

# **AUSTAR United Communications Limited**

**Digital Economy Future Directions**

**Response to Consultation Paper**



**11 February 2009**

## 1. Introduction

AUSTAR welcomes the opportunity to respond to the Department of Broadband, Communications and the Digital Economy's consultation paper entitled, *Digital Economy – Future Directions*, (Consultation Paper), issued on 18 December 2008. The paper invited respondents to comment on 3-5 key issues.

AUSTAR's interest in the consultation paper is specific to Sections 3 and 4, and AUSTAR's comments in relation to these sections are set out below.

## 2. Background

AUSTAR United Communications Limited (AUSTAR) is regional Australia's leading subscription television provider, with more than 700,000 customers enjoying our digital television offering. AUSTAR also offers its customers a personal digital recorder (PDR) known as the MyStar which also includes two free to air digital tuners. Thus, MyStar customers can access their equivalent analogue free to air digital television channels through this product.

AUSTAR began as a multi-channel subscription platform in 1995, and began broadcasting its channels digitally in 1998, 11 years ago. AUSTAR's customers, with the exception of a small number in Darwin, have received a fully digital product since this time. AUSTAR introduced interactivity into the media space in 2000, the first television provider to do so, and since then we have continued to innovate in the digital space, going 'fully digital' when we digitized the Darwin cable network in 2004.

Among our complete range of over 80 channels, we include 11 news and 12 documentary & learning channels. Comprehensive customer research and feedback has shown that we are considered important providers of educational and informative content; content that would otherwise be unavailable in many of our market areas. We also include, in our basic service, access to 34 digital radio channels, a comprehensive electronic program guide, and the four digital, standard definition channels from the ABC and SBS.

High-speed broadband is known to have a positive impact towards building a strong, productive economy, and it will have a similarly transformative potential, by removing distance as an obstacle to access, for regional Australians. High speed broadband services have been available in abundance to metropolitan customers for many years. Therefore the true impact of the digital economy will be felt in regional Australia.

AUSTAR has always planned to provide broadband services to regional Australia. In 2000 we invested A\$183 million to obtain spectrum licenses covering 98Mhz of contiguous spectrum in the 2.3GHz band and, following a spectrum swap with Unwired in 2005, obtained 65Mhz in the 3.4-5Ghz band to consolidate the internationally recognised WiMAX standard spectrum licenses

into areas which broadly match its regional subscription TV coverage footprint. To date technology and market circumstances have not afforded us the opportunity to rollout a commercial service using this spectrum, and resale of alternative broadband services has not been available on commercial terms. Following the cancellation of the Broadband Connect scheme and the related OPEL contract, which would be delivering metro equivalent broadband services into regional markets as of today, we are hopeful that the outcome of the National Broadband Network will mean that it is possible for alternate providers to deliver broadband services into regional markets on commercial terms.

AUSTAR's interest in the future of Australia's 'Digital Economy' is therefore manifold.

### **3. Open Access to Public Sector Information**

*What categories of Public Sector Information (PSI) are most useful to industry and other stakeholders to enable innovation and promote the digital economy?*

One of the key tenets of an open democracy is political transparency. Equally, freedom of speech is one of the fundamental pillars in a free society.

The digital economy will transform political participation; witness the use of e-democracy in the recent election of President Obama in the United States. Similarly, in the last Federal election in Australia, the use of email, internet and websites played a significant role in the election process, and groups such as GetUP created new kinds of citizen participation both on-net and off-net. The internet is enabling and in this instance, has drastically increased political participation, particularly among the younger generation.

The digital economy should provide the opportunity for ALL categories of Public Sector Information to be made freely available to all members of society. Whether for research, for services, or just for sheer transparency, the presumption should be that such information is available. There can be countless ways for people to leverage such information to provide new services, to bring new perspective to society.

### **4. Digital Confidence**

#### **Consumer Confidence**

AUSTAR believes that the mandatory filtering that is proposed by the Federal Government (and is currently under trial) is not necessary and is likely to have outcomes counter to the government's overall policy objectives.. Confidence about the security and safety of the consumer experience online is a key issue in the digital economy. ISPs are keenly aware of this,

and have developed processes and filtering mechanisms of their own that effectively deal with the risks associated with the internet.

