australia. Australian consumers have been the losers.

The Government can be congratulated for giving this matter the consideration it required, and is to be commended for introducing such a comprehensive legislative package. Primus is confident the measures will address long standing defects with the current industry structure and regulatory framework. This package of regulatory reforms is well overdue, and once enacted all Australian consumers and businesses will ultimately be the winners. As the industry looks forward to improved conditions for competition, and communities across Australia look forward to a greater choice of new and innovative services, it is imperative the passage of this legislation not be delayed.

**VICTORIA (HEAD OFFICE)**

3 / 538 COLLINS ST  
MELBOURNE, VIC 3000  
P +61 3 9923 3000  
F +61 3 9923 3001

**NEW SOUTH WALES**

3 / 1 ALFRED ST  
SYDNEY, NSW 2000  
P +61 2 9423 2400  
F +61 2 9423 2444

**QUEENSLAND**

6 / 127 CREEK ST  
BRISBANE, QLD 4000  
P +61 7 3319 7145  
F +61 7 3319 7144

**SOUTH AUSTRALIA**

1 / 132 FRANKLIN ST  
ADELAIDE, SA 5000  
P +61 8 8423 8822  
F +61 8 8423 8844

**WESTERN AUSTRALIA**

2 / 33 RICHARDSON ST  
WEST PERTH, WA 6005  
P +61 8 9463 8999  
F +61 8 9463 8988

In addressing Telstra's vertical integration, the legislative proposals have set out a number of well-considered functional separation principles, and also provide Telstra with an opportunity to voluntarily structurally separate. Primus supports these measures, and notes they have been successfully introduced in other industries, and in telecommunications sectors in other jurisdictions. If implemented correctly both of these measures have the potential to create a competitive communications industry that has genuine incentives and ability to innovate and add value to the benefit of business and residential consumers across Australia.

While some commentators have been critical of the legislative proposals as they might relate to Telstra, it should be noted that the telecommunications industry and the Australian investment community has been expecting these regulatory reforms for some time now. Primus also notes there has been some misunderstanding of the impact these reforms may have on Telstra's capitalisation, and ultimately shareholders. A more considered view is that these reforms address the inherent regulatory uncertainty within the industry, and once the reforms are implemented they will open up enormous potential for Telstra and other industry participants to pursue significant growth opportunities.

It is important to understand that the proposed amendments to the regulatory framework are also essential to the success of the NBN. Although the move to a FTTH network provides enormous potential, it is essential the right industry structure and regulatory processes are established first. It is only with the right competition platform that the NBN can deliver on its potential. It should also be noted that for some time now it has been recognised that Telstra's ageing copper fixed line carriage network has required substantial and costly upgrade. Primus submits that without the Rudd Government's leadership an upgrade to a FTTH network would not be achieved, and Australia would remain in the broadband backwashes. Accordingly, the next generation of fixed line technologies can only materialise once the industry is reformed to create a structure that accommodates a pro-competitive NBN deployment, and that structure must be accompanied by a regulatory environment that fosters fair and open competition.

While supportive of the measures to address Telstra's vertical integration, Primus is mindful of the timelines indicated in the proposed legislation. Certainly the path to complete structural separation could take some time. Primus submits that any timelines should be tightly set and enforced, and any separation plans or undertakings should be required to achieve significant pro-competitive milestones along the way.

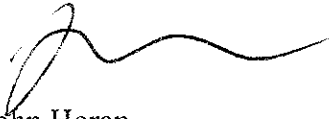
Primus strongly supports the Government's proposal to address Telstra's horizontal market power. Whether that is ultimately through functional or structural separation, measures addressing the market power possessed by Telstra due to its HFC network holdings and its stake in Foxtel are strongly supported by Primus. Primus considers however that the control of exclusive rights to sporting and other key media content remains a key concern. Primus considers these issues should be addressed in a separate inquiry. Access to media content is emerging as critical to the competitive landscape in an increasingly converged market.

The mechanisms for obtaining access pricing under Part XI C of the Trade Practices Act 1974 have proved particularly litigious, and subject to delay and gaming. The

cornerstone of that regime has been the negotiate – arbitrate model. It is pleasing to see the Government dismiss that concept as flawed. Primus is strongly supportive of that conclusion.

In the view of Primus, the last decade has been a costly, but valuable, lesson for all telecommunications industry stakeholders. These proposed reforms are well overdue and Primus supports these historic reforms to telecommunications regulation. The reforms are well-considered, and have the potential to establish a lasting legacy for the benefit of Australian businesses and consumers across all areas of Australia. Primus submits that the passage of the legislation should be supported.

Faithfully

A handwritten signature in black ink, appearing to be 'John Horan', with a long, wavy horizontal line extending to the right.

John Horan  
Primus Telecom