

TREASURY EXECUTIVE MINUTE

Minute No.

14 December 2009

Treasurer

cc: Minister for Financial Services, Superannuation
and Corporate Law

NATIONAL BROADBAND NETWORK BILLS - REQUEST FOR APPROVAL OF CONSEQUENTIAL AMENDMENTS

Timing: Urgent - your approval is required to permit the release of the Bills on 18 December 2009.

Issue: The Minister for Broadband, Communications and the Digital Economy has written seeking your approval (see letter at Attachment A) for:

- minor amendments to the *Trade Practices Act 1974* (TPA) reflecting new regulatory powers for the ACCC in relation to the National Broadband Network (NBN); and
- limits on the application of the *Corporations Act 2001* for the sale of the Government's stake in NBN Co.

Recommendation: That you **sign** the draft letter (at Attachment B) agreeing to the proposed amendments.

Signed/Not Signed

Signature:

...../...../2009

KEY POINTS

- [s.34(3)]
- We do not have any concerns with the proposed amendments.
 - Amendments to sections 25 and 155 of the TPA will provide consistent application of the ability of the ACCC to delegate its powers and the ACCC's information gathering powers.
 - Proposed limits on the Corporations Act are consistent with legislation governing the sale of Telstra and Medibank Private.
- : If agreed, the Minister for Financial Services, Superannuation and Corporate Law will notify the Ministerial Council for Corporations of the proposed clauses affecting the corporations legislation and circulate a copy of the Bills to the Council in accordance with the *Corporations Agreement 2002*.
- Corporations and Financial Services Division was consulted in the preparation of this minute.

Senior Adviser
Energy, Transport and Communications
Unit

Contact Officer (CCPD):
Contact Officer (CFSD):

ATTACHMENT A

LETTER FROM THE MINISTER FOR BROADBAND

[Pages 3-5 have been redacted under s.22]

ATTACHMENT B

DRAFT LETTER OF RESPONSE



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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 recent letter seeking my agreement for minor amendments to sections 25 and 155 of the *Trade Practices Act 1974* relating to the Australian Competition and Consumer Commission's regulatory powers for the National Broadband Network and for consequential amendments relating to the sale of NBN Co Limited.

I agree to the amendments you have outlined. I note that the Minister for Financial Services, Superannuation and Corporate Law will need to notify the Ministerial Council for Corporations of the proposed clauses affecting the corporations legislation and circulate a copy of the Bills to the Council in accordance with the *Corporations Agreement 2002*. A copy of this letter has been sent to the Minister for Financial Services, Superannuation and Corporate Law for information.

Yours sincerely

WAYNE SWAN