

## The NetChoice Coalition

*Promoting Convenience, Choice, and Commerce on The Net*

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### Re: Digital Economy Future Directions Consultation Paper

NetChoice is pleased to respond to the *Digital Economy Future Directions Consultation Paper* issued by the Department of Broadband, Communications and the Digital Economy.

NetChoice is a coalition of trade associations and e-Commerce businesses, established in the United States in 2000. In 2008, at the request of local e-commerce companies, NetChoice established an Australian chapter.

NetChoice promotes e-commerce and the choice and the convenience it offers. When necessary, NetChoice fights threats to online commerce and promotes policies that protect internet innovation. NetChoice is fearless at exposing the anti-competitive agendas behind calls for more regulation of the internet. NetChoice also seeks to change legacy regulations that discriminate against online versus offline activity. We have a strong record of working with legislatures to draft laws that not only help protect consumers, but also promote competition from e-commerce channels.

NetChoice seeks to offer workable solutions to internet challenges, rather than unrealistic regulations that often bring unintended consequences.

### **Digital Economy and E-commerce**

Digital economy is a broad term; as is the scope of the Department's excellent consultation paper. There will be numerous submissions across these issues. As such, we feel NetChoice can best serve the process by confining our remarks to issues most relevant to e-commerce. As you will see, this has not restricted us too greatly, given the importance of e-commerce within the Digital Economy and the numerous factors – within and outside the Digital Economy – that affect e-commerce.

### **E-commerce really matters for Australia**

In 2007-08 e-commerce accounted for around \$15 billion in spending according to IBISWorld, and it will reach \$21 billion in 2013-14, growing by 5.5% a year. AC Nielsen data from a 2006 study puts Australia at number three for e-commerce in absolute terms in the Asia Pacific, and number one in the region on a per capita basis.

Whilst by these numbers, e-commerce is a relatively small proportion of today's Australian economy, it will inevitably grow substantially over the following years and decades. E-commerce has the unparalleled ability to spawn innovations, increase convenience, and generate price-cutting competition that will create new wealth, jobs and incomes and lift the quality of life for Australians.

Whilst the potential size of e-commerce in years to come is unknown, decisions taken now will have a huge bearing on the future growth path, with poor decisions knocking millions or even billions from e-commerce.

### **Know the factors that underpin e-commerce**

There are a number of factors that determine the uptake of e-commerce. Some of them sit within the Digital Economy. Others relate to offline matters. It is important that government policy settings in these areas are supportive of e-commerce. These factors in brief are:

Digital Confidence. NetChoice's charter is to work with governments to help guide online behaviour such that negative experiences online are avoided. It is common to hear that one bad experience will turn people away from e-commerce for a long time; as opposed to offline, where a bad experience will simply steer buyers to a different store. It seems all online sellers are tarred with the same brush.

E-commerce will thrive only when consumers and suppliers have high confidence in online transactions. That is, when consumers feel secure from fraud, that their privacy is protected, and that their children are safe from predators. On the supply side, companies need simple and cost-effective ways to establish online stores and they need to be confident about receiving payments and fair competition.

Choice and Convenience. Consumers will choose e-commerce only when they find greater convenience, value, and choice from online sources than they can find on high street. This is a virtuous circle, as growth in e-commerce will raise expectations of success, which in turn will raise use and so on.

Faster broadband. Faster and cheaper internet connections enable a richer e-commerce experience, and heighten e-commerce's attraction relative to traditional retail.

Fulfillment. A key offline factor that's critical to e-commerce success. Online shopping depends on fast, reliable, and competitively-priced delivery of physical goods.

Entrepreneurship. E-commerce needs individuals and companies to take a risk with their capital to set up businesses online and earn income.

Green. A nascent factor at the moment, but eventually the drive by organisations to reduce their carbon footprint will see a shift from offline to online commerce.

Law enforcement and Consumer Protection. Criminals around the world are learning to exploit the internet in ways that threaten Australia's online consumers and suppliers. Law enforcement authorities need to adopt new methods and expand international cooperation to stem the growth of online crime.

### **What does success look like?**

Section B of the consultation paper listed several statistics about the use of the internet in Australia. It could be summarised as follows: most Australian adults use the internet today, but most are infrequent users of services other than email, web surfing and online banking.

