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Digital Content Action Agenda

by Tom Kennedy
Chair, Strategic Industry
Leaders Group

The Digital Content Industry Action Agenda has been underway for the last 12 months, led by the Strategic Industry Leaders Group (SILG) with government support, to identify priorities to advance the commercial growth of a major, globally competitive Australian digital content industry across a range of technology platforms and industry sectors.

It builds on earlier background research work

and consultation of the Creative Industries Cluster Study.

Working groups have examined key issues, such as skills and training, investment, exports and R&D, as well as statistics and standards.

Commissioned Research by the Centre for International Economics, indicates that the digital content industry in Australia today is estimated to contribute \$20b annually, around 3.3% of GDP and to employ 300,000 people. The work of the industry is transforming traditional business processes in finance, architecture, health, education and is generating new opportunities throughout the economy.

The industry is important for Australia because it is a sector of the global economy growing faster than other economic sectors. However, SILG is concerned that Australia needs a cohesive response to the global challenge, to harness its capabilities in order to be competitive.

The Action Agenda is a framework for building a cohesive voice for industry to advance commercial industry

development and build a broad industry relationship with Government.

Priorities identified by SILG for early attention include:

Skills and Training

Improving linkages between industry and education bodies to progress greater recognition of, and faster accreditation for, industry based training activity, investigating the feasibility of a national graduate internship support scheme and establishing feasibility pilots between training institutions and firms to identify useful models.

Exports

Mapping key export opportunities and developing support mechanisms and enhancing access to existing mechanisms for global marketing, including identification and targeting of emerging markets. Initially this would involve seeking enhanced support for existing export support schemes, such as the EMDG scheme and the Trade Start program.



Investment

Arresting the current trend to disinvestment and attracting and stimulating higher levels of private investment. A key priority is to develop adequate mechanisms for seeding innovative digital content projects with significant commercialisation potential, through support for production of prototypes and to assess the potential benefits of digital content industry innovation investment funding mechanisms.

Coordinated industry approach

Establishing a Digital Content Industry Federation, with a unified voice and approach on key top level issues for the industry and its industry associations, which currently span diverse interests from film, broadband, broadcasting, mobile content, games and ICT.

SILG is currently consulting with peak industry groups on immediate and longer term priorities for the Action

Agenda report and a 12-24 month implementation plan.

ASR is represented on the Digital Content Action Agenda Strategic Leaders Group by John Richardson Cox Richardson Architects

FTA Negotiations Update

A/ASEAN/NZ
Another round of negotiations with ASEAN is currently underway in Chiang Mai, to be followed at the end of September by Ministerial discussions.

As previously reported, the ASEANs have generally displayed a preference for a sequential approach to these discussions, which is not the preferred approach of Australia & NZ, both of which are explicitly seeking to deliver a comprehensive package across all sectors.

It is very constructive, therefore, that for the Chiang Mai round, there will be simultaneous negotiations in groups separate from the Trade Negotiating Committee (TNC) on Services, Rules of Origin, and Legal & Institutional

Issues. The ASEANs have also asked for a discussion to take place in the TNC on Investment.

These positive developments no doubt reflect, in part, a greater ease on the part of the ASEAN negotiators, following recent policy workshops on Services and on Rules of Origin, funded by Australia & NZ. (The papers prepared by Australia on these topics are available on request from ceo@servicesaustralia.org.au. A detailed Members-only Newsletter Supplement is also available on ROOS.)

The ASEAN side is tabling a paper on Services in Chiang Mai. The Australian Services Roundtable is strongly supportive of the adoption, as proposed by Australia & NZ, of a Negative List Approach for this FTA. This is unlikely to be the opening position of the ASEAN countries, which have signalled a general preference for a Positive List approach.

The Australian Services Roundtable is therefore aiming to organise and co-host with other industry partners, a joint industry event in the margins of the



next negotiating session in October in Hobart, oriented to advocating with ASEAN officials, the importance of strongly liberalising results in the services sectors.

On Legal and Institutional Issues, Australia has started to do some background work on Dispute Settlement, especially with respect to how this might work in the plurilateral FTA context. Australia & NZ are also preparing a joint paper on Government Procurement.

Australian officials seem increasingly to accept that the overall FTA will need different provisions for the ASEAN 6 than for CMLV (Cambodia, Myanmar, Laos, Vietnam), in particular longer transition periods for tariffs to reach zero. Australian services providers need to consider what commercial consequence a differential approach might have for the services sector.

Latest trade statistics show that 85 % of Australia's two way trade with ASEAN is accounted for by Singapore 30 %, Malaysia 20 %, Indonesia 18 % & Thailand 17 %, followed by Vietnam accounting for another 8 %.

