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The Australian Communications Consumer Action Network (ACCAN) is pleased to have the opportunity to comment on the Department's review of Part XIB of the *Competition and Consumer Act 2010* (Cth) ('CCA').

Executive Summary

Consumers in Australia should have access to competitive, quality and affordable telecommunication services. These services enable consumers to perform essential functions in society today, such as ensuring personal safety and security, ensuring self-progression and development, completing essential tasks, e-commerce, economic livelihood and social interaction. It is important that all consumers can choose to be connected consumers in a competitive and dynamic marketplace.

The telecommunications market has undergone, and will undergo a significant amount of changes in the next few years. Due to these circumstances, ACCAN does not believe now is the time to remove existing competition law protections except where there is clear and unnecessary duplication. Until further competition develops, ACCAN strongly believes it is in the best interests of end users that the ACCC should continue to be able to issue competition notices to intervene quickly and effectively to protect consumers from anti-competitive market behaviour.

1. The competition rule

ACCAN supports simplifying the laws in the telecommunications sector where there is unnecessarily duplication, including by narrowing the competition rule as discussed below.

The telecommunications-specific effects test for misuse of market power

The Government has released draft legislation with changes to section 46 of the CCA. The new wording would include a general prohibition on companies with substantial degree of power in the market from engaging in conduct that has the purpose, effect or likely effect of substantially

lessening competition in that or any other market. Part XIB of the CCA has included a similar prohibition for over 20 years in Part XIB of the CCA.

The table below shows the similarities and differences between the proposed changes to section 46 in Part IV and the current effects test in Part XIB. We have italicised the common parts of both sections and used strikethrough format to indicate the differences between the sections.

Proposed section 46 ¹	Part XIB effects test ²
<p>A corporation that has a <i>substantial degree of power</i> in a market must not engage in conduct that has the purpose, or <i>has or is likely to have the effect, of substantially lessening competition in that or any other market</i></p>	<p>(2) A carrier or carriage service provider engages in anti-competitive conduct if the carrier or carriage service provider:</p> <p>(a) has a <i>substantial degree of power</i> in a telecommunications market; and</p> <p>(b) either:</p> <p>(i) takes advantage of that power in that or any other market <i>with the effect, or likely effect, of substantially lessening competition in that or any other telecommunications market;</i></p> <p>or</p> <p>(ii) takes advantage of that power in that or any other market, and engages in other conduct on one or more occasions, with the combined effect, or likely combined effect, of substantially lessening competition in that or any other telecommunications market.</p>

ACCAN cannot determine any consumer detriment from these changes and accordingly, we support removing the telecommunications-specific effects test. ACCAN also supports the Harper Review’s recommendation for the ACCC to establish guidelines on how s 46 is intended to operate.³ In these guidelines, the ACCC should make clear that s 46 includes multiple types of conduct which, taken together, may have the effect of substantially lessening competition. This prohibition is expressly included in section 151AJ(2A)(ii) (see above table).

¹ Exposure Draft to Competition and Consumer Amendment (Competition Policy Review) Bill 2016, Schedule 10, Part 1, item 2, available at <https://consult.treasury.gov.au/market-and-competition-policy-division/ed_competition_law_amendments>.

² *Competition and Consumer Act 2010* (Cth), section 151AJ(2).

³ Professor Ian Harper, Peter Anderson, Su McCluskey and Michael O’Byrne QC, ‘Competition Policy Review Final Report’, March 2015, <http://competitionpolicyreview.gov.au/files/2015/03/Competition-policy-review-report_online.pdf> at pages 345, 348.

The proposed scope of the competition rule

The ‘competition rule’ in Part XIB of the CCA is the section of the law that prohibits anti-competitive conduct by carriers or carriage service providers (‘C/CSPs’).⁴ A C/CSP engages in anti-competitive conduct if they breach the telecommunications specific effects test or breach other parts of the CCA that apply to all industries.

As discussed above, if the Government amends section 46 of the CCA under the current proposal, the telecommunications effects test can be removed. This means that ‘anti-competitive conduct’ will only occur if a C/CSP breaches other sections of the CCA which prohibit anti-competitive conduct across all sectors. These other sections are in Part IV of the CCA and include:

- sections 44ZRJ and 44ZRK (cartel provisions)
- s 45 (contracts affecting competition)
- s 45B (covenants affecting competition)
- s 46 (misuse of market power)
- s 47 (exclusive dealing)
- s 48 (resale price maintenance).

