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Microsoft

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To: Kate Reader
General Manager, Digital Platforms Branch
Australian Competition and Consumer Commission
digitalmonitoring@accc.gov.au

Dear Ms Reader,

Microsoft welcomes the opportunity afforded by the Australian Competition and Consumer Commission (**ACCC**) to respond to the Digital Platform Services Inquiry – March 2025 – Final Report Issues Paper (**Issues Paper**). We offer the following observations on the recent regulatory developments in digital platform services and the potential emerging competition issues related to online gaming, cloud computing, and generative artificial intelligence (**generative AI**).

1. International Regulatory Developments

Microsoft agrees that it is prudent to carefully consider what additional regulation or legislation may be appropriate to supplement existing competition regulation in the markets of digital platform services. We endorse the ACCC's approach to conducting a comprehensive review of the many overseas developments in this area, which reflect the global reach of digital platform services and present an opportunity to observe the impacts of different regulatory approaches on competition and consumers.

As the Issues Paper sets out, there are numerous overseas regulatory regimes that vary significantly in their scope, approach, and objectives.[1] Some jurisdictions have adopted broad, prescriptive regulations that aim to address a range of issues with a standard set of obligations that apply to many different types of digital platforms. Other jurisdictions have opted for more tailored regulations that target particular

[1] Issues Paper, pp3-8.

types of digital platform services, such as online advertising, social media, or app stores with obligations focused on the specific nature of those platforms.

Each of these approaches has its strengths and weaknesses and each entails trade-offs and challenges. In general, we consider it important that reforms remain appropriately tailored and focused on 'gatekeepers' who have been found to exhibit a combination of the unique economic characteristics that the ACCC has already identified as contributing to market power, e.g., strong direct and/or indirect network effects. This is because regulations applied too broadly to market challengers and to emerging technologies carries significant risks of unintended consequences that may ultimately harm competition and consumers.

A good example of such a gatekeeper service for the ACCC's attention is the supply of mobile app stores, which are a critical global gateway for apps to reach billions of consumers and enable the modern digital economy for millions of businesses. This is also an area where there is an increasing body of regulatory and policy responses to consider, evaluate, and adapt to the Australian context. The below section on gaming sets out more detail on some of the competition issues in mobile app stores.

More generally, however, given the range of regulatory developments in digital markets overseas, there is also an especially good opportunity to closely observe how overseas regulations in other areas develop and affect the online services they aim to regulate, as well as the consumers and businesses using these services. By doing so, Australia can select from best and most effective regulatory practices of other countries, modify them for Australia's unique market and needs and, in turn, avoid any potential pitfalls and unintended consequences that are already arising in some markets to emerge as a leading regulator of effective reforms.

Microsoft would welcome the opportunity to assist the ACCC in a further discussion on this topic and to share our insights and perspectives as a global provider and user of digital platform services.

Gaming

As the Issues Paper notes, video games and gaming platforms are a popular form of entertainment and connectivity in Australia. From our perspective as a global game developer and publisher, there is overall vigorous and effective competition in 'online gaming markets', as described in the Issues Paper, with the exception of mobile gaming. That is, it is in mobile gaming that we have observed some of the

issues regarding distribution of mobile games through mobile app stores that are described in the Issues Paper.[2]

Third-party mobile gaming developers have no choice but to accept the policies and terms of the dominant mobile app store operators—Google and Apple—which have included high fees and restrictions on alternative distribution methods[3], in order to reach users on mobile devices and monetise their games. These policies reduce competition in mobile gaming and not only affect the profitability and innovation incentives for gaming app developers, but also result in reduced choice and increased prices for consumers and players. For example, cloud gaming streaming apps, an innovative emerging service that allow users to play high-quality games on any device without downloading or installing them, face significant challenges due to being either entirely banned or severely restricted by major app store operators.[4]

The ACCC's further consideration of targeted, ex ante regulation of gatekeeper app stores, as recommended above, is likely to increase competition, innovation, and choice by creating a level playing field and enabling fair access for mobile gaming app developers.

2. Cloud Computing

The Issues Paper seeks stakeholder views on potential or emerging issues in relation to cloud computing in Australia. The supply of cloud computing is competitive and dynamic, characterised by an ever-increasing variety of new offerings and providers. There is strong competition between both public and private cloud providers, who offer differentiated products and services to meet the diverse and changing needs of customers ranging from individual developers to businesses of all sizes, Government departments and agencies, and non-profit organisations.

Market outcomes in Australia strongly indicate there is a highly competitive cloud services market that is creating positive outcomes for businesses and consumers.

