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Jane Goldwater
Australian Competition and Consumer Commission

**By email to: Jane.Golderwater@accc.gov.au**

Dear Ms Goldwater

This letter provides a preliminary response to the discussion paper entitled: *Public inquiry into final access determinations for fixed line service — primary price terms* (**the Discussion Paper**).

In summary, iiNet considers the ACCC must take control of the process for this pricing inquiry by applying its existing Fixed Line Services Model (**FLSM**).

***There are threshold decisions the ACCC must make***

The Discussion Paper raises 69 detailed questions on complex subject matter. Many of these questions relate to alternative cost allocation and price setting frameworks proposed by Telstra.

iiNet believes that there is a need for the ACCC , rather than diving in to all of the issues raised in the Discussion Paper, to consider the following two threshold questions:

- what is the most appropriate model for setting prices for the declared fixed line services?
- what would be an appropriate outcome?

iiNet believes that consideration of these threshold questions will enable the ACCC to focus attention and resources solely on the issues that need to be determined.

iiNet is concerned that unless these threshold questions are explicitly considered, there is a risk that Telstra, rather than the ACCC, will set the agenda for this pricing inquiry.

***Stay the course - implement your model***

The question of what is the most appropriate model for setting prices for the declared fixed line services needs to take place in the context of the significant time and energy that was invested in the adoption of the FLSM in 2011. Given this, iiNet submits that it is not necessary, or in any way appropriate, to re-open the debate about:

- cost allocation factors;
- who should bear the effects of declining demand; and
- the approach to determining prices.

These issues were determined in 2011.

iiNet submits that there is unlikely to be any benefit gained in re-opening these issues given the significant work already done in 2011 and the need to avoid an inefficient regulatory process that constantly 're-invents the wheel'.

iiNet submits that the current inquiry should be limited to determining the inputs to the ACCC's existing FLSM that are necessary to 'roll forward' the Fixed Line Services Model. This requires consideration of:

- Telstra's RKR forecasts; and
- how best to deal with the payments from NBN Co to Telstra.

***Increases in prices are not in the long term interests of end users***

Under the current circumstances, any approach that leads to an increase in access prices for the declared fixed line services should be rejected at the threshold. This is for three reasons.

First, the migration to the NBN means that Telstra's costs will fall. As Telstra's costs fall, the prices to recover those costs should also fall.

Secondly, migration from Telstra's network to the NBN is mandatory. Therefore, lower access prices for copper services will not prevent migration to the NBN. Further, one of the reasons for the NBN is to deliver superior services to end users as compared to the current copper services, so it is to be expected that prices may increase as customers migrate from Telstra's legacy network to the NBN. Prior to migration to the NBN, customers should benefit from lower prices.

Thirdly, because of the payments that Telstra will receive from NBN Co, there can be no question of Telstra not recovering its investments.

To increase prices for the declared fixed line services in these circumstances would effectively lead to either:

- access seekers absorbing the price increases; or
- access seekers passing on the increased prices to end users.

iiNet submits that neither of these outcomes promote the long term interests of end users because in either case Telstra would recover windfall profits and Telstra Retail would gain a massive and unfair competitive advantage. iiNet submits that any issues relating to 'price shock' from the transition to the NBN are more appropriately dealt with when considering NBN pricing (i.e. such issues are outside the legitimate scope of this inquiry).

***Telstra's proposed cost allocation framework should be rejected***

iiNet believes that Telstra's proposed cost allocation framework should be rejected because:

- it requires the ACCC to revisit isssues that were appropriately determined at the time the FLSM was created; and
- it will lead to an increase in access prices that is contrary to the long term interests of end users.

***The way forward***

iiNet is still in the process of working through the complex issues raised in the Discussion Paper and iiNet will provide further responses in the coming weeks.

In the meantime, iiNet requests that the ACCC address these threshold questions, and in doing so, resets the process for the inquiry by moving as quickly as possible to:

- populate its existing Fixed Line Services Model, the first step of which is to ensure that Telstra's expenditure forecasts are fit for purpose; and
- assess how best to deal with the payments from NBN Co to Telstra.

Yours sincerely

**David Buckingham**
**Chief Executive Officer**