NetChoice would contend that future success will be about effecting ever-greater engagement by the population with the internet. And we believe it will be e-commerce that drives much of that engagement.

As such, key markers of success must encompass e-commerce. Ambitious targets should be set for the quality, quantity, and diversity of e-commerce in Australia. Meeting appropriate international benchmarks are also valuable markers of success. As a high income, services-orientated economy, Australia needs to compare itself to similar nations in North America, Western Europe and East Asia.

NetChoice recommends that close attention is given to those factors noted above (digital confidence; choice and convenience; faster broadband; fulfillment; entrepreneurship; consumer protection; and green awareness) that will spur e-commerce and the broader digital economy, with appropriate metrics developed.

There is one final marker we propose be examined: attitudes to e-commerce and the digital economy. Currently, there is still a tendency in Australian society to view the internet as peripheral to the main game. A kind of curiosity; something that young people, geeks, and excitable entrepreneurs are into. Its value and importance to the economy are discounted, even among those who stand to gain most from e-commerce. Whilst rural consumers are learning its value, more generally, low-income consumers and small businesses are slow to embrace e-commerce's price benefits and its ability to reach customers across the country and around the world.

These attitudes and lack of appreciation for e-commerce can foster calls to regulate and restrict the internet in punitive ways that would not be applied to offline activity. (See below for some specific examples)

Therefore a significant marker for success in Digital Economy is when there is sufficient recognition of its importance to the economy that e-commerce becomes a policy priority.

## **Building Digital Confidence**

The level of Digital Confidence in Australia needs attention. There are too many Australians who do not use the internet to anywhere near its full potential because of perceived concerns about trust and safety.

Whilst NetChoice is a passionate advocate for the benefits of e-commerce, we understand that there is more the e-commerce community can be doing to allay fears, especially among consumers.

### Safer payment methods

NetChoice has been a vigorous proponent of safer payment systems. At the moment, credit cards are the dominant method to pay for goods and services online. Credit card transactions are usually undertaken without any additional verification such as a PIN or password. Clearly, for most e-commerce users, this is not a problem. Consumers trust they are dealing with a reputable merchant and believe that their credit card company will cover them for fraud.

But securing a credit card facility can be a daunting challenge for small businesses or merchants just dipping their toe in the water of e-commerce. They often fall back on bank transfers as their default payment method for online transactions.

However, NetChoice argues that potential online shoppers are put off by the lack of verification measures on credit card transactions, or the potential risk that their credit card details could end up in the hands of fraudsters. Direct bank transfers also have their weaknesses: users may mis-key the account details of the merchant, and there is little or no protection offered by banks when things go wrong.

There are a number of other, internet-specific payment methods that address these concerns, such as PayPal, Paymate and POLi. NetChoice believes the uptake of 'safer payments' measures depends on online merchants and marketplaces seeing a competitive advantage in being a safer payment provider.

There is a danger that this shift to safer payment types will be undermined by regulatory action that does not take account of the differences in safety levels. Rather than raising standards, premature regulatory intervention could slow uptake of safer payments and ultimately impair efforts to increase digital confidence.

### Child safety

To address the threats to children online, NetChoice strongly argues for a focus on education, empowerment, and enforcement, rather than blunt regulatory instruments.

It is recognised by all that minors using online chat and social networking do face a risk of predation by adults or bullying from their peers. In fact, according to a year-long project in the USA from Harvard's Berkman Center, which included input from industry and 49 Attorneys General, online threats from adults are not nearly as prevalent as youth-on-youth harassment and offline conduct. It also concluded that social networking and content companies are already working in several ways to keep minors safe on their sites.

The report also concludes that most kids respond appropriately to online safety threats, but that at-risk individuals are also out there. Online companies will continue

to help at-risk kids by implementing their own solutions, observing industry practices, and working with law enforcement.

Studies have shown that the best way to make children use the Internet more safely is to educate them about proper behaviour. So online safety should be taught in schools. But we also need better education and awareness programs for parents too, so that they can make use of tools for blocking, filtering, and monitoring their child's internet activity. (This active involvement by parents is far better than the false and dangerous sense of security that parents might assume if they trusted easily thwarted verification tools that some propose)

Law enforcement plays a key role in detecting and catching child predators. Policymakers should ensure that there is appropriate punishment for sexual predators, including monitoring the internet activity of convicted sex offenders.