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[2] Issues Paper, p12.
[3] See further Microsoft submission to the ACCC's Digital Platform Services Inquiry March 2021 report on App Marketplaces, 16 October 2020.
[4] See further Microsoft submission to the ACCC's Digital Platform Services Inquiry March 2021 report on App Marketplaces, 16 October 2020, pp2-3.

Vigorous and effective competition between both public and private cloud providers including Amazon Web Services, Google Cloud Platform, Microsoft Azure, Oracle, Alibaba, IBM and others has resulted in lower prices and an ever-improving range and quality of cloud services as well as sustained investment in cloud computing infrastructure in Australia.

Cloud Computing Overview

Like many other parts of the tech sector, cloud computing encompasses a multitude of diverse services, offered based on different business models and used by different types of customers.

Although not necessarily reflective of how suppliers or customers approach solutions in the cloud, it can be helpful to distinguish between Infrastructure-as-a-Service (**IaaS**) and Platform-as-a-Service (**PaaS**) on the one hand and Software-as-a-Service (**SaaS**) on the other, as there are important differences in business model, use cases and customers. For example:

- **IaaS** and **PaaS** services, provided by cloud infrastructure providers, are primarily offered on a consumption (or pay-as-you-go) basis and are used by sophisticated business customers, IT professionals and developers to build and create IT solutions for their own internal or external use. Examples include Microsoft Azure, AWS, and Google Cloud Platform (GCP). "Public cloud" providers typically provide services that span IaaS and PaaS. There are also numerous third-party providers of cloud solutions that offer their own services that they make available on different public clouds for use by developers to create their own cloud powered solutions.
- **SaaS**, on the other hand, involves cloud computing services, whether offered by the provider of the underlying hardware infrastructure or built on infrastructure controlled by a third-party, primarily offered on a per-user subscription basis ready for use by the subscriber or its employees. Unlike customers of IaaS and PaaS services, customers of SaaS services, by definition, do not have access to the underlying infrastructure or platform software, only experiencing the finished application. Examples include Salesforce, Workday, Microsoft 365, Spotify, Netflix, CultureAmp, and Atlassian.

Competitive characteristics of cloud computing[5]

We understand the Issues Paper is focused on IaaS and PaaS. Customers of IaaS and PaaS look to these cloud services as an input or component in their broader system to complete certain types of tasks or workloads, using the combination of cloud services that best meets their system design needs. The discerning customers of IaaS and PaaS are adept at leveraging the compatibility between different IaaS and PaaS systems to implement multi-cloud solutions, ensure data portability, and adjust services as required.

Even if just focusing on the core cloud infrastructure providers, Microsoft would not expect one or even three providers to supply all customer needs in either IaaS, PaaS, or any specific service. In addition to current significant public cloud providers – Amazon Web Services, Microsoft Azure, Google Cloud Platform, Alibaba AliCloud, Oracle, and IBM – many other firms, including Australian firms such as Macquarie Cloud Services, are also vigorously competing, innovating, and growing along with numerous other firms poised for entry.

Additional competitive constraints in cloud infrastructure services are imposed by the potential entry of other well-resourced organisations with the ability and incentive to develop an at-scale cloud for their own use. Examples include Meta, Salesforce, and Apple, all of whom run their own large-scale datacentres for their own popular offerings and are also well-positioned to expand into public cloud. And, across all these infrastructure offerings, providers of various PaaS services offer cross-cloud solutions that give customers even more choice in determining the technology providers they will use in developing their own cloud-powered solutions and services.

Moreover, public cloud services are not the only option for customers. Large, sophisticated customers will use public cloud services only if they are more attractive than their on-premises server or private cloud solutions. These customers can and will use their own private services or employ a hybrid solution as their need dictates. Multi-cloud strategies, using a combination of different public and/or private clouds, are becoming increasingly common. For example, Walmart

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[5] Microsoft has provided some high level perspectives in this submission, but also encourages the ACCC to review its public submissions made in response to inquiries in other jurisdictions, e.g., Microsoft - Response to the CMA Issues Statement.pdf (publishing.service.gov.uk), for further detail for consideration.

has developed a private cloud and also uses public cloud services from multiple providers at the same time.

Another important point is that cloud services do not exhibit strong direct or indirect network effects that occur when the value of a product, service or platform depends on the number of buyers, sellers or users who use it. These kinds of network effects are most pronounced in multi-sided platforms, such as the social media and online search services the ACCC has considered in detail. In the case of cloud computing, however, these network effects are largely absent. Companies choosing a cloud services provider are indifferent as to whether its public cloud has more or fewer end users. At the same time, a public cloud does not generate incremental additional value to other users from hosting many other users. While having many customers can create economies of scale for the cloud service provider, they provide no direct benefit to other users. As a result, a would-be cloud services entrant can start offering cloud services without facing a network effects barrier to entry on the user side.

