



Bailey Dixon

LAWYERS & CONSULTANTS

7 June 2005

Ms L Gell
Secretary
Environment, Communications, Information Technology
and the Arts References Committee
Parliament House
Canberra ACT 2000

Dear Ms Gell

**INQUIRY INTO THE PERFORMANCE OF THE TELECOMMUNICATIONS
REGULATORY REGIME – PUBLIC HEARING TOWNSVILLE – SUPPLEMENTARY
SUBMISSION ON BEHALF OF MR NOEL O'BRIEN – CHAIRMAN IQ CONNECT PTY
LIMITED**

I refer to your letter of 5 May 2005 to Mr Steve O'Brien of IQ Connect Pty Ltd in which you, amongst other things, advised that if it was wished to elucidate particular points raised in evidence, a separate submission should be provided to the Committee.

2. The evidence to your Committee at the public hearing in Townsville on 21 April 2005 of Mr Noel O'Brien contained the following passages, set out at pages 72 and 73 of the draft proof of evidence.

'We first decided to go into this business after quite a good deal of time chewing over whether it was going to be on a commercial basis or not and deciding on the type of technology we were going to use. We decided on the very best and the very latest standard technology. I got a facsimile from the ACA regarding this policy in relation to the 1.9 frequency. We were told they were going to make a decision in September. We were the first to make an application. They were going to make a decision in September or October or something like that. We decided that, if they were going to make a decision to issue these licence and so on, we had better order capital equipment and so on because at that time we were told it would be nine to 16 weeks for delivery. There was a 35 per cent deposit payable with the order, with the balance paid when they were ready to ship the goods. They said that was the minimum time, but it could be up to 22 weeks. So we thought we had better order, which we did.

The decision was deferred to October or November and then to February. Then the decision was made on 8 April. We had ordered at least a couple of million dollars worth of equipment and had spent a lot of money setting up to be ready. We were denied the availability for use of that amount

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of capital equipment purchases and the ability to claim up to that with HiBIS. We could only claim on what we have spent on capital equipment since 8 April. I have spoken to them about it and they say 'That's the way it is'. But, gee whizz, it was not the way it was when we went into it'.

3. It may assist the Committee to know that in this passage of evidence Mr O'Brien intended to refer not to the ACA's decision concerning the embargo of spectrum, but rather to the process of decision-making by the Department of Communications, Information Technology and the Arts (DCITA) in relation to the HiBIS scheme. In particular, Mr O'Brien wished to draw the attention of the Committee to the following points.

- IQN understood from DCITA that the HiBIS scheme would commence operation in September or October 2003.
- IQN intended to be amongst the first to apply for registration under the scheme in order to obtain the subsidy payments to assist in funding the further rollout of BWA services to regional Australia, so providing those services to many areas where they are not otherwise available.
- Because of the long lead times on the delivery of equipment referred to in Mr O'Brien's evidence above, IQN decided to order the equipment so that IQN would be ready to commence providing BWA services to regional Queensland, and to recover subsidies under the HiBIS scheme, from the earliest possible date.
- The commencement of the HiBIS scheme was, however, delayed first to the October or November of 2003, and then to February 2004.
- In the end, the HiBIS scheme did not commence until April 2004.
- The HiBIS scheme is so structured that it is not possible to claim subsidies against expense incurred in purchasing capital equipment before the scheme commenced. As a result, IQN was unable to claim against the expenditure that it had incurred specifically for the purpose of providing BWA services to regional Australia under the HiBIS scheme.

4. I would be grateful if the Committee would receive this letter by way of separate submission by Mr Noel O'Brien in his capacity as Chairman of IQ Connect Pty Ltd.

Yours faithfully,



(Ian Coe)