Accordingly, ACCAN recommends retaining the competition rule in the following form as outlined in section 151AJ(3):

(3) A carrier or carriage service provider engages in anti-competitive conduct if the carrier or carriage service provider:

(a) engages in conduct in contravention of section 44ZZRJ, 44ZZRK, 45, 45B, 46, 47 or 48; and

(b) the conduct relates to a telecommunications market.

The definition of “telecommunications markets”

ACCAN supports retaining the definition of “telecommunications market” currently in section 151AF. That section states:

For the purposes of this Part, a telecommunications market is a market in which any of the following goods or services are supplied or acquired:

- (a) carriage services;
- (b) goods or services for use in connection with a carriage service;
- (c) access to facilities;
- (d) content services.

⁴ *Competition and Consumer Act 2010* (Cth) section 151AK.

This definition should be retained in Part XIB as part of the narrower competition rule outlined above. This will continue to provide C/CSPs with a clear understanding about the broad range of services and facilities that are covered by the law. ACCAN also recommends that the ACCC establish guidelines about specific emerging trends and issues which may pose risks to competition in telecommunications markets.

For example, ACCAN notes the rise of the content services market through the rise of over the top video subscription services such as Netflix, and the digitalisation of content from non-electronic to electronic form, including print news media. Other issues that are likely to emerge in the future include “goods or services for use in connection with a carriage service” such as interconnection agreements and data centres.

Making sure that predatory pricing remains illegal

The current section 46 and the telecommunications specific market power law in section 151AJ both explicitly mention predatory pricing as one type of behaviour that is likely to substantially lessen competition and will accordingly breach section 46. ACCAN is concerned that the proposed changes to section 46 do not include this specific reference.

Current section 46	Part XIB effects test ⁵
<p>...</p> <p>(4A) Without limiting the matters to which the court may have regard for the purpose of determining whether a corporation has contravened subsection (1), the court may have regard to:</p> <p>(a) any conduct of the corporation that consisted of <i>supplying goods or services for a sustained period at a price that was less than the relevant cost to the corporation of supplying such goods or services</i>; and</p> <p>(b) the reasons for that conduct.</p> <p>...</p>	<p>...</p> <p>(2A) Without limiting the matters to which regard may be had for the purpose of determining whether a carrier or carriage service provider has engaged in anti-competitive conduct as defined in subsection (2), regard may be had to:</p> <p>(a) any conduct of the carrier or carriage service provider that consisted of <i>supplying goods or services for a sustained period at a price that was less than the relevant cost to the carrier or carriage service provider of supplying such goods or services</i>; and</p> <p>(b) the reasons for that conduct....</p>

If the telecommunications-specific effects test is removed, ACCAN recommends that the ACCC establish guidelines which point out that engaging in predatory pricing is likely to fall foul of the new section 46, even though it is not expressly mentioned in the section.

⁵ *Competition and Consumer Act 2010* (Cth), section 151AJ(2).

2. Competition notices

ACCAN supports retaining the competition notice system in full until further competition develops across the sector.

What is a competition notice?

Under the current law in Part XIB of the CCA, if a C/CSP engages in anti-competitive conduct, the ACCC can issue a competition notice to the C/CSP ordering it to stop engaging in the conduct. If the C/CSP does not cease the conduct, then the ACCC or another C/CSP who is affected can commence legal action. The Court can award \$10 million, plus \$1 million for every day that the conduct continues, and if the conduct goes for more than 21 days, \$31 million plus \$3 million for each additional day.⁶ Before the ACCC issues a competition notice, it has the option of issuing an advisory notice to the C/CSP. The ACCC does not have to issue an advisory notice first and can issue a competition notice immediately.⁷ The ACCC can also approach the C/CSP informally to discuss the situation.

Outside the telecommunications industry, there is no equivalent to competition notices. This means that there is no power for the ACCC to issue competition notices for general breaches of competition law, including prohibitions of Part IV.

The historical rationale for competition notices

As noted in the Discussion Paper, competition notices were first introduced over 20 years ago because the regulator needed measures “to facilitate prompt action” against anti-competitive conduct in the telecommunications sector.⁸ In addition, when the Productivity Commission last reviewed Part XIB, it concluded that:

“if sustainable competition develops further, the justification for special anti-competitive conduct provisions would lessen. This is because such competition will reduce the scope for anti-competitive conduct in the first place and, in the second, reduce the need for speed in dealing with it.”⁹

ACCAN strongly believes that sustainable competition has not yet developed in the sector and that there may be occasions in the medium term where the ACCC needs to promptly intervene

⁶ *Competition and Consumer Act 2010* (Cth) section 151BX(3)(a).