The supply of cloud services in Australia is characterised by rapid and dynamic innovation, billions of continuous investment, strong price and non-price competition, significant discounts, and considerable advantages to customers with overall reduced costs compared to on-premises deployments and high customer satisfaction.

Cloud Enables Growth

These characteristics of cloud computing fuel intense competition among providers and drive positive customer outcomes, including greater dynamism and competition in the broader economy. And these positive customer outcomes are a key part of how cloud computing enables companies in Australia, large and small, to innovate quickly, increase efficiency, accelerate productivity, and compete on a global scale.

Microsoft's work in cloud computing services focuses on developing technologies that can be used by any company, non-profit, or Government agency as an input to increase productivity and help build and enhance their own products or services in pursuit of innovation and growth. For example, LiveTiles is a Melbourne-based employee experience platform founded in 2014 with 10 employees who is now a global software-as-a-service (SaaS) provider with 130 employees across Australia, the US, Europe and the Asia Pacific. LiveTiles attributes its success to early support from Microsoft, including help building robust, secure and scalable products, and

benefited from being able to leverage Microsoft's cybersecurity expertise to gain an edge.[6]

The substantial investment in infrastructure required for the supply of cloud computing services creates another avenue to spur economic growth. And Microsoft has been committed to investing in the Australian tech ecosystem for 40 years. We have over 9,000 partners leveraging our cloud services who are predominantly small businesses employing over 200,000 Australians. Our partner network contributed AU$55 billion to the Australian economy in 2020, of which AU$26 billion was Microsoft-attributable revenue.

In October 2023, Microsoft announced an AU$5 billion investment in expanding our hyperscale cloud computing and AI infrastructure in Australia over the next two years.[7] This builds on our significant investments in three data centre regions in NSW, Victoria, and the ACT to provide our Australian customers with faster access to Microsoft Azure and world-class security. And we are also investing substantially in building new data centres in Sydney and Melbourne. This is the next big step in our longstanding commitment to ensure that Australians organisations of all sizes have access to the digital infrastructure needed to drive sustainable growth, innovation, and job creation.

Microsoft urges the ACCC to conduct its preliminary analysis of cloud computing services with a focus on the positive customer outcomes and real market dynamics in Australia, as well as the significant potential and the continuously evolving nature of cloud computing. As a powerful enabler of growth, innovation and opportunity in Australia, access to cloud computing has enabled access to advanced capabilities and transformed the way that businesses innovate, grow, communicate and create.

3. Generative AI

The Issues Paper also invites comments on potential or emerging issues in relation to generative AI in Australia. Our comments on 'generative AI' are based on a definition that refers to AI models that can generate content, like text, images and

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[6] Tech Council of Australia and Accenture, The economic contribution of Australia's tech sector, August 2021, p38

[7] Microsoft News Centre, Microsoft announces A$5 billion investment in computing capacity and capability to help Australia seize the AI era, 24 October 2023.

sound, as opposed to performing other AI related tasks such as categorising or recognising data. Within this meaning, generative AI models can refer to a huge variety of models including both proprietary and open-source models of all sizes.

Generative AI overview and future potential

The supply of generative AI services is fiercely competitive and highly dynamic, with a lightning-fast pace of innovation, entry, and variety that cannot be overstated. The competitive landscape today is entirely different from just a year ago and can be expected to change equally profoundly in the next year and beyond. One illustration of the pace of innovation is the number of new AI model releases. In the first 5 months of 2024 alone, there were more than 70 model releases by the largest foundation model developers and more than 170,000 releases of open-source models on Hugging Face – a public archive where developers can query or download open-source models to use in their application.[8]

In a similar way to cloud computing, generative AI technologies represent a new wave of general-purpose technologies that are creating transformative new opportunities for businesses of all sizes as well as non-profit organisations and the public sector. The supply of generative AI technologies is likewise characterised by intense competition driving rapid innovation, continuous investment, and positive customer outcomes. Beyond the individual customer level, generative AI also has the potential to transform the world in profound ways, creating new opportunities for economic growth, productivity, and social impact.

