



**Australian Government**

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**Department of Foreign Affairs and Trade**

**Productivity Commission Inquiry into  
Australia's Intellectual Property Arrangements**

**Submission by the Department of Foreign  
Affairs and Trade**

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## A. Introduction

1. The key message in this submission is that any evaluation of Australia's domestic intellectual property policy arrangements needs to take full account of the wider international economic context. We outline the linkages between intellectual property, the Australian economy and the global economy (Sections D and E), set out information on existing international rules and cooperation, which facilitate trade and investment in intellectual property and enhance the economic welfare of Australians (Sections F and G) and suggest specific areas for the inquiry to consider (Section H).
2. We look forward to the Commission's report. Our interests include data and analysis examining the influence of intellectual property settings on:
  - a. facilitating inward investment;
  - b. supporting innovators, creators and businesses collaborate, share knowledge, trade and invest internationally; and
  - c. connecting with global value chains, particularly at the high value end.

## B. Key messages

- . The Commission's work should provide a solid foundation for Australia to continue to grow its engagement with the global economy.
  - Australia's future prosperity is closely linked to our capacity to participate in the global trade and investment system.
  - Transformative economic changes have dramatically increased the reach and significance of intellectual property to economies and to trade and investment.
  - Developing our knowledge-based and innovation industries will be a central element in ensuring Australia is able to compete in the global marketplace.
- . We encourage the Commission to collect and analyse data that helps unpack the various ways in which intellectual property settings influence our economic wellbeing, thinking broadly about linkages and recognising that intellectual property imports, exports and investment can benefit the economy.
- . International intellectual property agreements are an important means to effectively promote, protect and enforce Australian intellectual property rights in export markets and to facilitate investment.
  - Bilateral, regional and multilateral agreements are collectively pursued, as determined by Government and what is in Australia's national interest.
  - Agreements do not prevent Governments from continuing to tailor domestic settings to meet specific interests.
- . While the international economy and existing international framework are relevant to the inquiry, it would not be appropriate or warranted under the Terms of Reference for the Commission to review Australia's approach to international intellectual property negotiations.

## **C. Intellectual Property and the Foreign Affairs and Trade portfolio**

3. This portfolio's main interactions with Australia's domestic intellectual property settings are through:
  - a. leading whole-of-government engagement in Australia's international trade and investment negotiations and institutions, supported by agencies responsible for intellectual property policy, as well as working with agencies to ensure Australia's international trade and investment commitments are taken into account to the extent relevant to domestic intellectual property law;
  - b. facilitating inward investment;
  - c. promoting Australian exports, including accessing global and regional value chains; and
  - d. managing Australia's aid program, with its strategic focus on promoting economic development in the Indo-Pacific region, aid for trade, private sector engagement and innovation.
4. Beyond these specific functions, Australia's engagement on international intellectual property issues is typically led by either IP Australia (which has policy responsibility for industrial property issues such as trade marks, patents and designs) or the Department of Communications and the Arts (which has policy responsibility for copyright).
5. Other departments and agencies can also play an important role, such as the Department of Health and the Department of Agriculture, depending on the issue at hand.

## **D. The international economic context and the pervasiveness of intellectual property**

6. Australia's future prosperity will be closely linked to our capacity to participate in the global trade and investment system, particularly in the Indo-Pacific region given its prospects for robust economic growth.
7. Trade has played a major role in our ability to sustain our economic growth record. In the past three years, net exports have contributed over half of Australia's 7.4 per cent real GDP growth. Over the years, the ratio of exports to Australia's GDP has grown in trend terms – from around 15 per cent at the end of the 1970s to around 20 per cent today.
8. The long term health of our economy beyond the mining boom will depend to a large extent on how successful we are in continuing to internationalise the economy. Given our cost structures, developing our knowledge-based and innovation industries will be a central element in ensuring that Australia is able to compete in the global marketplace.
9. Appropriate intellectual property settings and enforcement mechanisms are important in positioning Australia in the global context as having a policy and

economic environment that is conducive to innovation and open to trade, investment and capital movement.