⁷ *Competition and Consumer Act 2010* (Cth) section 151AQB2(2).

⁸ Department of Communications and the Arts, ‘Discussion Paper on Part XIB anti-competitive conduct regime’, September 2016, available at <<https://www.communications.gov.au/file/19776/download?token=qFE2CwuW>> at p.4.

⁹ Productivity Commission, Final Report into Telecommunications Competition Regulation, available at <<http://www.pc.gov.au/inquiries/completed/telecommunications-competition/report/telecommunications2.pdf>> at p. 202.

by issuing a competition notice. We outline some of the ongoing challenges which may give rise to this need below.

Present and future competition concerns

(A) NBNCo and other monopoly providers

nbnCo was always designed as a monopoly (with some exceptions where non-NBN super-fast broadband services exist). The company has complete control over day-to-day pricing that it charges Retail Service Providers (RSPs), which are passed on to consumers. nbnCo has also recently announced that it will enter into dimension-based discount pricing and RSP-specific discount offerings.¹⁰ This may affect competition for smaller providers who do not have economies of scale.

Further, the Government has publically stated that it intends to privatise the nbnCo at some point in the future. The ACCC must be able to effectively deter anti-competitive behaviour by the future owners of this critical national infrastructure.

The Government may also need to address competition concerns in non-NBN superfast broadband services including those provided by TPG and similar providers' fibre to the Basement/premises services.

(B) Telstra

Despite privatisation, ongoing structural separation, numerous declaration inquiries, facilities codes and undertakings, Telstra continues to have hugely significant influence and market power in the telecommunications market. This poses ongoing challenges for competition both during and after the NBN rollout is complete.

i. Telstra's dominant market position

Telstra continues to occupy a dominant position in the market:

- 64 per cent of the wireless broadband market¹¹
- 64 per cent of the fixed retail line market, with the remaining top four providers at 12 per cent and five and six per cent respectively¹²
- 45 per cent of the mobile market¹³
- 41 per cent of the fixed broadband market (with the remaining providers having approximately 15 per cent each of the market).¹⁴

¹⁰ NBNCo, 'Discount Notice – CVC Dimension-based discount' 5 May 2016, available at http://www.nbnco.com.au/content/dam/nbnco2/documents/sfaa-cvc-dimension-based-discount-notice_20160505.pdf

¹¹ ACCC, 'ACCC telecommunications reports 2014-15 – Report 1- Competition in the Australian telecommunications sector', February 2016, https://www.accc.gov.au/system/files/ACCC%20Telecommunications%20reports%202014%E2%80%9315_Div%2011%20and%2012_web_FA.pdf at page 30.

¹² ACCC, above n 11, at page 22.

¹³ ACCC, above n 11, at page 30.

With its market-leading mobile and mobile broadband networks, together with the use of bundling, it is critical that Telstra does not take undue advantage of its power when pricing its service packages and entering into commercial arrangements for other services including content services and other emerging technologies.

ii. Telstra's chequered history

In 2012, Telstra entered into a Structural Separation Undertaking ('SSU') with the ACCC. The SSU was designed to ensure that Telstra supplies regulated services to its wholesale customers and own retail business units on equivalent terms. The SSU is valid until eligible customers have been moved from Telstra's copper and HFC network to the NBN. In 2014, the ACCC received several notices from Telstra indicating that it may have breached its obligations under the SSU. These potential breaches include:¹⁵

- Telstra's comparative performance in repairing wholesale and retail faults in relation to basic telephone services;
- Different processes for advising Telstra retail customers and wholesale customers of 'no fault found' following remote testing of telephone line faults by Telstra; and
- Failing to properly 'ring-fence' confidential or commercially sensitive wholesale customer information.

While Telstra has taken action to rectify these issues, ACCAN is cautious about removing the ability for the ACCC to take immediate action for other issues that may arise in the future.

In addition, the fibre component of the NBN rollout is not due for completion until 2020. This is a long time period in a dynamic telecommunications market and may create short term periods of poor competition requiring prompt regulatory intervention.