In one study from Microsoft and the Tech Council of Australia, generative AI was estimated to add up to AU$115 billion to the Australian economy by 2030, reflecting a 5% uplift in GDP.[9] And as the Treasurer observed at the 2024 Curtin Oration, '[b]y 2030, AI could contribute up to $4.4 trillion to the global economy – more than the current output of the United Kingdom'.[10]

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[8] *See* Standford AI Ecosystem Graphs, (link available here). This data was last updated on 31 May 2024.
[9] Microsoft Australia and Tech Council of Australia 2023, Australia's Generative AI Opportunity, July 2023.
[10] The Hon Dr Jim Chalmers MP, Address to the John Curtin Research Centre for the 2024 Curtin Oration, 26 August 2024.

Competitive characteristics of generative AI

Notwithstanding its enormous potential, generative AI technologies are still in their infancy. At this early stage, there is broad investment across a vast variety of differentiated AI foundation models. These include not only the largest general purpose foundation models that have captured the public's attention but also smaller and more specialised foundation models that are playing an increasingly important role in offering customers similar performance at a much better cost proposition.

Intense competition and innovation in this space is not only evidenced among proprietary models, but between the array of proprietary and open-source AI models of all sizes being made available. Access to quality models for development of new models has never been higher. Developers can download high-quality open-source AI models and improve upon them to create new models as alternatives to proprietary models. Using methods such as 'model distillation' [11], developers are increasingly able to employ preexisting models to cheaply create new models, which are often just as powerful as models that were considerably more expensive to produce.

The rapidly growing variety of different foundation models made available by a huge number of providers of all sizes is matched by the growing range of use cases and demand from customers for a range of different models that match their particular needs. Customers select generative AI models to provide specific capabilities after balancing various characteristics of the model, including performance and cost. The most important factor is generally the performance of the model on the customer's particular task, rather than considerations of which company offers the model, how many parameters the model has, or the expense required to develop the model. It is common for AI application developers and deployers, including in Australia, to utilise a range of different models, rather than relying on one.

To continue to meet the rapidly increasing demands of customers, use cases and competitive pressures for generative AI development, partnerships and investments are crucial. Save one, no company today is vertically integrated in a manner that provides it with the strength and independence to provide all of the necessarily pieces of technology from infrastructure to a thriving end user distribution channel

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[11] Niklas Heidloff, Model Distillation for Large Language Models, 12 September 2023.

to proceed alone. For those who cannot proceed alone, Microsoft included, partnerships and investments are a crucial path to ensuring continued innovation, development, and new entry in this nascent area.

Against this dynamic backdrop, it is important that the ACCC should remain engaged, while giving the evolving markets and technologies the room to develop and emerge. Industry can play an important role in promoting innovation and competition by providing the access needed for organizations and individuals to develop and use AI in ways that will serve the public good, as Microsoft has endeavoured to do in our AI Access Principles set out below. And governments and regulators should work together with industry to develop policies that will ensure competition remains vibrant and that all members of society benefit.

Microsoft's AI Access Principles

As a cloud computing and AI infrastructure provider, Microsoft has an incentive to make generative AI technologies accessible to everyone, encouraging organisations of all sizes to use these groundbreaking technologies to build new applications and improve existing ones and to develop a thriving developer community as the world moves into a new "AI economy". As part of Microsoft's efforts to improve access, we announced our AI Access Principles in February 2024, which outline our commitments to promote innovation and competition to grow the new AI economy.[12]

Our AI Access Principles rest in three broad categories:

1. ***Access***: We are investing around the world to expand our data centers, so that people everywhere can train and deploy the foundation models that are the basis of generative AI and so every nation can develop its own AI economy. To this end, we also host over 1,600 models along with tools that developers can use to deploy generative AI, creating sophisticated applications that employ machine learning, generative AI or other technologies.
2. ***Choice***: In the spirit of maximizing AI innovation and social benefits, we believe access must be matched by the fullest possible choice of models,

[12] Brad Smith, *Microsoft On The Issues Blog*, Microsoft's AI Access Principles: Our commitments to promote innovation and competition in the new AI economy, 26 February 2024.

computing technologies, and APIs. Once products are created, they should be available to customers without onerous restrictions.

3. ***Trust:*** Microsoft recognizes that deploying a powerful technology carries social responsibilities. Governments, regulators, and individuals deserve the greatest possible visibility into its workings, along with provable assurances that providers are compliant (and more) with the highest standards of security, privacy, and environmental responsibility. We believe concrete rules for Responsible AI behaviours should be codified and adhered to. Furthermore, to ensure greater understanding of AI and the greatest possible shared benefit from this new technology, AI providers, among others, should invest in AI education and AI skills training on a global scale.

Microsoft thanks the ACCC again for the opportunity to provide our comments to the Issues Paper and would welcome the opportunity to discuss our views further with the ACCC if that would be useful.

Sincerely,

Liz Fitch
Head of Corporate Affairs
Microsoft Australia and New Zealand