

## Introduction

- 1.1 On 18 May 2012, Senator the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, requested that the House of Representatives Standing Committee on Infrastructure and Communications inquire into the pricing of information technology (IT) products in Australia.
- 1.2 In his letter of referral, Minister Conroy highlighted 'growing interest in the differentials that exist in prices for IT hardware and software sold in Australia,' an interest which has intensified as the Australian currency gained value against the US dollar.
- 1.3 The Minister noted the internet's value to Australian business and consumers, and the considerable opportunities for economic expansion the digital economy presents. He also noted, however, the concern that when purchasing IT hardware or software, Australian small businesses, private consumers, and governments could face price disparities that may affect their international competitiveness.
- 1.4 Consequently, the terms of reference for the inquiry required the Committee to investigate:
  - whether IT products sold in Australia are more expensive than those sold in comparable overseas jurisdictions, and if so, how much more expensive;
  - why any such differences may exist;
  - the impacts price differences may have on Australian consumers and businesses; and
  - what actions, if any, may be taken to mitigate those impacts on Australian consumers.
- 1.5 For the purposes of the inquiry, the term 'IT products' includes both IT hardware and software, and covers games, consoles, e-books, music and video sold in Australia, either online or in retail outlets.

## Context of the inquiry

- 1.6 IT is omnipresent in businesses of any size or complexity, in schools and universities, and in millions of Australian homes. Information technology influences almost every aspect of Australia's economy and society.
- 1.7 IT products are at the heart of our financial and logistics systems, and support critical infrastructure, health, education and welfare systems. IT products are critical to research and innovation, economic competitiveness and Australia's future social and economic prosperity.
- 1.8 The internet has transformed the Australian economy over the past 20 years, and is poised to play an even greater role in daily life as Australia's engagement with the global digital economy broadens and deepens.
- 1.9 According to a 2011 Deloitte Access Economics report, the internet made a direct contribution of approximately \$50 billion – or 3.6 per cent of Australia's Gross Domestic Product – to the Australian economy in 2010, a contribution of similar value to the retail sector or Australia's iron ore exports. The direct contribution of the internet is forecast to increase by another \$20 billion to roughly \$70 billion by 2016.<sup>1</sup>
- 1.10 Between 2010 and 2011, 6.2 million or nearly three quarters of Australian households had broadband internet access.<sup>2</sup> In the same period 91.2 per cent of businesses had internet access, and 43.1 per cent had a web presence. 50.8 per cent of businesses placed orders via the internet, and 28 per cent received orders over the internet.<sup>3</sup>
- 1.11 More Australians now use internet banking than visit a bank branch. 'As of December 2010, 45 per cent of Australians had used internet banking in the previous four weeks, overtaking the 44 per cent who visited a branch.' Internet banking usage has risen from 1 per cent to 45 per cent in the last 12 years.<sup>4</sup>

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1 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian Economy*, August 2011, executive summary, [http://www.deloitte.com/assets/Dcom-Australia/Local%20Assets/Documents/Services/Corporate%20Finance/Access%20Economics/Deloitte\\_The\\_Connected\\_Continent\\_Aug\\_2011.pdf](http://www.deloitte.com/assets/Dcom-Australia/Local%20Assets/Documents/Services/Corporate%20Finance/Access%20Economics/Deloitte_The_Connected_Continent_Aug_2011.pdf), viewed 21 June 2013.

2 Australian Bureau of Statistics, *Media Release*, 162/2011, 15 December 2011, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mediareleasesbyReleaseDate/180CCDDCB50AFA02CA257522001A3F4B>, viewed 20 June 2013.

3 Australian Bureau of Statistics, *Summary of IT Use and Innovation in Australian Business, 2010-11*, 26 June 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/Products/372A095FBDBCC2B9CA257A2800145B72?opendocument>, viewed 21 June 2013.

4 Roy Morgan, *Research, Internet Banking Surpasses Branch Visitation*, 23 May 2011, <http://www.roymorganonlinestore.com/News/1346---UInternet-Banking-Surpasses-Branch-Visitati.aspx>, viewed 21 June 2013.

