

GPO Box 3468
Sydney NSW 2001

14 February 2025

Mr James Kelly,
Director, Digital Competition Unit
Market Conduct and Digital Division
Treasury
Langton Cres
Parkes ACT 2600

Dear Mr Kelly,

I am writing to formally submit the Global Initiative for Digital Empowerment (GIDE) response to the Australian Competition and Consumer Commission's (ACCC) consultation on implementing a new digital competition regime in Australia. We welcome this initiative as a critical step toward addressing the growing influence of dominant digital platforms within Australia's digital economy.

Our submission highlights how giving consumers an active economic role in the digital economy can address the systemic market failures that prevent Australia from achieving fair and sustainable digital competition. It also presents the key objectives underpinning the evolution of Australia's digital competition policy.

This submission sets out an introduction to the GIDE and its leadership, followed by an overview of our research and policy engagement over the past five years, an analysis of the shortcomings of EU digital competition regulations, and GIDE's proposal for a consumer-centric digital market to enhance competition in the digital economy.

Introduction to GIDE

The GIDE is a non-partisan, international non-profit organisation founded in Australia, focused on giving people a voice and control over their participation in the digital economy and society. We advocate raising the values that prioritise the well-being and rights of people, both individuals and as representatives of communities and democracies, as the main drivers of the decision-making processes in the digital economy.

GIDE is driven by an expanding group of more than 120 researchers, policy experts, civil society advocates, lawyers, Internet technical and security experts, and business people from more than 30 countries dedicated to reforming global digital governance rules.

Professor Dennis J. Snower is Co-Chair of the Global Initiative for Digital Empowerment. He is a Professor of Macroeconomics and Sustainability at the Hertie School, Berlin; Senior Research Fellow at the Blavatnik School of Government, Oxford; and Non-resident Fellow at Brookings

Institution. Dr Snower was formerly President of the Kiel Institute for the World Economy and is a Research Fellow at the Centre for Economic Policy Research (London), at IZA (Institute for the Future of Work, Bonn), and CESifo (Munich). He has published extensively on employment policy, the design of welfare systems, caring economics and monetary and fiscal policy. He is the founder and President of the Global Solutions Initiative.

Dr Paul Twomey is Co-Chair of the Global Initiative for Digital Empowerment. Paul was CEO of the Australian Government’s National Office for the Information Economy and Deputy at the Australian Trade Commission. Dr Twomey is also the former CEO of ICANN, the global coordination body of the Internet. He is an entrepreneur in the legal, cybersecurity, and robotics sectors. Dr Twomey is a Fellow and Core Theme Leader for “managing information and technology in the public interest” at the Global Solutions Initiative. He is also a Distinguished Fellow at the Centre for International Governance Innovation and a Commissioner of the Global Commission for Internet Governance. He is a member of the SAP Artificial Intelligence Ethics Advisory Panel. He was previously at McKinsey & Co.

What we have learnt about this proposal from close interaction with the European Union?

The GIDE, after two years of research and discussions on the future of the digital economy, released an initial report in 2022, *Empowering Digital Citizens: Making Humane Markets Work in the Digital Age* ([available here](#)) and entered into extensive consultations with various digital policy stakeholders in the European Commission, European Parliament, European Union (EU) member states, and European political parties, to assess how the policy proposals contained in the report could be implemented in Europe. Following this consultation process, existing European legislation, and the progress of national and European e-identity systems, our proposals have evolved into an *Innovation for the Digital Economy Act* proposal. A third effort has been refining the IDEA into a set of universal principles, leading to the development of the *Innovation for the Digital Economy Architecture* framework (IDEA Framework) (attached and [available here](#)).

Building on insights gained during our three-year engagement in Brussels—particularly with the offices of DG CNECT and DG Competition of the European Commission involved in drafting and now enforcing the Digital Markets Act (DMA)—we have developed a deep understanding of its systemic failures, including bottlenecks caused by its reliance on data protection legislation, most notably the General Data Protection Regulation (GDPR).

Even though the EU has established foundational rules to promote digital competition, its current regulations still fail to address power imbalances between users and digital service providers, consolidating large-scale data extraction practices and reinforcing big-tech dominance. Competition is further stifled as smaller businesses lack meaningful access to data within a fair and transparent framework, limiting their ability to compete.

For instance, to address data-related practices where large tech companies collect and leverage vast amounts of data across services, the DMA imposes strict restrictions on how gatekeepers handle data across their platforms. However, the effectiveness of Article 5(2) in curbing data accumulation is weakened by the DMA’s reliance on consent as a lawful ground for processing

under the GDPR. It is well-documented that users often face consent fatigue and are repeatedly confronted with complex and opaque requests that make informed decision-making difficult. For decades, companies have found ways to continue relying on consent banners and opt-in mechanisms to maintain compliance, yet none have effectively curbed data processing practices.

In this sense, policies and regulations will continue to face significant challenges as long as the current digital competition system distorts market dynamics. Learning from the EU experience, the Australian government should develop a framework that promotes digital competition by ensuring consumers are economic participants who can share in the benefits of data-driven value creation.

A proposal for a consumer-centric digital market to enhance competition in the digital economy

The core problem is the absence of a true market between consumers and big tech platforms. This market failure creates monopolies, hampers competition, lowers productivity and enables unchecked influence over consumer behaviour. All these problems come from the same point of failure. The current digital system operates as a hidden barter economy where consumers receive "free" services in exchange for vast amounts of their data, way beyond their understanding. This structure, often referred to as "digital serfdom," leaves consumers at a severe disadvantage in terms of both power and information asymmetry.

