



Internet Society of Australia  
A Chapter of the Internet Society  
ABN 36 076 406 801  
C/- Maddocks, Level 7, 140 William Street  
Melbourne, Victoria 3000

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To: Convergence Review Secretariat  
Department of Broadband, Communications and the Digital Economy  
By email: convergence@dbcde.gov.au  
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## Convergence Review: Terms of Reference

The Internet Society of Australia (ISOC-AU) welcomes this opportunity to respond to the Department's draft Terms of Reference for its planned Convergence Review.

ISOC-AU's fundamental belief is that the Internet is for everyone. We provide broad-based representation of the Australian Internet community both nationally and internationally from a user perspective and a sound technical base. We also consistently promote the availability of access to the Internet for all Australians.

The overriding objective of the Society is to give expression to the needs and wishes of individuals, groups, or organisations that have a common interest in the viability of the Internet in Australia, so that all Australian users of the Internet may continue to benefit from, and contribute to, its applications, technologies, and evolution. Our submission, therefore, is made from the perspective of the Internet users, which include individuals, groups and organisations. Quoting the global Internet Society objectives:

We envision a future in which people in all parts of the world can use the Internet to improve their quality of life, because standards, technologies, business practices, and government policies sustain an open and universally accessible platform for innovation, creativity, and economic opportunity. (see [www.isoc.org](http://www.isoc.org))

### 1. Overview

As the Convergence Review: Background Paper observes, the existing regulatory framework is almost twenty years old.<sup>1</sup> The legislation dealing with content, the Broadcasting Services Act 1992, is almost twenty years old. The planning and licensing of spectrum is governed by the Radiocommunications Act 1992, and many of the concepts used in the Telecommunications Act 1997 were borrowed from the earlier Telecommunications Act 1991.

The way that people communicate has significantly changed in that time period, particularly the large increase in use of the Internet. As the Background Paper documents:

Australians are increasingly turning to the Internet for their media and entertainment services. Overall trends show decreases in television viewing time, increases in online

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<sup>1</sup> DBCDE, Convergence Review: Background Paper, pp 1-2.

participation and increases in mobility....

From June 2005 to June 2010, there was a 100 per cent increase in the number of Australians considered 'heavy users' of the Internet. The highest proportional increase in heavy internet users occurred amongst older Australians (as a result of the comparatively smaller online base for this segment of the population), but there were also substantial increases across all age groups from 14 year olds to persons over 65 years of age, from 63 per cent to 122 per cent<sup>9</sup>.

Once online, our data consumption is increasing. In June 2010, Australians downloaded 155 503 terabytes of information<sup>10</sup>. (It may help to imagine that one terabyte is roughly equivalent to 200 DVD-quality movies.) This is a significant increase compared with the 55 434 terabytes downloaded in the 2008 June quarter, close to tripling.<sup>2</sup>

The other significant changes in communications include, through use of the Internet, increasing access to content that is based overseas, and increasing use of social networking sites including of user-generated content.<sup>3</sup> The roll out of the National Broadband Network (NBN) will only enhance the regulatory challenges as more Australians use the NBN to access the Internet, and other on line services including health, education, information and entertainment services.

ISOC-AU supports the conduct of a Convergence Review and believes that its terms of reference must be sufficiently broad to address both the changed technological environment for communications and the significant ways in which that has changed how Australians communicate. Our comments on some of the specific terms of reference are below.

## 2. Response to Proposed Terms of Reference

1. *In light of convergence, the Committee is to review the current policy framework for the production and delivery of media content and communications services. The Committee is to:*
  - a) *develop advice for Government on the appropriate policy framework for a converged environment;*
  - b) *advise on ways of achieving it, including implementation options and timeframes where appropriate; and*
  - c) *advise on the potential impact of reform options on industry, consumers and the community.*
2. *In doing so, the Committee shall have regard to all legislation and regulatory frameworks relevant to these Terms of Reference and, where necessary, advise the Government on issues outside the purview of the Minister's portfolio responsibilities.*

ISOC-AU response:

ISOC-AU welcomes the recognition that any review of converged communications must include regulation of delivery systems as well as content regulation. Because, increasingly, content is accessed globally, the review must also take account of international structures that could support the achievement of Government policy objectives.

3. *In undertaking 1. above, the Committee is to inquire into and advise on the following matters:*
  - a) *whether the existing Regulatory Objects remain appropriate in a converging environment; and*
  - b) *if so, whether the regulatory approach embodied in the current policy framework remains the most effective and efficient, and*

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<sup>2</sup> DBCDE, Convergence Review: Background Paper, pp 5, 8-9.

<sup>3</sup> Ibid, see particularly pp 10-11.

- c) *in light of a. and b. above, the Committee's preferred alternative regulatory or non-regulatory measures to form a new framework.*

4. *In light of its views on a preferred policy framework for a converged environment the Committee is to advise on the appropriate Regulatory Objects that will underpin any new framework.*

ISOC-AU response:

This review is an excellent opportunity to reexamine Government policy objectives for communications in a differently structured communications environment. The task of this Review should be to identify high level principles that underpin Government communications policy, accepting that the way the principles are implemented will change.

ISOC-AU consistently argues that all Australians should have access to quality, high speed broadband, and that this should be enshrined in any regulatory regime for communications. Specifically, access to the Internet should be affordably, it should be available to all Australians, including those in rural and remote Australia, and it should be accessible to people with disabilities. Further, issues of security and privacy must be built into the regulatory framework for communications.

The particular concerns for ISOC-AU are around delivery system regulation. Specifically, the regulatory framework should promote open access and user choice and principles of net neutrality to ensure that network providers do not engage in anti-competitive conduct in the carriage of traffic. Recognising that people access content in increasingly diverse ways, the regulatory framework should also, as far as possible, be technology neutral but in a way that doesn't unduly inhibit technical or service innovation.

5. *Without limiting its scope, in conducting the review the Committee is to take into account the following policy parameters:*

- a) *the development and maintenance of a diverse, efficient and effective communications and media market that operates within an appropriately competitive environment and in the best interest of the Australian public;*
- b) *the appropriate regulatory and legislative settings to ensure the ongoing production and distribution of Australian media content that reflects and contributes to the development of national and cultural identity;*
- c) *appropriate industry and policy settings to ensure industry and government revenue sufficient to produce and distribute Australian and local market content in a converged world;*
- d) *appropriate ways to regulate content, and the services and applications used to deliver content, which are cross-border in nature;*
- e) *appropriate regulatory settings and legislative instruments to ensure the adequate reflection of community standards and the views and expectations of Australian citizens and consumers / audiences;*
- f) *appropriate industry and regulatory settings to maximise consumer and citizen choice in, and access to, the broadest range of content, and services used to deliver content, as are supported by convergent technologies and communications infrastructure; and*
- g) *the appropriate processes by which to manage spectrum allocation.*

All of the elements of item 5 are important elements for the Convergence Review and we look forward to providing a detailed response to that review once its terms of reference are finalized. We will be happy to provide any further comments on issues raised.

Tony Hill

President

Internet Society of Australia

[President@isoc-au.org.au](mailto:President@isoc-au.org.au)

Holly Raiche

Executive Director

Internet Society of Australia

[ed@isoc-au.org.au](mailto:ed@isoc-au.org.au)