10. These settings need to be considered in the context of transformative economic changes over recent decades that have dramatically increased the reach and significance of intellectual property to economies and to trade and investment. Key changes include:

- a. the increasing importance of knowledge-based assets and industries to economies
  - i. *total research and development spending in Organisation for Economic Cooperation and Development (OECD) countries grew 2.7 per cent in real terms to reach US\$1.1 trillion in 2013 (OECD 2015a);*
  - ii. *business investment in non-physical assets (such as intellectual property, data, new organisational processes and firm-specific skills) in many developed economies is now greater than investment in physical assets, with the gap expected to grow (OECD 2013);*
  - iii. *global trade in intellectual property licences alone were estimated in 2011 to be worth more than £600 billion a year – approximately A\$932 billion (Hargreaves 2011).*
- b. advances in technology are creating new knowledge intensive markets, products and platforms, upon which many aspects of life increasingly depend
  - i. *In 2012-13, 77 per cent of OECD businesses had a website and 21 per cent sold their products electronically (OECD 2014);*
  - ii. *The global app economy was worth US\$68 billion in 2013 and is projected to grow to US\$143 billion in 2016. Out of a total global mobile developer population of 2.3 million individuals in 2013, Asia had the most app developer citizens at 760,000 individuals (VisionMobile 2014).*
- c. the increasing specialisation and globalisation of production, service delivery and knowledge creation; realised through collaborations and global value chains
  - i. *within the OECD and large emerging economies, the share of exported domestic value added embodied in partners exports increased from about 20 per cent to 32 per cent (between 1992 and 2011), demonstrating the growing importance of global value chains (OECD 2015a);*
  - ii. *knowledge creation increasing relies on cross-country collaborations; international co-invention of patents increased by 27 per cent between 2000-03 and 2010-13 (OECD 2015a);*
- d. the rise of emerging economies, bringing new market opportunities and closing the technology gap

- i. *China's Patent Office receives more patent applications each year than any other Office, and maintains the fastest growth;*
  - ii. *more than half of global patent application growth between 1995 and 2007 was due to the same application being lodged in multiple countries; reflecting an increase in the number of economically viable markets for the sale of patented products (WIPO 2014);*
  - iii. *existing data suggests that high-income countries make up a large share of the international trade in knowledge and ideas, but that middle-income economies are catching up (WIPO 2011).*
- e. the lowering of trade and investment barriers and an increased awareness of the economic significance of intellectual property
  - i. *OECD advice to governments on innovation policy confirms that the influence of intellectual property is economy-wide, affecting a wide swathe of sectors and demand (OECD 2015b);*
  - ii. *the World Trade Organization Agreements; including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS established non-discrimination requirements and minimum standards for intellectual property, as well as including guarantees on enforcement of rights;*
  - iii. *bilateral and regional free trade agreements that build on multilateral outcomes, deepening cooperation on intellectual property and encouraging improved enforcement.*

11. In the context of the Commission's proposed 'framework for assessing IP arrangements' (set out in pages.7-15 of the Issues Paper), these global economic developments should be considered not only within the 'Adaptability' criterion, but also within the 'Effectiveness' and 'Efficiency' criteria.

## **E. Analysing the balance in intellectual property: a complex task needs sophisticated tools**

12. The Terms of Reference includes consideration of whether Australia's intellectual property system provides appropriate incentives for innovation, investment and the production of creative works, while ensuring the system does not unreasonably impede further innovation, competition, investment and access to goods and services.
13. Sophisticated data to support a full and proper analysis on the impact of intellectual property settings in economies has expanded in recent decades, but significant gaps remain.
14. Balance of trade statistics are useful and relevant in certain circumstances, but, in this case, we do not believe they capture the full significance and value of

intellectual property to the wellbeing and longer term success of the Australian economy. Certainly, such statistics on net imports or exports of intellectual property should not form the only basis to determine optimum design and level of intellectual property rights. Deeper and more nuanced economic measures are required to determine true value and relationships.

