

TREASURY EXECUTIVE MINUTE

Minute No.

10 March 2010

Treasurer

POLICY APPROVAL FOR AMENDMENTS TO THE TELECOMMUNICATIONS LEGISLATION AMENDMENT (FIBRE DEPLOYMENT) BILL 2010

Timing: Urgent. Minister Conroy seeks a response by 11 March 2010.

Recommendation:

- That you **sign** the letter at Attachment A, agreeing to an amendment to the *Trade Practices Act 1974* (TPA) being included in the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010 (the Bill).

Signed/Not Signed

Signature:

...../...../2010

KEY POINTS

- On 9 March 2010, the Minister for Broadband, Communications and the Digital Economy, Senator the Hon Stephen Conroy, wrote to you seeking agreement to an amendment to the TPA to be included in the Bill. This letter is at Attachment B.
- The Bill provides that fixed-line facilities installed in the course of developing greenfield sites must be 'fibre-ready' – that is, it must be possible to install optical fibre to the facility.
- The Bill further provides that regulations under the *Telecommunications Act 1997* may establish a third-party access regime for access to the fibre-ready fixed-line facilities.
 - These regulations may confer on the Australian Competition and Consumer Commission (ACCC) powers and functions for the regulation of an access regime.
- It is envisaged that the ACCC may wish to delegate such powers and functions to particular members, rather than requiring the Commission as a whole to administer the regime.
 - Section 25 of the TPA allows the ACCC to delegate certain powers to its members.
 - The Bill would amend section 25 to allow delegation of powers conferred by regulations made under the relevant provisions of the *Telecommunications Act 1997*.
- While the amendment would facilitate delegation of powers, the ACCC would remain free to determine the most appropriate manner of administering any established access regime.
- The Competition Law and Policy Unit has been consulted in preparing this minute.



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Senator the Hon Stephen Conroy
Minister for Broadband, Communications
and the Digital Economy
Parliament House
CANBERRA ACT 2600.

Dear Minister

Thank you for your letter of 9 March 2010, seeking agreement to an amendment to the *Trade Practices Act 1974* being included in the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010.

I note that the amendment would allow the Australian Competition and Consumer Commission (ACCC) to delegate, to members, functions that may be conferred on it by regulations made under proposed new provisions of the *Telecommunications Act 1997*. This will allow the ACCC to administer a third party access regime established under the regulations in the most effective way.

I support the inclusion of the proposed amendment in the Bill.

This letter has been copied to the Prime Minister.

Yours sincerely

WAYNE SWAN