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# IPTV – Growth, Regulation and Opportunity?

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There is no denying that the humble television set has come a long way. Regardless of the proliferation of alternative devices the television remains the most watched screen in the house. In June 2011 Free TV reported that Australians were watching an extra 35 minutes of television per week. Yet, there are a number of technological trends that are altering the way that content reaches consumers through television screens, and one of those is IPTV.

In 2011 Telstra conducted research that revealed 34% of Australians have an IPTV product on such as a smart TV or set top box on their shopping list for the immediate future and 68% of Australians agree that their home entertainment experience has been enhanced by innovative IPTV products such as downloading and watching movies (31%) and watching catch-up TV (33%).<sup>1</sup>

As with any relatively new technology there is also some confusion about the technology, the laws that shape what is possible and the opportunities for access seekers. This update explores and addresses a number of those issues.

## What is IPTV?

Essentially, IPTV delivers video and related services over the internet. From a technical viewpoint, it uses packet-switched broadband architecture and requires specific hardware to receive the service, usually in the form of a specially enabled TV or a set top box.

Specifically enabled TV's are often marketed as 'Smart TVs'. At present, IPTV offers catch-up services, content on demand and live streaming. Internet television is often confused with IPTV, but the two products are significantly different.

Internet TV is downloaded directly to the user's computer through their regular internet connections. It may have some management but access is usually not controlled and there are no subscription fees. IPTV is a managed service with controlled access and usually involves subscription and payment.<sup>2</sup>

There are currently a number of IPTV providers in Australia offering varying services and these are outlined in the table accompanying this newsletter.

While Google TV is not currently available in Australia there has been speculation that Google will team up with Sony but there has been no confirmation at this stage.

<sup>1</sup> Telstra Connected Home Index (300/2011)

<sup>2</sup> See 'Table 2: Taxonomy of content distribution models: Part 2, IPTV and internet video (websites) in Australia Communications and Media Authority, **IPTV and internet video delivery models: Video content services over IP in Australia**, June 2010, p17 <[http://www.acma.gov.au/webwr/\\_assets/main/lib311865/iptv\\_and\\_internet\\_video\\_delivery\\_models.pdf](http://www.acma.gov.au/webwr/_assets/main/lib311865/iptv_and_internet_video_delivery_models.pdf)>

The logo for 'sainty law' features the word 'sainty' in a large, orange, lowercase serif font, with 'law' in a smaller, orange, lowercase sans-serif font positioned below it.

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## Regulation and the Convergence Review

From a regulatory perspective the media industry is currently separated into 'silos' of broadcast free to air television, subscription television, print media, radio and the internet. The Broadcasting Services Act 1992 requires a commercial TV broadcaster and a commercial broadcaster to hold a licence and comply with certain conditions under that licence.

For content delivered over the internet the regulatory landscape has remained relatively unchanged since Richard Alston declared that television and radio programs available using the internet were not broadcasting services in 2000. In light of this determination it is accepted that IPTV falls under the exception, allowing certain IPTV content to be unregulated.

The Australian Government is working towards addressing change brought about by technological development by conducting a number of reviews. In December 2011 the Department of Broadband, Communications and the Digital Economy released the Convergence Review Interim Report. The Report recommended that the allocation of a licence should no longer be a precondition for the provision of content.

The report also proposed the introduction of Content Service Enterprises that will have obligations in relation to content standards, media diversity and Australian content.<sup>3</sup>

Committee chair Glen Boreham recently commented that in determining the criteria for a Content Service Enterprise 'the bar would be set deliberately high to focus on 'TV-like' services.'<sup>4</sup>

In light of these comments it would be reasonable to assume that any changes that occur as a result of this review will ultimately effect the regulation and growth of IPTV in Australia. The general communications landscape will be less regulated but IPTV more so in line with similar content provided using different technology.

## International IPTV Trends and Regulation of On-Demand Programming Services

IPTV services in the United States and United Kingdom are currently being deployed with some offering up to 300 channels. The growth of these services may ultimately be influenced the level of cable and satellite TV subscriber rates that are considerably higher than Australia.

