

Price discrimination and consumer impacts

- 2.1 The terms of reference for this inquiry ask the Committee to investigate whether IT products sold in Australia are more expensive than those sold in comparable overseas jurisdictions, and, if so, the reasons for these price differences, and their impacts on Australian consumers.
- 2.2 This chapter will focus on the nature of price discrimination and how it operates. Definitions will be followed by a brief discussion of increasing consumer awareness of pricing, as well as changing technologies such as the increasing cloud services offered, and means by which 'geoblocking' occurs. The Committee then canvasses the incidence of price discrimination across various product categories (including software, hardware, and products available as digital downloads), as described in evidence to the inquiry, noting concerns about the reliability of data on these issues. The Committee also considers the impacts of higher prices on various groups in our community, including those on low incomes, and those who live with disability.

What is International Price Discrimination?

- 2.3 The Treasury's submission to the inquiry defined international price discrimination in these terms:

Geographic price discrimination occurs when a business charges different prices for the same product in two or more different locations. International price discrimination is when geographic price discrimination occurs across country borders.

To maximise profit, many businesses do not sell based simply on a mark-up of what the product cost to produce, but rather price

according to what they consider the market can bear, that is, according to the consumers' marginal willingness to pay.¹

- 2.4 Mr Geoff Francis, General Manager of the Treasury's Competition and Consumer Policy Division, further noted that:

... there are two conditions that must be present for price discrimination to be effective. Firstly, the willingness to pay for a particular good or service must vary between different groups of consumers in order for a business to benefit from price discrimination. Secondly, the business must be able to separate these groups of consumers in order to prevent them from arbitraging the price differential.²

- 2.5 The Productivity Commission in its 2011 *Retail Industry Report* described international price discrimination as:

...a common and generally legal business strategy to maximise profits and performance. It is sustained through sufficient demand from consumers, lack of competitive rivals, and the ability for market and/or consumer segments to be kept separate (that is, there are often restrictions on those that are charged a cheaper price to prevent them reselling their goods to other consumers who are charged higher prices).³

- 2.6 Price discrimination is not restricted to the IT sector, and is not a new feature of the Australian economy. According to Mr Francis, Australians have faced price discrimination for many years:

... price discrimination is not actually a new phenomenon, and it is not surprising that Australians may find prices for products somewhere else in the world that are lower than the prices they find in Australia. As you know, it is common for people to shop overseas while on holiday because they believe that the prices may well be lower on certain items when they are overseas.⁴

- 2.7 Ms Suzanne Campbell, CEO of the Australian Information Industry Association (AIIA), argued that variations in price are to be expected internationally:

...price comparisons across categories of consumer goods clearly show price disparities are not technology industry-specific. To

1 Treasury, *Submission 85*, p. 6.

2 *Committee Hansard*, Canberra, 31 October 2012, p. 10.

3 Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, 2011, p. 155. http://www.pc.gov.au/__data/assets/pdf_file/0019/113761/retail-industry.pdf, viewed 25 June 2013.

4 *Committee Hansard*, Canberra, 31 October 2012, p. 9.

give an indication of the range of price variation globally, the latest Big Mac index, compiled by the Economist magazine, shows a difference of 426 per cent between the lowest price of \$1.89 in India and the highest of \$8.06 in Switzerland.⁵

- 2.8 Treasury observed in its submission that, in spite of any negative connotations which may be associated with the term, price discrimination is not necessarily objectionable in all cases:

[Price discrimination] allows businesses to maximise the profits earned in each respective market – something that should not be considered inherently ‘bad’, and which their shareholders would reasonably expect in order to maximise the return on their investment.⁶

Greater consumer awareness

- 2.9 Although arguably a feature of the Australian economy across many markets and across many decades, international price discrimination has become more of a concern for consumers and businesses in recent years.
- 2.10 Rising rates of internet use have increased Australians’ awareness of overseas prices generally and of price differences for similar goods and services in Australia. Many Australians purchase goods directly from overseas suppliers with considerable savings even when distribution costs are taken into account.
- 2.11 At the same time, as the Australian currency rose to parity (and for a time beyond) with the US dollar, Australian consumers became increasingly aware of higher prices for essentially identical IT products.
- 2.12 In his evidence to the Committee Mr Francis noted the internet’s effect on consumer purchasing habits:

Increasingly, price transparency due to the internet has made such price differentials far more obvious than they were in the past, but it is also giving Australian consumers access to international markets without having to travel. I think these price differentials have always existed but they are now far more obvious due to the availability of the internet and due to the availability for consumers to potentially use the internet to effectively shop overseas while at home.⁷

5 *Committee Hansard*, Sydney, 30 July 2012, p. 1.

6 *Treasury, Submission 85*, p. 6.

7 *Committee Hansard*, Canberra, 31 October 2012, p. 9.

2.13 Mr Les Andrews, Assistant Commissioner at the Productivity Commission, noted the effect that the internet has had on consumer perceptions of value:

... people have always been aware of the fact that if you went to Hong Kong or Singapore on holiday you could buy things more cheaply there and come back with your bargains. But the internet every day exposes people to different prices and I think that makes people far more aware of the differences.⁸

2.14 This growing awareness has featured prominently in the numerous submissions by consumers to the Committee. Mr Dane Weber, to give one example, gave his perspective on the increased access to markets and price transparency:

... many other consumers like myself have grown up with items costing the way they do now. They were that way in the past, so it is natural to assume they would be the same. The reason for this difference would be taking advantage of the status quo: the Australian consumer has not known any better. ... We seem willing to pay this much, because that's the way it has always been. But now we have access to international prices, and purchases are fast and simple. Our higher dollar has made savings of 50 per cent possible and people are taking advantage of that.⁹

Changing technologies

2.15 The Committee acknowledges that added to increasing consumer awareness of IT pricing is an increase in the means of delivery of services and products to consumers. The Committee notes that the prospective shift towards digital delivery, and subscription models, are discussed in many submissions to the inquiry, and there has been extensive commentary suggesting that these developments are changing the relationship between IT vendors and consumers in significant ways. While consumer and industry perspectives on technology are discussed throughout this report, the Committee presents a brief overview of some of these issues, by way of introduction.

8 *Committee Hansard*, Canberra, 15 August 2012, p. 3.

9 Dane Weber, *Submission 8*, p. 2.

Cloud computing and subscription models

- 2.16 In the course of the Committee's inquiry numerous references were made to the development of cloud computing. Indeed one large IT vendor, Adobe, announced a major shift to subscription-only delivery of its latest products. The term 'cloud computing' can refer to a broad range of technological developments. Essentially, the 'cloud' is a network of connected computers which can be used to provide shared computing resources for specific applications (e.g. software services like email, web applications, or synchronisation services) and which are accessed remotely, either through a web browser or via a particular service's application programming interface (API).¹⁰
- 2.17 Cloud services may enable consumers and businesses to reduce their up-front IT costs by paying for access to and use of shared computing resources rather than purchasing IT assets outright. Customers may benefit from the faster upgrades and cross-device synchronisation that the cloud makes possible, while the growth of an access-oriented 'subscription economy' can provide significant cost savings, and steadier revenue streams, to IT vendors.¹¹
- 2.18 The Australian Industry Group (Ai Group) noted that large numbers of Australian businesses had already adopted or intended to use cloud services in the near future.¹² While industry groups and major vendors are vigorously promoting the transition to cloud-based services, the platform can involve significant disadvantages. Subscription services may not be financially beneficial in the long term.
- 2.19 Cloud services are an integral part of digital ecosystems – they provide the infrastructure through which information on multiple devices is synchronised, they can be used for backups, and sharing of content. While some cloud services are multi-platform, a large number are provided by specific vendors as a means of deepening consumers' dependence on a given ecosystem or service.
- 2.20 Cloud-based subscription services also have the potential disadvantage that ongoing access to content acquired through them may depend on continuing to pay the subscription fee, and on the ongoing existence of the

10 Knorr, Eric and Galen Gruman, 'What cloud computing really means', 7 April 2008, *InfoWorld* <http://www.infoworld.com/print/34031>, viewed 13 June 2013.

11 'How the Subscription Model will change your business applications,' *Forbes*, 20 January 2012, <http://www.forbes.com/sites/danwoods/2012/01/20/how-the-subscription-economy-will-change-your-business-applications/>; and 'The Subscription software revolution', *SmartCompany*, 9 May 2013, <http://www.smartcompany.com.au/tech-head/055441-the-subscription-software-revolution.html>, viewed 13 June 2013.

12 Australian Industry Group, *Submission 56*, p. 2.

provider. Should a customer cease paying, or should its operator decide to cease providing the service, access to content could be affected. The Committee also heard evidence that cloud services can serve to increase a consumer's dependence on a given ecosystem or service, which can also affect pricing as well as increasing a vendor's or publisher's control.¹³ Issues concerning the control of intellectual property are discussed in chapter 4.

