

**ACCC DISCUSSION PAPER - LAYER 2 BITSTREAM SERVICE
DESCRIPTION**

**SUPPLEMENTARY SUBMISSION FROM iiNET LIMITED AND
INTERNODE PTY LTD**

1. INTRODUCTION

This is a supplementary submission from iiNet Limited and Internode Pty Ltd (**the Access Seekers**) to the submission dated 16 September 2011 in response to the ACCC's discussion paper on the layer 2 bitstream service description (**the Discussion Paper**). This supplementary submission sets out suggested additions to the ACCC's proposed Local Bitstream Access Service Description¹ (**the Service Description**). The purpose of these suggested additions is to ensure that the availability of regulated access to the Local Bitstream Access Service will address the 'regulatory gap' identified in the Access Seeker's submissions of 16 September 2011.

2. SUGGESTED ADDITIONS

The Access Seekers suggest the following additions (appearing underlined and in red) be made to the Service Description:

1. The local bitstream access service is a point to point service for the carriage of communications in digital form between a **network-network interface** and a **user-network interface** that is

- (a) a **Layer 2 bitstream service**; and
- (b) a **superfast carriage service**.

2. Notwithstanding anything in clause 1 of this service description, a Layer 2 bitstream service will be a local bitstream access service if all of the following conditions apply:

(a) the Layer 2 bitstream service is supplied using a designated superfast telecommunications network;

(b) prior to supplying the Layer 2 bitstream service, the access provider had supplied the **ULLS** or the **LSS** to the access seeker;

(c) the Layer 2 bitstream service is provided to the access seeker as a replacement for the **ULLS** or the **LSS**; and

(d) the category A standard access obligations would not otherwise be applicable to the Layer 2 bitstream service.

3. This declaration does not apply to services which have been given a Ministerial exemption under section 141A of the *Telecommunications Act 1997*.

Definitions

Where words or phrases used in this declaration are defined in the *Competition and Consumer Act 2010* or the *Telecommunications Act 1997*, they have the meaning given in the relevant Act.

Layer 2 bitstream service has the meaning given in section 152AC of the *Competition and Consumer Act 2010*

designated superfast telecommunications network has the meaning given in subsection 152AGA of the *Competition and Consumer Act 2010*

¹ This service description is set out in section 5.1 of the Discussion Paper.

a **network-network interface** means an interface provided by an access provider at a **point of interconnection** where the access seeker's telecommunications network can interface to the access provider's designated superfast telecommunications network a point of interconnection is a physical point of interconnection between two or more networks operated by carriers or carriage service providers

superfast carriage service has the meaning given in section 152AC of the *Competition and Consumer Act 2010*

a **user-network interface** means an interface located at a physically defined end-user's premises where the access provider's local access network is present to an end-use

ULLS means the Unconditioned Local Loop Service declared by the Australian Competition and Consumer Commission under section 152AL of the *Competition and Consumer Act 2010*.

LSS means the Line Sharing Service declared by the Australian Competition and Consumer Commission under section 152AL of the *Competition and Consumer Act 2010*.

3. EXPLANATION OF SUGGESTED ADDITIONS

Clause 2(a) is included to ensure that, consistent with the applicable legislative provisions, only services provided over a designated superfast telecommunications network are captured by the Service Description².

Clauses 2(b) and 2(c) are intended to limit the scope of these additional provisions to 'plugging the regulatory gap' (i.e. they ensure that clause 2 only applies where an access provider, who was supplying ULLS or LSS to the access seeker, provides the Layer 2 bitstream service as a replacement for the ULLS or LSS).

Clause 2(d) is included so that, in the event of a 'regulatory gap' relating to ULLS or LSS, the Local Bitstream Access Service can act as a declared service of last resort (i.e. if the ACCC decides to declare other services to 'plug the regulatory gap', the Local Bitstream Access Service description will not capture those services).

**iiNet Limited
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29 September 2011**

² See section 152AL(4)(3D) of the *Competition and Consumer Act 2010*