**Richard Alston's Ministerial determination in 2000 excluded:**

*'a service that makes available television programs or radio programs using the Internet, other than a service that delivers programs or radio programs using the broadcasting services bands'*

*From the definition of a 'broadcasting service' under the Broadcasting Services Act 1992.*

*'The intention is if it looks and smells like a broadcaster in terms of the content it delivers, and it passes the prescribed threshold in terms of revenues or audience, then like television and radio it should carry a proportion of Australian Content'*

**Glen Boreham commenting on Content Service Enterprises, January 2012**

<sup>3</sup> Australian Government, **Convergence Review Interim Report**, December 2011, <[http://www.dbcde.gov.au/\\_\\_data/assets/pdf\\_file/0007/143836/Convergence-Review-Interim-Report-web.pdf](http://www.dbcde.gov.au/__data/assets/pdf_file/0007/143836/Convergence-Review-Interim-Report-web.pdf)>

<sup>4</sup> Glen Boreham, 'Recalibrating Policy as New Era Dawns', *The Australian*, 30 January 2012, p 24

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In the United Kingdom Ofcom delegates functions for the regulation of on-demand program services to the Authority for Television on Demand (ATVOD). On-demand program services are defined as a service that satisfies all of the following criteria: the service includes TV-like programs; is a VOD service; there is editorial responsibility; and it is made available to the public. The ATVOD does not regulate local content requirements.

In a submission to the Australian Convergence Review Screen Australia noted that the 'ATVOD currently issues rules and guidance about issues such as administration, editorial content, sponsorship, product placement and sets the fee structure for licenses. Fee structures for licences are determined according to revenue and services provided over the internet require a licence or permission from Ofcom in the same way that satellite, cable and terrestrial services do'.<sup>5</sup>

The regulation of Content Service Enterprises in Australia may reflect some of the elements of the ATVOD, though this is ultimately a future policy and regulatory issue.

### **IPTV - Apps, Social Media and Games**

While set top box technology is an IPTV facilitator the range and services available on Smart TVs continues to grow. There are a number of IPTVs available in Australia from manufacturers such as Samsung, LG and Sony. Both Smart TVs and set-top-box services give users access to various apps including social media and games. The Samsung Smart TV offers a number of services including Big Pond Movies, Big Pond TV, ABC iView, Your Video, Social TV as well as apps that provide access to games, Google, YouTube, music and social media sites such as Facebook and Twitter.

The growth of these services will ultimately provide a new point of entry for content producers and also new business models. For example, movies available through You Video are linked to Facebook recommendations. While Netflix and Hulu are not currently available in Australia, these services are offered in other countries through apps on the Smart TV.

### **What Opportunities and Threats Exist for Access Seekers and Content Creators?**

In 2008 the ACMA noted that 'IPTV and Internet Video services in Australia represent a competing distribution system for audio-visual entertainment and are consequently a threat to audience share of existing modes of delivery'.<sup>6</sup> Other barriers to entry that were highlighted in the ACMA's IPTV paper related

*Television is going through a period of significant change in Australia and the rest of the world. No longer simply a box connected to an aerial, the television screen is now a gateway to a large range of content and ways to receive that content. With the NBN rollout providing the bandwidth that high-quality video demands, IPTV (Internet Protocol Television) is set to grow significantly in Australia. Content providers will soon be able to offer premium content services in full high definition, complete with innovative audience interactivity and device connectivity options.*

**NBN Co, December 2011**

<sup>5</sup> Screen Australia Convergence Review Submission, October 2011, <[http://www.dbcde.gov.au/\\_\\_data/assets/pdf\\_file/0014/143240/Screen\\_Australia.pdf](http://www.dbcde.gov.au/__data/assets/pdf_file/0014/143240/Screen_Australia.pdf)>

<sup>6</sup> Australian Media and Communications Authority, **IPTV and Internet Video in Australia**, May 2008, p. 21 <[http://www.acma.gov.au/webwrr/\\_assets/main/lib310210/iptv\\_and\\_internet\\_video\\_in\\_aus\\_t.pdf](http://www.acma.gov.au/webwrr/_assets/main/lib310210/iptv_and_internet_video_in_aus_t.pdf)>

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to high upfront costs involved in rollout out IPTV, bandwidth limitations and capped download limits.

The rollout of the NBN has altered many of the issues highlighted in the ACMA's 2008 IPTV paper.

