



**Australian  
Competition &  
Consumer  
Commission**

Our ref: 48491  
Contact officer: Damien Kelly  
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27 May 2013

Mr David Ohri  
Senior Associate  
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Dear Mr Ohri

**Request to hold a hearing under the *Telecommunications Act 1997* and release RAF data**

I refer to your letter of 3 April 2013 and to our letter of 4 April 2013 in which we indicated that the ACCC will consider iiNet's requests that the ACCC:

- hold a private hearing under section 501 of the *Telecommunications Act 1997* as part of the wholesale ADSL public inquiry; and
- release certain reports provided by Telstra under the Regulatory Accounting Framework (RAF) Record Keeping Rule (RKR) pursuant to section 151BUAB of the *Competition and Consumer Act 2010* (CCA).

The ACCC has considered these requests. Firstly, the ACCC does not consider that it would be able to disclose Telstra's wholesale ADSL asset register information to iiNet in a private hearing. Secondly, this information was not provided to the ACCC under the RAF RKR and therefore cannot be disclosed pursuant to section 151BUAB of the CCA. The ACCC also considers that disclosure of the general RAF RKR data will not, in these circumstances, facilitate the operation of the wholesale ADSL FAD inquiry nor will it contribute to promoting competition in the market for listed services.

The ACCC has therefore decided against iiNet's requests to hold a private hearing or to release certain reports under the RAF RKR.

The ACCC acknowledges iiNet's concerns about its ability to respond to its Draft Report on the wholesale ADSL final access determination. The need to provide a transparent and effective consultation process that allows interested parties to effectively and independently scrutinise the ACCC's reasons is an issue that the ACCC takes seriously. Transparency must, however, be balanced against the access provider's legitimate interests in protecting its commercially sensitive information.

The ACCC is currently considering some practical options to deal with the issue of access to confidential data in the context of the upcoming review of the fixed line services, which will commence later this year. In considering the options, the ACCC will explore how to best balance the need for transparency and effective consultation with relevant parties' legitimate interests in protecting commercially sensitive information.

While the inquiry period for the wholesale ADSL FAD inquiry was extended to 13 August 2013, it remains the ACCC's expectation to release its final decision on the wholesale ADSL FAD prior to that date.

Should you wish to discuss this matter further, please contact Damien Kelly on (02) 9230 3820 or [damien.kelly@acc.gov.au](mailto:damien.kelly@acc.gov.au).

Yours sincerely,

A handwritten signature in blue ink that reads "R. Wright." The signature is written in a cursive style.

Robert Wright  
General Manager  
Access Operations and Pricing  
Communications Group