

17 September 2025

Productivity Commission

By submission: [Make a submission | Engage - Productivity Commission](#)

RE: Productivity Growth Inquiries – Interim Reports

The Internet Association of Australia Ltd (IAA) thanks the Productivity Commission for the opportunity to respond to its consultation on the Interim Reports published in relation to the 5 pillars of productivity growth. IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (ISPs) within the telecommunications sector. As such, we are keenly interested in the productivity inquiries and the overarching economic reform, a core focus of which is Australia's digital future.

Overall, we support many of the points made by the Commission in the Interim Reports. We make this submission to particularly highlight the views of SMBs in the telecommunications and broader technology industry who face particular challenges to productivity due to the disproportionate burden of regulation and deficiencies in workforce skills and numbers to support their growth. Our submission is therefore in response to the below pillars:

- Creating a more dynamic and resilient economy;
- Harnessing data and digital technology; and
- Building a skilled and adaptable workforce.

OUR RESPONSE

CREATING A MORE DYNAMIC AND RESILIENT ECONOMY

The telecommunications industry has seen the introduction of a huge amount of new legislation affecting the sector in recent years, greatly expanding the number of obligations providers are subject to, as well as the number of regulators to whom they must report. While IAA and our members understand the need for regulatory settings in the context of the rapid development of new technologies and the increasing reliance Australians have on digital services, we are concerned about the scale and pace of regulatory expansion which is creating an increasingly confusing regulatory landscape. This has particularly disadvantaged small to medium sized providers who lack the resources to:

- keep updated on regulatory reform affecting their compliance obligations;
- engage in formal consultation processes to shape the policies that often disproportionately affects them;
- unpack complex legislative instruments; and

- implement changes to their systems and processes to ensure compliance in what is often short compliance timeframes.

This deluge of new regulation disproportionately affects smaller providers as they struggle to keep up with the rapidly expanding regulatory landscape, preventing them from implementing developments to drive productivity growth. In a sector that already has a high barrier to entry due to the cost of infrastructure, the growing regulatory burden is increasing difficulties for new market entrants or for smaller providers to thrive, and is therefore not conducive to a healthy and competitive market needed for productivity growth.

Moreover, a large number of regulatory reforms affecting the telecommunications sector have been reactive and implemented quickly to address issues on an ad-hoc basis, and therefore have greatly complicated the regulatory framework, causing duplication. **We therefore recommend that the Government introduces a whole-of-government regulatory initiatives forum with sectoral branches to ensure streamlined regulatory reform that moves away from the current ad-hoc approach.**

We understand that such a forum - the Regulatory Initiatives Grid - has been introduced for the financial services sector, and we consider such an approach pursuing improved coordination between regulatory and government bodies as being critical to effective and efficient regulation. With telecommunications as a sector that underpins Australia's digital economy, now recognised as being critical infrastructure, and subject to various complex regulatory frameworks, it is our view that a similar forum should be established.

While we acknowledge the occurrence of large scale and high-profile events within the telecommunications sector in recent years and therefore empathise with the government's intent to address issues within the sector via regulation. However, we equally express our concerns about the unintended consequences of such an approach to regulatory reform and note that overlaps between convoluted regulatory obligations result in further issues.

For example, data breaches have been of core concern in recent years with Australia seeing a rise in large-scale breaches, including within the telecommunications sector. However, we consider the complex web of data retention requirements across numerous legislative instruments to be a key factor that contributes to over-retention, and therefore poses vulnerabilities to cyber-attacks. Again, we note the increased burdens for smaller entities who lack the resources to undertake what would be an extensive review of all possibly relevant legislation to properly understand the various data retention requirements pertaining to each of its business units and activities.