### Business Confidence

There is much that can be done to address the impediments that discourage offline and new businesses to go online to find new customers and serve new markets.

As per consumers, targeted campaigns can educate business about the low level of risks they face by going online, and how they can mitigate these issues with sensible straight-forward precautions. NetChoice believes a key message for business (and the broader community) is not to rely on a single security measure, which cannot address all concerns.

Whilst confronting a complex problem or menacing threat, it is natural to search for a 'silver bullet' to slay the beast. But it is no surprise that we have yet to find the silver bullet solution for securing cyberspace. Antivirus software is necessary, but not sufficient, to fully protect computers from viruses or worms. An Internet firewall is essential for network protection, but not enough to secure an enterprise IT infrastructure. At the same time, blaming network infrastructure providers for all security problems neglects the overall complexity of cyber-security. Cyber-security is best understood as a multi-layered stack where threats exist at multiple levels, rather than at a single point of failure. Today's computing and networking relies on highly interconnected systems of client and server-side software, plus PC and networking hardware – all managed by corporate, government, and personal users. Please see a NetChoice paper on the 'security stack' at <http://www.netchoice.org/library/netchoice-security-stack-paper.pdf>

### Encouraging SMEs online

The Department's Consultation paper raised a number of challenges to the objective of getting SMEs to participate fully online. NetChoice believes greater resources should be targeted at campaigns to educate SMEs about the benefits of e-commerce and provide advice on how to set up e-commerce enabled websites.

NetChoice also calls on credit card companies and banks to review their practices for establishing merchant facilities. Many small merchants tell us they are daunted by the bureaucratic challenges and the costs involved just to accept credit cards.

These restrictive practices and costs can be contrasted with the payment providers that were purpose built for e-commerce. The likes of NetChoice members – PayPal, Paymate and POLi – provide simple and cost effective solutions to help SMEs do business online. While other payment providers see them as a threat, the

government should recognise the benefit these new payment methods bring to Australia's digital economy.

### Supplier issues

A challenge facing Australia's online retailers is getting supply of the goods Australians want to buy. Even Australia's number one online department store ([www.DealsDirect.com.au](http://www.DealsDirect.com.au)) often encounters manufacturers and distributors who refuse to sell to online outlets, for fear of retaliation from their legacy brick-and-mortar channel.

### Threats from offline retailers

Australia's online retailers are often harassed and intimidated by competing retailers who want to prevent them from selling – at big discounts – items they carry. One fast-growing online retailer ([www.dinosaurdeals.com.au](http://www.dinosaurdeals.com.au)) in Sydney receives regular legal notices accusing them of selling fake items, or of lacking authorisation to carry a name brand item. And we fear it won't be long before traditional retailers are accusing e-commerce of causing a rise in theft from their stores, an accusation that has been made repeatedly in the USA.

Whilst self-interest groups continue to agitate for their removal, parallel import rights must be protected or extended to ensure consumers' interests come first. For instance, the Productivity Commission is currently reviewing the restrictions on the parallel importation of books. At the moment, parallel imports are restricted if a book is produced in Australia within 30 days of its first publication anywhere in the world. If Australian publishers meet this deadline, then booksellers are obliged to purchase the book from the Australian publisher. They may not import and sell foreign-published versions of the book.

The Australian publishing industry claims the status quo protects Australia's writers and readers. In fact, the publishers' real aim is competition prevention. Booksellers, online and otherwise, should be able to import books from any source to ensure that the consumer benefits from lower prices and a wider variety of available titles.

### Delivery charges

For physical goods, delivery charges can represent a substantial impost on the total cost of a transaction. High delivery costs impinge on e-commerce's competitiveness relative to traditional retail, and make it unviable for low price, low margin products.

Australia Post is the dominant player in the parcel delivery space, especially the non-overnight segment. NetChoice does not wish to make any judgement at this point about the quality or value-for-money of Australia Post. However, we do believe it is important that parcel postage prices are monitored and compared with other nations. Moreover, Australia Post should always be seeking to innovate its offering to assist e-commerce, for instance, weekend deliveries and drop off points.

