

Productivity Commission
Broadcasting Inquiry
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Sydney 13th May, 99

AOL welcomes the opportunity to make this submission to the Commission.

AOL Bertelsmann Online Services is a 50/50 joint venture between America Online Inc., the world's most popular internet online service and Bertelsmann AG, the global media company which in Australia operates the publishing and music enterprises Doubleday, BMG, Random House and Trans World. The joint venture has launched the internet online service AOL Australia in October 1999.

AOL currently provides services, alone or in joint venture, in the United States, Canada, United Kingdom, Sweden, France, Germany, Switzerland, Australia and Japan. A service is planned for Hong Kong in 1999. The company operates two internet online services: AOL with more than 17 million members and CompuServe with more than 2 million members worldwide.

AOL has made a Submission to the "Review into the Scope of Datacasting Services" in relation to digital terrestrial broadcasting in December 1998 and last week, a Submission to the Senate Select Committee on Information Technology with regards to the Broadcasting Services Amendment (Online Services) Bill 1999. Both Submissions express AOL's opinion on questions related to this inquiry, such as self-regulation/code's of conduct, definition and treatment of datacasting services. We will therefore limit this Submission to an executive summary and the inclusion of the former submissions for reference.

Executive Summary

- Datacasting, as defined by the Television Broadcasting Services (Digital Conversion) Act 1998, should be interpreted as broadly as possible; to ensure that digital terrestrial television can indeed deliver the compelling benefits of the online world to the widest possible community.
- Artificial distinctions between Broadcasting and Datacasting Services will bring the Australian information industry into conflict with international developments and create an island of uniqueness in this area which will have an impact on service advancement here and our ability to partake in international industry developments.

- The definition of “broadcasting” rather than “datacasting” in the current legislation that need to be refined and clarified in order to allow such special regulation to occur.
- There is no need to erect a special regime, which declares “datacasting” services to be datacasting, online-style services are increasingly wide spread. It is broadcasting that is the exception to these new kind of services.
- There is a need to encourage new datacasting services to be developed with the same freedom that similar online style services enjoy on other delivery platforms.
- There is a threat of over-regulation, which makes it important that datacasting regulation is a framework only. Online by its nature touches Telecommunication Laws, Broadcasting Laws and Media Laws throughout the converging traditional media. Competing and contradicting laws are a hostile environment for the progress of Online.
- Regulation of TV-datacasting (Interactive/Internet applications) should be limited to a framework legislation, which should achieve the following:
 - Guarantee access to the relevant technologies like cable, broadband spectrum or other limited resources and not only to incumbent broadcasters. If online services area to develop for the benefit of the community, the economy more generally, and the enterprises who provide these services they will need to be able to employ multiple delivery and reception platform and devices.
 - Flexibility is required for changes and fast developments in technologies and functions.
 - Recognise the global structure of the medium and therefore aim at the global harmonisation of rules.
 - Support the large economic opportunities of the Internet, rather than block its progress.
- Legislation should protect Datacasting Services from an undue degree of liability. In particular from copyright, trademark and content regulation infringements and liability under Australian censorship and anti discrimination laws, where the Datacasting Service only provides access.
- Voluntary regulation supported by a legislative framework offer the best solution for content regulation. Effective voluntary schemes, combined with strict enforcement of criminal laws already in existence to attack illegal activities, and the provision of empowering tools that readily empower users to restrict access to certain contents.
- Users of datacasting services must be educated to a responsible use of such services.
- The convergence of the media makes it necessary to move away from determining the applicable legislation, licensing and supervision of online services based on the platform. They should be determined by the function of the service.

- Online style services delivered via the Television spectrum are different to broadcasting services. They involve a process of interaction and choice by user to customise the material to their particular needs. This is the same process as it occurs with the Internet and TV datacasting should be regulated in a similar way.

Broadcasting, a scheduled service designed for mass viewing, has more common impact and is dealt with differently as a result.

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