15. We encourage the Commission to contribute to the evidence base through collection and analysis of data that helps unpack the various ways in which intellectual property settings influence our economic wellbeing.
16. We set out below a selection of existing studies and observations that seek to more comprehensively outline how intellectual property connects with, and supports, the Australian economy:
  - a. A study of 29 countries found the average value of copyright and related industries (in terms of their value added, aggregate value in gross domestic product) was 5.4 per cent. Australia's was 10.3 per cent, second only to the US on 11.1 per cent. The contribution to employment in Australia was measured at 8 per cent, again close to first placed US on 8.5 per cent (WIPO 2013a).
  - b. Protecting and promoting a brand is vital for business: companies made an estimated US\$410 billion in global branding investments in 2011; both high and middle income countries have seen significant increases over time in their use of trademarks relative to gross domestic product (WIPO 2013b). Recognition and protection of Australian brands will help drive our exports in foreign markets; our wine industry is a good example.
  - c. Protecting Australian brands is increasingly important as new trading channels emerge through technological advances. For example, cross border e-commerce is likely to transition increased numbers of SMEs into exports due to reductions in traditional trade barriers. Securing Australia's reputation and intellectual property in these emerging export channels will be key to Australia's national brand, protecting both the consumer and manufacturer and ensuring Australia can command premium prices.
  - d. Australians file more patents overseas than they do domestically, and three times as many in 2013. Entities innovating in Australia but outsourcing production overseas are increasingly being captured in Australian statistics as 'wholesale traders' (under the Australian and New Zealand Standard Industrial Classification code). Wholesale traders are the third biggest filer of patents domestically and second largest design applicant. Their patenting activity suggests participation in global value chains, focusing on high value add, while outsourcing activities with low value add (IP Australia 2015a). Connecting with global value chains is essential in the new world of production.
  - e. There are just under 400 pharmaceutical companies operating in Australia. They employ approximately 16,000 people in manufacturing, invested around A\$404 million in research and development in 2011-12 (pharmaceutical products and clinical health),

and exported A\$3.36 billion worth of goods in 2013-14 (based on information provided by the Department of Industry).

- f. Imports of intellectual property can be valuable to the economy. Only a small number of countries export more than they import. Importing can be an efficient way of utilising intellectual property. Mining is a good example, where imported intellectual property helps support our biggest export industry; transforming imports into exports. Each year, between 2011-13, Rio Tinto invested globally an average of US\$376 million on technology and innovation (IP Australia 2015b).
  - g. Over the past decade, Australian private investment in intellectual property has increased an average of 7 per cent annually, with private investment in intellectual property products at A\$38.5 billion in 2013-14 (IP Australia 2015a).
17. These studies and comments are intended to be illustrative. They demonstrate the importance of thinking broadly about the impact of intellectual property settings. They also illustrate that imports and exports of, and investment in, intellectual property can benefit the economy.

## **F. The existing international framework for intellectual property**

18. A rules-based international system that promotes open and transparent global markets and facilitates trade and investment is in Australia's overall economic interest.
19. The international framework, both within trade agreements and within dedicated intellectual property agreements, establishes minimum standards of protection and enforcement of intellectual property. The majority of these requirements apply globally and countries retain a large degree of flexibility to tailor domestic settings to meet specific interests.
20. The international framework, accordingly, helps underpin real benefit for the Australian economy and for users of the intellectual property system in particular, where protection across borders is as important as domestic protection. DFAT considers international agreements to be an important means to effectively promote, protect and enforce intellectual property rights in export markets and to facilitate investment.

### International cooperation on intellectual property is needed and has a long history

21. Intellectual property is territorial, meaning preventing imitation or copying abroad is only possible if recognition and protection is provided in other jurisdictions. Consequently, there has been a long history of international cooperation. While the international framework has evolved over time, the fundamental need for international cooperation to address the territorial scope of intellectual property remains.



22. Early landmark treaties that continue to be in operation today are the Paris Convention for the Protection of Industrial Property (first agreed in 1883) and the Berne Convention for the Protection of Literary and Artistic Works (first agreed in 1886). These treaties, which have been revised over time, commit Parties to provide protection for all major forms of intellectual property and contain obligations not to discriminate against foreign rights holders.

