



Competition Policy Review Final Report

Submission

June 2015

Executive Summary

Microsoft, Facebook, Twitter and Yahoo!7 welcome the opportunity to comment on the Competition Policy Review's Final Report (the "**Final Report**").

The digital economy provides significant and growing benefit to the Australian economy.

As an industry that delivers strong pro-competitive outcomes for consumers and business we support the underpinning principles that have been proposed in the Final Report.

The continued review of Australia's competition policy framework is an essential element of delivering a prosperous, efficient and productive economy.

We see many beneficial, pro-competitive reasons for localising products and services and therefore welcome the Final Report's recommendation against adopting a legislative prohibition against international price discrimination in deference to market based mechanisms. However we respectfully submit that it is not the role of Government to support or encourage the circumvention of Technical Protection Measures and that the Government should reconsider this recommendation.

We also do not see the need for another investigation into the review of Australia's copyright regime given the lengthy and considered review by the Australian Law Reform Commission for which there has not yet been a government response despite the report being released some 15 months ago.

Contribution of the Digital Economy in Australia

The digital economy has become an integral part of Australia's economic, social and cultural activities delivering higher productivity, workforce participation, innovation, efficiency and higher living standards.

This contribution is increasing at a faster pace than forecast even a few years ago.

In 2011 Deloitte Access Economics (Deloitte) estimated that the Australian digital economy directly contributed \$50 billion or 3.6 per cent of GDP to the Australian economy in 2010 and forecast that this would increase by at least \$20 billion over the next five years to \$70 billion¹.

A new report released by Deloitte in 2015 shows that the contribution of the digital economy in 2013-2014 exceeded \$79 billion and accounted for 5.1% of GDP². That is the economic contribution in 2015 by the digital industry exceeded forecast expectations set in 2011 by \$9bn (or 13%).

In relative terms if the contribution of the digital economy was viewed as a single industry it would be larger than Australia's agriculture, transport or retail industries.

Importantly it is estimated that the Australian economy was \$45 billion bigger in 2013 than it otherwise would have been because of the positive impact of digital technologies on Australian productivity.

In terms of the future perhaps the most important finding by Deloitte was that the digital economy could be worth more than \$139 billion by 2020 (or 7.3% of GDP).

The Australian Communications and Media Authority has also recently found that

Digital communications are now embedded across Australian business, work and social life. Almost half of employed Australians use the internet to work away from the office. More and more people are also buying goods and services online, using the internet to conduct business, work and communicate with others via a range of communications applications.³

Benefits to Households and Consumers

The digital economy delivers a wide range of benefits to households (consumer welfare).

The quantitative benefits to consumers are substantial as outlined in the table that follows.

¹ The Connected Continent: How the internet is transforming the Australian economy, Deloitte Access Economics, August 2011
https://www.deloitteaccessconomics.com.au/uploads/File/DAE_Google%20Report_FINAL_V3.pdf, pages 1 and 2

² Deloitte Access Economics, The Connected Continent II *How digital technology is transforming the Australian economy* An update to *The Connected Continent 2011*, page 1

³ The Australian Communications and Media Authority, [Australians Embrace a Digital Life](#), page 1

Table 1: How the internet benefits households⁴

Benefit	Description	Annual Value 2011	Annual Value 2013	% change
Search	The internet is a far more efficient search tool than anything available prior to its development. Although Australians do not devote a large proportion of their time on the internet to searching the amount of time saved in acquiring information is significant.	\$7bn	\$8.4bn	+10%
Variety	Prior to the availability of the internet, consumer purchases were largely restricted by physical location. The internet opens markets up to consumers that were not previously available. The increased variety available to consumers from the internet holds significant value in itself, while the increased competition also reduces prices in a number of markets.	\$16bn	\$9.5bn	-40.6%
Convenience	This category captures the reduction in time it takes to perform various household chores, for example the added convenience of online banking and using the internet to pay bills, and submit forms and other government communications.	\$8bn	\$10 bn	+25%
Recreation	Consumers spend a considerable amount of their leisure time on the internet. This category places a value on the time Australians spend on recreational activities on the internet, such as browsing, using social media, and other forms of communication with friends and relatives.	\$22bn	\$47 bn	+114%

⁴ The Connected Continent: How the internet is transforming the Australian economy, Deloitte Access Economics, August 2011
https://www.deloitteaccessconomics.com.au/uploads/File/DAE_Google%20Report_FINAL_V3.pdf, page 24

In short, the internet provides significant savings and efficiencies for individuals.

SPECIFIC COMMENTS

International Price Discrimination and Product and Service Localisation

There are many pro-competitive and pro-consumer reasons for localising products and services to specific markets. Companies should be free to choose their business model and to price their products according to their own business strategies. We therefore endorse the Competition Policy Review Panel's recommendation against adopting a legislative prohibition on international price discrimination and instead rely on market-based mechanisms.

Localisation also helps businesses ensure that their products and services comply with the laws of each country in which they do business. In order to assure this compliance with regulatory and legal requirements in various countries, companies must have the ability to restrict certain versions of products and services to specific markets. On this basis we do not believe there is a role for Government to play in supporting or encouraging the circumvention of Technical Protection Measures.

IP and Copyright Review

We support a balanced approach to IP and copyright.

We place significant emphasis on the protection of intellectual property rights and support content creators not only through extensive anti-infringement measures but also by fostering technological innovations through which content creators can share their works with the world. Examples of how we support content creators and help them enforce their rights can be found at Appendix A.

We note the Competition Policy Review Panel's view that given the complexity of this area that a further review should be conducted by the Productivity Commission in relation to specific aspects of IP particularly in regard to competition policy issues, new developments in technology and markets and international trade agreements.

However we also note an exhaustive and comprehensive review was conducted by the Australian Law Reform Commission resulting in the *Copyright and the Digital Economy* Report being released some 15 months ago. A government response to this report is still pending and should be the first priority for copyright reform.

We note also that whilst an investigation by the Productivity Commission may contribute to the overall context of changes it is not a prerequisite to moving forward to provide certainty on Australia's IP and copyright laws.

Appendix A

- Yahoo!7 provides forms as well as clear paths for rights holders to report and flag infringing activity. Notices of alleged infringing activity are processed under a notice-and-takedown framework pursuant to which Yahoo!7 removes content upon receipt of a valid notice in an expeditious manner sometimes within hours of receipt.
- If a copyright holder or agent identifies that copyright or trademarks have been infringed on a Microsoft online service, then they can report this to Microsoft at <https://www.microsoft.com/info/cpyrtInfrg.aspx> or sign up to Microsoft's Trusted Partner program, which enables rights holders wishing to remove links to infringing websites that appear in search results on Bing, and facilitates the reporting and expeditious removal of high volumes of URLs. Microsoft is also one of the most active online enforcers of its own intellectual property and has fully embraced notice and takedown schemes offered by online service providers. Annually, Microsoft sends notices for removal of millions of links to infringing materials, and has experienced considerable success using online enforcement tools offered by service providers, as well as notifying payment and advertising service providers of websites distributing unlicensed Microsoft software and other content using the "follow the money" anti-piracy strategy.