
The Parliament of the Commonwealth of Australia

At what cost?

IT pricing and the Australia tax

House of Representatives
Standing Committee on Infrastructure and Communications

July 2013
Canberra

© Commonwealth of Australia 2013

ISBN 978-1-74366-079-9 (Printed version)

ISBN 978-1-74366-080-5 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



Contents

- Forewordvii
- Membership of the Committeeix
- Terms of referencexi
- List of recommendationsxii

- 1 Introduction1**
 - Context of the inquiry2
 - Conduct of the inquiry4
 - Engagement with industry5
 - Structure of the report6

- 2 Price discrimination and consumer impacts.....9**
 - What is International Price Discrimination?9
 - Greater consumer awareness11
 - Changing technologies12
 - Cloud computing and subscription models13
 - Geoblocking14
 - Warranties15
 - Evidence about price differences17
 - Availability of data20
 - Evidence by product category21
 - Hardware22
 - Software and digital downloads23
 - Ongoing subscription costs27
 - Music28

Games	30
Impacts on consumers	34
Consumers with low incomes.....	34
Higher education sector	36
Impacts on students.....	37
People living with disability	38
Legal considerations and international obligations.....	40
Public Procurement Policy	41
Library users	43
Small business owners	45
Impacts for Government procurement.....	47
Committee comment.....	48
3 Explanations for IT price differences.....	51
Responsibility for international price discrimination.....	53
Addressing perceptions of price discrimination.....	53
Advertised prices.....	53
Market size.....	54
Wages and occupancy costs.....	54
Warranties.....	56
'Green' schemes	57
Exchange rates	58
Channel partners.....	60
Localisation costs.....	61
Responses by product category.....	64
Hardware	64
Software and digital downloads.....	65
Music.....	67
Games	70
Books	71
Policies and approaches to pricing.....	73
Approaches to regional pricing.....	73
Competition.....	75

Managing markets.....	77
Consumer views on cost claims.....	80
Committee comment.....	82
4 Copyright, circumvention, competition, and remedies	85
Balancing copyright interests.....	86
Development of current legislative framework.....	88
Copyright and competition in physical media	88
Copyright and competition impacts of the shift to digital content.....	91
Access to digital works	92
Choice and immediacy of access.....	92
IT pricing and copyright infringement.....	93
Measures to limit access to content.....	97
Technological protection measures.....	98
Geoblocking	100
Methods of accessing cheaper goods	102
Legality of circumvention methods	103
Possible remedies to address IT price discrimination.....	106
Parallel importation restrictions	106
Clarification of legality of measures.....	107
Increasing competition and protecting consumer rights	108
Options for removing geoblocking restrictions.....	112
Options for voiding contractual arrangements.....	115
Banning price discrimination	116
Prospects for international cooperation	117
International warranties and standards	117
The Trans-Pacific Partnership.....	119
A Appendix A – Submissions and exhibits.....	123
B Appendix B – Public hearings and witnesses.....	129



Foreword

The importance of IT products to every sector of Australian society can hardly be overstated. IT products are woven into the fabric of our economy and society, and have driven rapid change in the way Australians communicate, the way we work, and the way we live.

Australian consumers and businesses, however, must often pay much more for their IT products than their counterparts in comparable economies. In many cases Australians pay 50 to 100 per cent more for the same product.

Consumer and business concern over IT price differences prompted the Minister for Broadband, Communications and the Digital Economy, Senator the Hon. Stephen Conroy, to refer the question of IT pricing in Australia to the House of Representatives Standing Committee on Infrastructure and Communications for an inquiry and report.

Evidence presented to this inquiry left little doubt about the extent and depth of concern about IT pricing in Australia. Consumers are clearly perplexed, frustrated and angered by the experience of paying higher prices for IT products than consumers in comparable countries.


High IT prices make it harder for Australian businesses to compete internationally and can be a significant barrier to access and participation for disadvantaged Australians (in particular Australians with a disability).