Multilateral norm setting has become more contested and complex

23. The principal international forums responsible for engagement on intellectual property issues and rule setting are the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO).
24. WIPO is the premier global forum for intellectual property services, policy, information and cooperation, and has 188 Member States. WIPO has an active capacity building function and operates a range of projects designed to facilitate the sharing of knowledge generated through intellectual property processes. WIPO services to intellectual property users (in particular its international fee-based systems to facilitate registration of intellectual property in multiple jurisdictions) continues to grow and is expected to generate over A\$1 billion in revenue in the 2016-17 biennium.
25. WIPO also administers a range of multilateral treaties and treaty negotiations. Existing treaties cover areas such as: norm setting in intellectual property rights (patents, copyright, trade marks, designs, etc.); streamlining of procedures for obtaining rights; classification of intellectual property related information; and adaptation of intellectual property protections to the internet.
26. As well as administering existing treaties, WIPO Members develop and negotiate new treaties and rules to govern international intellectual property matters. Progress on the normative front at WIPO has slowed. This, in part, reflects the incremental pace of multilateral negotiations. But, in larger part, it is symptomatic of wide divergences in the policy priorities of Members. No Member disputes the importance of intellectual property to their economies. However, the distribution of knowledge and technology, and the capacity to generate innovation, varies dramatically across Members – which has led to very different Member priorities.
27. Nonetheless, the negotiating agenda at WIPO remains busy and covers a wide range of areas including: ensuring balanced and effective protection of genetic resources, traditional knowledge and traditional cultural expressions, as they relate to intellectual property systems; a design law treaty; a treaty on broadcasters rights; and improving existing rights registration treaties (which underpin WIPO's intellectual property services to users).
28. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was the last major comprehensive multilateral agreement on intellectual property to be concluded, entering into force in 1995. TRIPS incorporated and built on the Paris and Berne Conventions (among others), establishing minimum standards for all key intellectual property rights and,

significantly, including commitments on domestic enforcement of agreed standards. All 161 WTO Members have acceded to TRIPS.

29. While there are different dynamics at the WTO, the negotiating agenda for intellectual property faces similar challenges to the WIPO agenda outlined above. Despite efforts, including by Australia, entrenched differences within intellectual property negotiations and the broader WTO negotiating agenda have meant no substantive intellectual property negotiations have occurred for over four years.

#### International negotiations: multilateral, regional and bilateral pursued together

30. We note the Commission's Issues Paper states that Australia's international intellectual property negotiations should focus on multilateral forums; WIPO and the WTO (p.29).
31. DFAT supports multilateral negotiations as a means to encourage protection and enforcement of intellectual property rights, particularly where there are reasonable prospects for success. We also encourage others to support multilateral solutions and assist partner countries to join existing global intellectual property agreements, including through demand-driven aid for trade initiatives.
32. But, despite the wide membership of global intellectual property agreements, inadequate intellectual property protection and enforcement remains a problem for Australian exporters and investors. Further, and more generally, deeper cooperation and coordination between nations in the area of intellectual property can deliver increased efficiencies and greater certainty in trade and investment relationships.
33. Australian industry has commercial interests in the availability of accessible, transparent and effective intellectual property laws that promote appropriate standards of protection and enforcement in our trade and investment partners.
34. Consequently, Australia also pursues intellectual property outcomes as part of bilateral and regional negotiations to reinforce our multilateral efforts. Participation in negotiations is ultimately determined by an assessment of how best to pursue and advance Australia's national interest.
35. The nature and detail of any negotiating principles and commitments reflected in such agreements vary according to the interests of the Parties involved. Where there is greater interest in protection and enforcement of intellectual property, bilateral and regional agreements typically build on the framework established in TRIPS. Where interest by Parties is lower, the agreement may focus more exclusively on transparency, cooperation and capacity building.
36. Bilateral and regional investment agreements, whether contained in specific investment agreements or as part of broader trade agreements, typically extend to intellectual property assets held by foreign investors from the relevant partner countries – provided certain conditions are met. Commitments in

these agreements generally include obligations not to discriminate between foreign and local investors and restrictions on expropriation of property.

37. The Commission raises concerns that the inclusion of investor-state dispute settlement (ISDS) provisions in FTAs could reduce Australia's flexibility to change domestic intellectual property laws. The basis of such concerns is unclear. Generally, ISDS claims in FTAs can only be brought in relation to commitments in an investment chapter. The intellectual property chapters of Australia's FTAs cannot be directly enforced via ISDS. Australia's FTAs with ISDS mechanisms would not impede changes to Australia's IP legislation that are consistent with our investment commitments. In relation to investment commitments, the ISDS mechanism in recently concluded FTAs contain explicit safeguards that protect the Government's ability to regulate in the public interest.

## **G. DFAT engagement in international intellectual property negotiations and cooperation**

38. The Commission's Issues Paper raises a significant number of points and questions concerning Australia's approach to current and future international intellectual property negotiations, both with regard to trade agreements and to dedicated intellectual property agreements.
39. While the international economy and existing international framework are relevant to the inquiry, DFAT notes it would not be appropriate or warranted under the Terms of Reference to review Australia's approach to current and future international intellectual property negotiations (either in WIPO, WTO or free trade agreements).
40. Nonetheless, this Submission provides an opportunity to set out in brief DFAT's involvement in, and approach to, international intellectual property negotiations and cooperation.

