



**COMMONWEALTH CONSUMER AFFAIRS ADVISORY COUNCIL**  
**APP PURCHASES BY AUSTRALIAN CONSUMERS**  
**ON MOBILE AND HANDHELD DEVICES**  
**ISSUES PAPER**

Submission

8 February 2013

## Executive Summary

The Australian Interactive Media Industry Association's Digital Policy Group (**DPG**), which counts eBay, Facebook, Google and Yahoo!7, among its founding members, welcomes the opportunity to make this submission to the Commonwealth Consumer Affairs Advisory Council (CCAAC) in response to its *App purchases by Australian consumers on mobile and hand held devices* Issues Paper (Issues Paper).

The Australian digital economy is benefiting consumers and businesses and providing significant opportunities for the increasing number of Australian digital businesses that are creating compelling mobile applications that are highly relevant and useful to the Australian consumer and highly competitive and successful in the global market.

It is estimated that the rate of growth in apps downloads for 2012 was 82.9% taking total worldwide apps downloaded to 45 billion<sup>1</sup>. The Australian Consumer and Media Authority (ACMA) has reported that during June 2012 an estimated 4.5 million Australians downloaded a mobile app compared to 2.41 million during June 2011 – an 85 per cent increase<sup>2</sup>. The ACMA also estimated that Australian's downloaded 40 million free mobile apps during 2010 which translates to 00.18% of the total number of apps downloaded worldwide<sup>3</sup>.

There are a number of app stores in operation and switching between stores can happen with the click of a button. Apps have to compete against literally hundreds of thousands of other apps. A good reputation and consumer confidence and positive ratings are key to their success.

App stores offer significant in-built consumer protections that are based on ensuring that consumers are provided with information, transparency and choice. Key elements of consumer protections offered in app stores include the ability to research the app and developer, clear presentation of whether the app includes in-app purchasing, consumer rating, the ability to turn off in-app purchasing and make complaints via apps stores, clear information on the data handling practices of app stores.

As Australians interactions increase with the global digital economy it is vitally important that Australians know how to be good digital citizens by being smart, safe and confident online. Industry, government and consumers have a shared role in building the digital competence of Australians.

In light of the significant online resources already provided by industry the DPG suggests that the single most important action that is likely to deliver the most positive public benefit is the expansion of current consumer education efforts to reach out to consumers who are not already aware of and know how to use consumer protection features and to provide them with skills that will help them find and use the resources available to them on app stores.

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<sup>1</sup> <http://www.gartner.com/newsroom/id/2153215>

<sup>2</sup> Australian Communications and Media Authority, Communications Report 2011 – 2012 series, Report 3 – Smartphones and tablets Take-up and use in Australia, 1 February 2013, page 20, [http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_600160](http://www.acma.gov.au/WEB/STANDARD/pc=PC_600160)

<sup>3</sup> Australian Communications and Media Authority, Communications Report 2010 – 11 Series, Report 3 – The emerging mobile telecommunications service market in Australia, page 8, [http://www.acma.gov.au/webwr/\\_assets/main/lib410148/CommsRep3\\_Emerging\\_mobile\\_tcomms\\_svce.PDF](http://www.acma.gov.au/webwr/_assets/main/lib410148/CommsRep3_Emerging_mobile_tcomms_svce.PDF)

## **The Contribution of the Digital Economy**

The digital economy is growing globally and in Australia. The OECD recently reported that in the face of significant global negative economic growth since 2009, industries associated with the internet have remained resilient and displayed growth in the same period.

Here in Australia the digital economy is becoming increasingly important to Australia's future. The Australian digital economy directly contributed \$50 billion or 3.6 per cent of DPG economy in 2011 and this contribution is expected to increase by at least \$20 billion over the next five years to \$70 billion<sup>4</sup>. In Australia the online sector of the media and content industry generated 40 per cent of the total growth of the industry from 2007 to 2011 and it is expected to contribute more than half of the \$4.3 billion in growth through 2015.<sup>5</sup>

The Australian digital economy is benefiting consumers and businesses and providing significant opportunities for the increasing number of Australian digital businesses that are creating compelling mobile applications that are highly competitive and successful in Australia and on the global stage.<sup>6</sup>

The Australian Communications and Media Authority has reported that as at April 2011, 89 per cent of consumers aged 18 years and over in fixed-line telephone households used a mobile phone. The majority of mobile phone users have either a smartphone or a phone capable of accessing 3G services.<sup>7</sup> More importantly for this inquiry mobile apps are increasingly becoming the main form of portal through which consumers use mobile technology related to the increased penetration of smartphones and tablets.