- 1.12 In 2012, online sales in Australia totalled more than US\$35 billion. Over 10 million Australians, almost half Australia's population, made a purchase online in 2012, on average spending A\$3,431 per person. This expenditure was on average 54 per cent higher than the United States and the highest in the world with the exception of the United Kingdom.<sup>5</sup>
- 1.13 In its submission to the inquiry, the Department of Broadband, Communications and the Digital Economy (DBCDE) noted that IT hardware and software are a 'key driver of productivity growth in our economy', and that therefore:
- ... [it] is important for Australia's global competitiveness that Australia pays no more for the technology that underpins its success than it must. The ubiquity and affordability of technology is a key requirement for Australia's competitiveness in the global economy and underpins everything from home finances to our export trade.<sup>6</sup>
- 1.14 It is generally accepted that Australians have tolerated higher prices for a range of goods for much of their history. In general, higher prices have been attributed to:
- Australia's geographical remoteness
  - its comparatively small and scattered population, and
  - a historically weak Australian dollar.
- 1.15 In recent decades, however, the internet has allowed Australian consumers to observe and participate in the global marketplace, and to become increasingly aware of prices in comparable overseas markets. Many consumers have also become aware of, and frustrated by, regional pricing strategies that prevent them from taking advantage of cheaper prices overseas.
- 1.16 The Committee sought to explore any structural or commercial reasons for the significantly higher prices paid by Australians for IT products. These included claims by IT product vendors about higher business costs, taxes, Australian regulatory regimes and requirements unique to the Australian market.
- 1.17 The Committee is aware that while regional pricing strategies may exist across many industries, they are particularly noticeable in relation to IT products, including those which are digitally delivered with identical content in different countries. In many cases prices are significantly higher

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5 'Online sales reach a trillion', *The Age*, 11 April 2013, <http://www.theage.com.au/small-business/online-sales-reach-a-trillion-20130411-2hmk.html>, viewed 21 June 2013.

6 Department of Broadband, Communications and the Digital Economy, *Submission 55*, p. 1.

than what might be expected as a consequence of any costs arising from delivery in the Australian market.

## Conduct of the inquiry

- 1.18 The terms of reference of this inquiry were very broad. IT products now permeate every aspect of the Australian economy and society. No single government department or agency is responsible for relevant policy or regulation. Business and consumer groups offered a wide range of perspectives, but none dealt with the totality of issues raised by the terms of reference.
- 1.19 To familiarise itself with current policies and issues relevant to the inquiry, the Committee requested briefings from DBCDE, the Attorney-General's Department, the Department of Finance and Deregulation, the (then) Department of Industry, Innovation, Science, Research and Tertiary Education, the Treasury, the Australian Competition and Consumer Commission, and the Productivity Commission.
- 1.20 In the inquiry's initial stages the Committee sought submissions from the public and invited a broad range of IT companies, business and industry bodies to make submissions. The inquiry received 133 submissions, 15 supplementary submissions and 5 exhibits. The inquiry generated significant interest in the community, and this has been reflected in high levels of media coverage.
- 1.21 More than half of the submissions received were from consumers, most of whom expressed frustration at what they characterised as unfair prices for IT products. The majority of consumer submissions reported high prices for computer games, software, hardware, e-books and digitally downloaded music.
- 1.22 The Committee held eight public hearings: in Sydney on 30 July 2012 and in Canberra on 19 September, 5 October, 31 October, 28 November 2012, and on 13 February, 13 March and 22 March 2013. The Committee heard evidence from consumer groups, government agencies, and industry groups representing IT companies, publishers, retailers, and record labels.<sup>7</sup>

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7 Transcripts of the Committee's public hearings can be found at:  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=ic/itpricing/hearings.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=ic/itpricing/hearings.htm).

