

# The Online Economy - don't panic, don't miss out

**Julian Thomas** reviews the latest report from Cutler & Company, *The Online Economy: Maximising Australia's Opportunities from Networked Commerce*

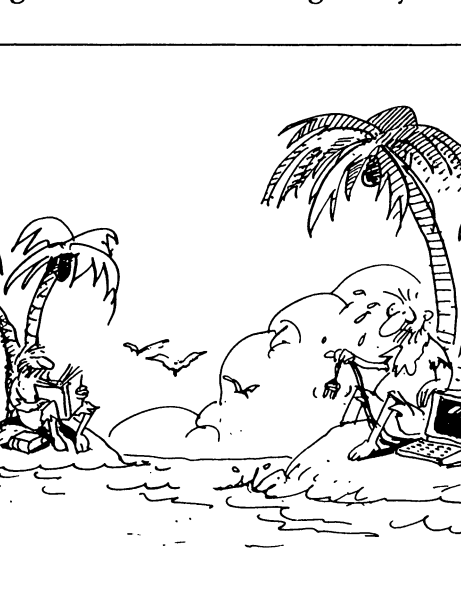
**C**utler and Company's 1994 report, *Commerce in Content*, promoted government assistance for Australian multimedia industries, and some of its arguments and emphases found their way into the Commonwealth's cultural policy white paper: *Creative Nation*.

*The Online Economy* applies the same commercial consciousness-raising to networked communications: the convergence of computing and communications, and the economics of cheap personal computers, add up to a major opportunity for developing a new national industry. Online industries will provide new efficiencies in entertainment, retailing, financial services, and education. Because Australians have adopted the communications technologies fairly quickly, our online economy ought to be robustly competitive, sustaining local jobs and cultural industries.

*The Online Economy* is never modest, or completely convincing, but it is valuable because it is interested and intelligent. While governments around the world have produced dozens of worthy and anxious studies, this report focuses, not always calmly, on the dollars. The legal issues briefing paper presented to the National Information Services Council last August printed one of its key messages in capitals: DON'T PANIC. If the key message of *The Online Economy* was summed up in a similar way, it would be DON'T MISS OUT.

In a nutshell, Roger Buckeridge and Terry Cutler offer the prospect of linking the national objectives of Creative Nation and the Broadband Services Expert Group to the globalising dynamics of the infobahn. But, the argument goes, it can only happen if government creates a regulatory en-

vironment which will foster online industries. *The Online Economy* identifies a broad set of regulatory reforms necessary to successful industry development. Government must provide an 'integrated regulatory regime' to protect networked information; it must develop an efficient national network infrastructure, providing greater bandwidth at lower costs; and it must use its own market position to assist the developing local industry. The authors do not risk understating the importance of all these reforms by comparing them to the floating of the dollar in 1983.



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The report's only recommendation to industry itself is to urge the formation of an organisation capable

of representing industry views to government. *Plus ça change...*The authors are clear about the nature of their advocacy: they acknowledge 'the continuous engagement' of a group of private and government organisations with 'a clear economic stake in policy outcomes'. These bodies include the ABC, News Corporation, BMG, Pearson Group, On Australia, OptusVision and Austrade. The report is the result of a series of workshops held with senior executives from those organisations, which provided the report with a 'robust commercial foundation'.

So while the author's views are their own, and the substantive discussions of policy issues are interesting for themselves, the report is most significant as a statement from a particular industry perspective. The perspective is generally, although not exclusively, that of large players - many of them the beneficiaries of past and present national industry and cultural policies - who have invested or are considering investing in networked applications of their existing content or carriage businesses.

While such players can see the potential of the infobahn, they also see problems, and they want government to fix the problems speedily. Some of these are to do with the low capacity and high costs of the Australian network infrastructure, which limit the size of the local market for



online services, and thereby retard the online economy. In the US, where ISDN services are marketed to household users, online services are expanding very rapidly. A further problem of this sort concerns the congestion of international links between Australia and the rest of the world. Low-grade links limit the market access of Australian online publishers; they do much to defeat the technological promise of negating long distances. Buckeridge and Cutler report very slow international access to Australian web servers, especially from Europe and Asia.

While the argument for better and cheaper infrastructure is undeniable - and it is repeatedly made in this context - there are work-arounds and alternative strategies which are not discussed here.

The authors insist on the importance of locating online industries in Australia, but this objective is not the same as domiciling web servers, which can easily and economically be set up in locations where the demand exists.

Here the interests of Australian content providers are likely to be different from those of the network providers: if a part of the network is comparatively expensive, why use it when you don't have to?

The other main set of obstacles for online services concern the reform of laws governing content. The challenge for government is to find ways of applying laws which were developed for different purposes and circumstances to digital media.

This report canvasses proposals dealing with intellectual property, obscenity, defamation, privacy, and commercial transactions among other areas, and contains useful summaries of recent policy work.

It calls for reform processes, particularly in copyright, to be speeded up. It emphasises the immediate practical difficulties faced by multimedia developers and online publishers. It also argues, for example, for an ex-

pansion of fair use defences in copyright.

While the authors set out useful principles, many of the more difficult issues are glided over. To take a small example, Buckeridge and Cutler approve of moral rights protection, as long as it is 'compatible with commercial development'. Generally, they seek the rapid implementation of an 'integrated', 'whole of government' approach to online regulation, but pass over the complexities of intergovernmental law reform and political processes.

They like the light-handed, self-regulatory style of the Commonwealth's proposed online censorship regime, but pass over the other legal problems (for example, liability for defamation) such schemes may raise for online services.

The overall effect of the argument is to apply pressure on the Commonwealth to deliver as fast as possible protective but not burdensome industry regulation. Yet the report acknowledges that the solution to the problem of copyright infringement cannot and will not be solely legislative: technical changes to the nature of digital documents, including tags or headers of various kinds, are likely to be widely used to trace the provenance and distribution of information.

The same point can be made about the security and obscenity issues: although governments will eventually act, software provides at least some of the solutions already. The reader is left wondering whether the regulatory obstacles to the development of the Australian online economy are as substantial as suggested. If the dynamic digital economy described here ever comes about, it seems unlikely that it will be the work of the large existing CD and print publishers. □

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### **Some key recommendations of The Online Economy**

- ◆ An integrated industry body that addresses the rights of content providers, online service providers and users to protect and control their information and intellectual property is vital for online industry growth.
- ◆ Introduce amendments to the Copyright Act, by early 1996, to ensure there is a category of protectible subject matter into which multimedia and audiovisual works and electronic compilations such as databases can fit, regardless of their method of delivery.
- ◆ Ensure there is a whole-of-government approach for policy development affecting online services. Ensure there is a uniform code for dealing with objectionable content. The rules should not be more onerous on interactive online services than they are for other public media.
- ◆ Urgent representations must be made to the US Government to remove its export restrictions on high level cryptography products.
- ◆ Implement a national privacy code covering the whole of the public and private sectors. Appoint online industry practitioners to a panel constituted under a National Privacy Commission.
- ◆ Review as a matter of urgency the business case for increased submarine cable investment across the Pacific. Ensure that an interconnection agreement (preferably at 155 Mbps) is made between Telstra and Optus.
- ◆ Establish a process of liaison between the Chief Information Officer and online industry participants, to ensure that Federal outsourcing policies are supportive of commercial online service growth.
- ◆ Design and pursue a comprehensive 'electronic free trade' strategy that would initially link the Australian and North American markets, encompassing all issues of financial services, securities law, tax regulations and trade practices/competition policy.