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<sup>4</sup> The Connected Continent: How the internet is transforming the Australian economy, Deloitte Access Economics, August 2011  
[https://www.deloitteaccessconomics.com.au/uploads/File/DAE\\_Google%20Report\\_FINAL\\_V3.pdf](https://www.deloitteaccessconomics.com.au/uploads/File/DAE_Google%20Report_FINAL_V3.pdf), pages 1 and 2

<sup>5</sup> Belza, J., Forth, P., Purnell, J., Zwillenberg, P., *Culture Boom, How Digital Media are Invigorating Australia*, March 2012, page 5

<sup>6</sup> <http://www.aimia.com.au/home/news/member-news/global-report-finds-australian-company-is-developing-the-highest-quality-magazine-apps--on-average--in-the-world>

<sup>7</sup> Australian Communications and Media Authority, Communications Report 2010 – 11 Series, Report 3 – The emerging mobile telecommunications service market in Australia, page 6

## The Rise of the App

The number of mobile and other device applications (apps) is growing strongly worldwide and here in Australia. In September 2012 Gartner estimated that Mobile App Store Downloads would increase from 24bn in 2011 to 309bn in 2016. It also noted that the percentage of free downloads will also increase.

Worldwide App Store Downloads (millions of downloads)<sup>8</sup>

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Free Downloads	22 044	40 599	73 280	119 842	188 946	287 933
Paid for Downloads	2 893	5 018	8 142	11 853	16 430	21 672
Total Downloads	24 936	45 617	81 422	131 695	205 376	309 606
Free Downloads	88.4%	89.0%	90.0%	91.0%	92.0%	93.0%
Growth in App Download		82.9%	78.5%	61.7%	55.9%	50.6%

Here in Australia, the ACMA has recently reported that Australians downloaded 4.45 million smartphone users download apps during June 2012 compared with 2.41 million during June 2011 (an 85% increase). The ACMA also reported that Australian's downloaded approximately 40 million free mobile applications during 2010 which translates to 00.18% of the total number of apps downloaded worldwide<sup>9</sup>.

<sup>8</sup> <http://www.gartner.com/newsroom/id/2153215>

<sup>9</sup> Australian Communications and Media Authority, Communications Report 2010 – 11 Series, Report 3 – The emerging mobile telecommunications service market in Australia, page 8

## **Benefits provided by Apps**

Availability and easy access to mobile apps is benefiting Australian consumers by providing compelling, useful, informative and entertaining apps for free or at very reasonable cost. The most often used mobile apps are social networking, mobile banking and entertainment based services<sup>10</sup>.

Apps provide endless benefits to consumers by providing useful informational, educational and entertainment tools. Apps such as clocks, maps, news, movies, games, entertainment, fitness, ebooks, catch up television, professional networking, reference (encyclopedias, dictionaries) all add significant value to consumers.

It is also important to note that the mobile phone and handheld devices have undergone a significant transformation in the last few years. Mobile phones have transformed from voice and text interfaces to a common portal to the internet where connection to the internet is often achieved through an application.

Importantly many of these portals are commercial in nature. Examples include commercial banking and market places such as eBay.

This growth is fuelling demand for smart phones and telecommunications services to the benefit of the telecommunications industry and phone manufacturers<sup>11</sup>.

In addition, internet media is driving benefits for niche consumers, remote communities and society as a whole<sup>12</sup>. The variety of content better services our pluralistic society and allows for the ability for niche groups to express themselves through media and consumer media that is consistent with their preferences.

The Australian Communications and Media Authority (ACMA) has also recently advised that

“The digital economy is important to most Australians with almost three quarters of the adult population believing that the internet has improved their day-to-day lives.”<sup>13</sup>

The table that follows on the next page quantifies the benefits that the Internet provides to Australian consumers.