Furthermore, the ACCC has issued five competition notices to Telstra. Each notice involved serious competition concerns, including failure to reasonably open up copper lines to competitors' ADSL and voice services.¹⁶

iii. Potential competitive advantages during and post-NBN rollout and control of bottleneck facilities

The ACCC has identified the potential for the "competitive advantage Telstra may gain from access to significant information flows regarding the multi-technology mix NBN".¹⁷ Specifically, Telstra has a contract for the planning, design, construction, and construction management

¹⁴ ACCC, above n 11, at page 23.

¹⁵ ACCC, 'ACCC telecommunications reports 2014-15 – Report 1- Competition in the Australian telecommunications sector', February 2016, <https://www.accc.gov.au/system/files/ACCC%20Telecommunications%20reports%202014%E2%80%9315_Div%2011%20and%2012_web_FA.pdf> at page 62.

¹⁶ ACCC, 'Competition Notices Register (s 151 AR)', available at <<http://registers.accc.gov.au/content/index.phtml/itemId/323962>>.

¹⁷ ACCC, above n 11, at page 2; ACCC, 'ACCC continues to examine competition implications of NBN/ Telstra HFC delivery agreement', 11 April 2016, <<http://acc.gov.au/media-release/accc-continues-to-examine-competition-implications-of-nbn-telstra-hfc-delivery-agreement>>.

services within its existing Foxtel/Telstra Bigpond Cable footprint. This contract is valued at over \$1.6 billion.¹⁸ This poses a particular issue for competition if other Retail Service Providers offering HFC NBN services do not have access to the same information.

In addition, Telstra has an agreement to maintain the copper network in the 7% of the country that will be covered by NBN satellite and fixed wireless. The copper network will continue to play a key role for those in rural, regional and remote areas in emergencies and in areas where there is no mobile coverage (often due to carriers' refusal to extend service for economic reasons). This agreement needs to be monitored to ensure Telstra does not either intentionally or unintentionally run down the network in order to encourage customers to take out Telstra services such as mobile services and non-fixed wireless.

Telstra also continues to exercise control over access to key facilities required for NBN interconnect, including underground facilities (ducts) and access to Telstra exchanges. As the NBN rollout increases, it is important that there are strong mechanisms in place to promptly deal with any anti-competitive conduct that may arise.

(C) Changes in technology and consumer habits

We question the timing of the current review of Part XIB given the ACCC's market study on competition in the communications sector due for completion in November 2017. The ACCC has not conducted a market study on communications since 2003, and that study was heavily focused on Pay TV services.¹⁹ While the ACCC produces an annual report on competition in the sector, this study does not consider competition for business consumers. ACCAN is also particularly concerned with the as yet unknown state of competition for small businesses as consumers of telecommunications services. Accordingly, the 2016-2017 market study will provide a comprehensive and unique insight into competition in new technologies across both business and domestic consumers.

Also, given the rapid changes in technology and consumer behaviour, it would be prudent to see how these trends play out in the medium term before significantly changing the current law. One example of these changes is the rise of the content service market, facilitated by the introduction of Netflix and other streaming services. Given the broad nature of content across news media, education, health and other industries, it is likely that the market will continue to develop at a fast pace.

Other developments that will affect the market over the coming years include:

- the rise in demand for data
- fixed to mobile substitutability, including speed and coverage concerns
- increased focus on internet interconnection agreements by itself and as an input for net neutrality

¹⁸ Telstra, Market Release 'Telstra and nbn announce HFC delivery agreement', 11 April 2016, available at <<http://www.aspecthuntley.com.au/asxdata/20160411/pdf/01729915.pdf>>.

¹⁹ ACCC, 'Emerging market structures in the communications sector, ACCC', June 2003, <<http://www.accc.gov.au/system/files/Emerging%20market%20structures%20in%20the%20communications%20sector.pdf>>

- software-defined networking, cloud computing and data centres.

In addition, the digital economy is making an increasingly important contribution to the Australian economy. By 2020, the digital economy will account for 7.3% of Australia's GDP.²⁰ This amount is likely to grow further, making it even more important that the Government maintains its ability to deter anti-competitive conduct in a prompt and effective manner.

(D) Increasing industry consolidation

In September 2016, ACCC Chairman Rod Sims commented on the Vocus/Nextgen merger, noting that the ACCC will “continue to keep a close watch on competition in the telecommunications industry especially given recent consolidation and increased vertical integration”.