Geoblocking

- 2.21 As discussed earlier, Australian consumers are increasingly conscious of differential pricing imposed by IT vendors and rights holders, and to avoid international price discrimination, often prefer to purchase products, particularly digitally delivered products, at cheaper overseas prices. International price discrimination can only be effective when vendors are able to maintain the separation of markets, and thereby prevent customers from accessing cheaper prices elsewhere.
- 2.22 Historically, international markets were easily segmented by their geography, trade barriers, and the comparatively high cost of transporting goods. In the past two decades however, barriers to the formation of global markets have been greatly eroded; the internet has provided direct access to overseas markets without the need to travel; and as global communication networks have matured, digital delivery of content and services has become commonplace.
- 2.23 In response, global IT firms and content providers have erected virtual barriers between markets, which permit different prices to be set in different locations. The methods vendors have adopted to differentiate between regions and keep customers separate are broadly referred to as 'geoblocking', defined by the Department of Broadband, Communications and the Digital Economy (DBCDE) as:
- ... the name for a variety of techniques used to verify a user's location and provide related content on that basis. It is most commonly used for content delivery, such as films and television programs, and to verify a purchaser's location at point of sale. A person's location can generally be derived from their computer's IP address, but at the sale stage can be verified using the person's credit card details or mailing address.¹⁴

13 Nicholas Suzor and Paula Dootson, *Submission 121*, p. 6.

14 Department of Broadband, Communications and the Digital Economy, *Submission 55*, p. 11.

- 2.24 Mr Hamish McCormick, First Assistant Secretary of the Office of Trade Negotiations in the Department of Foreign Affairs and Trade (DFAT), described geoblocking as:
- ... the use of internet addresses, credit card numbers or other means of electronic identification to block internet sales and downloads of electronic products – for example music, games and computer programs – based on the geographic location of the consumer.¹⁵
- 2.25 Geoblocking may effectively restrict consumers' ability to compare prices and accordingly make purchases. The Committee is aware of cases in which firms include conditions in their product's terms of service (which customers must consent to in order to use the product) that prevent customers from using the product outside the region in which it was sold.¹⁶ The Committee heard that geoblocking can be enforced by onerous, multilayered conditions. In the case of IT hardware, geoblocking may be the result of exclusive distribution agreements, in which manufacturers assign the rights to distribute their products in a given territory.
- 2.26 The practical effect of geoblocking from the Australian consumer's perspective is to restrict access to a cheaper global marketplace. According to views expressed in submissions, many Australian consumers see themselves as limited to a national market characterised by markedly higher prices for IT products and services. Consumers' perspectives on geoblocking are discussed later in this chapter; responses from industry are considered in chapter 3; and proposed remedies are canvassed in chapter 4 of this report.

Warranties

- 2.27 The issue of warranties for IT products arose in various contexts in the course of the Committee's inquiry. Australia's national warranty regime was raised as a factor in explanations for the higher cost of IT products in Australia, and it was also suggested that overseas IT purchasing can involve inadequate or no warranty protection for consumers. Warranties in the sense of consumer protection are examined in this section. Warranties are cited by business as a cost, and this is considered in chapter 3. Options for international warranty harmonisation are considered in chapter 4.
- 2.28 Australia has a national consumer protection regime. Under the Australian Consumer Law (ACL) which is located in schedule 2 to the

15 *Committee Hansard*, Canberra, 28 November 2012, p. 1.

16 See, for example, Charles Gutjahr, *Submission 43*, p. 6.

Competition and Consumer Act 2010, consumers have the same protections, and businesses the same obligations and responsibilities, across Australia. The ACL, in effect from 1 January 2011, provides consumers with a comprehensive set of rights in relation to the goods and services they acquire.¹⁷ DBCDE told the Committee that:

Warranties in Australia can be more rigorous and provide greater protections than those in other countries. The Australian Consumer Law, a schedule of the Competition and Consumer Act 2010, can provide different and in some cases stronger protections than that found in US or UK law.¹⁸

2.29 Mr Matthew Levey of consumer organisation Choice noted that some importers of IT products maintained ‘extremely strong refund/return polic[ies]’ and that such practices show that ‘it is quite possible to operate here profitably, sell a lot of products and still offer significant price savings’.¹⁹ Some concerns were expressed in submissions about the limitations of warranties for products purchased overseas, in terms of consumer risk and the provision of service and repair for such goods, and a need to provide a greater degree of certainty and security for consumers.²⁰

2.30 The Australian Communications Consumer Action Network (ACCAN), a consumer organisation focussed on the communications sector, argued that uncertainties about warranty protection inhibited consumers from seeking to access lower prices overseas and was consequently a factor in maintaining higher IT product prices in Australia:

I think it is something that can prevent consumers from shopping overseas and accessing those lower prices, which we know that some people are doing anyway. ... The more businesses realise that Australians are doing this, I think that could have an impact in terms of competition and bringing prices down. However, we are concerned about whether Australian Consumer Law or any consumer law will apply to those purchases. It is very hard; there are no legal examples we can really refer to, to our knowledge, in

17 Further details on Australian warranties can be found on the Australian Competition and Consumer website: <http://www.accc.gov.au/business/treating-customers-fairly/warranties> and *Consumer Guarantees: A guide for business and legal practitioners, 2010*, <http://transition.accc.gov.au/content/item.phtml?itemId=964215&nodeId=e16d444b734b11d82b151a17f657780a&fn=Consumer%20Guarantees%20a%20guide%20for%20businesses%20and%20legal%20practitioners.pdf>.

18 Department of Broadband, Communications and the Digital Economy, *Submission 55*, p. 9.

19 *Committee Hansard*, Sydney, 30 July 2012, p. 24.

20 See for example, Choice, *Submission 75*, p. 37, and Erin Turner, *Committee Hansard*, 19 September 2012, p. 6.

these cases.²¹ Not every consumer at the moment feels competent about shopping online. ... Knowing that there is an international warranty for a purchase can go to help ease some of that stress and nervousness.²²

- 2.31 The Committee is also aware of consumers' concerns about warranties for the increasing variety of goods (physical and digital) bought online, including for example the devices and software upgrades bought by Australians living with disability. The Committee acknowledges that consumer concerns about warranty and ongoing servicing costs can have a role in purchasing decisions.

Evidence about price differences

- 2.32 As noted in chapter 1, of the submissions received, more than half were from consumers or consumer groups, and a significant proportion were from small businesses. The vast majority of these submissions expressed concern at the high price of IT hardware and software. Since calling for submissions in May 2012, the Committee has received information on more than 500 products. Given the fluidity of the IT market, many price comparisons discussed may no longer be accurate.
- 2.33 The Committee understands that, for thorough and statistically valid conclusions on IT pricing, data would need to cover reasonable time periods and cross multiple jurisdictions. The Committee notes the views of Mr Les Andrews from the Productivity Commission that even if such data were available, it is likely that some of it would be commercially sensitive and therefore unlikely to be published.²³ The Committee considers, however, that the examples received in submissions, many of which contain detailed lists of products compared over time, represent a series of 'snapshots' of IT prices, providing an indication of Australian consumers' recent experience in purchasing IT products.
- 2.34 Some submissions provided price comparisons across a range of products, while others focused on a particular IT product or vendor. The Committee's analysis of the evidence received across all product categories revealed the following results:

21 *Committee Hansard*, Canberra, 19 September 2012, pp. 6-7.

22 *Committee Hansard*, Canberra, 19 September 2012, p. 11.

23 *Committee Hansard*, Canberra, 15 August 2012, p. 4.

- **Professional software:** submissions compared more than 150 products. The comparisons showed an average price difference of 50 per cent, with a median price difference of 49 per cent. Of the major vendors:
 - ⇒ **Adobe** products showed an average difference of 42 per cent, with a median difference of 49 per cent
 - ⇒ **Microsoft** products were on average 66 per cent more expensive, with a median difference of 67 per cent, and
 - ⇒ **Autodesk** products were on average 51 per cent more expensive, with a median difference of 46 per cent.
- **Hardware:** more than 50 products were compared. On average Australian prices were 46 per cent more expensive than the US, while the median difference was 26 per cent.
- **Music:** more than 70 products were compared. Australian prices were, on average, 52 per cent more expensive, while the median difference was 67 per cent.
- **Games:** submissions compared the prices of more than 70 products. The average price difference was 84 per cent, while the median difference was 61 per cent.
- **E-books:** submitters compared the prices of more than 120 e-books. Price comparisons of books sold both in Australia and the US revealed average price differences of 16 per cent, while the median difference was 13 per cent.²⁴

2.35 In addition to the Committee's own analysis of material included in submissions, a submission from Choice compared the prices of more than 200 products in several categories, finding that Australian consumers experience an average price difference of more than 50 per cent (compared to US customers) when purchasing IT hardware, software, music, and games.²⁵ Before looking at the examples provided in many submissions across a range of different products, the Committee notes that other submissions raised concerns about the validity and reliability of such comparisons.

2.36 The Committee acknowledges that drawing conclusions on the basis of simple price comparisons can be problematic. The Productivity Commission 2011 report on *The Economic Structure and Performance of the Australian Retail Industry*, noted that price comparisons may fail to capture 'many aspects of the product and retailer-specific considerations that are valued by consumers'. These aspects may include:

24 Analysis prepared by Committee, based on submissions received throughout inquiry.

25 Choice, *Submission 75*, p. 4.

- the time it takes for a consumer to receive the product (i.e. delivery times)
 - the potential for consumers to negotiate final prices in-store, often using online retailers' prices as leverage
 - the level of after-sales service available on the product
 - compatibility in Australia, and
 - the extent of close substitutes for products.²⁶
- 2.37 The Productivity Commission's observations were supported by Treasury in its submission to this inquiry:
- ... there may be other aspects of the product and the consumer's experience that may not be captured by price comparisons.²⁷
- 2.38 In submissions and in appearances before the Committee, industry representatives have questioned the utility of price comparisons and identified a range of non-financial factors that are not captured by price alone. Ms Campbell expressed doubts about the utility of 'snapshot' or 'spot' price comparisons:
- ... spot comparisons are not useful, as prices differ from one country to another for a range of reasons and across channels for many different reasons.²⁸
- 2.39 In its submission, the Ai Group also expressed concerns about price comparisons, arguing that snapshot price comparisons:
- do not capture prices paid by consumers who 'negotiate a lower price in store compared to advertised price'
 - 'do not take into account price discounts from the sale of bundled goods' or discounts obtained during contractual negotiations, and
 - do not capture 'non-price' factors like after-sales service, convenience or reliability, that may affect a consumer's decision to make a purchase.²⁹
- 2.40 In its submission, Microsoft expressed reservations about the utility of price comparisons of its products:
- We note that the Committee's inquiry is based upon an effort to compare absolute prices for particular product lines offered in different jurisdictions. Microsoft respectfully submits that any such attempted comparisons are of limited use, as prices differ

26 Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, 2011, p. 145.