### Key areas of DFAT activity

41. Key areas of DFAT activity, within whole-of-government approaches, are:
- a. international intellectual property negotiations within the WTO as well as support for negotiations in multilateral forums such as WIPO;
  - b. international intellectual property negotiations within bilateral and regional free trade agreements;
  - c. capacity building activities to strengthen intellectual property systems in partner countries; and
  - d. support of initiatives between Australian domestic intellectual property agencies and their overseas counterparts.

#### International negotiations: consultations, mandate and scrutiny

42. In cases where DFAT has responsibility for leading trade-related intellectual property negotiations, it engages in extensive stakeholder consultations and negotiates on the basis of parameters approved by the Government. Other government departments and agencies, including IP Australia and the Department of Communications and the Arts, play an integral role.
43. Negotiating positions are informed by domestic policy and best practice approaches, with advice from specialists within Australian agencies that have responsibility for intellectual property policy settings. Consultations with public and private stakeholders are essential to determining Australia's defensive and offensive interests and positions in a particular negotiation. Consultations, along with information posted on the Department's website, also update stakeholders on the progress of negotiations. For example, the Department held over 1000 stakeholder briefings and consultations between May 2011 and mid-2015 in connection with negotiation of the Trans-Pacific Partnership Agreement.
44. Treaty text is put before the public and Parliament for scrutiny before any action is taken that would legally bind Australia. The Joint Standing Committee on Treaties reviews the treaty text and consults widely before making a recommendation as to whether Australia should enter into the treaty. A publically available National Interest Analysis is also prepared, which identifies overall the obligations, costs and benefits of the treaty for Australia and any regulatory change required.

#### International negotiations: recent experience

45. Australia's record in international negotiations demonstrates that it has been effective in shaping the international system in line with Australia's own domestic policies and interests – with few instances of outcomes requiring adjustment to regulatory settings. For example, in all of Australia's free trade agreement negotiations concluded over the past decade that have significant intellectual property chapters – including bilaterally with parties such as Japan and Korea, and regionally with the 11 other parties to the recently concluded Trans Pacific Partnership agreement negotiations – none have necessitated legislative changes to Australia's intellectual property laws. Australia's continued engagement across all negotiating levels, multilateral through to bilateral, ensures Australia can continue to influence the shape of the international framework.
46. There are specific and limited instances where international negotiations have required Australia to amend its intellectual property laws to provide further protection. The Commission cited the Australia-US Free Trade Agreement (AUSFTA) and TRIPS.
47. AUSFTA (2005) remains the only free trade agreement outcome where it has been necessary for Australia to adjust its domestic intellectual property laws;

in particular, the Productivity Commission refers to the increase in Australia's copyright term to life of the author plus 70 years. This was a whole-of-government decision at the time, and whatever view may be taken of the issue in hindsight, it is worth noting that the vast majority of OECD countries have similar copyright term settings. In the 10 years since AUSFTA, as noted, Australia's other free trade agreements, of which there are now many and with a range of partners, have been concluded without any need to change Australia's domestic intellectual property laws.

48. TRIPS (1995), the other example provided by the Productivity Commission, established important minimum intellectual property standards within the international community and assurances on enforcement. TRIPS is a key global benchmark in the promotion and protection of intellectual property. Alongside Australia, 160 other countries and economies have adopted TRIPS standards. Many countries had to make substantial changes to their intellectual property systems in order to implement TRIPS. Australia made very few, demonstrating the extent to which TRIPS reflected and promoted Australia's own domestic policy settings and interests.

#### Aid initiatives improve systems and use of intellectual property in our region

49. Our intellectual property interests are also advanced through the Australian Government's aid program, which includes aid for trade initiatives.
50. Aid for trade is about helping partner countries address internal constraints in areas such as regulation, infrastructure and workforce skills. International organisations, including WIPO and the WTO, have encouraged recognition of the important role trade and intellectual property can play in development, emphasising that many developing countries face serious capacity constraints affecting their ability to trade.
51. An example of DFAT's work in this area is the innovative aid for trade projects delivered in partnership with IP Australia and WIPO. Phase 1 of the WIPO-Australia Funds in Trust program commenced in 2012, with an investment of A\$2 million. This successful program has been extended into a second phase, with a further A\$3 million over three years announced in October 2015.
52. The second phase of the WIPO-Australia Funds in Trust program is focussed on least developed countries and developing countries in the Indo-Pacific region with projects that support: the development of intellectual property systems and the enhancement of intellectual property capabilities (including accession and implementation of WIPO-administered treaties and the global intellectual property system); and knowledge and technology transfer to create an enabling environment in partner countries for private sector engagement, innovation and investment.
53. DFAT also delivers aid for trade projects through free trade agreement frameworks. The Agreement establishing the ASEAN Australia-New Zealand Free Trade Area (AANZFTA) is a good example of a tailored regional

