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Productivity Commission invites submissions to the Inquiry into Australia's Intellectual Property System

Background

The Australian Government has asked the Productivity Commission to conduct a broad-ranging inquiry into Australia's intellectual property (IP) system. In undertaking the Inquiry, the Commission will examine the extent to which the existing IP system provides appropriate incentives for investment in innovation and the production of creative works while also ensuring that there are no unreasonable impediments to further innovation, competition and access to goods and services.

Scope of the Inquiry

Under the [Terms of Reference](#) the Commission must:

- *examine* the effect of the scope and duration of IP protection on research and innovation, access to goods and services, and competition, trade and investment
- *recommend* changes to the current system that
 - encourage creativity, investment and new innovation, while not unduly restricting access to technologies and creative works
 - improve access to goods and services
 - increase certainty about the circumstances in which IP rights may be infringed
 - reduce compliance costs associated with IP rules
- *have regard to* various factors including Australia's international obligations, the IP arrangements of Australia's trading partners, economic impacts of the IP system, the efficiency, effectiveness and robustness of the IP system through time, in light of economic and technological changes, and the findings and recommendations of recent IP reviews.

Issues paper

The Commission has released an [Issues Paper](#) to assist in the preparation of submissions. There are various questions posed for consideration throughout the issues paper.

Key principles

The Commission outlines 4 key principles that will guide its assessment of Australia's IP system: effectiveness, efficiency, adaptability and accountability.

Effectiveness examines the effectiveness of the IP system in encouraging the creation of new IP that would not otherwise have been created and the ability of the IP system to actively disseminate innovation and creative output.

Efficiency considers the efficiency of the IP system in encouraging the creation of IP at the lowest cost to society, promoting efficient trade of IP so that those who can make best use of

IP have an opportunity to do so, and balancing the gains to IP rights holders and the costs to IP rights users (including consumers) over time.

Adaptability ensures that IP system has sufficient flexibility to adapt to changes in the economic and technological environment.

Accountability considers what information, evidence and analysis is required to promote a transparent and effective evaluation of the IP system.

Improving arrangements for specific forms of IP

The Inquiry will consider specific forms of IP and the various challenges that must be addressed in the IP system. The Commission is looking at improving arrangements for the following specific forms of IP: patents and data protection, copyright and moral rights, designs, trade marks, plant breeder's rights, circuit layout rights and geographical indications.

Other issues

The Inquiry will also consider the impact of the broader IP landscape on the IP system including reforms to public institutions involved in defining, allocating and enforcing IP rights in Australia, processes for more effectively formulating IP policy, the impact of international agreements, organisations and negotiating processes.

It will also consider the ease or difficulty of enforcing IP rights and the impact of Australia's international IP obligations on the IP system.

Submissions requested

Agencies are able to provide comments or submissions on the important matters raised in the issues paper.

The Commission has requested *initial* submissions from interested parties by 30 November 2015; however, it will be accepting and considering submissions lodged after this date.

But please note that initial submissions should be lodged as soon as possible to give the Commission sufficient time to consider them prior to the release of the draft report.

The Commission's draft report is scheduled to be released in March/April 2016.

Public hearings will then be held in April/May 2016. During this period, interested parties may make further submissions on the draft report.

The final report to Government is scheduled to be provided by 18 August 2016.

For further information please contact:

Rachel Chua

Senior Executive Lawyer

T 02 6253 7086

rachel.chua@ags.gov.au

Kenneth Eagle

National Group Manager Commercial

T 03 9242 1290 M 0419 562 390

kenneth.eagle@ags.gov.au

Adrian Snooks

National Group Leader Commercial

T 02 6253 7192

adrian.snooks@ags.gov.au

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