27 The Treasury, *Submission 85*, p. 3.

28 *Committee Hansard*, Sydney, 30 July 2012, p. 1.

29 Australian Industry Group, *Submission 56*, p. 2.

from country-to-country and across channels due to a range of factors. There is a need to compare like with like.³⁰

2.41 In relation to comparisons of prices for digitally downloaded music, the Australian Recording Industry Association argued that:

... the methodology required to be able to make an informed and useful comparison of retail prices for recorded music in Australia and other countries raises significant design issues and collecting the necessary data is a considerable challenge.³¹

Availability of data

2.42 The Committee accepts that its inquiry has not been assisted by statistical data which would allow for a systematic analysis of comparative IT pricing, and notes that the Productivity Commission experienced a similar problem in the course of its 2011 report on the Australian retail industry. The Commission noted that while the United States had been collecting official data for e-commerce retail sales for over a decade, and while the United Kingdom had been collecting official data on internet retail sales since late 2006, no comparable statistics are available in Australia. The Commission observed that, 'given the growing importance of this part of the retail industry, it is important that more precise statistics are available'.³²

2.43 The Commission's 2011 report recommended that the Australian Bureau of Statistics (ABS) monitor and report online expenditure both domestically and overseas by Australian consumers. The Commission further recommended the ABS consider options to enable the disaggregation of online spending and employment associated with 'multi-channel' establishments (i.e. retailers that sell products through physical shopfronts and via the internet) and 'pure play' online retailers.³³

2.44 The Committee followed up this issue with the ABS, which advised that it does not measure prices paid for IT goods and services which are purchased overseas and that consequently 'does not have the data required to enable a comparison of prices paid for IT products in Australia and overseas'. The ABS acknowledged the Productivity Commission's concerns that the ABS' data collection and statistical analysis 'do not accurately cover the importation of products purchased from overseas

30 Microsoft, *Submission 67*, p. 2.

31 Australian Recording Industry Association, *Submission 93*, p. 3.

32 Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, 2011, p. 89.

33 Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, 2011, p. 89.

retailers'. The ABS advised that it has been working with the Australian Customs and Border Protection Service to develop indicators for this activity 'based on Customs audits and numbers of parcels'.³⁴

- 2.45 The Committee also wrote to the Australian Customs and Border Protection Service which responded that detailed data is provided to the ABS on imported goods valued in excess of A\$1000:

This data includes information on such things as the tariff classification, value and origin of the goods but does not include any information on the method of the purchase, for example, whether the goods were purchased online. The ABS will have information provided by Customs and Border Protection that will enable them to provide information on the value of IT purchases above the entry threshold.³⁵

- 2.46 Given the growing importance of IT products and the online economy more broadly, the Committee is of the view that there is a need for more precise and comprehensive statistics that provide government, business and consumers a better understanding of Australia's digital economy.

Recommendation 1

The Committee recommends that the ABS develop a comprehensive program to monitor and report expenditure on IT products, hardware and software, both domestically and overseas, as well as the size and volume of the online retail market.

Evidence by product category

- 2.47 While the Committee acknowledges views that 'snapshot' comparisons can be of limited use, it does not accept Microsoft's claim that the inquiry is 'based on an effort to compare absolute prices'. The Committee has made every effort to seek information from a range of sources (including repeatedly, from large IT vendors, as noted in chapter 1) to provide a thorough foundation on which to base its observations and conclusions. The Committee has not sought to make generalisations, or accept all evidence without question. The Committee accepts that the wide range of personal accounts from consumers, as well as evidence from peak bodies

34 Australian Bureau of Statistics, *Correspondence*, 10 July 2012, p. 1.

35 Australian Customs and Border Protection Service, *Submission 88*, pp. 2-3.

and consumer advocacy organisations, demonstrates a level of concern which should be reflected fairly in this report. The following sections consider hardware, software, and digital downloads, including games, music, and books, before looking at impacts on consumers across Australian society.

Hardware

2.48 The Committee did not receive extensive examples of price differences for IT hardware, but notes the submission from Choice which compared the prices of twenty-five computers manufactured by Apple and Dell. The Dell products – a range of laptop and desktop computers – were on average 41 per cent more expensive in Australia than in the US, with differences ranging from 18 per cent to more than 80 per cent.³⁶

2.49 The prices for Apple products were much closer to parity – the majority of Apple’s iPad, iMac and Macbook lines were generally 10 to 15 per cent more expensive in Australia. As Choice noted:

The average price difference for Apple’s computer products is 12 per cent. This is only marginally higher than the 10 per cent GST rate, and therefore it could be claimed that Apple’s Australian hardware prices are more or less at parity with the US.³⁷

2.50 The Committee heard of several examples of specialist consumer electronic products, and also various ‘consumables’ which also appear to be subject to significant price differences. Mr Douglas Linacre compared the costs for Epson printers and printer cartridges and found differences of more than 100 per cent.³⁸ Mr Phil Festa described a price difference of between 40 and 50 per cent on a brand of electronic ‘fish finders’, suggesting that this is because only one Australian wholesaler holds distribution rights.³⁹ The Committee also received several inquiries from consumers who wished to provide submissions describing their experiences of price discrimination with purchasing electronic goods, including cameras and electrical equipment, but the Committee has maintained its focus on IT-specific goods.⁴⁰

2.51 In his submission, Australian web developer Mr Daniel Myles stated that price differences exist in IT and gaming hardware. For Lenovo and Alienware laptops, Mr Myles claims there are price differences from 60 to

36 Choice, *Submission 75*, p. 23.

37 Choice, *Submission 75*, pp. 23-24.

38 Douglas Linacre, *Submission 103*, pp. 1-2.

39 Phil Festa, *Submission 20*, p. 1.

40 See, for example, Daniel Myles, *Submission 33*, p. 17, regarding costs for digital cameras and accessories.

100 per cent; for Sony's PlayStation Vita or the PlayStation 3 console, there are price differences of 40 per cent; and the Nintendo 3DS costs 45 per cent more in Australia than in the US.⁴¹

- 2.52 As noted earlier in this chapter, 'geoblocking' is a term which can be applied to the means by which Australian consumers are restricted from accessing a cheaper global marketplace. The Committee heard several examples of geoblocking in sales of IT hardware and software products. In the case of IT hardware, geoblocking may be the result of exclusive distribution agreements, in which manufacturers assign the rights to distribute their products in a given territory. Evidence suggests that Australian consumers' access to global markets for IT hardware may in fact be shrinking as more manufacturers implement such agreements.⁴² Competition issues are considered in chapter 4 of this report.

Software and digital downloads

- 2.53 Evidence presented to the Committee suggests that price discrimination is most acute in the case of digitally delivered content – including software, music, games, and books. In these sectors the products delivered are essentially identical when downloaded in Australia, the United States or elsewhere. Digital delivery also means that there are no costs for packaging, shipping and physical delivery, and many consumers question the reasons for large price differentials between Australian and overseas markets. This section therefore reflects evidence received on software pricing in general, as well as products available as digital downloads.
- 2.54 Choice compared the prices of more than fifty software products, focusing on Microsoft and Adobe, comparing Australian and US prices, using data collected in 2008 and in mid-2012. Across more than thirty Microsoft software products, Choice data showed consistently higher prices in Australia for substantially identical products, with Australians paying an average 49 per cent more than US customers. According to Choice, Microsoft Office products, including Microsoft Word, Excel, and Access were more than 30 per cent more expensive in Australia, while the various iterations of Microsoft's popular Windows 7 operating system were 40 to 50 per cent more expensive.⁴³
- 2.55 In relation to Adobe software, the Choice submission also revealed significant price differences, although Adobe's prices displayed more variability. Adobe's standard Creative Suite 6 products showed a

41 Daniel Myles, *Submission 33*, pp. 10, 16-17.

42 Andrew Boisen, *Submission 3*, p. 1.

43 Choice, *Submission 75*, pp. 16-18.

relatively consistent price differential of 60 to 65 per cent.⁴⁴ ACCAN also noted price disparities for Adobe products, finding that, on average and assuming the Australian dollar is at parity with the US dollar, Adobe's range of standard, perpetual-license products were 48 per cent more expensive in Australia.⁴⁵

- 2.56 Choice noted that Adobe also sells discounted 'student edition' licenses which permit tertiary students to purchase its software at substantially reduced prices. When student editions were taken into account, Choice data showed a price difference of only 17 per cent.⁴⁶
- 2.57 Many consumer submissions raised the issue of geoblocking practised by Apple, both in relation to its own hardware and for content licensed through its iTunes store.⁴⁷ To maintain the separation of national markets, Apple requires a mailing address and credit card at the point of purchase.
- 2.58 The Committee was advised that, in addition to requiring its resellers to verify a customer's location at the time of purchase, Autodesk, a leading 3D design software vendor, requires customers to make contact after purchase to obtain a license key. In this way geoblocking is maintained even if a customer initially circumvents the reseller's efforts at market segmentation.⁴⁸

Professional software

- 2.59 In relation to professional software, Mr Myles' submission shared concerns expressed by Choice and ACCAN: significant price differences exist in relation to Adobe software, Microsoft software and some Apple products, although Apple's move toward more equitable prices for its hardware is noted.⁴⁹ Impacts of geoblocking apply in this sector, as indicated in submissions.
- 2.60 Mr Nic Watt, Creative Director of Nnooo, an Australian video game developer, drew the Committee's attention to significantly higher prices for Autodesk's Maya 2013 3D visualisation software. Nnooo must also purchase Adobe software to create and edit images and vector graphics:

As a games developer for PlayStation (Sony), Wii U (Nintendo) and Nintendo 3DS we have to use one of these packages to be able to create and export our 3D artwork into our games.

44 Choice, *Submission 75*, pp. 18-19.

45 ACCAN, *Submission 74*, pp. 14-16.

46 Choice, *Submission 75*, pp. 18-19.

47 See, for example, Daniel Myles, *Submission 33*, p. 14; Kyle Ridley-Smith, *Submission 61*, p. 1; Paul Barker, *Submission 70*, p. 1.