Addressing the causal factors raised above will significantly assist Australia's digital confidence. NetChoice would also like to address some other specific issues raised in the Consultation Paper.

### **Developing Australia's knowledge and skills base**

As outlined in the Consultation paper, there are a variety of initiatives in play to assist Australians in increasing their digital skills. NetChoice suggests that the scope of these programs be expanded to provide specific advice and training on e-commerce. Teaching Year 11 students about online economics might help young adults to pursue e-commerce as way to earn money during tertiary studies and in later careers.

Campaigns to encourage uptake of e-commerce should highlight the different pathways businesses can take. For instance, many stand alone e-commerce businesses in Australia and around the world started off as traders or 'stores' on marketplaces such as eBay and Amazon. Other e-commerce entrepreneurs are creating applications for social network sites such as MySpace and Facebook. These larger sites provide an important incubation role for young businesses.

The economic contribution of incubators is well understood by government. Incubators drive innovation and shift the burden of nurturing nascent industries. Incubating businesses don't generally look to government for financial assistance; their real concern is regulatory intervention and obstruction.

The employment contribution by e-commerce is also very significant and should not be ignored in these recessionary times. To illustrate the incubator benefit in terms of employment, eBay alone provides a platform on which 17,500 Australians derive their primary or only source of income<sup>1</sup>.

In fact an analysis of the economic contribution by eBay, just one NetChoice member, has been estimated to be \$2.6 billion annually or 0.27% of GDP<sup>2</sup>.

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<sup>1</sup> *The economic impact of eBay in Australia*. The Allen Consulting Group, February 2008

<sup>2</sup> *The economic impact of eBay in Australia*. The Allen Consulting Group, February 2008

### **Ensuring Australia's regulatory framework enables the digital economy.**

Hard experience overseas has taught NetChoice to be an avowed sceptic of the costs and effects of most regulatory proposals. Too often, regulations pursued in the name of consumer protection are actually aimed at competition prevention. That is, preventing e-commerce from competing with traditional retailers. This risks stifling the contribution that e-commerce could make to the future of the Australian economy. Proponents of new regulations tend to overstate the benefits of their proposal (most of which sheet home to its backers rather than the wider society) and understate (or show scant regard for) the costs to other parties and to the development of the digital economy.

For instance, overseas there have been efforts to make online marketplaces responsible for the commerce, content and conduct of their customers. In the US, offline retailers are seeking to push for legislation that would give them authority to issue investigation notices to online retailers with regard to the alleged resale of stolen goods on their sites. The online retailers would then have to interrogate their own customers about how they obtained items listed for sale. This has the effect of presuming that sellers are listing stolen items – unless they can affirmatively prove their ownership. This proposal offends the basic principle of innocent until proven guilty and places an unreasonable burden on online retailers by vexatious offline stores.

Furthermore, under these misguided plans, law enforcers are cut out of the law enforcement equation, giving retailers free reign to bully and intimidate online marketplaces and their customers. It is also a folly to bypass the law enforcement experts, especially when e-commerce has an exemplary record of working with the police.

NetChoice asks that e-commerce companies are treated the same way offline companies are treated. So just as telephone companies are not responsible for the actions of its users, nor a shopping centre owner like Westfield is responsible for the actions of its tenants, similar rules should apply to online marketplaces.

### **Measuring the Digital Economy and its impacts**

There is a paucity of information about the size and nature of e-commerce in Australia. Much of the available data is from surveys undertaken by commercial firms such as Nielsen or IBISWorld.

So as to judge progress in the realm of e-commerce, NetChoice recommends that the Australian Bureau of Statistics consider regular measurements of the size of e-commerce in Australia. Attention should also be given to developing surveys that test and evaluate levels of digital confidence in the community.

**Conclusion**

E-commerce will be a key driver of the digital economy, and it will no doubt deliver the higher productivity growth and community participation the Australian Government seeks.

NetChoice has outlined here a broad range of significant steps the Government can take to support and encourage e-commerce. Just as important will be vigilance against anti-competitive regulation sought by traditional businesses who feel threatened by e-commerce.

Please feel free to contact me if you have any further questions.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco  
**Executive Director**  
**NetChoice**