Based on the evidence received over a 12 month inquiry, the Committee has concluded that in many cases, the price differences for IT products cannot be explained by the cost of doing business in Australia. Particularly when it comes to digitally delivered content, the Committee concluded that many IT products are more expensive in Australia because of regional pricing strategies implemented by major vendors and copyright holders. Consumers often refer to these pricing strategies as the 'Australia tax'.

While the Committee recognises that businesses must remain free to set their own prices in a market economy, it has nonetheless made a range of recommendations that are intended to sharpen competition in Australian IT markets. The Committee hopes that these measures will increase downward pressure on IT prices and improve the access of Australian businesses and consumers to cheaper IT products.

Given the ever-increasing importance of IT products to Australian society and the economy – in driving innovation, reducing isolation in regional and rural Australia, or improving the lives of Australians with a disability – it is essential that Australians get a fair deal.

Nick Champion, MP
Chair



Membership of the Committee

Chair Mr Nick Champion MP

Deputy Chair Mr Paul Neville MP

Members Mr Paul Fletcher MP

 Mr Ed Husic MP

 Mr Stephen Jones MP

 Mr Rob Oakeshott MP

 Mrs Jane Prentice MP

 Mr Mike Symon MP

Committee Secretariat

Secretary	Ms Julia Morris
Inquiry Secretary	Ms Sonya Fladun
Research Officer	Mr Peter Pullen
Administrative Officer	Ms Jessica Hargreaves



Terms of reference

Noting the estimated value of the internet to the Australian economy, and the importance of competitively priced IT hardware and software being made available to business, government and the community, the House of Representatives Standing Committee on Infrastructure and Communications is asked to inquire:

- Whether a difference in prices exist between IT hardware and software products, including computer games and consoles, e-books and music and videos sold in Australia over the internet or in retail outlets as compared to markets in the US, UK and economies in the Asia-Pacific;
- Establish what these differences are;
- Determine why these differences exist;
- Establish what the impacts of these differences might be on Australian businesses, governments and households; and
- Determine what actions might be taken to help address any differences that operate to the disadvantage of Australian consumers.



List of recommendations

2 Price discrimination and consumer impacts

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.

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.

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.

4 Copyright, circumvention, competition, and remedies

Recommendation 4

The Committee recommends that the parallel importation restrictions still found in the *Copyright Act 1968* (Cth) be lifted, and that the parallel importation defence in the *Trade Marks Act 1995* (Cth) be reviewed and

broadened to ensure it is effective in allowing the importation of genuine goods.

Recommendation 5

The Committee recommends that the Australian Government amend the Copyright Act's section 10(1) anti-circumvention provisions to clarify and secure consumers' rights to circumvent technological protection measures that control geographic market segmentation.

Recommendation 6

The Committee further recommends that the Australian Government investigate options to educate Australian consumers and businesses as to:

- the extent to which they may circumvent geoblocking mechanisms in order to access cheaper legitimate goods;
- the tools and techniques which they may use to do so; and
- the way in which their rights under the Australian Consumer Law may be affected should they choose to do so.

Recommendation 7

The Committee recommends that the Australian Government, in conjunction with relevant agencies, consider the creation of a 'right of resale' in relation to digitally distributed content, and clarification of 'fair use' rights for consumers, businesses, and educational institutions, including restrictions on vendors' ability to 'lock' digital content into a particular ecosystem.

Recommendation 8

The Committee recommends the repeal of section 51(3) of the *Competition and Consumer Act 2010*.

Recommendation 9

The Committee recommends that the Australian Government consider enacting a ban on geoblocking as an option of last resort, should persistent market failure exist in spite of the changes to the Competition and Consumer Act and the Copyright Act recommended in this report.

Recommendation 10

That the Australian Government investigate the feasibility of amending the Competition and Consumer Act so that contracts or terms of service which seek to enforce geoblocking are considered void.

