



INTERNET ASSOCIATION OF AUSTRALIA
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Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600

By email: morecompetition@treasury.gov.au

RE: Treasury Laws Amendment (Competition and Consumer Reforms No. 1) Bill 2022: More Competition, better prices

Thank you for the opportunity to express the Internet Association of Australia (IAA) perspective on the draft Treasury Laws Amendment (Competition and Consumer Reforms No. 1) Bill 2022 ('Bill'). Many of IAA's members are small to medium sized Internet Service Providers. Our response is primarily to represent the perspective of our members, as well as in support of the general well-being of the industry.

IAA is sincerely committed to promoting competition in the internet and broader telecommunications industry. As Australia's largest not-for-profit internet peering network which operates to create a better Internet for Australia, we are deeply committed to fostering a competitive market and believe this will facilitate greater innovation and provision of services for consumers. As such, we agree in sentiment with the proposed Bill that purports to discourage entities from breaching legislation related to competition and consumer rights. Furthermore, we understand the serious need to impose penalties that can act as genuine deterrence and will not be absorbed by ordinary operations.

However, we are very concerned about the lack of notice and consultation that has been afforded to the proposed amendment. Providing one week for consultation on this Bill is not sufficient to allow for a proper review of an obviously important piece of legislation. We note that the proposed maximum penalties would be a very large increase from the current stipulations. While we reiterate our understanding this may be necessary to serve as a real deterrence due to the potential of some entities still breaching competition and consumer law under the current penalties, we believe that greater explanation and examples should be provided to justify these proposed changes, particularly due to the scale of the increase in penalties.

Furthermore, as the increased penalties would also apply to breaches of various *Australian Consumer Law* provisions, we are concerned that this could potentially capture entities - in particular small businesses, that are not intentionally engaging in misconduct but do not have the resources to understand and/or comply with complex regulation. While this doesn't excuse or justify any entity's breach of competition and consumer legislation, we believe that regulation should be proportionate. As such, while the accompanying Explanatory Material suggests that the amendments have been brought about to discourage larger businesses who view the current penalties as an acceptable cost and see a financial benefit in still breaching the law, as the increased penalties still apply to persons as well as body corporates, there is the potential that

small businesses will be hit with unnecessarily large penalties. Due to the already high barriers to market entry for smaller entities in the telecommunications sector, we are concerned there may be potential adverse consequences from the proposed amendments for smaller entities. To reiterate, we believe greater research and evidence is necessary to ensure that the proposed amendments are justified and effective, and commensurate to the misconduct they purport to discourage.

Once again, IAA appreciates the opportunity to contribute to the draft Treasury Laws Amendment (Competition and Consumer Reforms No. 1) Bill 2022. We appreciate the efforts and work of the Treasury to ensure that legislation is robust, and will actually achieve its intended purpose of discouraging anti-competitive behaviour. We believe that good regulation requires thorough analysis and consideration to ensure it is reasonable, effective and measured. As such, we are concerned about the extremely short consultation period that was provided for the proposed amendments which could be very significant in practice due to the very large increase amounts. Furthermore, we don't believe industry has been provided with sufficient explanation as to why such great changes are necessary and justified. We are sincerely committed to fostering a healthy and thriving internet and wider telecommunications industry, for which we believe competition is vital. To this end, we sincerely look forward to continue engaging with the Treasury, industry and other stakeholders to ensure legislation that best serves the internet and telecommunications industry, as well as the broader Australian economy.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia