# COMMUNICATIONS ALLIANCE LTD

# DIGITAL ECONOMY FUTURE DIRECTIONS CONSULTATION PAPER

# Submission

February 2008

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# COMMUNICATIONS ALLIANCE

Communications Alliance welcomes the opportunity to make a submission to the Australian Government on the *Digital Economy Future Directions Consultation Paper*.

Communications Alliance is the peak communications industry body in Australia. Its membership is drawn from a wide cross-section of the information and communication technology (ICT) industry, including service providers, vendors, consultants and suppliers as well as business and consumer groups.

Our vision is to provide a unified voice for the ICT industry and to lead it into the next generation of converging networks, technologies and services.

More information about Communications Alliance can be found at: www.commsalliance.com.au

# INTRODUCTION

The success of Australia as a nation depends on its ability to reach and exceed its economic and social potential. We must create an environment that promotes productivity growth, innovation, competitiveness and wealth creation. We need to ensure that everyone has the opportunity to participate and be included in that prosperity.

Economies around the world are in transition. ICT and the Internet are driving global change at a rapid rate and touching nearly every aspect of our lives. Economic and social prosperity is increasingly tied to and determined by ICT developments. More and more essential services and businesses are finding their way onto the Internet. The economy is increasingly becoming a digital economy. Now, more than ever, it is essential that Australia harnesses the benefits of the ICT revolution and builds a thriving digital economy.

In Australia, although the digital economy has been slow to take off and is still relatively underdeveloped, it is now in sharp ascendancy. Our capacity to seize opportunities and meet the challenges in a wide range of areas will depend on our ability to develop and nurture a booming digital economy.

Establishing longer term markers of success is difficult given the fast pace of change in ICT and other unknown variables. However, benchmarking along the way using key universal indicators is important to be able to measure success and adapt to changing circumstances.

To achieve success, Australia must have world class ICT infrastructure. We need fast and ubiquitous broadband infrastructure. Fixed technologies will be vital, but on their own may not be the panacea to Australia's digital infrastructure challenges. It is likely to be a mixture of technologies and mobile and wireless communication will be a necessary and important part of mix.

Digital confidence will be crucial to the success of the digital economy. A combination of the right rules, education, online risk mitigation tools and law enforcement will improve trust and confidence amongst end users.

The fundamental role of Government is to facilitate and enable the ongoing development of the digital economy. That means, getting the regulatory balance right and removing impediments to growth. The environment should encourage competition, innovation, creativity, entrepreneurship and long term sustainability.

# B. SUCCESS AND BENCHMARKING

The digital economy and developments in ICT are inextricably linked. Given the ever increasing pace of change in ICT and the enormous unknown and unrealised potential in the digital economy, we consider that it would be counterproductive to assign long term artificial markers of success at this point.

The digital economy is still in its formative years and it will take a long time for it to reach its potential. It is also likely that it will experience periods of growing pains when infrastructure and regulatory issues create impediments to growth. Any combination of outcomes is possible depending on wide range of variables and atmospherics.

That means that it is difficult to accurately forecast when or how the digital economy will maximise its potential. In setting arbitrary long term goals that may not be achievable, the Government may be setting itself up to fail.

That does not mean that you cannot measure the success of the digital economy as it develops and grows. In fact, we submit that regular benchmarking is crucial to assess whether initiatives have been effective and what improvements should be made.

Some key indicators could be:

- Attributable increases in GDP and productivity
- Increases in broadband penetration, speeds and use by business and consumers
- The size of the ICT industry and the proportion of the workforce employed in the digital economy
- Increases in business income derived from activity on the internet
- The amount of business done online
- The value of digital economy services

# C.2. DIGITAL CONFIDENCE

The information infrastructure of the global economy is the Internet. The world is moving rapidly towards a digital world where so much of what we do every day will be done over the Internet and through the digital economy. Our increased reliance on ICT in everyday life means that the security of personal or commercially sensitive information is more important now than it has ever been.

The online world brings with it many real risks such as identity theft, online fraud, bullying, stalking, inappropriate material, phishing and loss of privacy. If these risks are not addressed, it could significantly affect participation in the digital economy and will stifle growth. Establishing trust and confidence will be essential to the success of the digital economy.

This issue cannot be resolved solely by government regulation. It will require a holistic approach involving the close cooperation of consumers, industry and governments.

The OECD refers to developing a 'culture of security' so that end users better understand the risks and are aware of what they can do to mitigate them[1]. One way to achieve this *Culture of Security* could be through:

**Rules**

Establish appropriate laws and regulations to guide ICT infrastructure development, online rules and information protection measures. The Government should work with industry to develop other binding and non-binding regulatory initiatives such as Codes, Standards and Guidelines. The ICT industry best understands the technologies and usually knows what will work in practice.

**Education & Tools**

End users need to be made aware of online risks and the tools to help protect themselves from these risks. This is an ongoing process as the risks develop and change constantly. Early warning and advice on mitigation action is important to encourage confidence and avoid unnecessary damage.

Communications Alliance would be willing to work with the Government and industry to develop an appropriate educative resource for consumers on the management of risks online. This could form part of the one-stop-shop initiative mentioned in *Skills and Knowledge* section below.

**Enforcement**

Enforcement of the rules is an important element of the package. Increased law enforcement action and presence discourages criminal activity and builds confidence amongst end users. Involving the end user in enforcement activity can be a powerful tool in the fight against online crime and also helps educate them about the rules.

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[1] *Shaping Policies for the Future of the Internet Economy*, OECD Ministerial Meeting, June 2008, p24

**International Cooperation**

The digital world is not constrained by national borders. Therefore, international cooperation is also a fundamental component of e-security preparation.

**Privacy**

The fact that so much personal and sensitive information now exists in the online world raises substantial privacy implications. The ALRC notes in its 2008 Report of Australian Privacy Law that "Currently vast amounts of data are collected about internet users, often without their consent"[2]. Many online activities that are relatively ordinary and unremarkable can potentially lead to the collection of a substantial about of data about an individual[3]. This creates considerable problems for trust and confidence in the digital economy.

The communications industry handles large amounts of detailed personal information belonging to their customers, including financial and personal communication information. As a result, the industry has historically operated under extensive regulation relating to the privacy and security of customer information. Our members have played an important leadership role in developing some of the earliest and most comprehensive privacy compliance programs in Australia.

The threats and risks to privacy in the online world will constantly change with the developments in technology. A high-level principles based approach with appropriate guidance is necessary to ensure that privacy protections are not eroded and the online world and digital economy continues to grow.

We note that the ALRC considered in depth privacy and new and emerging technologies in its Report. We understand that the Australian Government is in the process of formulating a response to the Report. We encourage the Australian Government to continue to consult closely with industry on privacy reform.

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[2] *For Your Information, Report on Australian Privacy Law and Practice*, ALRC, May 2008, p392
[3] *ibid.* p392

# C.3. SKILLS AND KNOWLEDGE

**Digital Literacy**

For the digital economy to reach its potential and drive prosperity and productivity, the end user needs to understand how it works and how to use it. Therefore, developing programs to drive widespread digital literacy is crucial.

Of course, the Australian government has a central role to play in ensuring that Australians are digitally literate through ongoing skills development. However, the best outcome will be achieved by the Government working with industry.

Communications Alliance is in the process of developing a one-stop-shop website to inform and educate users about communications and ICT. It is intended that this site will be extended to include a comprehensive consumer digital literacy component.

# C.4. THE REGULATORY FRAMEWORK

It is incumbent on Government to become the key facilitator and enabler of the digital economy. The Australian Government has a vital role to play in driving the development of a thriving digital economy. To harness the potential of the digital economy the regulatory framework must provide certainty, encourage competitive investment and be competitively neutral – that is, does not favour a particular technology, type of content or business model.

This can be achieved through:

- The right infrastructure
- Removing roadblocks
- Minimal regulation that supports competition and entrepreneurship
- Promotion of innovation and creativity
- Encouraging ICT research and development
- Skills development
- Building confidence, empowering consumers and driving participation
- Planning for long term sustainability

The OECD *Seoul Declaration for the Future of the Internet Economy* provides some important guidance on the most appropriate approach to regulating the digital economy. Importantly, the declaration focused on regulation that:

- encourages innovation and competition[4],
- assures a level playing field for competition[5],
- stimulates investment and competition[6],
- maintains the open nature of the Internet[7]
- guarantees e-security[8],
- ensures the digital economy is truly global[9]

Some of the key themes from the Declaration are openness, competition and innovation. These important objectives will not be achieved by excessive regulation. Removing barriers to innovation and competition will be crucial to a successful digital economy.

