



Submission by Internode Pty Ltd to the
Senate Standing Committee on
Environment, Communications and the
Arts, re Telecommunications Legislation
Amendment (Competition and Consumer
Safeguards) Bill 2009.
October 2009

To: Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts

via eca.sen@aph.gov.au

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Introduction

Disclosures

This submission is made by Internode Pty Ltd as a potential and likely Access Seeker to the NBN Co network.

Internode was a member of the G9 consortium and was a member of the Terria NBN bid consortium.

Internode is a founding member of the Terria Access Seekers Association.

Internode's sister company Agile Pty Ltd holds an Australian Carrier License and has received Commonwealth, State and Local Government funding for numerous regional telecommunications projects over the last decade.

Agile is a member of the Competitive Carrier Coalition and is also a Carrier member of CommsAlliance.

Publication

Any part of this submission may be published with attribution to Internode.

Background

Internode has been providing Internet access services in Australia since 1995 and Agile was formed and received a Carrier License in 1997.

Preamble

Internode and Agile would like to thank the Committee for providing this opportunity to contribute to the national debate on the future of telecommunications in Australia.

We also commend any submissions by fellow members of the Terria Access Seekers Association and the Competitive Carrier Coalition.

Submission

Internode is strongly supportive of the Bill and particularly its aim to reduce the complexity of regulating Access prices. Our sister company Agile has run and is currently running several Access Disputes against Telstra which could be avoided if the ACCC were able to set pricing for the entire industry.

This reform is long overdue and necessary to ensure the long term global competitiveness of the Australian economy.

We note that while the public face of Telstra appears to be more cooperative with Government and Access Seekers, the reality is different. We are aware of several Access Disputes which are likely to be Notified in the next few weeks which demonstrate that there remains a regulatory problem that needs to be fixed and that Telstra is still prepared to separately fight each and every Access Seeker all the way to the Federal Court.

Telstra shareholders were warned at each sale that the Federal Government regulates the Telecommunications Industry and that this regulation changes from time to time.

Telstra tested this regulation in the High Court in 2007 and lost. The underlying message was not understood by many of Telstra's shareholders and two years later they are still in denial.

The Government must stand firm and put the long term interests of all 22 million Australian consumers ahead of the short term interests of less than 2 million Telstra shareholders.

Real Separation of Telstra's Network from its Retail business units by whatever means are practically achievable is urgently needed. As stated in the CCC's Submission to the Committee, Internode reiterates that at the very least Legislation for such a Separation should ensure that:

- "Equivalence" should be defined to mean that Telstra cannot supply access seekers on terms and conditions less favourable than it supplies Telstra retail businesses
- Telstra's wholesale business should have discrete branding and identity
- Management and personnel should be strictly separated and remuneration tied to business unit performance, not group performance
- There should be strict information barriers and TLS retail and wholesale customers should interact with TLS wholesale using the same information systems
- There should be separate financial accounting between wholesale and retail businesses

Internode also draws attention to the need to ensure that access seekers with commercial agreements, should be able to, on application to the ACCC, revert to the price and conditions determined by the ACCC. This is needed because Telstra can cripple an Access Seeker's business by refusing to provide fair pricing or to remove anti-competitive clauses from agreements which forces the Access Seeker to sign an unfavourable agreement or face losing their entire business. In a nice, clean, theoretical world the

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Access Seeker would stand firm and watch their shareholder's investment be lost rather than sign an unfair agreement, but this is not the way of the real world.

Internode also draws attention to the numerous occasions on which Telstra have altered IT systems used by Access Seekers to Order, Alter and be Billed for services. On each occasion little notice has been provided and no compensation paid for the costs incurred in altering systems. Any argument that reform would be delayed for years and cost hundreds of millions of dollars due to massive changes to Telstra IT systems is at best disingenuous and at worst indication that they use IT system changes as a commercial weapon against their own customers. Much of the necessary equivalence comes down to fair and equal treatment which is less technical and more cultural.

In conclusion, Internode and sister company Agile believe this legislation can dramatically improve the Telecommunications landscape in Australia with only minor amendments and we urge all Senators to support its passage.

Internode would be happy to provide representatives to appear before the Committee in person if requested.

For further information please contact:

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