We understand that the Departments of the Attorney General and Home Affairs commenced a Data Retention Review, with targeted consultations being held February-March 2025. It is unclear on the progress of this review. Furthermore, in addition to the consultation approach being limited to targeted stakeholders, it was also limited in scope and did not consider state or territory legislation, any Commonwealth legislation being subject to other reviews at the time, or international guidelines or data sharing arrangements. It also did not consider limitation periods for litigation, regulatory enforcement action and/or other quasi-judicial or independent resolution schemes that may also necessitate data retention. It is IAA's view that a core contributor to over retention of data by business is the complexity of not only legislative requirements that mandate retention, but uncertainty as to how long data should be preserved for the purposes of defending against litigation, enforcement actions or external dispute resolution action.

For example, the Telecommunications Industry Ombudsman (**TIO**) operates an external dispute resolution scheme for the telecommunications sector. Although the TIO is not a regulator, telecommunications providers are legislatively required to become members of the TIO, and are therefore subject to the TIO's scheme. According to clause 2.13 of the TIO's Terms of Reference (**ToR**), the general time limit for a consumer or occupier to bring a complaint to the TIO is 2 years from when the 'issue or problem is discovered'. This not only causes issues as a consumer may bring about a complaint in relation to a problem they 'discover' long after this issue actually occurred. However, in addition, under clause 2.14 of the ToR, the TIO may also accept complaints up to 6 years from when the issue or problem was 'first discovered'. This period is longer than most retention periods set under law, and it creates scenarios where entities would be justified in retaining records for longer than required to defend against complaints.

IAA thus recommends the prioritisation of a comprehensive review of data retention laws and other schemes that may necessitate or justify data retention, with a view to consolidate and streamline laws, and provide industry with clear guidance material that sets out all relevant laws and other regulatory or quasi-regulatory requirements relating to data retention

In addition, there has been a growing dissatisfaction amongst industry with the lack of genuine engagement in relation to regulatory reform. Short consultation windows and poor communication has resulted in the perception that consultation processes are only tick-box exercises, leaving industry unclear as to whether input has been actually considered as part of the reform process. We are concerned about the eroding trust this results in, which then further adversely affects the effectiveness of regulation where industry, and in particular smaller entities, are not supported to engage meaningfully with their compliance obligations to achieve the regulatory intent.

IAA recommends reforms to the consultation processes to mandate regulators and government bodies to publish statements of completed risk impact analysis and the consultation outcome, including a summary of stakeholder feedback and how such feedback was considered and informed final regulatory decisions.

We consider the lack of transparency and consistency across consultations a key gap that must be addressed in order to ensure effectiveness. We also note that this is often an expectation placed on industry when it comes to consultation processes undertaken by industry, in recognition that such a feedback loop is critical. For example, the Australian Telecommunications Alliance (formerly Communications Alliance) in respect of its review of the industry code, *Telecommunications Consumer Protections Code*¹ published a summary of key issues identified during the consultation process, as well as summaries of input received, and discussions held, at each stage of the consultation process. By way of another example, the ACCC proposes to vary its *Final Access Determination No. 1 of 2024*, introducing an explicit requirement for an Access Provider to provide a statement on how feedback to its consultation on changes to the Wholesale Agreement Terms have been considered.²

¹ Australian Telecommunications Alliance, *Telecommunications Consumer Protections (TCP) Code Review 2024-2025*, <<https://www.austelco.org.au/news-and-resources/reviews-and-consultations/tcp-code-review-2024/>>.

² ACCC, *Final Access Determination No. 1 of 2024 (SBAS) – Draft Exposure*, <https://www.accc.gov.au/system/files/attachment-a-draft-instrument-varied-sbas-access-determination_0.pdf?ref=0&download=y>.

It is our view that such transparency processes should be made mandatory by all government and regulatory bodies. We note that similar principles already form part of the ‘Best Practice Consultation Guidance Note’ published by the Office of Impact Analysis. However, from experience, these practices are not often followed, thereby requiring stronger measures to ensure government and regulators adhere to best practices to ensure effective and efficient law reform processes.