## Engagement with industry

- 1.23 From the beginning of the inquiry, the Committee expressed the reasonable expectation that relevant IT industry organisations and companies would take an active role in the inquiry through submissions and participation in public hearings. In offering an opportunity for participation in a public inquiry, the Committee hoped that business and industry bodies would seek to engage with and respond to some of the observations and concerns raised quite openly and regularly by consumers. In this manner, the Committee anticipated a rigorous and fair examination of issues of clear concern to Australian consumers.
- 1.24 From the outset, the Committee experienced the frustration felt by consumers in seeking an answer to legitimate queries. Some large companies stated they would be represented by an industry body, while the industry body stated it could not represent the views of individual members. While various 'peak bodies' took this approach, it was most acutely stated by the Australian Information Industry Association (AIIA).<sup>8</sup>
- 1.25 Communications between the Committee and various industry bodies and individual companies continued for several months. While some material was provided at various stages in written submissions, and in response to specific requests, it was of limited benefit to the inquiry and in the Committee's view did little to address consumers' concerns. The Committee continued to extend written invitations to various individuals and organisations to attend hearings; these were repeatedly declined.
- 1.26 On 29 October 2012 the Chair, Mr Nick Champion MP, in updating the House on the progress of the inquiry, stated:

To one degree or another, there has been a real unwillingness to submit evidence in public or to appear before the Committee on the part of both industry associations and major companies in the area of IT. The committee detects a deep reluctance and resistance on the part of the relevant companies to discuss in public the issues that the Committee is considering or to publicly defend their business models and pricing structures. The committee would, of course, be willing to hear in camera matters that were commercially sensitive – which is a common practice amongst committees – but the Committee's offer to do so has not been taken up. Rather, the industry seems to employ the tactic of giving either little or limited cooperation to the Committee, particularly in public testimony. This stands in stark contrast to what has

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8 Suzanne Campbell, *Committee Hansard*, 30 July 2012, pp. 2, 5.

happened in other inquiries which have investigated areas of commercial sensitivity in that these inquiries received cooperation and information from industry participants...It is not good enough for the industry to simply stonewall the inquiry – or, for that matter, to ignore interested consumers who have a legitimate public interest in IT pricing. It would be far better for companies to defend their business model and their pricing structure in public before the Committee. The committee has offered these companies more than once the chance to appear. We would give them a fair hearing; they have my public commitment on it. The companies' failure to appear leaves the Committee with an unenviable choice between compelling the attendance of individuals to give evidence and reporting without hearing in detail from industry. The choice between one or other of these alternatives can only be averted by the IT industry's following the first rule of good public relations: always turn up and put your case.<sup>9</sup>

- 1.27 The Committee resolved that the companies be required to provide evidence in general terms on how IT is priced in Australia. The Committee took the view that the Parliament has a duty to inform itself about all manner of issues in the Australian community and that if necessary, parliamentary committees should be prepared to require the attendance of witnesses in order to secure relevant evidence.
- 1.28 Therefore on 7 February 2013, the Committee took the unusual action of summoning the following individuals to appear before the Committee at a public hearing on 22 March 2013:
- Mr Tony King, Vice President, Apple Australia
  - Mr Paul Robson, Managing Director, Adobe, Australia and New Zealand, and
  - Ms Pip Marlow, Managing Director, Microsoft Australia.

## **Structure of the report**

- 1.29 The report is divided into four chapters. Chapter 2 of the report provides some definitions of 'international price discrimination', and considers the growing consumer awareness of its presence. It then provides a context for reflecting the evidence which suggests that, across a range of categories, IT products in Australia are more expensive than those sold in comparable overseas markets. The chapter then outlines some of the clear
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9 *Committee Hansard*, 29 October 2012, p. 12170.

impacts of higher IT prices on Australian consumers, businesses and institutions.

- 1.30 Chapter 3 presents some explanations for higher prices as advanced by industry and IT vendors, including about some of the increased costs of doing business in Australia. The question of responsibility for setting prices in the Australian market is discussed, including the roles of businesses and rights holders. Aspects of industry approaches to pricing are considered, including the legitimate ability to set prices 'according to what the market will bear.' Some views of major IT vendors are included in this chapter, as well as some responses from Australian consumers.
- 1.31 Chapter 4 examines aspects of Australia's copyright system, with a focus on competition in digital copyright markets. It also examines potential international agreements, and concludes with a discussion of the remedies available to Australians affected by international price discrimination.

