

SUBMISSION NO. 7

Amendments to the Singapore-Australia Free Trade Agreement

Questions on Notice

What is Telstra's views on the removal of those footnotes? Was there any specific submission from Telstra in preparation for the review on that matter?

Telstra did not initiate the request to remove the footnotes.

Telstra is aware of the removal of the footnotes and has raised no operational objection.

Telstra was invited to industry consultations on the SAFTA review. No submission or comment was received from Telstra at the time.

Why were they there in the first place? There would be a reason why these [footnotes] are being removed, and I want to get to the bottom of what it is?

At the time SAFTA was negotiated Australian negotiators considered it desirable to include such clarifying text to explain how Australia's existing regulatory regime complied with its FTA obligations. Similar clarifying footnotes were also included in Australia's FTA with Chile, but were not included in AUSFTA or AANZFTA (to which Singapore is a Party)

As part of the second review, Singapore requested the footnotes be removed as they considered they were unnecessary and created an undesirable precedent for other potential FTA partners. Since originally including the footnotes, the Department of Broadband, Communications, and the Digital Economy has reconsidered the need to insist on the inclusion of such footnotes, particularly given recent changes to the telecommunications regulatory regime in Australia. Recent agreements have not included such footnotes. As such, given the footnotes were of a clarifying nature only, Australia agreed to the request as part of the second review of SAFTA.

Did Singapore ever complain [in respect of a publicly available Reference Interconnection Offer]?

No.

Whether Singapore's FTA with the US gives them better terms than our FTA with the US on Intellectual Property?

No. Singapore's free trade agreement (FTA) with the US (SUSFTA) does not give Singapore better terms than Australia under the AUSFTA on Intellectual Property (IP).

The differences between Singapore and Australia's respective FTAs with the US mainly reflect our domestic laws and approaches to IP. The scope of some AUSFTA obligations is narrower than SUSFTA, where Australian law is narrower in its application. For example AUSFTA includes a narrower definition of 'rights management information' - that is it is 'electronic information', whereas SUSFTA is just 'information'. The narrower definition in AUSFTA reflects Australian law. Another example is on civil remedies, where the SUSFTA provides an opportunity for the right holder to elect between actual damages or pre-established damages. Australia did not agree to such provisions in AUSFTA as there is no system of pre-established damages in Australia. Instead, AUSFTA provides for 'additional damages'.