As outlined in the IDEA framework, digital markets are more competitive when consumers are empowered and become active economic participants with greater voice and economic power relative to big tech companies. Consumers must be able to negotiate, including through rights of association and supported by skilled professionals, on the economic value created from their data. Citizens should have rights to representation, ensuring professionals can negotiate on their behalf.

When consumers, guided by skilled advisors, can negotiate and secure a share of the economic value generated from personal data, new market structures will emerge, fostering competition aligned with digital users' interests. Such a fundamental rebalancing can generate unprecedented flows of economic activity, as Australia would become the one country in which the needs and purposes of digital users drive digital services rather than the other way around.

In other words, a new digital competition regime in Australia must ensure that Australian digital consumers can effectively control personal data about them and who has access to it. Such a regime would aim to empower digital consumers, both individually and collectively, concerning personal data that originates with them or that can be derived from their identifying characteristics. It would allow more companies to benefit from the data-driven economy. This aim can be achieved by granting digital consumers effective 'association' rights and by allowing them to be represented by accredited professionals who enjoy a fiduciary relationship with such consumers. In turn, these expert intermediaries can advise citizens and negotiate usage terms and rewards for their data on their behalf, analogous to the role played by regulated fiduciaries in the financial sector.

It is not feasible for each user to ascertain enough knowledge to negotiate individually with data aggregators, especially if the user is of a vulnerable group. For that reason, negotiating who has the right to access an individual's data and on what conditions – is the crux of a competitive digital economy. This ensures that consumers know who is collecting data on them and to set directly, or through an agent or collective bargaining, the terms on which they allow such data to be collected and used – including the right to refuse such collection. Collective representation and transparent data practices help individuals understand how their data is processed, fostering trust and confidence in more companies willing to negotiate terms of use of personal data.

As outlined in the IDEA framework, a competitive digital economy regime foresees skilled entities representing users' interests in proposing and negotiating data-sharing and benefit-sharing options in return for access to users' data. Those with skills in data aggregation, analytics, and online advertising presently overwhelmingly serve big tech companies. It is not feasible for each user to ascertain this knowledge, hence the benefit of collective representatives who can bring similar skills to the interests of consumers. Establishing empowered consumers with a market structure for skilled advisors, incentivises people with these skills to move across to serve consumers.

In the long run, the IDEA framework would make all digital market participants – on both the demand and the supply sides – better off since all would benefit from the surge in economic activity. Rather than just expecting the Australian government to continue shouldering an onerous burden of trying to regularly update competition regulations to keep up with technological and commercial changes among data aggregators and big tech companies, the IDEA framework moves forcefully to gain the benefits of a proper functioning market through ensuring that Australian consumers are active economic participants of the digital economy.

The key objectives that should underpin the evolution of Australia's digital competition policy should include:

1. Rebalancing the economic and social power structure in Australia's digital economy by establishing an industry regime of expert fiduciary professionals to act as intermediaries who can advise all Australian citizens and negotiate on their behalf with entities seeking personal data, on how that personal data can and should be used and under what terms.
2. Generating a widespread wave of innovation and renewed competition through the creation of a new market, driven by new companies and business units of existing businesses, that delivers personal digital advisory services and new models for the use of personal data in the single market, where the needs and purposes of digital users drive digital services rather than the other way around.
3. Ensuring that all Australian citizens have effective control over the accuracy and sourcing of data about them, total transparency, choice as to who and how personal data is processed, who has access and from which sources, and, through collective action, negotiation of the terms under which personal data is processed.

4. Reducing fraud and improving efficiency by requiring citizens to ensure that certain Personal Data (a defined sub-set of Personal Identifiable Information) is accurate and authenticated by trusted third parties and requiring the citizen's unique data repository to deliver to interacting entities that citizen's data, through the use of preferences and negotiated terms using uniquely encrypted machine-readable data protocols.
5. Achieving greater Australian data sovereignty and literacy in a global online ecosystem by providing residents with greater personal expert advice and control over where their personal data is processed.

Finally, the direct beneficiaries of the IDEA framework changes are the Australian economy as a whole, consumers, enterprises, start-ups, small and medium-sized businesses, data commons/public benefit data analysts, new participants in the expert advice/representation function, data centres and registries, and even digital service providers.

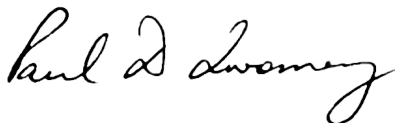
By incentivising companies to share benefits with consumers in return for negotiating access to personal data, the IDEA framework should be a significant driver of product and service innovation as well as fuelling digital competition. The IDEA framework will also achieve greater Australian data sovereignty and literacy in a global online ecosystem by giving consumers more expert advice and greater control over where personal data about them is processed.

Significantly, the monopolistic power of giant data aggregators based on massive data lakes of personal information will be diminished when start-ups and smaller businesses can make innovative propositions to large numbers of potential consumers through their skilled representatives. They will not be forced to rely solely on existing digital advertising to seek customers or funding.

We appreciate the ACCC's commitment to fostering a fair and competitive digital landscape and look forward to the next steps in this consultation process.

For any further information, please contact us at paul.twomey@thegide.org.

Sincerely yours,



Dr Paul Twomey

Co-chair



Dr Dennis Snower

Co-chair