

**Australian Information Industry Association Submission to the Productivity Commission's
Draft Report – Telecommunications Competition Regulation**

The Australian Information Industry Association (AIIA) is the peak national body representing suppliers of information technology and telecommunications goods and services. AIIA has over 370 member companies that generate combined revenues of more than \$40 billion, employ over 100,000 Australians and have exports of over \$2 billion.

AIIA supports the concept of an open and pro-competitive telecommunications environment; one that imposes few restrictions on the type of technology used and places no restrictions on entry to any telecommunications service market.

AIIA therefore welcomes the Productivity Commission's (the Commission) Draft Report into Telecommunications Competition Regulation. We believe the inquiry into telecommunications competition regulation was necessary and timely, particularly with the Australian telecommunications market expanding.

AIIA supports many of the preliminary views on telecommunications-specific competition regulation issues raised in the Report. We agree with the Commission's assertion that the competition regime should be less heavy-handed than the current regime but should not be light-handed.

We support the tightening of the declaration test for the access regime under part XIC as per Draft Recommendation 8.3. We agree with the Commission's recommendations that the current Part XIC declaration criteria are quite vague. The vagueness of the test gives rise to the possibility of mandated access being applied to competitive services in areas where there is no significant market failure.

AIIA supports the Commission's draft recommendation 8.4 to sunset declarations. However, draft recommendation 8.5 should be modified so that at the end of this sunset period, a review of the determination is conducted to ascertain whether removal of that declaration is warranted. In other words, we do not support the removal or revocation of a declaration by the Australian Competition and Consumer Commission (ACCC) without an inquiry or review.

The provisions for a telecommunications-specific access regime should be retained, as outlined in draft recommendation 9.1. One of the main advantages in having a specific regime is that it makes it easier to target market failure. AIIA supports the Commission's position that the provisions of the regime be consistent with those of general trade practice law, as found in Part IIIA of the *Trade Practices Act* (TPA).

AIIA supports the abolition of the Telecommunications Access Forum (TAF) as outlined in draft recommendation 9.4. As the Commission notes, the TAF has not been an effective decision-making body and is best utilised when parties have common interests and relatively equal bargaining power.

Recommendation 9.7 asserts that there should be a capacity for a group of access seekers to lodge a joint notification of dispute. AIIA supports this recommendation to consolidate similar arbitrations into a single process. This is because it saves time and money and ensures consistency in the results of arbitrations relating to similar services. AIIA acknowledges the federal Government's intention to introduce legislation to streamline the telecommunications access regime.

The removal of retail price controls as recommended in draft recommendation 10.2 is strongly supported by AIIA. Retail price controls are a significant barrier to competition in the telecommunications industry.

AIIA supports the recognition by the Commission of the importance of access pricing in telecommunications as per draft recommendation 10.1. While AIIA supports the Commission's recommendations, the principles proposed by the Commission do not address how the ACCC would determine whether an access providers' prices for declared services allow it to generate revenue at least sufficient to meet the efficient long-run costs of providing access to these services. AIIA believes that any pricing principles recommended by the Commission should address these considerations.

We support draft recommendation 10.3 that recommends the public disclosure by the ACCC of costing methodologies on which arbitrations are based, and the justification for the approach adopted. This is important for ensuring greater transparency in the application of the access regime.

As per draft recommendation 11.1, AIIA supports the removal of the requirement to produce industry development plans. They are an unnecessary cost and burden on the telecommunications industry and their effectiveness has been questionable.

In conclusion, AIIA acknowledges that the Commission's Report contains a comprehensive analysis of the unique features of the telecommunications industry and the current regulatory regime. We support a number of the recommendations made in the report.