



Submission No 16

Inquiry into Australia's Relationship with Malaysia

Organisation: Telstra

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Mr John Carter
Secretary
Foreign Affairs Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
Canberra ACT 2600

By e-mail to: John.Carter.Reps@aph.gov.au

Dear Mr Carter

Joint Standing Committee on Foreign Affairs, Defence and Trade: Inquiry into Australia's Relationship with Malaysia

I am writing in response to your e-mail of 28 August 2006. Thank you for bringing this inquiry by the Joint Standing Committee on Foreign Affairs, Defence and Trade ('the Committee'), to my attention.

Telstra has had the benefit of reading the submissions already made to this inquiry by the Department of Communications, Information Technology and the Arts (DCITA)¹ and the Department of Foreign Affairs and Trade (DFAT).² Telstra believes that these submissions cover Telstra's key topics of concern adequately, and I do not propose to burden the Committee with the repetition of points already made. However, in order to support the valuable work by DCITA and DFAT to improve telecommunication services market access in Malaysia for Australian companies – particularly in the current negotiations towards conclusion of a Malaysia-Australia Free Trade Agreement ('Malaysia FTA') – Telstra wishes to provide the following summary information to the Committee:

Telstra's involvement in the Malaysia FTA negotiation process

Telstra has been regularly consulted by DFAT and DCITA regarding the Malaysia FTA, the ASEAN-Australia and New Zealand Free Trade Agreement ('AANZFTA'), and in respect of services offers made by Malaysia in the Doha Round of the World Trade Organisation ('WTO').

Telstra provided a detailed written submission to DFAT at the scoping study phase of the Malaysia FTA in the latter half of 2004, and updated this information in a second written submission following the announcement of the commencement of formal negotiations in April 2005. Telstra's submissions focussed on the stringent foreign direct investment limits

¹ Submission by DCITA dated 1 August 2006, available at:
<http://www.aph.gov.au/house/committee/jfad/malaysia/subs/sub7.pdf>.

² Submission by DFAT (undated), available at:
<http://www.aph.gov.au/house/committee/jfad/malaysia/subs/sub11.pdf>

applicable to Malaysian telecommunications, and the current status of telecommunications competition and access regulation in Malaysia which is a key 'behind-the-border' concern for a services industry investor entering a market from offshore.

Both of Telstra's written submissions were confidential, as permitted under the industry consultation process conducted by DFAT. This does not mean, however, that Telstra's submissions contained only criticism of market access conditions in Malaysian telecommunications. While Telstra is critical of the stringent foreign ownership limits applied in Malaysia, our submissions also documented the rapid developments in the regulatory environment managed by the Malaysian Communications and Multimedia Commission. Telstra has enjoyed a healthy ongoing commercial relationship with Telekom Malaysia for many years, which typifies the pragmatic and warm company-to-company and person-to-person links between Australians and Malaysians notwithstanding periods of political strain between the two countries over the years.

Telstra was invited (along with other Australian telecommunications carriers and representative organisations) to send representatives to two phases of direct industry consultation with the Malaysian services negotiation team, in Canberra in March 2006 and in Penang two months later. Telstra was pleased to accept these invitations, and I regard these interactions as being sufficiently valuable to have sent my most senior Telstra International employee based in Singapore, to the Penang negotiating session to meet with his Malaysian industry counterparts and Malaysian government officials. Telstra was the only Australian telecommunications carrier to make this investment in support of the Malaysia FTA negotiations.

Telstra's key concern regarding market access in Malaysia: foreign ownership restrictions

The Committee will be aware that Australia imposes no foreign ownership limit on foreigners entering the Australian telecommunications services market to compete with Telstra. With regard to 'behind-the-border' restrictions, Telstra's view is that current competition regulatory settings in Australia provide a considerable leg up to new market entrants from offshore. Most of Telstra's significant competitors are foreign owned and controlled. Telstra takes no issue with the entry of foreign competitors to the Australian market: any credible economic analysis would confirm that this enables world-class competition to enter the Australian domestic market, which ultimately is beneficial for consumers and the economy as a whole.

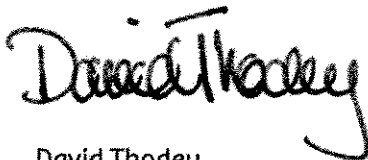
Malaysia, by contrast, maintains a formal maximum 30% foreign ownership limit for telecommunications services suppliers – although in certain circumstances foreigners are permitted to take up to 61% equity provided they sell down to 49% within five years. These foreign investment restrictions are explained in detail in the DCITA submission, hence I will not repeat that information. Addressing this disparity in market access between Australia and Malaysia is top of Telstra's agenda in the Malaysia FTA negotiations. Telstra believes that like Australia, Malaysia should permit 100% foreign ownership of all telecommunications service providers other than the former incumbents.

Telstra additionally supports the conclusion of a comprehensive FTA covering both goods and services, with key regulatory commitments contained in a specific telecommunications services chapter. This is similar to the structure adopted in Australia's free trade agreements with Singapore and Australia (though unfortunately absent from our agreements with New Zealand and Thailand).

Finally, Telstra looks forward to the earliest possible conclusion of the Malaysia FTA, as given the current hiatus in the WTO Doha Round there appears to be little near-term likelihood of greater access to the Malaysian market via the multilateral trade agreement path. I would like to stress that Telstra does not have any near-term plans for entry into the Malaysian market. However, our Telstra International business successfully provides services to multinational corporate clients throughout Asia and would benefit from the opportunity to establish a permanent local sales presence in Malaysia. Current foreign ownership limitations make such a presence difficult, and this typifies the market access barriers highlighted by DCITA in its submission to the Committee.

Please contact me if I can be of further assistance, and best wishes for the good work of your Committee.

Yours sincerely

A handwritten signature in black ink that reads "David Thodey". The signature is written in a cursive, slightly slanted style.

David Thodey
Group Managing Director
Telstra Enterprise & Government