



28 January 2009

Helen Daniels PSM
Assistant Secretary
Copyright Law Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600

Dear Ms Daniels

Consultation Paper – United Nations Convention on the Use of Electronic Communications in International Contracts 2005

Thank you for your letter of 18 November 2008 which sought Australian Information Industry Association's views on Australia's possible accession to the United Nations Convention on the Use of Electronic Communications in International Contracts 2005.

AIIA brought your consultation paper to the attention of its members. We sought the views of our members, primarily through our Legal Forum. Members companies were able to submit their views to you directly. If they preferred they could choose to contribute towards a consolidated response submitted by AIIA.

AIIA received a relatively low level of responses from its members (noting that a significant proportion of member companies, especially small to medium enterprises, do not regularly enter into international contracts). We can, however, infer that AIIA member companies generally are supportive of Australia's accession to the Convention.

Members observations were:

Recommendation 3. It was unclear to AIIA members what precisely constituted the 'objective reliability test'.

Recommendation 9. This may require further consideration. For example, determination of the time of dispatch as ('when it leaves an information system under the control of the originator') depends upon the concept of an information system under the control of the originator. There is an emerging trend of Software as a Service (SAAS) in which information systems are not under the control of the user organization (for example Google's gmail facility). In addition, the practicalities of recording dispatch and receipt times in a verifiable manner may require further consideration.

In conclusion, AIIA appreciated the opportunity to respond to your consultation paper.

Yours sincerely,

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