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<sup>10</sup> Australian Communications and Media Authority, Communications Report 2010 – 11 Series, Report 3 – The emerging mobile telecommunications service market in Australia, page 8

<sup>11</sup> Australian Communications and Media Authority, Communications Report 2010 – 11 Series, Report 3 – The emerging mobile telecommunications service market in Australia, page 1

<sup>12</sup> Ibid, Page 7

<sup>13</sup> Australian Communications and Media Authority, Communications report 2011-12 series, Report 2 – Australia's progress in the digital economy Participation, Trust and Confidence, page 1

## How the internet benefits households<sup>14</sup>

<b>Benefit</b>	<b>Description</b>	<b>Annual Value</b>
Search	The internet is a far more efficient search tool than anything available prior to its development. Although Australians do not devote a large proportion of their time on the internet to searching the amount of time saved in acquiring information is substantial	\$7bn
Variety	Prior to the availability of the internet, consumer purchases were largely restricted by physical location. The internet opens markets up to consumers that were not previously available. The increased variety available to consumers from the internet holds significant value in itself, while the increased competition also reduces prices in a number of markets.	\$16bn
Convenience	This category captures the reduction in time it takes to perform various household chores, for example the added convenience of online banking and using the internet to pay bills, and submit forms and other government communications.	\$8bn
Recreation	Consumers spend a considerable amount of their leisure time on the internet. This category places a value on the time Australians spend on recreational activities on the internet, such as browsing, using social media, and other forms of communication with friends and relatives.	\$22bn.

The internet provides savings and efficiencies for individuals and increases their wealth in real terms. It frees up money that previously would have been spent on conducting such transactions as making payments. For example before the internet individuals bore additional costs in terms of time and or perhaps petrol for the car to travel to the post office to pay a bill, paying \$100 for a jumper that can now be purchased for \$50 etc. What this means is that consumers are able to spend the money that they save on other goods and services (including entertainment and consuming more content) providing employment for more people or choose to save their money or reduce debt.

More importantly, perhaps for this inquiry apps have made the cost of accessing content significantly lower than was previously possible and this has significant benefits for consumers.

Essentially these efficiencies improve wealth, make us more prosperous and have the potential to drive further economic growth.

DPG submits that, given the significant advantages the internet provides consumers, it is a natural and rational response by consumers to increase participation in the digital economy.

There is also a significant increase occurring in the creation and use of mobile apps by business and government.

<sup>14</sup> The Connected Continent: How the internet is transforming the Australian economy, Deloitte Access Economics, August 2011  
[https://www.deloitteaccessconomics.com.au/uploads/File/DAE\\_Google%20Report\\_FINAL\\_V3.pdf](https://www.deloitteaccessconomics.com.au/uploads/File/DAE_Google%20Report_FINAL_V3.pdf), page 24

A myriad of uses are being found in these fora. For example, CCH<sup>15</sup> created a mobile app to assist barristers to access case law whilst in court. Freelancer.com created an app for freelancers to access jobs anywhere, anytime. The Federal Government has released numerous apps from those that provide Australia's constitution in an easy to access form, to MyBizPlan<sup>16</sup>.

## Rise of the Australian Digital Industry

Both the global and Australian digital economies are creating significant opportunities for Australian app creators. App stores, such as those provided by Apple, Google, Nokia<sup>17</sup>, Optus<sup>18</sup>, Telstra<sup>19</sup>, are becoming a new form of content distribution providing significant opportunities for app creators and allowing Australian app builders to reach global audiences. These opportunities are afforded to some of Australia's best and well known brands to the small, innovative start ups like INKids and Kinderloop.