48 Nnooo, *Submission 114*, p. 2.

49 Daniel Myles, *Submission 33*, pp. 10-15.

Like Autodesk there are no serious competitors and so for making textures (images to put onto a 3D model) for use in games we are required to use their products...⁵⁰

- 2.61 According to Mr Watt, Australian businesses must pay nearly 45 per cent more for Autodesk software, in an industry without significant competition.

[Autodesk] have in the last 7 years purchased the three main 3D visualisation packages used for making films, TV and video games ... the net result of this is that we have to buy the software from [Autodesk] Australia and they control the pricing. We cannot buy a competing product as in our industry they own the major ones.⁵¹

- 2.62 Mr Ron Rennex characterised the price differential for Autodesk's computer assisted design software AutoCAD as 'appalling'.⁵² Mr Paul Bicknell noted the price differentials for a digitally downloaded copy of Autodesk's computer-aided-design software Autocad LT:

I have recently bought 5 licences for Autocad LT. Again delivered over the net Australian price \$1775.00 per licence. Yet if I was in America I could buy these licences for \$1200. The cost of me doing business in Australia was nearly \$3000 based on the location of where I was clicking the buy button from.⁵³

- 2.63 Cybertext Consulting, a specialist technical writing and online documentation firm based in Western Australia, uses Adobe products. According to Managing Director, Ms Rhonda Bracey:

As someone living in Australia, I cannot buy these downloadable products from the Adobe store at the US prices -Adobe will not take my Australian credit card, nor will it accept my Australian address. When I try to enter these details, the Adobe website forces me to the Australian Adobe online store webpages, where the prices are incredibly inflated over those available to US customers.⁵⁴

- 2.64 The Choice submission highlighted the largest price difference unearthed in the course of the inquiry. Australian software developers who wished to purchase Visual Studio Ultimate software with full Microsoft Developer Network membership were charged A\$20,775, whereas American developers could obtain the same products for US\$11,899, a difference of

50 Nnooo, *Submission 114*, p. 4.

51 Nnooo, *Submission 114*, pp. 2, 4.

52 Ron Rennex, *Submission 104*, p. 1.

53 Paul Bicknell, *Submission 39*, pp. 1-2.

54 Cybertext Consulting, *Submission 35*, p. 3.

more than \$8,600. Choice noted that '[f]or this amount, it would be cheaper to employ someone for 46 hours at the price of \$21.30 per hour and fly them the US and back at your expense – twice'.⁵⁵

Other specialist software

2.65 ACCAN noted price disparities in products designed to facilitate disabled access (braille readers, assistive devices, etc.). ACCAN examined prices for HumanWare assistive devices, noting:

- HumanWare's BrailleNote range of products showed consistent increases of 20 to 30 per cent, with prices difference of up to \$2,300.
- SmartView video magnifiers ranged from 4 per cent more expensive (i.e. close to parity) to nearly 30 per cent more expensive.
- The DeafBlind Communicator products were approximately 25 per cent more expensive in Australia.⁵⁶

2.66 Mr Barry Napthine drew the Committee's attention to price disparities faced by Australians who wish to purchase software to assist the visually impaired. Mr Napthine's screen reading JAWS (Job Access with Speech) software is regularly updated with new features. To gain access to these updates, JAWS customers may purchase a 'Software Maintenance Agreement (SMA) which permits them to access a number of updates. Mr Napthine said:

My complaint is very simple. If I lived in America the cost would be considerably less. In America the cost of an SMA was in December last year \$120, I paid to Vision Australia \$205. Given that at the time the Australian dollar was about parity with the American dollar I find the price difference hard to accept.⁵⁷

2.67 Submitters also drew the Committee's attention to large price differences faced by businesses which use geographical information system (GIS) software. GIS software is used by a wide range of businesses, including mining companies, engineers, local councils, environmental organisations, and various other institutions. Submissions from users of GIS software noted that prices for ArcView, a leading GIS software package sold by ESRI, are significantly higher for Australian businesses. According to Mr Pierre Rousseau:

In April 2012 I was quoted \$4000 for a package (ArcView) that is sold for \$1500 in the U.S. When I queried the sales person on the matter he was clear that it was a matter of regional pricing and

55 Choice, *Submission 75*, p. 19.

56 ACCAN, *Submission 74*, p. 17.

57 Barry Napthine, *Submission 25*, p. 1.

that their license conditions do not permit me to buy the software in the United States, which compelled me to pay the asking price.⁵⁸

2.68 Mr Greg Keeley noted that similar price discrepancies exist for users of other GIS software:

Good examples are MapInfo and ArcInfo ...common GIS software used for example by most mining companies, local councils and planners in Australia...In the case of MapInfo, it is only available from Pitney Bowes in Australia and at much higher prices than elsewhere on the planet. If you attempt to buy it from outside Australia the supplier will refuse to send it to an Australian address.⁵⁹

2.69 J Mahuika drew the Committee's attention to price differentials charged by the providers of online training courses:

As an alternative to classroom-based training, many training courses can be purchased online, including training provided by companies for their own software products.

I have found examples of public courses where the Australian price is higher than the US price by between 27 per cent and 50 per cent. In these examples, the courses appear to be the same delivery format, topics and duration, but are displayed on 'Country' specific web pages with differences in the course code (where the Australia course code has the suffix 'AU') and pricing.⁶⁰

2.70 Price differences were also noted for software and hardware for children's use. Mr Greg Bell described products by Leapfrog, which sells portable gaming devices and downloadable applications for them, which can be accessed through its proprietary gateway Leapfrog Connect. Mr Bell said:

I recently purchased an app called 'Explorer™ Game App: Globe: Earth Adventures' for \$45, by nominating Australia as my country during the checkout procedure. A quick internet search for the same app shows it is \$25 in the United States.⁶¹

Ongoing subscription costs

2.71 Submissions to the inquiry also drew the Committee's attention to price differentials in a range of product categories where subscriptions must be purchased. Mr James Rudd, for example, highlighted large price

58 Pierre Rousseau, *Submission 110*, p. 1.

59 Greg Keeley, *Submission 102*, p. 1.

60 J Mahuika, *Submission 68*, p. 1.

61 Greg Bell, *Submission 63*, p. 1.

differences faced by software developers when purchasing subscriptions to Microsoft's TechNet and the Microsoft Developer Network (MSDN). A Microsoft TechNet subscription provides licenses to nearly all Microsoft applications. IT professionals may require such a subscription to develop or maintain professional skills; businesses may require one for use in creating a 'development environment' to safely test new software or changes to their IT operating environment.

- 2.72 Mr Rudd found that TechNet subscriptions cost approximately 75 per cent more in Australia when compared to the equivalent US price.⁶² In relation to MSDN subscriptions, which provide access to Microsoft programming tools for software developers, Mr Rudd said:

The prices of MSDN subscriptions are significantly higher than that of TechNet subscriptions, but the price difference of paying 75 per cent more than the USA remains the same. This means for Visual Studio Ultimate 2010 with MSDN, you will be paying A\$20,775 in Australia and US\$11,899 in the United States, or US\$10,518 through Amazon.⁶³

- 2.73 Mr David Poole highlighted the fact that Australian consumers of digital news content can face significantly higher costs. Mr Poole noted that Australian subscribers to The Economist magazine pay 23 per cent more than subscribers in the UK, and 77 per cent more than subscribers in the US. Although The Economist produces several regional editions, Mr Poole notes that they contain substantially identical content.⁶⁴ Mr Leonard Cronin raised similar concerns in relation to New Scientist magazine subscription costs.⁶⁵

Music

- 2.74 Downloadable music was a prominent theme of complaints about price discrimination. It is undisputed that the internet has transformed the way in which consumers can buy, store and listen to music. Although many of the consumer concerns described in submissions focus on Apple iTunes, the Committee extended its consideration to other suppliers of digital music, in recognition of the fact that the contemporary music market is diverse and rapidly expanding. After canvassing consumer concerns, responses from music industry and IT representatives will be considered in chapter 3.

62 James Rudd, *Submission 40*, p. 3.

63 James Rudd, *Submission 40*, p. 1.

64 David Poole, *Submission 77*, p. 1.

65 Leonard Cronin, *Submission 99*, p. 1.

- 2.75 Launched in 2003, iTunes, an online digital media storefront developed by Apple, has been the biggest music vendor in the US since April 2008, and the biggest music vendor in the world since February 2010.⁶⁶ By February 2013, the store had sold over 25 billion songs. On average 15,000 songs are downloaded per minute from a catalogue of over 26 million songs that are available in 119 countries.⁶⁷
- 2.76 Individual songs are priced at several 'tiers' in the Australian and US iTunes stores. In the US store, songs can be priced at US\$0.69, \$0.99, or \$1.29. In Australia, the equivalent tiers are A\$1.19, \$1.69 and \$2.19. The majority of the price comparisons for individual tracks sold through the iTunes store showed prices of US\$1.29 and A\$2.19 respectively – a mark-up of 67 per cent.⁶⁸
- 2.77 Choice compared the prices of 50 individual songs and 20 'classic' albums in the Australian and US iTunes stores. The data showed that songs were, on average, 51 per cent more expensive in Australia, while the median price difference for the songs was 67 per cent. The Choice data showed a similar mark-up for a selection of 20 'classic' albums. Prices in the Australian iTunes store ranged from A\$8.99 to \$29.99, though the majority of albums were priced at \$16.99. In the US store, prices ranged from US\$7.99 to \$16.99, with a majority of albums priced at or around the \$9.99 mark. On average Australians were charged 51 per cent more for an album.⁶⁹
- 2.78 Choice's Mr Matthew Levey referred to the 'dominance of iTunes in the Australian market, as in any market that has a player of that size, is a factor [influencing prices], but we would also suggest that prices for recorded music have been artificially high in Australia for a long time'.⁷⁰
- 2.79 The Committee is aware of music subscription services, from free music access (i.e. advertising supported models) to paid subscriptions which deliver music to multiple platforms (i.e. mobile devices and computers). Further, a plethora of web and streaming services such as YouTube, Soundcloud and Bandcamp, offer access to music in various forms.

