

EXECUTIVE OFFICE



**Australian
Competition &
Consumer
Commission**

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Contact Officer: Richard Home
Contact Phone: (03) 9290 6960

30 May 2011

Ms Stephanie Mikac
Committee Secretariat
Joint Committee on the National Broadband Network
Parliament House
Canberra ACT 2600

Dear Ms Mikac

On 16 May 2011 as part of its appearance before Joint Committee on the National Broadband Network (which also considered the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011), the Australian Competition and Consumer Commission (ACCC) took the following questions on notice:

1. **Senator FISHER:** Fair enough. Thank you for fronting up here today, once again. Has the Prime Minister or anyone else from government written to the ACCC saying that the government expects that you will appear before this committee if and when required?

Hansard, Joint Committee on the National Broadband Network, 16 May 2011, page 52.

2. **Mr TURNBULL:** Could you come back to the committee with your comments on the bill?

Hansard, Joint Committee on the National Broadband Network, 16 May 2011, page 53.

The ACCC's responses to these questions are:

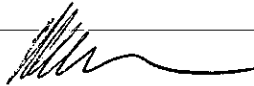
1. On 9 February 2011, the ACCC received a letter from the Parliamentary Secretary to the Treasurer, Mr David Bradbury, advising that it may be called upon to assist in the deliberations of the Joint Parliamentary Committee established to monitor the progress of the National Broadband Network (NBN) rollout.
2. The ACCC has undertaken an initial review of the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011 (the Bill). The ACCC notes that the Bill in its current form amends the *Telecommunications Act 1997* to ensure that greenfields developments have fibre-ready facilities (typically, the duct and lead-in facilities). It also requires that certain fixed line installations are fibre based.

The Bill creates a regime for carriers to secure access to fixed-line facilities that are owned by non-carriers in order to ensure fibre can be rolled out using these facilities. Access to facilities would usually be on terms that are commercially negotiated. However, the Bill provides that the ACCC will be the arbitrator of last resort in any facilities access dispute between carriers and non-carriers. The facilities access regime established under the Bill is very similar to the facilities access regime currently available to carriers under Schedule 1 of the *Telecommunications Act 1997*.

Under the Bill, the ACCC may, by legislative instrument, make a code relating to access. The development of this type of code would require the ACCC to balance the benefits that might be available to the relevant stakeholders from such a code with any regulatory burden. In the main, commercial agreements have been preferred to the current facilities access code which was made by the ACCC in 1999 (the 1999 Code) under Schedule 1 of the *Telecommunications Act 1997*. If it decides whether to make a code under the Bill, the ACCC would also consider whether to modify the 1999 Code or issue a new code.

If you require further information, please contact Mr Richard Home on (03) 9290 6960.

Yours sincerely



Mark Pearson
Deputy Chief Executive Officer
