



Australian  
Competition &  
Consumer  
Commission

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26 May 2005

Senator John Cherry  
Senate Environment, Communications, Information Technology  
And the Arts References Committee  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Senator

### **Inquiry into Australia's telecommunications regulatory regime**

I refer to the Committee Secretary's letter of 10 May 2005 requesting a written response from the Australian Competition & Consumer Commission (the ACCC) in relation to the issues raised and comments made by representatives of the GSM Gateway Association (the GGA) before the Committee at its Sydney hearing on 13 April 2005.

In March 2005, the ACCC received a complaint from the GGA alleging that, in response to the growing number of competitive call termination services being offered by its members, mobile network operators had unilaterally varied their respective standard form of agreements to restrict or prevent the reselling of mobile services.

The ACCC confirms Mr Amas' evidence to the Committee that the ACCC is investigating the GGA's allegations of anti-competitive and unconscionable conduct. On the basis of information obtained to date, the ACCC considers that the action taken by the mobile network operators, in denying or restricting services to competing call termination service providers, potentially raises concerns under Part IVA and Part XIB of the *Trade Practices Act 1974* (the TPA). The ACCC is conducting broader market enquiries to determine whether there is evidence to support the alleged conduct and to assess whether the conduct complained of is likely to amount to a contravention of the TPA. This includes seeking to identify the concerns held by GGA members regarding potential retribution from the mobile network operators and to assess whether any such retribution would raise issues under the TPA.

EXECUTIVE OFFICE

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I trust this response assists the References Committee with its Inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to be 'B. Cassidy', written in a cursive style.

Brian Cassidy  
Chief Executive Officer