- i) Mogeneration have recently been nominated as one of the best app producing companies in the world by iMonitor State of the App Report 2012<sup>20</sup>
- ii) HalfBrick was founded in 2001 and made a name for itself developing licensed titles for platforms such as Gameboy, Nintendo DS and Playstation Portable. Halfbrick has recently begun expanding into games for online platforms. Its Fruit Ninja game, which costs \$1.19 in app stores or is freely available supported by advertising, has been downloaded more than 33 million times. Halfbrick is now creating original apps for the expanding smart phone and tablet platforms, and has become one of the most well known indie game developers in the world. Recent research by PwC predicts that the Australian games industry will be worth \$2.5 billion by 2015, representing compound growth of 9.5 per cent over five years.
- iii) Two Sydney based fathers John McCann and Jude Novak have built a hugely successful business by creating INKids which develops mobile applications for kids<sup>21</sup>.
- iv) Kinderloop<sup>22</sup> has recently launched an app which allows parents of pre-schoolers to keep in contact and up to date with their children during the day<sup>23</sup>
- v) Yahoo!7 identified the growing trend both in Australia and globally for Social TV. In response Yahoo!7 developed and launched Australia's first Social TV app - FANGO. FANGO launched the new product category of Social TV in Australia and is now widely considered to be leading this growing segment.

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<sup>15</sup> <http://www.wolterskluwer.com/Press/Latest-News/2011/Pages/pr7Nov2011.aspx#.UP-Die7LpU>

<sup>16</sup> <http://www.business.gov.au/Business-Apps/Pages/MyBizPlan.aspx>

<sup>17</sup> <http://store.ovi.com/>

<sup>18</sup> <http://appstore.optus.com.au/optus/home.do>

<sup>19</sup> <https://www.telstra.com.au/mobile-phones/apps/>

<sup>20</sup> <http://www.aimia.com.au/home/news/member-news/global-report-finds-australian-company-is-developing-the-highest-quality-magazine-apps--on-average--in-the-world>

<sup>21</sup> <http://www.smh.com.au/digital-life/smartphone-apps/dads-create-childrens-app-empire-20120828-24xm1.html#ixzz2DDxWGkko>

<sup>22</sup> <http://www.kinderloop.com/>

<sup>23</sup> <http://origin.manly-daily.wherelive.com.au/news/story/new-kinderloop-apps-to-keep-track-of-kids/>

- vi) Each week, eBay sellers are uploading on average nearly 2 million listings through our mobile apps – with each listing taking an average of 60 seconds or less to complete. In 2011, more than half of eBay’s mobile purchases came from outside the US – leading marketing included Australia. eBay Inc’s mobile apps have been downloaded more than 100 million times across the globe.

### **Legal Protections Afforded to Consumers for Australian Produced Apps**

The Issues Paper has rightly noted that there are currently significant legal protections afforded to Australians for those apps that are produced in Australia.

These protections include:

- common law of contract
- *The Australian Consumer Law 2010*
- *Privacy Act 1988*
- State and territory laws relating to sale of goods, minors who enter into contracts
- Law relating to pre-contractual conduct and disclosure obligations which may apply when accessing payment facilities on mobile devices

What this means is that those apps that are produced and sold in Australia are already subject to strong consumer protection laws including those that outline the appropriate collection and treatment of personal information including children’s information.

In terms of transparency, choice and control app-stores and similar platforms are far superior to online purchasing experiences previously possible.

However the DPG submits that the CCAAC should seek to apply technology neutral principles. The focus on mobile and hand held applications is understandable but too narrow given that both apps and the consumer policy questions raised can occur across platforms, operating systems and devices, both fixed and mobile.

## Consumer Protections

Apps have to compete against literally hundreds of thousands of other apps to be successful. A good reputation and consumer confidence and positive ratings are key to their success.

In addition to this app stores provide leading edge consumer protection frameworks and a vast array of information that consumers can research before opting to buy the app.