66 Apple *Media Releases*, 3 April 2008, <http://www.apple.com/pr/library/2008/04/03iTunes-Store-Top-Music-Retailer-in-the-US.html>; and 25 February 2010, <http://www.apple.com/pr/library/2010/02/25iTunes-Store-Tops-10-Billion-Songs-Sold.html>.

67 Apple *Media Release*, 6 February 2013, <http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html>.

68 Choice, *Submission 75*, pp. 7-10.

69 Choice, *Submission 75*, pp. 10-11. None of the albums compared in the Choice submission is a new release – all have therefore been on the market for a substantial amount of time.

70 *Committee Hansard*, 30 July, p. 25.

2.80 A common theme of these consumer complaints was incredulity as to the size of price differences between Australia and the United States for identical music downloaded from a digital shopfront. This perspective was summed up by Choice which, in its written submission, observed that:

It is important to note that these products are identical and are delivered directly to consumers through a means which bypasses many production and overhead costs, such as rent, distribution and labour.... Choice does not believe that a price difference of 50 per cent is justifiable.⁷¹

2.81 Scepticism is not confined to consumer advocacy groups. The Committee also noted the Productivity Commissions' conclusion in its retail industry report that argues justifying higher prices for digitally delivered content are 'not persuasive'.⁷²

Games

2.82 Choice compared the prices for a number of computer games, again finding substantial price differentials. The submission compared the prices of 20 recent and new-release games sold on EB Games' Australian website against the same company's US website. Only one game – *The Elder Scrolls V: Skyrim* – was at parity with the US, while the majority of games were between 40 per cent to 90 per cent more expensive on the Australian website.⁷³

2.83 Digitally distributed games showed even larger price differences. The Choice submission highlighted price differentials for games sold through 'Steam', a popular online-only games platform, and showed consistently higher prices in Australia compared to the US for substantially identical digitally delivered content. The worst price differentials on Steam can be 200 to 300 per cent more expensive in Australia. Choice highlighted the ten products with the biggest price differences:

The average price difference for these 10 games is 232 per cent, even though, like the iTunes products, they can be delivered with minimal rental, labour and distribution costs.⁷⁴

2.84 Mr Myles' submission echoed Choice's concerns, identifying price differences in digitally downloaded games, particularly those distributed

71 Choice, *Submission 75*, p. 12.

72 Productivity Commission Inquiry Report: *Economic Structure and Performance of the Australian Retail Industry*, 2011, p. XXIII.

73 Choice, *Submission 75*, pp. 13-15.

74 Choice, *Submission 75*, p. 13.

through the Steam store and through Electronic Arts' competing Origin store.⁷⁵ Mr Dane Weber observes that:

... 'Steam' ...provides a virtual storefront and service for publishers to sell their content. Publishers are allowed to set their price, and given different currencies, can price their products accordingly. As such, the Australian Steam store frequently suffers extreme price discrimination by publishers, occasionally having games pulled to be re-priced higher.⁷⁶

2.85 Valve Corporation, the US-based company which owns Steam, does not set game prices on Steam (except for games it publishes itself). As Mr Dmitry Brizhinev noted:

Valve, the owners of Steam, are not directly responsible for these prices. Instead, they allow the publisher of the game to choose what price they want the game to be sold at. In particular, games that Valve itself publishes are always sold at fair prices in the US and in Australia. It is also worth noting that Steam prices are unaffected by GST and it costs almost nothing to produce a purely digital copy, so it makes even less sense for them to be higher.⁷⁷

2.86 Steam is not the only digital delivery platform that charges Australian consumers more for games. Mr Scott Sutherland pointed out that Australian consumers buying direct from the publishers' website can also be forced to pay higher prices.⁷⁸ The price disparities for digitally delivered content are, as Mr Matthew Kermeen observed, 'highly perplexing' to many consumers:

... purchasing games online via a service such as Steam (<http://www.steampowered.com>) or console-based marketplace platforms such as Microsoft's Xbox Live or Sony's Playstation Network Store, the localisation and distribution costs should be void. However in a recent example, the game Max Payne 3 launched at US\$49.99, available via download from Steam. An Australian customer purchasing this exact same game via Steam is expected to pay A\$89.99, almost double the price for the exact same product, delivered in the exact same manner.⁷⁹

2.87 In some cases price disparities in relation to digitally delivered games are so large that it can be substantially cheaper for Australian consumers to

75 Daniel Myles, *Submission 33*, pp. 6-9.

76 Dane Weber, *Submission 8*, p. 1.

77 Dmitry Brizhinev, *Submission 30*, p. 2.

78 Scott Sutherland, *Submission 46*, p. 1.

79 Matthew Kermeen, *Submission 48*, p. 1.

purchase a physical copy of new release games from a UK-based online store and have it shipped 15,000km to Australia. Mr Scott Nelson, for example, recounts finding a then new-release game, *Mass Effect 3*, on sale at Electronic Arts' 'Origin' digital store for A\$79.99, while a physical copy could be purchased and shipped to Australia from the UK-based ozgameshop.com for A\$38.99.⁸⁰

- 2.88 The Steam store displays Australian prices based on a customer's IP address, so that by default Australians will not see cheaper US prices. Steam enforces regional pricing through the use of credit card information so that Australian consumers cannot easily circumvent their geoblocking by using a virtual private network (VPN) to obscure their geographical location. Steam also uses its Terms of Service agreement as the basis for blocking the accounts of consumers who circumvent its geoblocking mechanisms.⁸¹ Mr Scott Sutherland outlines a different kind of geoblocking experience with:

I tried to buy a copy of a new game in May called 'Diablo 3'. The fastest way to get this game is to purchase it from their website. On the US website the game is advertised for US\$60 = A\$58. But when I go to buy I am redirected to the Australian website and the game is A\$80.⁸²

Books

- 2.89 While impacts on library users are considered in a later section of this chapter, this section describes some general observations made in evidence about e-books, which are also susceptible to price discrimination. Many submissions highlighted higher costs faced by Australian consumers. The Australian Digital Alliance and the Australian Libraries Copyright Committee (ADA/ALCC), for example, compared the prices of a random sample of 48 books. It found that:

On average, it appears Australian libraries pay approximately 58 per cent more for print books than they are priced in the US, and 44 per cent more for e-books. For some e-books, libraries in Australia may be charged as much as 191 per cent more than that e-book is priced in the US.⁸³

- 2.90 After analysing the price of 35 titles from the New York Times best seller list, Mr Jeff Burgess noted that:

80 Scott Nelson, *Submission 4*, p. 1.

81 Brendan Sherrin, *Submission 29*, p. 2.

82 Scott Sutherland, *Submission 46*, p. 1.

83 Australian Digital Alliance/Australian Libraries Copyright Committee, *Submission 95*, p. 6.

... there is good evidence of a pattern of price discrimination against e-book buyers in Australia.... many of the Australian e-book prices are substantially higher than the e-book price in other countries/regions. This is despite the fact that the e-book is listed, sold on, and downloaded from the same USA-based website and servers for every country/region.⁸⁴

2.91 Mr John Dulley, on behalf of a group of Australian customers of the American e-book vendor Amazon, compared the prices of 100 popular e-book titles sold on Amazon.com. He found that when all publishers were taken together, Australians paid 16 per cent more than consumers in the US, and 32 per cent more than consumers in the UK. His results showed high variability between publishers: Harper Collins books were cheaper in Australia, while Penguin and Pan Macmillan books were 38 per cent and 26 per cent more expensive respectively. Independently published books – known as ‘indies’ – were significantly cheaper, according to Mr Dulley, with prices ‘virtually the same in all countries’.⁸⁵

2.92 Ms Julie Jester noted that e-book prices have risen significantly faster in Australia, subsequent to the ‘agency agreement’ which gave publishers price-setting control:

Initially average e-book prices in the Australian region were close to prices in most other regions in the world. The Agency Agreement, introduced in April 2010, caused minor price increases, particularly on new releases.

The Australian region price increases, in December 2011, took e-book prices to well above most of the other regional prices, making Australian e-books the highest priced e-books in the world. Furthermore many e-books are now priced higher than the paper editions.⁸⁶

2.93 Dr Andrew Leigh MP noted in his submission that there are also significant limitations on Australian consumers’ ability to purchase e-book readers, and, further, that Australian consumers can access a more limited selection of titles than consumers in other jurisdictions.⁸⁷

84 Jeff Burgess, *Submission 49*, pp. 1-2.

85 John Dulley, *Submission 44*, pp. 2-5.

86 Julie Jester, *Submission 47*, p. 2.

87 Andrew Leigh MP, *Submission 76*, p. 1.

Impacts on consumers

- 2.94 This chapter has noted the enormous impact of the internet and other IT developments on Australians' lives. It has also discussed aspects of international price discrimination, which while not new, are continuing to impact on charges levied on Australian consumers for a range of products and services. This section will review evidence from individuals and community organisations which suggests that the price differences described above have tangible, and negative, impacts on people's lives.
- 2.95 The Committee notes the irony inherent in digital development, an area identified and discussed at length in other forums.⁸⁸ While Australians are aware that the internet, including the National Broadband Network (NBN), will have a transformative impact on the economy and society, including the circumstances of the most isolated and socially disadvantaged people, *access* to web-based services is all-important. If people are experiencing isolation, social disadvantage, financial difficulties, or other challenges, perhaps even relating to their business, and are not able to access affordable IT, their situation is likely to get worse.
- 2.96 The Committee notes that its terms of reference ask it to consider the impacts of IT pricing on business, government and households; but there are many other groups within the community who have expressed their interest in the issues considered by the inquiry. The Committee acknowledges the input from those groups, including those who have presented the Committee with personal experiences to clearly illustrate the challenges faced by many in our community.

