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Department of Broadband, Communications and the Digital Economy

By Email: DEFutureDirections@dbcde.gov.au

Yahoo!7 and Yahoo! Search Marketing ("**Yahoo!**") commend the Australian Government's decision to hold public consultations in preparing the *Digital Economy Future Directions* paper, and wish to express support for discussions and activities that drive higher productivity and community participation in the digital economy. Yahoo! appreciates the Department's view on the fundamental importance of ensuring a regulatory framework that facilitates the long term growth of the digital economy industry in Australia. A stable, transparent and progressive regulatory framework will be crucial for all industry players to focus their capital and technological investment on new services and market development.

Yahoo! has had the benefit of reading Google Australia's "Consultation Draft: Digital Economy Future Directions Paper" dated 11 February 2009, and a draft of the Internet Industry Association's "Digital Economy Future Directions: Joint Submission", and broadly endorses the recommendations made by those organisations. In making our submission we do not seek to repeat the analysis or recommendations made by those organisations, however we would like to take this opportunity to specifically lend our voice to support their proposals in respect of copyright amendment, as well as Google's submission in respect of open access to public sector information.

Copyright Safe Harbour Scheme

Yahoo! supports the extension of the Copyright Safe Harbour scheme to a broader set of "OSPs" (or online service providers), to help ensure that a wider range of companies operating in the Australian digital environment are able to use the safe harbours. As identified by the IIA and Google, the current scheme applies only to Carriage Service Providers (as defined in the *Telecommunications Act 1997*) and excludes providers such as Yahoo!, Google, nineMSN, Facebook and MySpace from its operation. We are of the view that the extension of the Safe Harbour scheme should be achieved by creating a new category of "OSPs" which are eligible for protection under the scheme, rather than attempting to expand the definition of "Carriage Service Providers" (which would bring with it a host of unintended regulatory obligations).

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Yahoo! would like to point out three key benefits of extending the Safe Harbour scheme in this manner:

1. Provide regulatory certainty and protection for existing and newly established internet companies by reducing the potential risk of being found liable for authorising its end users' copyright infringement. Regulatory certainty is a crucial factor for internet companies to continue their capital and technology investment in Australia, and the lack of an appropriate protection scheme to limit liability in these circumstances may have a significant negative impact on investment confidence in Australia's digital industry.
2. Help ensure that Australia's copyright safe harbour scheme will be on par with other leading Asian countries, thereby helping to maintain the attractiveness of Australia as a regional hub for multinational internet companies.
3. Help ensure Australia's compliance with the commitments made under the Australia-US Free Trade Agreement regarding the enforcement of intellectual property.

Crawling and Caching

Yahoo! would also like to endorse the recommendations made in Google's submission to clarify that web crawling and caching activities will not amount to technical infringements of copyright. Yahoo! would be comfortable with either of the options put forward by Google to overcome these issues.

Open Access to Public Sector Information

Yahoo! supports the principle of fair and equitable access to all public information, which is consistent with our publicly stated "Yahoo! Open Strategy".

Conclusion

Yahoo! thanks the Department for the opportunity to make submissions on the future direction of Australia's digital economy. Yahoo! has been operating internet services around the world for more than a decade and has had vast experiences with local regulatory frameworks. We would be glad to further share our experiences as they relate to this debate, and discuss this submission or any aspect of the Digital Economy Future Directions paper in more detail.

Please feel free to contact either of us if you have any queries.

Yours sincerely

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