Competition notices are an effective, targeted and efficient means of resolving serious anti-competitive behaviour

ACCAN strongly believes that competition notices give the ACCC an important and flexible tool to use to deter serious ongoing harm to competition in the sector.

i. Competition notices have a strong deterrent effect

The strong penalties for breaching competition notices provide very strong deterrence to providers, and it is likely to cause them to think twice before engaging in anti-competitive conduct. If a C/CSP does not cease conduct after a notice is given, they face fines of \$10 million plus an additional \$1 million dollars per day.²¹ In most cases, this is larger than the penalties available under the general prohibitions on anti-competitive conduct in Part IV.²²

ii. Competition notices are flexible and resource efficient

Competition notices are more flexible than commencing legal proceedings, including obtaining injunctions. Many injunctions cannot be appealed, which means that if the injunction is denied, the ACCC would have to wait until the case is formally resolved before it can take any action. Even if the ACCC does later successfully sue a C/CSP, the penalty may be under-representative of the damage caused to competition between the time the ACCC became aware of the conduct and the time proceedings finish. This can often be years later. For example, a case on misuse of market power against Boral was only finalised seven years after it was commenced.²³ This kind

²⁰ Deloitte Access Economics, 'Connected Continent II', 2015, available at <http://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-connected-continent-ii-2015-300315.pdf> at p.1,

²¹ *Competition and Consumer Act 2010* (Cth) section 151BX.

²² *Competition and Consumer Act 2010* (Cth) section 76(1A)(b).

²³ *Boral Besser Masonry Limited v Australian Competition and Consumer Commission* [2003] HCA 5 (7 February 2003).

of delay is “unacceptable in the telecommunications industry where the nature and structure of the market is changing at a rapid rate”.²⁴

Further, ACCAN believes that Part XIC mechanisms, including the ability to set terms and conditions for access and binding rules of conduct, are complementary to the competition notice regime, but not substitutes for it. Competition notices continue to provide a useful instrument in the ACCC’s enforcement toolkit, particularly when there are immediate and pressing competition concerns.

In addition, there are no existing guidelines in place for preparing binding rules of conduct. By contrast, the ACCC has developed guidelines on when it will issue competition notices, most recently updated in 2016. The ACCC and the telecommunications industry are familiar with their operation and ACCAN does not consider it is in anyone’s interests to adopt a separate system through binding rules of conduct. Further, the power to set terms and conditions for access is a resource-intensive process which may allow a provider who is behaving anti-competitively to continue to reap the benefits of its behaviour until an agreement is eventually finalised.

iii. Competition notices are not issued lightly

ACCAN notes that carriers can currently seek exemptions from the competition rule. Providers can also receive an advisory notice instead of a competition notice.²⁵ This gives providers an opportunity to liaise with the ACCC to reduce the likelihood of a competition notice being issued (the ACCC does not have to issue an advisory notice before issuing a competition notice). The ACCC has only ever issued five competition notices since 1997. This suggests that the notices are only given where the ACCC believes that no other action would be able to reduce the damage to competition.

Finally, ACCAN would also like to point out that the competition notice system does not appear to have discouraged investment and innovation in the sector. In August 2016, Telstra announced that it will be investing over \$3 billion in its network over the next three years.²⁶

For these reasons, ACCAN strongly supports the continued use of competition notices. They are a flexible tool that the ACCC can use to promptly address specific instances of anti-competitive behaviour across the sector.

Criteria for issuing competition notices

ACCAN considers that the factors in proposed section 46 are some considerations (among others) that the ACCC could take into account when deciding to issue a competition notice.

²⁴ Primus, Submission to Productivity Commission Draft Report into Telecommunications Competition Regulation, No DR109, June 2001, available at <http://www.pc.gov.au/inquiries/completed/telecommunications-competition/submissions/dr109_primus_telecom/subdr109.pdf> at p. 4.

²⁵ *Competition and Consumer Act 2010* (Cth) section 151AQB.

²⁶ Telstra, Letter to Shareholders including details of retail shareholder information meetings in September 2016, available at <<http://www.aspecthuntley.com.au/asxdata/20160811/pdf/01766394.pdf#search=%22%22>> at page 2.

Under the Competition Notice Guidelines, the ACCC outlines the factors it will consider, including the effect or likely effect on competition and the extent of the conduct, for example if the conduct affects competition at multiple levels of the market at wholesale and retail levels.²⁷

ACCAN considers that these guidelines set an appropriate standard for the issuing of competition notices. Rather than inserting a new section into the CCA, the ACCC can update these guidelines to include the proposed mandatory factors.