Consumers with low incomes

- 2.97 ACCAN's submission to the Committee observed that:
- Hardware and software has become essential to participation in a modern society. A computer and additional software is often needed to search for a job and self-administration for government income support payments is being moved online. Australians who cannot afford high prices for IT products will be restricted in the way they participate in our increasingly digital economy.⁸⁹
- 2.98 Care Inc, a Canberra-based financial counselling service, observed in its submission that its clients who are experiencing financial hardship have

88 The nature of the 'digital divide' and the 'digital dividend' have been well canvassed, and the current inquiry does not seek to duplicate or revise earlier observations and conclusions.

89 Australian Communications Consumer Action Network, *Submission 74*, p. 6.

- little capacity to access IT products. 'A new computer' (even second hand) is often stated by clients of financial counselling as something on the 'wish list'.⁹⁰
- 2.99 Care Inc noted that access to IT products can be a barrier for people experiencing financial hardship, and particularly for those consumers who have medical and other health issues. While some people are able to access the internet through their local library or employment service providers, these environments are shared, often require 'bookings' and the organisation of transportation and 'do not reflect the way that technology is used in our community'.⁹¹
- 2.100 Care Inc notes that low income earners or people who cannot access credit through the mainstream market may attempt to avoid expensive upfront IT costs by resorting to rental or lease agreements; contracts which are 'enormously expensive', thereby paying significantly more in the longer term.⁹²
- 2.101 The Committee acknowledges ACCAN's observation that 'the cost of hardware and software is a major concern for not-for-profits',⁹³ organisations with limited and often low income who seek to provide services to support individuals in need of assistance. Connecting Up is an Australian not-for-profit organisation which seeks to build the capacity of the not-for-profit sector by 'reducing their IT costs, providing educational material and practical workshops and events'.⁹⁴
- 2.102 Connecting Up draws on partnerships with key IT product providers to provide, subject to eligibility criteria, 'industry-standard software and hardware at a greatly reduced cost'. The products are provided through existing Charity Licensing schemes or through direct negotiations with technology vendors, including Microsoft, Adobe and Symantec. Connecting Up note that through this discount program, 'not-for-profit [organisations] can save up to 50 per cent off their products'.⁹⁵
- 2.103 According to Connecting Up, not-for-profit organisations would benefit from a greater awareness that they can potentially access free or discounted technology. Connecting Up also notes the increasing importance of access to high-speed broadband as cloud services develop,

90 Care Inc, *Submission 131*, p. 2.

91 Care Inc, *Submission 131*, p. 3.

92 Care Inc, *Submission 131*, p. 3.

93 Australian Communications Consumer Action Network, *Submission 74*, p. 7.

94 Connecting Up, *Submission 111*, p. 1. Connecting Up website, viewed 12 June 2013, <http://www.connectingup.org/donations>.

95 Connecting Up, *Submission 111*, pp. 1-2.

and further argues that not-for-profits may need government grants to assist in the acquisition of IT infrastructure.⁹⁶

Higher education sector

- 2.104 Australia's 39 universities have a combined enrolment of more than one million students, and employ more than 100,000 staff. 'University expenditure accounts for 1.6 per cent of GDP, which in turn benefits students, staff, industry, and the wider community.'⁹⁷ Over the past few decades, the education sector has become ever more reliant on information technology. Monash University noted that, for higher education institutions and the students that they educate, IT is of increasing importance to daily operations.⁹⁸
- 2.105 It is estimated by the Council of Australian University Directors of Information Technology (CAUDIT) that 'collectively, CAUDIT member institutions spend approximately A\$1.5 billion on ICT products and services annually'.⁹⁹ The Committee would have liked to have heard more from the Australian higher education sector in relation to IT procurement, to provide a greater range of views, but is aware of some reluctance to participate in this inquiry for fear of jeopardising ongoing and future contract negotiations with major IT vendors.
- 2.106 According to Monash University's Annual Report 2012, Monash University spends approximately \$32 million each year on IT products and services.¹⁰⁰ Of this IT operations budget, approximately 10 per cent is spent on software from some 100 suppliers. Monash stated that there is 'clear anecdotal evidence' that software costs are higher for the Australian higher education sector than for comparable institutions overseas.¹⁰¹ Monash described how it had 'carried out some sample price assessments with a UK comparator university and concluded that, on average and on current exchange rates and eliminating sales tax difference, our underlying unit costs for hardware are 20 to 30 per cent higher'.¹⁰²

96 Connecting Up, *Submission 111*, p. 2.

97 Background information can be found at the Universities Australia website at: <http://www.universitiesaustralia.edu.au/page/6/australia-s-universities/>.

98 Monash University, *Submission 87*, p. 2.

99 CAUDIT website: <http://www.caudit.edu.au/about-caudit>.

100 Monash University Annual Report 2012, p. A64, <http://www.monash.edu.au/pubs/ar/>, viewed 13 June 2013.

101 Monash University, *Submission 87*, p. 2.

102 Monash University, *Submission 87*, p. 2.

- 2.107 In explaining why IT costs for higher educational institutions in Australia might be more expensive the Monash University submission stated that:

From the perspective of the individual student or indeed individual university, these differentials are created by well-known commercial forces. These forces add up to asymmetry of information and bargaining power between the vendor and the consumer.¹⁰³

- 2.108 As noted earlier in this chapter, the presence of cloud computing has impacts for users. Monash University noted that while cloud services can indeed offer flexibility for consumers and IT vendors, subscription services may have downsides:

The emergence of cloud approaches has increased the range of options available to customers and at the same time created new opportunities for vendors to achieve step changes in their value proposition. It would be naïve not to recognise that although cloud solutions may reduce headline costs to the customer, vendors would not pursue the approach if it did not improve their returns (creating artificially high costs to customer).¹⁰⁴

Impacts on students

- 2.109 Monash University's submission to the Committee also highlighted financial pressures on university students who 'manage finite and often limited resources whilst studying':

At Monash, approximately 12 per cent of the domestic undergraduate student population come from a low socio-economic background. For this cohort, meeting living and study-related costs can be very challenging.¹⁰⁵

- 2.110 Monash noted that universities are increasingly using '... electronic delivery of content and collaboration environments. In light of these changes, the need for students to have easy access to contemporary IT tools increases, as do the attendant financial challenges.'¹⁰⁶ Monash further noted:

The proportion of students affected by difficulty in paying for communications costs is higher than one might imagine, with 43 per cent of respondents to a recent National Union of Student

103 Monash University, *Submission 87*, p. 3.

104 Monash University, *Submission 87*, pp. 1-2.

105 Monash University, *Submission 87*, p. 2.

106 Monash University, *Submission 87*, p. 3.

survey stated that they struggle to pay communication costs from their normal income.¹⁰⁷

- 2.111 Monash University is concerned that for ‘...some talented prospective students from low socio-economic backgrounds, the costs of IT in Australia will add to their decision not to take up Higher Education’.¹⁰⁸ The Committee notes Monash’s suggestion that options be examined to allow students to purchase necessary IT equipment through an arrangement such as Higher Education Loan Program, and would be interested to see any progress in this area.

Recommendation 2

Considering the importance of IT products to education, and in the interests of greater transparency in this area, the Committee recommends that the Australian Government, in consultation with Universities Australia and CAUDIT, conduct a comprehensive study of the future IT needs of and costs faced by Australian Universities, in order to provide clearer financial parameters for negotiations.

People living with disability

- 2.112 While the evidence provided to the Committee is largely anecdotal, the Committee accepts that concerns expressed by individuals were genuine, and reflect a growing awareness that many IT products, hardware and software, designed for people with disability are expensive, and often cost significantly more in Australia than overseas.¹⁰⁹ Mr Wayne Hawkins of ACCAN told the Committee that:

... the higher price that consumers in Australia pay is detrimental to all consumers, but there is a significantly higher impact on vulnerable consumers and particularly consumers with disability. The research that is available shows us that Australians living with disability are overrepresented in the low income socioeconomic groupings, and these higher prices significantly impede their

107 Monash University, *Submission 87*, p. 3.

108 Monash University, *Submission 87*, p. 3.

109 Australian Communications Consumer Action Network, *Submission 74*, p. 9; Faye Galbraith, *Submission 78*, p. 1.

access to all of the vital services that are now being provided online with telecommunications.¹¹⁰

- 2.113 Such products include optical character recognition software systems used to scan printed materials, screen readers that provide either speech or braille output, magnification software to enlarge text, adapted keyboards, on-screen keyboards and voice recognition software and alternative communication programs.¹¹¹ The way in which Ms Faye Galbraith described the importance of modern IT hardware and software to support children with disability to communicate, play games, and participate in education, showed the Committee the necessity of such assistive devices:

There are a multitude of apps available to assist kids with disabilities, to communicate, play and learn. ... It's important to mention that for some of us, technology isn't a desirable object, it's an absolute necessity. It promotes communication, inclusion and independence.¹¹²

- 2.114 Mr Hawkins outlined his own experiences arising from the comparatively high cost of IT products to assist people with disability, describing vastly different prices for screen reading software which is available as a digital download.¹¹³

- 2.115 ACCAN argued in its submission that many people with disabilities are amongst the most economically disadvantaged members in our community. The requirement for specialist equipment to support their disability makes it more likely that they will be unemployed and on a Disability Support Pension.¹¹⁴ A member of Blind Citizens Australia contributing to the ACCAN submission to the inquiry noted that:

It is not unreasonable to conclude that high prices for disability IT equipment has contributed to the high levels of unemployment experienced by people with disability and made social interaction and study more difficult. Any effort to align prices to the lower rates seen in other markets could play a role in increasing employment or social inclusion for this disadvantaged group.¹¹⁵

- 2.116 IT products are important, indeed essential, to people with disability. However ACCAN pointed out that:

110 *Committee Hansard*, Canberra, 19 September 2012, p. 2.