The Internet Industry Association (IIA) has developed a Code of Practice with the aim of helping to protect Australian children on the internet. It attempts to address new risks, including access to local chat services and the use of mobile devices used to access the internet. In addition, it covers matters relating to live content services made available over the internet from within Australia. The Code has been drafted to comply with the requirements of the Broadcasting Service Act 1992 (the 'Act') as amended in 2007.

AUSTAR believes that the industry is equipped to monitor itself, and that Government filtering will simply have the effect of negatively impacting network performance for users. While on the one hand the government is seeking to increase internet speeds via the \$4.7bn NBN program, the likely outcome of mandatory filtering will be slowing of speeds for all users.

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

### **Media accessibility**

Broadband is an enabling and transformative service for communities. Currently in Australia there are drastically differing levels of access, within and across regional, rural and metropolitan Australia. AUSTAR believes that access to, and the reliability and quality of internet and broadband services to regional and remote Australians is inadequate, and recent data from the Australian Bureau of Statistics confirms that regional and remote areas are at least 40 per cent less likely to have broadband access relative to major cities.

The National Broadband Network (NBN), if executed effectively, will extend and enhance learning, building national productivity and a strong, modern economy. The focus of the NBN should be primarily about end users, not the provider. Australians anywhere at any time could have access to emerging services such telehealth or e-learning, or the benefits of smart grid technology.

It is critical that regional Australia has access to metro equivalent services and prices to participate in the digital economy. And these services should be provided with fit-for-purpose network solutions to ensure that the long term aims of the NBN are realised nationally.

AUSTAR believes that affordable backhaul is the key to providing metro-equivalent retail broadband services in regional areas. While new technology options, including wireless, mean it is easier to build competitive local access networks, getting traffic back to the internet via backhaul networks is the real bottleneck. Owners of backhaul are usually vertically integrated businesses who price backhaul services to protect their own retail interests. The provision of competitive local access, meanwhile, is hindered by the lack of effective regulation.

The NBN will smooth the access inequities across the country, but Government policy and regulation need to be re-evaluated to ensure that the needs of communities are not overlooked. AUSTAR has always been a strong advocate for policies which encourage competition, as we believe these will ultimately drive investments in the digital economy, which will benefit all regional Australians.

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

### Maintaining technology-neutral legislation

AUSTAR considers that content regulation should in principle be consistent, regardless of medium of delivery. The current regulatory framework does not cater for new technologies which are now an embedded part of Australians' day-to-day lives. There is now more than one mobile phone handset per Australian and the majority of Australians in major capital cities have access to a broadband connection at home (lower in regional Australia). Despite this, different content and classifications rules apply to television, mobile and internet. This is purely the consequence of regulation change not keeping pace with the advance of technology, and thus unreasonably favours one technology over. Additionally it leads to consumer confusion.

As society moves towards a seamless integration of different technologies, consumers should expect that the same restrictions, or liberties, apply to watching content on their TV, their mobile, or their computer.

***Is there non-copyright legislation that is directly relevant to digital economy businesses that create uncertainty or barriers?***

With higher penetration of broadband than subscription television in Australia, the total penetration of mobile handsets, and with many Australians consuming content over a broadband connection and/or a mobile handset, current content regulation such as the anti-siphoning (sports rights) scheme inconsistently and unfairly targets only the subscription television industry.

If the purpose of the legislation is to provide more free content to all Australians, then subscription service providers of sports content on mobile telephones and internet services should be treated in the same way as subscription television broadcasters. A more balanced approach is required to create a level field amongst all content providers by limiting the anti-siphoning regime across all broadcast delivery mediums.

Additionally content services legislation needs to be reviewed in light of the altered media and telecommunications landscape.

Please do not hesitate to contact us if you have any queries or questions or if we can offer any additional information or assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Deanne Weir', with a stylized flourish at the end.

Deanne Weir  
Group Director, Corporate Development & Legal Affairs