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[4] The Seoul Declaration for the Future of the Internet Economy, OECD, 18 June 2008, p5
[5] *ibid.* p6
[6] *ibid.*p6
[7] *ibid.*p7
[8] *ibid.*p5-6
[9] *ibid.*p8

**Copyright**

Communication Alliance supports the proposal to widen the existing Copyright safe harbour scheme to include websites such as social networking sites and user generated content sites.

The current safe harbour protections only apply to 'Carriage Service Providers' as defined in section 87 of the *Telecommunications Act 1997*. However many online service providers now provide transmission, hosting and caching services similar to Internet Service Providers (ISPs), such as universities and online content platforms. Extending the existing safe harbour scheme to all providers of online services would benefit both copyright owners and online service providers.

This would also harmonise the Australian safe harbour scheme with the scheme in the United States (US), where all content providers are subject to the US take down regime and therefore fall within the US safe harbour protections.

The *Copyright Act 1968* set out the fundamental proposition that Service Providers, like carriers, should not be required to monitor the activities of their end users[10]. It is concerning that rights holders are trying to alter this position to require ISPs to accept liability for actions of individuals on their networks when ISPs are simply acting as conduits.

The industry would benefit from a confirmation from Government that they are not required to monitor their customers' use of the internet. This is not the role of commercial organisations but of the Government or its legislative bodies.

**Spectrum**

Wireless broadband will no doubt play an important role in providing Australians with broadband access. Radiofrequency spectrum is fundamental for the provision of mobile broadband services. To ensure ongoing future investment in mobile telecommunications infrastructure the Australian Government should:

- Make available more radio spectrum suitable for next generation mobile services; and
- Encourage investment in network capacity and coverage by providing greater investment and regulatory certainty.

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[10] Sections 39B and 112E of the *Copyright Act 1968*

# C.5. THE ENVIRONMENT

In September 2008, Communications Alliance made a submission to the Australian Government on the Carbon Pollution Reduction Scheme Green Paper.

Some of the key conclusions from that Submission were:

- The ICT industry has a lot to offer in facilitating economy wide emission reductions and will have an integral role to play in helping Australia achieve its greenhouse gas emissions targets. The Government must work more closely with the industry to take advantage of the opportunities and harness the benefits of ICT to reduce emissions.

- The ICT industry is a relatively low carbon emitter and has already begun on the journey to a low carbon future with implementation of initiatives to reduce energy reliance and carbon emissions.

- Communications Alliance encourages the Australian Government to support the development of low-emissions technologies through the ICT industry.

- To avoid competition distortions, consideration should be given to implementing transitional assistance measures across the broader economy to take into account the substantial potential cost shifting.

- The ICT industry stands ready to help Australia move towards a more environmentally responsible carbon constrained future.

The submission can be found at:
http://www.commsalliance.com.au/Activities/submissions

**Teleworking and Conferencing**

To promote the adoption of teleworking and conferencing, the Australian Government could increase the awareness/education of the viability and benefits (environmental, economic and social) of teleworking and videoconferencing. The Government could also help facilitate the uptake of teleworking and videoconferencing through the provision of assistance such as grants, funding and/or tax incentives to SMEs and large businesses.

**Operational Health and Safety (OH & S)**

OH & S laws can act as an impediment to teleworking. It is difficult to maintain complete control over OH & S risks when people work from home. The Government could amend current OH & S laws and workers compensation policies to accurately reflect the change in working environments. This would assist businesses manage the OH&S and workers compensation liabilities that could possibly arise in the event of an accident in the employee's remote working site.

**E-waste**

The ICT industry is ready and willing to work closely with the Australian Government to develop an appropriate e-waste policy and an overall management framework that will facilitate the effective establishment of e-waste collection, recycling and disposal infrastructure.

Industry groups should come together to develop collaborative e-waste collection/recycling programs where appropriate. This would provide an opportunity for industries with similar products to work together to develop appropriate e-waste management solutions. It would also create an avenue for industries experienced in e-waste management to share their knowledge.

The Government could also invest funds in educating the community about e-waste, the dangers of toxic materials, the importance of recycling and how and where they can recycle.