111 'Assistive Computer Devices and Access Aids for PC', *Disabled World*, <http://www.disabled-world.com/assistivedevices/computer/>, viewed 13 June 2013.

112 Faye Galbraith, *Submission 78*, p. 1.

113 *Committee Hansard*, Canberra, 19 September 2012, p. 2.

114 Australian Communications Consumer Action Network, *Submission 74*, p. 10.

115 Australian Communications Consumer Action Network, *Submission 74*, p. 11.

Unlike other countries, there is no legislated right for people with disabilities to have access to technology they require for daily living that can assist them in participating in the community.¹¹⁶

- 2.117 The Committee heard from ACCAN that even where IT products are purchased overseas, local warranty and service arrangements are important considerations:

If [consumers with disability] can save a couple of thousand dollars from what the price is in Australia by buying it overseas then that is fantastic, but when they do that they do not have backup warranty and service agreements, so then they are disadvantaged if something goes wrong with the equipment.¹¹⁷

- 2.118 The submission of the ADA/ALCC urged the Committee to 'take into account not only the prohibitive costs of IT hardware and software for Australians with disabilities, but other ways in which digital content providers may restrict (or exclude outright) their enjoyment of content'.¹¹⁸

- 2.119 ACCAN argued that Australia's small domestic market disadvantages individual consumers who need specialised IT products:

In most cases consumers lack any choice when shopping for disability specific hardware and software ... This is also the case for other disability specific pieces of hardware and software and is likely due to the fact that specialised equipment is aimed at a small section of the market in Australia, which is a small domestic market compared to the USA or UK.¹¹⁹

- 2.120 Similarly Ms Galbraith expressed concerns:

We hear many excuses for anti-competitive practice by disability equipment suppliers and IT retailers alike: a narrower market by nature of a smaller population; higher shipping costs; a virtually non-existent manufacturing industry.¹²⁰

Legal considerations and international obligations

- 2.121 ACCAN suggested to the Committee that employment opportunities can be lost for people with disability because of the high cost to employers of making modifications to IT systems in the workplace:

116 Australian Communications Consumer Action Network, *Submission 74*, p. 11.

117 *Committee Hansard*, Canberra, 19 September 2012, p. 2.

118 Australian Digital Alliance/ Australian Libraries Copyright Committee, *Submission 95*, p. 14.

119 Australian Communications Consumer Action Network, *Submission 74*, p. 11.

120 Faye Galbraith, *Submission 78*, p. 1.

Unfortunately, the high cost of much disability related equipment means that potential employers, educational institutions and service providers may be able to claim 'unjustifiable hardship' under the Disability Discrimination Act 1992 and therefore attempt to legally refuse to hire, educate or provide services to people with disability.¹²¹

- 2.122 In their evidence to the Committee both ACCAN and Dr Matthew Rimmer of the Australian National University highlighted Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities.¹²² Dr Rimmer observed in his submission to the Committee:

Lamentably, Australia's copyright regime fails to adequately address the problem of disability discrimination, particularly in respect of copyright works in a digital form.¹²³

- 2.123 Dr Rimmer in his submission pointed out that 'those with disabilities and their carers suffer problems in respect of access to knowledge'. He argues that under the United Nations Convention on the Rights of Persons with Disabilities, Australia has an obligation to ensure disabled persons are not discriminated against by copyright law and have access to 'cultural materials'.¹²⁴ Dr Rimmer noted the estimation by Disability Discrimination Commissioner Graeme Innes that 'only 5 per cent of all books in Australia are published in accessible formats such as large print, audio or braille, while in developing countries it is just 1 per cent'.¹²⁵
- 2.124 ACCAN noted that while the Australian Government is committed to its own National Disability Strategy and a whole-of-government Social Inclusion Agenda, it does not have a comprehensive public procurement policy for accessible IT and that this undermines Australia's commitment to its obligations under the United Nations Convention on the Rights of Persons with Disabilities.¹²⁶

Public Procurement Policy

- 2.125 ACCAN noted that public procurement of IT products, especially hardware and specialised software, would greatly assist people with disabilities, both in terms of affordability and access, and claimed that

121 Australian Communications Consumer Action Network, *Submission 74*, p. 11.

122 Matthew Rimmer, *Submission 92*, p. 59; Australian Communications Consumer Action Network, *Submission 74*, p. 12.

123 Matthew Rimmer, *Submission 92*, p. 60.

124 Matthew Rimmer, *Submission 92*, p. 59.

125 Matthew Rimmer, *Submission 92*, p. 8.

126 Australian Communications Consumer Action Network, *Submission 74*, p. 12.

‘Australia lags behind the majority of OECD countries, which have included IT accessibility criteria in their public procurement regimes.’¹²⁷ At the present time the Australian Government has no such policy in place, and ACCAN has called for its introduction. Such a policy, ACCAN claims, could be accessed by eligible persons, especially people with disability, either at discounted prices or as a benefit.¹²⁸

2.126 ACCAN argued that this program would also ultimately encourage more employers to hire disabled persons. Currently the price of the IT infrastructure required for disabled persons can in some instances be prohibitive for employers thus disadvantaging the disabled.¹²⁹

2.127 Although the Committee was not able to fully explore the issue of public procurement as a remedy for reducing the costs of accessible IT products for persons with disabilities, the Committee recommends that the Australian Government give consideration to adopting a whole-of-government accessible IT procurement policy to improve the quality of life for people with disabilities and their carers. Noting the report *Accessible Communications Tapping the Potential in Public ICT Procurement Policy*, by the University of Wollongong and GSA Information Consultants in consultation with ACCAN,¹³⁰ the Committee considers that such a scheme should be undertaken by relevant agencies including AGIMO (the Australian Government Information Management Office) and involve consultation with relevant stakeholder groups including ACCAN.

127 ‘Accessible Communications: Tapping the potential in public ICT procurement policy’ Australian Communications Consumer Action Network, http://accan.org.au/files/Accessible_Communications_Report_Accessible.doc, viewed 13 June 2013.

128 Australian Communications Consumer Action Network, *Submission 74*, p. 12.

129 Australian Communications Consumer Action Network, *Submission 74*, p. 12.

130 ‘Accessible Communications: Tapping the potential in public ICT procurement policy’ Australian Communications Consumer Action Network, http://accan.org.au/files/Accessible_Communications_Report_Accessible.doc, viewed 13 June 2013.

Recommendation 3

The Committee recommends that the Australian Government consider a whole-of-government accessible IT procurement policy, to be developed by relevant agencies including AGIMO, and in consultation with relevant stakeholder groups including ACCAN.

Library users

- 2.128 As the ADA/ALCC noted, almost half of all Australians are members of public libraries, with some 114 million visits to libraries registered in 2009-2010. Libraries often cater for low income earners such as the unemployed, students, pensioners, persons with disabilities, as well as people from non-English speaking backgrounds.¹³¹ Most public libraries in Australia now offer internet access, providing access to digital information, government services, and subscription-only publications.¹³²
- 2.129 The ADA/ALCC submission explained that the provision of e-books presents many challenges for libraries, including the contracting away of rights available under Australian copyright law, lack of ability to access new release material, evolving business models that see pricing regimes changing regularly and lack of certainty about long term access to material.¹³³
- 2.130 The ADA/ALCC observed that:
- ... there are few publishers offering an outright purchase model for e-book titles, and that in early 2012, Penguin Books without notice withdrew licensing for its e-book catalogue to Australian libraries via the aggregator Overdrive.¹³⁴
- 2.131 As well as noting the higher costs for e-books, discussed earlier in this chapter, the ADA/ALCC highlighted problems with access. Publishers may refuse to license e-books to libraries, or may withdraw access to their e-book catalogue. ADA/ALCC also highlighted recent licensing agreements that force libraries to purchase multiple copies of an e-book,

131 Australian Digital Alliance/Australian Libraries Copyright Committee, *Submission 95*, p. 5.

132 'The Little Book of Libraries', Australian Library and Information Association, http://www.alia.org.au/sites/default/files/documents/advocacy/ALIA.Little.Book_of_Public.Libraries.pdf.for_web.pdf, viewed 13 June 2013, p. 12.

133 Australian Digital Alliance/Australian Libraries Copyright Committee, *Submission 95*, p. 5.

134 Australian Digital Alliance/Australian Libraries Copyright Committee, *Submission 95* p. 5.

even if they require fewer copies.¹³⁵ According to the ADA/ALCC submission:

Some publishers currently refuse to license/sell e-books to Australian libraries at all – at any price. Further, e-books are generally only available to Australian libraries for as long as the publisher is willing to license them (or until the publisher goes out of business...) ...

Australian publisher Allen & Unwin recently amended their e-book licensing arrangements with large public library services and library consortia, mandating the purchase of multiple copies of any e-book, even where only one copy is desired. Until recently, the State Library of Western Australia (SLWA) could license one copy of an Allen & Unwin title for the WA public library network (restricted to single user access). The amended licensing arrangements mean SLWA would have to purchase 12 copies of any e-book (current release or backlist title), with a resultant impact on budget. Even if SLWA only wanted one copy of a particular e-book title, they would effectively pay 12 times the list price. These price differentials will adversely affect acquisitions policy in libraries; in particular, the breadth of e-books available to library users.¹³⁶

2.132 Representatives of the Australian publishing industry acknowledged that the availability of e-book licences to Australian libraries, costs and associated terms and conditions governing access to content by library users is in a state of flux. According to Mr Ross Gibb of Macmillan Australia:

We are still trying to come up with the model for libraries. There are various products out there. The US have been struggling with this one – does the library buy the book once, have it forever and lend it as many times as it wants? That is not going to create much income for the publisher, nor particularly for the author. So we are trying to look at subscription models or models that allow a reasonable amount of usage and wherever it might go from there. There are time periods being set and different models being experimented with. I do not think there is an answer anywhere yet.¹³⁷

135 Australian Digital Alliance/ Australian Libraries Copyright Committee, *Submission 95*, pp. 5-6.

136 Australian Digital Alliance/ Australian Libraries Copyright Committee, *Submission 95*, pp. 5-6.

137 *Committee Hansard*, Sydney, 30 July 2012, p. 14.