Exemption orders under Part XIB

ACCAN supports harmonising legislation where there is unnecessary duplication. However, ACCAN finds strong reasons to retain exemption orders in Part XIB due to the important role of telecommunications services in achieving socially desirable policy objectives.

Section 151BC(2) of the CCA outlines certain factors that the ACCC should take into account when deciding to grant an exemption order:

(a) the extent to which the conduct relates to the supply of goods or services on favourable terms and conditions to:

- (i) a financially disadvantaged individual; or
- (ii) an individual who is disadvantaged on health grounds; or
- (iii) a registered charity; or
- (iiia) a community organisation that is a not-for-profit entity and is not a charity; or
- (iv) an educational institution; or
- (v) a health facility;

(b) the extent to which the conduct relates to the supply of goods or services for:

- (i) community, charitable or educational purposes; or
- (ii) the promotion of health or safety;

on favourable terms and conditions;

(c) the need to satisfy any applicable universal service obligation;

(d) the extent to which the conduct prevents or reduces, or is likely to prevent or reduce, pollution or other forms of degradation of environmental amenity;

(e) the extent to which the conduct contributes, or is likely to contribute, to technical innovation, or the development of new goods or services, by Australian industry.

ACCAN would like to emphasise that the ‘provision of goods and services on favourable terms and conditions’ affects vulnerable consumers including people with a disability, financial

²⁷ ACCC, Telecommunications Competition Notice Guidelines Issued pursuant to section 151AP(2) of the Competition and Consumer Act 2010, September 2015, <<https://www.accc.gov.au/system/files/Telecommunications%20Competition%20Notice%20Guidelines%20-%20September%202015.pdf>> at p. 15 [at para 3.1].

difficulties, schools, charities and community organisations.

In addition, ACCAN emphasises the importance of the universal service obligation (see subsection (c) above as filling a critical social and economic need, particularly for those consumers in rural, regional and remote areas.

These principles are critical to the availability, affordability and accessibility of telecommunications services. ACCAN would not wish for providers to reduce the quality or access to services for these groups due to legal uncertainty about whether this may contravene anti-competitive conduct law. Accordingly, ACCAN urges the Government to retain the factors in the current exemption system. ACCAN does not support including these factors in guidelines because these can be changed at any time without parliamentary oversight.

Sincerely

Jax Arnold
Policy Officer

Glossary:

ACCC: Australian Competition and Consumer Commission – the national competition regulator, including the regulator for telecommunications services.

PC: Productivity Commission is the Federal Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians.

CCA: Competition and Consumer Act – the main piece of legislation about competition law.

C/CSP: a carrier or carriage service provider (respectively). A carrier is the owner of a telecommunications network unit used to supply a phone, mobile, internet or other service.

A carriage service provider is a company or person who supplies a phone, mobile, internet or other service (but who may not own the network they are using).

NBN: National Broadband Network – the government funded network delivering internet to Australians over fixed broadband, wireless broadband and satellite.

Competition Notice: a notice that the **ACCC** can give to a telecommunications company saying that the **ACCC** has reason to believe that the company is acting anti-competitively. Very heavy fines apply for every day that the company disobeys the notice (up to \$3 million a day).

Part XIB: Part 11B of the CCA. This Part:

- makes it against the law for a carrier to behave in an ‘anti-competitive’ way. Anti-competitive means:
 - the behaviour has or is likely to substantially lessen competition
 - a breach of **Part IV** of the **CCA**
- allows the ACCC to issue a **Competition Notice** if it has reason to believe that a carrier has behaved in an anti-competitive way

Part IV: Part 4 of the CCA. This Part:

- makes it against the law for any company to (among other things):
 - be part of a cartel
 - engage in resale price maintenance
 - engage in exclusive dealing
 - engage in boycotts
 - misuse its market power by intentionally trying to lessen competition

Section 46: the section of the **CCA** that makes it against the law for a company with a significant degree of market power to do anything which substantially lessens competition.

SSU: Structural Separation Undertaking. An agreement between the **ACCC** and Telstra where Telstra promises to cease supplying fixed-line voice and broadband services over its copper and HFC networks and commencing to supply those services over the NBN as the fibre network is rolled out.

The SSU contains a number of obligations that are designed to promote competition during the interim period from the date that the SSU commenced until the NBN fibre network is complete.

USO: Universal Service Obligation – a set of laws which say that at least one carrier must be able to provide every Australian with access to a standard telephone service to make calls