During September 2011 FetchTV, an IPTV service, participated in a demonstration in Perth where they provided the first IPTV service over the NBN.<sup>7</sup> NBN Co has announced that a multicast feature is scheduled for initial release in quarter 3, 2012. They have called for service providers who intend to use the multicast feature to participate in sandpit testing prior to the initial release.

Some of the issues that were in the ACMA IPTV paper remain relevant, particularly in relation to content providers, content acquisition and piracy. These include:

- Start-ups find it harder to negotiate for content rights because content providers want to ensure maximum audience reach and deal with operators who have already secured a lot of high-value content.
- The length of negotiation time increases the development time before the service can be launched.
- There are piracy issues related to people downloading illegal content.<sup>8</sup>

### The Road Ahead

Submissions to the Convergence Review Interim Report closed on 10 February 2012 with the final report presented to government in March 2012. The Convergence Committee's final report to Government will also take into account issues raised in the Independent Media Inquiry Report and the National Classification Scheme Review.

There will be many opportunities for access seekers and for those wishing to participate in ongoing discussions that will ultimately shape the future media and communications environment in Australia.

Sainty Law is able to provide relevant and effective advice to ensure that organisations are able to take advantage of changes as technological development alters barriers to entry. We can also assist with submissions to Government to ensure that organisations are afforded optimum conditions to grow, invest and participate.

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<sup>7</sup> Impress Media, 'Internode debuts fetchtv IPTV service over NBN, 7 September 2011, <<http://www.impress.com.au/press-releases-mainmenu-1/internode-mainmenu-48/1275-internode-debuts-fetchtv-iptv-service-over-nbn.html>>

<sup>8</sup> Australian Media and Communications Authority, **IPTV and Internet Video in Australia**, May 2008, pp. 22-23 <[http://www.acma.gov.au/webwr/\\_assets/main/lib310210/iptv\\_and\\_internet\\_video\\_in\\_australia.pdf](http://www.acma.gov.au/webwr/_assets/main/lib310210/iptv_and_internet_video_in_australia.pdf)>

**Sainty Law offers specialist communications and media legal advice that adds value to its clients' businesses.**

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## IPTV IN AUSTRALIA

Provider	Hardware	Fee structure	Television content	Internet/Other content
<b>Telstra</b>	Telstra T-Box	Purchase outright or 24 month plan  subscribe to channel package,  on demand content  pay as you go	Free to air channels, BigPond Movies, Videos and TV on demand, BigPond TV , Foxtel on T-Box if subscribed	YouTube
<b>Fetch TV</b>	Set top box	Rent or buy set top box for one off fee, or pay for box as part of monthly subscription fees depending on ISP, on demand content pay as you go	Free to air channels, 30 free movies per month and new releases on demand, range of subscription channels, TV channels on demand	Facebook, YouTube, Twitter, games
<b>Foxtel on X-Box 360</b>	X-Box console	Month-to-month subscription fee, on demand content pay as you go	Foxtel	None
<b>Samsung Smart TV</b>	Samsung Smart TV set, Samsung Smart 3D Blu-ray player or home theatre system	Buy TV set/equipment outright, on demand content pay as you go	Free to air channels, BigPond TV, BigPond Movies on demand, BigPond Sports, BBC News	Internet access, YouTube, Twitter, Facebook and Skype apps, games, music and photo organiser apps, Social TV app
<b>Sony Bravia Internet Video</b>	Sony Bravia LCD TV set, blu-ray player or home theatre system	Buy TV set/equipment outright, on demand content pay as you go	Free to air channels, range of Sony channels, Video Unlimited (movies on demand)	Internet access, Facebook, Twitter and Skype apps, Music Unlimited (music on demand), Qriocity (music streaming service)
<b>Apple TV</b>	Set top box	Purchase set top box outright, on demand content pay as you go	Video on demand via iTunes, MLB TV (Major League Baseball TV) if subscribed	YouTube, podcasts, Vimeo, Flickr and MobileMe, iTunes, iCloud, Photostream
<b>Google TV (US)</b>	Sony Bravia TV set, Logitech Revue set top box or Sony Internet TV blue-ray, or DISH subscription	Purchase TV set or set top box outright, or usual DISH subscription fees, on demand content pay as you go	Free to air channels, subscription TV if subscribed, Netflix, Amazon Instant Video, internet access, Android apps such as Facebook, Skype, YouTube, Twitter, Fox News, CNBC, games, Media player (with Logitech set top box)	