- 2.133 For those who prefer to keep their reading collections on their own devices, rather than access them via a public library, the Committee noted with concern comments made by Mr Gibb, of Macmillan Australia, about ongoing access to cloud-based e-book services: access to a consumer's e-book library would continue for, '[a]s long as your e-reseller is going to maintain your library – so hopefully they stay in business'.¹³⁸

Small business owners

- 2.134 As with many other sectors of society, business has become increasingly reliant on the use of IT products over the last few decades. Evidence presented to the Committee suggests that certain types of small businesses, such as those using niche software, may be significantly impacted by the higher cost of IT products, and particularly disadvantaged when 'locked in' to a particular suite of products. While large companies and governments may be able to negotiate more competitive prices for IT products, small business may be less able to shop around for alternative cheaper IT products; submissions expressed concern about barriers to choice and competition, and noted the consequent impact of higher prices on their international competitiveness.
- 2.135 Mr Nic Watt, Nnooo's Creative Director, argued that the layer of costs the company is forced to absorb significantly affects its international competitiveness:

Australian [companies] in the film, TV and video games business are being unfairly financially penalised in comparison with their American counterparts. This makes it more expensive to do business in Australia and makes it hard to compete on a global stage.¹³⁹

- 2.136 Other software developers face similar problems and are obliged to absorb higher input costs. Mr James Rudd, an IT professional, noted in his submission that the suite of development tools provided to business by Microsoft can be significantly more expensive in Australia. Mr Rudd concluded that:

These differences in price can significantly raise the cost of becoming an IT Professional or Developer and staying up to date on current technology. They disadvantage Australian businesses that use Visual Studio and MSDN to develop software by having a

138 *Committee Hansard*, Sydney, 30 July 2012, p. 14.

139 Nnooo, *Submission 114*, p. 2.

much higher yearly fee for their development software compared to similar US businesses.¹⁴⁰

- 2.137 Freelance web designer Mr Peter Larkin argued that the competitive impact of higher IT prices is felt quite widely:

A major impact is felt within the multimedia/web design community here, as local businesses find it hard to compete with our US counterparts given the tools (Adobe software) is so much more expensive for us to buy than it is for US-based companies...our ability to compete on a global level is compromised.¹⁴¹

- 2.138 Australian Commercial and Media Photographers (ACMP) noted that many small businesses in the photographic industry consider they have no choice other than to purchase Adobe software and consequently have a keen sense of international price discrimination :

Adobe provides an easily documentable but single example of how price differences, changed policies and new delivery models can create an added financial burden to our industry, which is significantly higher than our overseas counterparts.

We believe that in an ever tightening market the price differences across the entire spectrum of equipment, software and consumables is making it increasingly difficult for the Australian photographic industry to operate their micro or small businesses and potentially affects the industry's ability to compete equally on the world stage.¹⁴²

- 2.139 The ACMP position was supported by submissions from individual photographers, including Mr Christopher Shain:

The photographs I produce are used all over the world and I compete with similar photographic businesses from other parts of the world, I'm not sure why my business costs are higher in Australia when the product and service are identical.¹⁴³

- 2.140 Mr Russell Zimmerman, Executive Director of the Australian Retail Association, acknowledged that it was possible for small businesses to source cheaper products overseas. However, as discussed earlier in this chapter, warranty and support issues arise that are potentially more important for business than for individual consumers:

140 James Rudd, *Submission 40*, p. 2.

141 Peter Larkins, *Submission 53*, p. 3.

142 Australian Commercial and Media Photographers, *Submission 54*, p. 3.

143 Christopher Shain, *Submission 57*, p. 2.

If [business] know they can get something at a cheaper price from overseas rather than buying it [here] and providing they feel that they can get some support services on it, they would. But then you have to understand that retailers also depend upon those kinds of products to make their businesses operate. So they would make sure there are some kinds of support services available before buying it. ... If you have bought from overseas and no-one is going to help you then you would be reluctant to go down that path. ... The consumer out there would say, 'I am prepared to take the risk on those goods. I'll buy them from overseas and bring them in. I'll have to risk the warranty.' It is a very valid selling point, and it is a point that we emphasise to our members, but it does not always work.¹⁴⁴

- 2.141 In terms of cloud computing costs, architect Mr Nicholas Fox noted in his submission that subscription-based cloud services are not an economical proposition for every customer, even when sold at a favourable introductory price:

I generally upgrade the Adobe product every two or three years. This is a common practise among other users I know. Adobe are trying to get all of their users onto the Cloud, which will cost almost as much per year as a subscription or about three times the cost of my usual upgrades. For me this is not a fair or equitable solution.¹⁴⁵

- 2.142 The Committee notes recent media reports indicating that customers wishing to access Adobe's full Creative Suite will not be permitted to purchase perpetual licenses as of its next release. The only way to access the range of products will be via a Creative Cloud subscription.¹⁴⁶ Media reports indicate that consumer reaction to the decision has been mixed.¹⁴⁷

Impacts for Government procurement

- 2.143 The Committee received evidence that the Australian Government also faces comparatively high prices for its IT products. AGIMO, part of the
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144 *Committee Hansard*, Sydney, 30 July 2012, p. 30.

145 Nicholas Fox, *Submission 122*, p. 1.

146 Timson, Lia, 'Adobe kills packaged software, bets on cloud alone', *Sydney Morning Herald*, 7 May 2013. <http://www.smh.com.au/it-pro/cloud/adobe-kills-packaged-software-bets-on-cloud-alone-20130507-2j4ht.html>, viewed 7 May 2013.

147 Finley, Klint, 'Unhappy Customers want to Parachute from Adobe's Creative Cloud', *Wired*, 14 May 2013, <http://www.wired.com/wiredenterprise/2013/05/adobe-creative-cloud-petition/?cid=co7887814>, viewed 14 May 2013.

Department of Finance and Deregulation, coordinates whole-of-government procurement of IT hardware and software. AGIMO's submission to the inquiry explained that '[e]xpenditure on procurement by departments and agencies is optimised by aggregating the volumes of goods and services purchased to attract better prices and value for money'.¹⁴⁸

- 2.144 In 2009 AGIMO entered into the Microsoft Volume Sourcing Arrangement (VSA) that provided pricing and licensing conditions for the supply of Microsoft products to the Australian Government over a four year period. The VSA provides for a volume discount from Microsoft's government retail price in Australia. AGIMO advised that there are over 250,000 users and 290,000 devices covered by the VSA and that the arrangement was projected to achieve cost savings in excess of \$90 million over its life.¹⁴⁹
- 2.145 AGIMO also emphasised that the Australian Government has nonetheless been obliged to pay significantly higher prices than counterparts overseas:

At the time of signature, the exchange rate from the Australian dollar to the US dollar was \$0.64. ... At that time, the base Microsoft Australian Government prices were calculated as being about 13 per cent higher than equivalent US prices. Given variations between the US and Australian situations, this appeared reasonable.

Following the improvement in the exchange rate over the past three years ...the difference in the base government price means that the US Government is paying some 50 per cent less than the base government price in Australia. The Singapore Government prices also appear to be some 50 per cent below those charged to the Australian Government.¹⁵⁰

Committee comment

- 2.146 After reviewing the evidence in submissions from consumers and industry groups, the Committee is of the view that in many cases Australian consumers are paying much more for IT products than consumers overseas. While the Committee notes the concerns of industry groups that price comparisons may not capture elements of consumers' experience in purchasing IT products, the Committee is of the view that
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148 Department of Finance and Deregulation, *Submission 79*, p. 1.

149 Department of Finance and Deregulation, *Submission 79*, p. 3.

150 Department of Finance and Deregulation, *Submission 79*, p. 5.

the evidence before it is strongly indicative of a pattern of higher prices paid by Australian consumers.

- 2.147 The Committee would have liked to have received more input from industry groups and IT providers in order to more effectively address the specific concerns expressed by consumers, however it notes that the evidence it received is consistent with other studies and inquiries where IT pricing has been considered. In particular the Committee notes Choice price comparisons conducted in 2008 and 2011,¹⁵¹ the Productivity Commission's 2009 review of parallel import restrictions on books,¹⁵² and its 2011 report into the retail industry.¹⁵³
- 2.148 The Committee also notes that there is a range of reasons and methods by which Australian consumers are forced to pay higher prices for identical goods sold more cheaply in international markets. Some claim there is a lack of competition (either a limited range of purchasing options, or a limited range of distributors or licenses), and some describe price increases based on location, identified via credit card or other details which indicate that the purchase is being made in Australia. Submissions indicate that many consumers are acutely aware that they are being forced to pay higher prices for IT products based on their geographical location alone.
- 2.149 In the Committee's view, limited access to IT products in an increasingly interconnected society is a significant contributor to the social isolation and economic marginalisation of Australians, including those who are living with disability.
- 2.150 Many submissions from consumer groups and individual consumers have argued that higher Australian IT prices reflect deliberate regional pricing strategies employed by major IT companies and content rights holders to maximise profit in the relatively small but affluent Australian market. Unsurprisingly, alert consumers have adopted various strategies to circumvent geoblocking and access lower prices overseas. While these are discussed in chapter 4, the Committee acknowledges that most, if not all, of these circumvention methods may violate the terms of service put in place by vendors and service providers. Some of them may even breach copyright, which may expose Australian consumers to civil and even criminal sanctions.

151 Choice, *Submission 75*, p. 43.

152 Productivity Commission, *Restrictions on the Parallel Importation of Books*, June 2009, p. XVIII.

153 Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, 2011, Appendix E.

