

15 July, 1999

**RAIL ACCESS CORPORATION**

Mr Mike Woods  
Commissioner  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Level 16  
55 Market Street  
Sydney NSW 2000  
GPO Box 47  
Sydney NSW 2001 Australia

Dear Mr Woods

**Re: Inquiry into International Telecommunications Market Regulation**

I am writing on behalf of Rail Access Corporation (the Corporation) in response to the Productivity Commission's inquiry into International Telecommunication, Market Regulation.

The Corporation is a NSW State Owned Corporation. It owns and manages the essential rail infrastructure of NSW and generates a return for the NSW Government through charging rail operators access fees for use of the rail network. One of the Corporation's key business components is its telecommunications infrastructure which, located alongside the rail network, enhances total service delivery to the rail industry.

The Corporation's interests in the Inquiry is driven by the possibility that at some future date it may seek to enter the carrier market. The following comments are therefore made as a potential new carrier.

**Comment**

As deregulation of the Australian telecommunications market has shown, effective competition delivers enormous benefits to customers. However, as the Commission has identified, the Australian telecommunications market is small in size and scale within the international marketplace. Movements within the international telecommunications market therefore have significant implications for the Australian market.

The current trend of international telecommunications company mergers and alliances, which consolidate and concentrate market power, is of concern to the Corporation in light of the existing inequities in various international settlement arrangements which already disadvantage Australia.

From the perspective of a potential new carrier, any future decisions to grow the Corporation's Telecommunications business through infrastructure investment and the formation of strategic alliances will be affected by the extent to which it can recover a reasonable rate of return on its assets.

Given the existing inequities in settlement arrangements, the increasing concentration of market power suggests that there will be even less scope in the international arena than that which currently exists to establish equitable commercial settlement arrangements at an industry level. Clearly, this does not bode well for Australia's competitiveness in the international telecommunications market.

**An Effective Regulatory Framework**

Regulation within the international telecommunications market should be based on a flexible and long-term approach to defining technology. The approach adopted by the Australian Communications Authority (ACA) offers a useful model in this respect. Under the ACA's approach, the regulation of the telecommunications market is not driven by technology. Instead, regulatory arrangements are deliberately technologyneutral in order to avoid "picking winners". Further, this approach ensures that regulatory arrangements are not superseded by rapid changes in technology.

Non-discrimination and transparent international accounting and settlement arrangements should form the basis of an effective international regulatory framework. This is particularly relevant to redressing the issue of Internet connection charges. Under a new regulatory framework, US carriers should be required to pay for international Internet connections on an equitable basis. In light of international market consolidation, the Australian Government should also concentrate

its efforts on persuading other Governments, who have not already done so, to enact regulatory provisions which protect against anti-competitive conduct through the misuse of market power.

The robustness of the regulatory environment at the international level will be critical to ensuring that the telecommunications market remains competitive both at the international and domestic level. Rail Access Corporation supports the Australian Government in taking steps to ensure that competitive safeguards are established which first, prevent the misuse of market power and second, allow domestic and inter-national market growth based on equitable pricing arrangements.

Please do not hesitate to contact Mr Alan Aked, General Manager, Argus Telecommunications, Rail Access Corporation, on (02) 9224 7460 in relation to any queries you may have about the Corporation's submission.

I would be grateful if you would keep me advised of any further developments on the Commission's inquiry, particularly in relation to any issues affecting carriers.

Yours sincerely

JOHN COWLING  
ACTING CHIEF EXECUTIVE OFFICER