These include but are not limited to:

- i) Consumers have the ability to research an app and its developer in detail before they make a decision to purchase an app.
- ii) Consumers are presented with a full set of the terms and conditions of the app platform to which they must agree. These terms and conditions are available at all times.
- iii) The terms and conditions of major apps stores prohibit the provision of passwords to anyone other than the individual with whom the contract exists.
- iv) In-app purchase can be turned off
- v) Classification ratings are provided prior to the purchase of the app.
- vi) The majority of apps are for children or at a G rating in any case.
- vii) Privacy policies of the app platforms are always available.
- viii) Information about the developer is provided and consumers can access the developer's website at any time to determine where they are based, what laws they are subject to, their terms and conditions and their privacy policy.
- ix) In addition to the offer to buy various items in the app a warning screen advising that the user is about to make a real money purchase is also presented and a password is required to proceed. In some instances a password is required for each purchase, in others a password is required every 15 minutes.
- x) Information is provided as to whether an app can involve in app purchases and the likely cost.
- xi) Consumers are asked permission to share important information such as location, details to a social networking platform.
- xii) Consumers are provided with itemised billing.
- xiii) Customers are provided with billing information generally within 24 hours.
- xiv) There are strong guidelines put in place by the app stores with which developers must comply including the collection and treatment of personal information and de-identified data. In some instances compliance with the app store guidelines is tested and confirmed by the platform.
- xv) Support webpages
- xvi) Community comments
- xvii) Updates on availability of platforms
- xviii) Complaint handling
- xix) Clear consumer rating frameworks where people can provide their feedback publicly on an app.

## The Way Forward

As Australians interactions increase with the global digital economy it is vitally important that Australians know how to be good digital citizens by being smart, safe and confident online.

The single most important action that government can take is to ensure that consumers are aware of how apps work, the fact that they are entry points to the internet and commercial activities and what they need to do to assess an app.

The DPG believes that the consumer education work that has been initiated by ACCAN through its *Hidden Costs in free apps*<sup>24</sup> is a good starting point and suggests that a broader campaign across various consumer representative bodies may also be of considerable use.

The DPG suggests that the information to consumers should be broadened to include:

- a) Drawing attention to the fact that password information, as with credit card information, should not be disclosed to anyone other than the account holder
- b) Encouraging consumers to read the information provided on the app page before purchasing an app and researching developers
- c) Checking the information provided on in-app purchases
- d) Spend time trying the apps that are provided to children to ensure that they are suitable
- e) Setting boundaries for use of apps
- f) Spend time watching their children play apps or play the app together with their children
- g) Keeping an eye on receipts for in-app purchases

Given the size and scale of the apps market, consumer groups may want to consider taking action to identify those apps that are best practice.

Finally the DPG notes that there is the potential for peak industry bodies for the mobile apps industry (such as AIMIA) and the gaming industry to develop resources and guides that outline:

- a) what type of information should be provided to consumers
- b) how this information can be made available

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<sup>24</sup> [http://accan.org.au/index.php?option=com\\_content&view=article&id=520:hidden-costs-in-free-apps&catid=95:general-communications&Itemid=154](http://accan.org.au/index.php?option=com_content&view=article&id=520:hidden-costs-in-free-apps&catid=95:general-communications&Itemid=154)

## **About the AIMIA Digital Policy Group**

The Digital Policy Group is the policy voice of the digital industry in Australia.

The Digital Policy Group is a special interest group of AIMIA that represents 460 digital players in the Australian digital industry. We represent large and small, local and global players that provide digital content services, applications and platforms.

The founding members of the AIMIA Digital Policy Group include eBay, Facebook, Google and Yahoo!7.

Our aim is to ensure that the Australian policy and regulatory landscape allows Australians to enjoy the maximum economic, social and cultural benefits from the online world in the years ahead and ensure that they can do this safely, securely and confidently.

Our areas of interest span policy areas that are relevant to the digital industry including cyber-safety, security, content standards, intellectual property and copyright, e-commerce, privacy and governance.

Our industry is proud to provide inspiring and compelling content, platforms and applications that deliver significant economic, social and cultural benefits to Australia.

Our industry provides leading edge consumer safety and protection tools and provides support to leading digital not-for-profit organisations including the [National Association for Prevention of Child Abuse \(NAPCAN\)](#), [Kids Helpline](#), [Bravehearts](#), The [Alannah and Madeline Foundation](#) including their [eSmart Schools Program](#), [Ronald McDonald House](#), [R U OK?](#), the [Reach Foundation](#) and [Young and Well Co-operative Research Centre](#).

AIMIA is the digital industry association for Australia. It has been in operation since 1992 and its members include mobile and web content, apps development companies, publishers, developers, creators, producers, investors, service providers.