approach that included a significant aid for trade component. In addition to binding commitments, AANZFTA established an economic cooperation program on intellectual property. The program has delivered a range of demand driven capacity building projects in the region, strengthening intellectual property systems to the benefit of our partner countries as well as Australian businesses, innovators and creators.

54. A notable AANZFTA achievement has been in relation to supporting ASEAN Member States accede to the WIPO Madrid Protocol concerning registration of marks (making it faster, cheaper and easier for businesses to file trade mark applications in multiple jurisdictions). The cooperation has raised stakeholders' awareness, provided training on Madrid operations and developed roadmaps to accession.
55. Within the broader DFAT portfolio, the Australian Centre for International Agricultural Research (ACIAR) encourages Australia's agricultural scientists to use their skills for the benefit of developing countries and Australia by funding research partnerships that are developed within a framework reflecting the priorities of Australia's aid program and national research strengths, together with the agricultural research and development priorities of partner countries. Intellectual property rights created in these research partnerships are retained in Australia by the research organisation and in the partner countries by the collaborating institutions.
56. To ensure the greatest public benefit, under licence from the rights holders, ACIAR publishes research findings and other technical reports and is provided the right to sub-licence to enable further research and benefits to be realised by all participants and the broader research and aid communities.

#### Ongoing international cooperation at the intellectual property agency level

57. DFAT also encourages ongoing cooperation between our domestic intellectual property agencies and their foreign counterparts, to enhance intellectual property systems within the Indo-Pacific region.
58. For example, the WIPO Funds in Trust program also supports agency to agency cooperation. A key focus of the program is to address gaps in the development and implementation of intellectual property systems and to bolster experience in intellectual property administration. Program activities include the delivery of trade mark system training to officials in partner countries by IP Australia experts, in conjunction with experts from WIPO.
59. A further example is funding DFAT provides, through the AANZFTA economic cooperation program, for IP Australia to provide patent examination training to intellectual property officials in our region. The Regional Patent Examination Training program has been operating since 2013, providing in depth training and knowledge transfer necessary to examine patents to international standards. The quality of IP Australia's training was recognised with a Gold Award at the 2013 Asia Pacific LearnX Conference and demand for the training is high.

## H. Specific issues for the Commission to consider

60. Consistent with the Terms of Reference, including Scope of the Inquiry paragraphs 1-2, DFAT would be particularly interested in new data and a deeper examination of the influence of intellectual property arrangements on:
- a. facilitating inward investment;
  - b. supporting innovators, creators and businesses collaborate, share knowledge, trade and invest internationally; and
  - c. connecting with global value chains, particularly at the high value end.
61. Examination of these areas could extend to include:
- a. exploring the link between intellectual property settings and successful commercialisation, with analysis of how Australia can get the most value out of the knowledge it produces;
  - b. considering whether improvements can be made to the intellectual property system and its public infrastructure to enhance the marketing and appeal of Australian products, particularly in overseas markets and particularly for SMEs;
  - c. reviewing the effectiveness of Australian businesses, investors, innovators and creators in exploiting their intellectual property in foreign markets and the challenges they face, including in the context of participation in global value chains; and
  - d. understanding the factors that drive businesses to invest in research and development and innovative, high value sectors of the Australian economy, the role intellectual property settings can or should play as a driver of such decisions, and the costs and benefits to the economy of calibrating intellectual property settings in this way.
62. In conducting its inquiry, we would welcome the inclusion by the Productivity Commission of comparisons with other comparable economies and innovation leaders – to help understand and put in context Australia’s approach to managing the balance of policy considerations inherent within intellectual property. Comparisons with key trading partners would be useful to add evidence-based analysis to better understand the factors which drive the positive nexus between intellectual property, innovation and investment in economies. The Global Innovation Index, co-published by WIPO, Cornell University and INSEAD (the European Institute of Business Administration), may provide a useful benchmark for the Productivity Commission to consult when considering comparisons with other countries.

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