HARNESSING DATA AND DIGITAL TECHNOLOGY

We support the Commission’s analysis of Australia’s policy settings relating to data and digital technology and the need to appropriately balance consumer privacy and opportunities for growth and innovation. To that end, we strongly support the proposal for an outcomes-based privacy regulation.

We are particularly concerned about the proposal to remove the small business exemption under the *Privacy Act 1988* following the recent review undertaken by the Attorney General’s Department. While we recognise that SMBs present vulnerabilities as it pertains to data protection and cyber security, we do not believe that the introduction of prescriptive rules is the appropriate approach.

As stated above, the complex regulatory landscape in relation to data retention applies to small businesses, especially those in the telecommunications sector which is subject to further laws relating to data including but not limited to the lawful interception regime. In general, there is not enough practical support for SMBs to practice data minimisation. **Rather than focusing on new regulation or expanding burdensome regulation that will be inhibitive for business operation and growth, there needs to be a focus on a review of existing regulation to consolidate duplicative and inconsistent regulation that pertains to data.**

In addition, we consider it important that Australia explores opportunities to secure its position as a subsea cable hub for the APAC region. The growing digital and data economy, including the boom of AI has increased the importance of subsea telecommunications cable as an efficient means to transport data internationally. Amidst transformation of the industry with the growth of hyperscalers becoming major players in the subsea cable industry, and geopolitical tensions dictating the routing, landing and repair of cables, there is real opportunity for Australia to become a critical leader in the region. We recommend the Australian Strategic Policy Institute’s report for further analysis.³

BUILDING A SKILLED AND ADAPTABLE WORKFORCE

We support the recommendations of the Productivity Commission set out in its Interim Report and share the view that a skilled and adaptable workforce is essential to Australia’s economic growth and increased productivity. In particular, it is our view that insufficiencies in technology skills in Australia is a particularly persistent issue that is affecting Australia’s potential to become a leader in the modern digital age. Australia is currently lacking depth and breadth of technology skills and has insufficient numbers of skilled technology workers.

We are also concerned about the decline of affordable vocational training that is being made available after hours or on a flexible basis to suit working individuals that are juggling other

³ Australian Strategic Policy Institute, *Connecting the Indo-Pacific: The future of subsea cables and opportunities for Australia* (2024) <<https://aspi.s3.ap-southeast-2.amazonaws.com/wp-content/uploads/2024/10/28023544/Connecting-the-Indo-Pacific.pdf>>.

responsibilities but would like to up or cross skill. While we support the Commission's focus on incentivising SMBs to support their workers to undertake work-related training, we are of the view that there needs to be a more holistic approach, requiring innovation in the vocational training sector to offer more flexible and accessible courses to cater to modern lifestyles.

In addition, we are concerned about the lack of practical, real-world technical experience being gained via tertiary education to ensure graduates are job-ready. According to a survey by the Australian Information Industry Association, there is a persistent trend of VET and university graduates lacking practical technical skills,⁴ suggesting the lack of focus on practical training in tertiary education. The issue becomes more pronounced for SMBs that lack the resources to invest in training inexperienced graduates, and thereby adversely affects their ability to be competitive in Australia's economy.

We therefore recommend an end-to-end, comprehensive strategic plan supported by targeted implementation to address the structural and systematic barriers driving Australia's tech skills shortage.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the Productivity Commission's consultation on its Interim Reports published in relation to the pillars of Australia's productivity growth. As we look forward to reforming Australia's economy so that it can take advantage of the digital age, IAA and our members are keen on ensuring telecommunications, as a sector underpinning the data and digital economy, plays its role in supporting Australia's productivity growth. To that end, we make our above points to ensure a stable and sustainable landscape that will allow for increased competition and innovation in the telecommunications sector to the benefit of the broader Australian economic and social well-being.

⁴ Australian Information Industry Association, *AIIA Survey – Digital State of the Nation 2023* (2023), <<https://aiia.com.au/wp-content/uploads/2023/06/AIIA-Member-Survey-2023-final.pdf>>.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a not-for-profit member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

Yours faithfully,
Internet Association of Australia