NSW
Small Business
Month
September 2005

Diary Note

**NSW Department of
State and Regional
Development**

**Free Trade
Agreements Flagship
Seminar**

**Hosted by the NSW
Minister for Regional
Development**

**Sydney: September 29
1.30 pm to 5pm**

Panel of Speakers

Stephen Deady DFAT
Hon. Warwick Smith
ACBC

Christine Gibbs-Stewart
ABL

Jane Drake-Brockman
ASR

Moderator

Tim Harcourt, Austrade
MC
Sharyn Minahan, DFAT

Malaysia (MAFTA)
Despite positive progress on a number of other fronts at the recent rounds of talks in Kuala Lumpur last month, Services has emerged as a major sticking point.

During the recent round of negotiations, Australia delivered a clear message that MAFTA will have to deliver superior outcomes to those achieved in Australia's FTA with Thailand (TAFTA).

In TAFTA, tariffs on all goods went to zero, with various transition periods, so in effect Australia has made clear that it can not accept any exceptions to this with Malaysia.

TAFTA takes a Positive List approach on Services, but Australia is rightly seeking a more liberalising Negative List approach with Malaysia, especially given the overall lack of quality in Malaysia's recently tabled GATS offer.

The Services Chapter is consequently proving extremely difficult, with major differences now clear in the two countries' levels of ambition. Malaysia is sticking to its demand for a Positive List approach on services



and Malaysian officials claim to have no further flexibility in their negotiating brief. In effect, negotiations on services are now stalemated.

The Australian Minister for Trade has scheduled a bilateral meeting with his Malaysian counterpart later this month, which it is hoped will unblock negotiations.

Discussions on Investment were more positive, with agreement being reached on some elements of a possible chapter.

In general Malaysia wants to promote inward investment flows and appears to understand that it needs to improve the overall transparency of its regime. Currently the bilateral investment figures are badly skewed, with A\$6b of Malaysian investment in Australia (largely but not entirely real estate) and only A\$0.5b of Australian investment in Malaysia.

Other elements of the Investment chapter remain more difficult. The problem largely relates to the large extent of administrative discretion at the decentralised decision making level. There is a real

lack of transparency and predictability. Although the official limit is 30% foreign ownership, companies can achieve up to 70% or even 100% depending on circumstances.

Another development is that Malaysia now appears comfortable to proceed with MAFTA on the basis on CTC-based ROOS. Legal texts are now being drafted on that basis.

Government Procurement has emerged as another highly problematic area. Australia is influenced by the experience of negotiating a highly ambitious text with the US, and has become more ambitious on Government procurement than it was before. Malaysia, meanwhile, is showing great reluctance to move on this front, due to Bumi Putra legislation.

Australian officials are still hoping that MAFTA can be completed by the middle of next year, that is, well in advance of A-ASEAN-NZ FTA negotiations.

Malaysia, meanwhile, is also aiming to conclude bilateral FTAs with both Japan & NZ by the end of this year.

The Australian Services Roundtable is concerned that early outcomes with other trading partners which may not be as ambitiously motivated on Services as Australia, would risk complicating what Australia itself can expect to achieve

The next round of negotiations between Australia and Malaysia is scheduled for 15-18 November in Canberra.

China

The first substantive negotiating round takes place in Beijing 25-27 August.

The meeting will be an intensive information exchange, following up on the feasibility study report and focussed on building trust between the two sides.

DFAT will clearly be seeking to achieve a strong focus on services; despite evident sensitivities on the part of the Chinese who feel they have already given away too much on services during their WTO accession. This sensitivity is reflected, for example, by the recent agreement between China and Chile to negotiate an FTA without a Chapter on Services!



Diary Note

7 September

ASR Luncheon

**“Debrief on Services
Aspects of the China FTA
negotiations 25/27
August in Beijing.”**

&

**“Handling pressures from
ASEAN & other trading
partners for an Emergency
Safeguards Mechanism for
Services”**

with

**Rhonda Piggott
Services Branch DFAT
and
Malcolm Bosworth ANU**

hosted by

Corrs Chambers Westgarth
Governor Philip Tower
Level 32, 1 Farrer Place

12.15 for 12.30 - 2.15pm

Sydney

DFAT has conducted extensive sector-specific services consultations in Melbourne and Sydney. Issues frequently raised by services industry representatives include:

- Lack of regard for intellectual property
- Lack of transparency of Chinese law and procedure.
- Rules relating to Wholly Owned Foreign Enterprises (WOFES)
- Problems with recognition of professional qualifications
- People Movement issues (visas)

AUSFTA Financial Services

The AUSFTA Committee on Financial Services has commenced its two year work programme.

The first meetings were held last month when a team led by Australian Treasury Executive Director Jim Murphy and including a senior officer from ASIC

visited New York and Washington for talks with the US Treasury, SEC, US banks, academics, lobbyists and congressional staffers. The US side was led by Treasury Undersecretary for Domestic Finance Quales (not yet confirmed)

To recap briefly, Australia has been seeking, via AUSFTA, to reduce regulatory duplication affecting our access to the US foreign securities market and foreign collective investment schemes. Australia’s objective is, overtime, to further harmonise or remove unnecessary regulatory obstacles to greater capital market integration.

The main specific issues on Australia’s wish list are:

- harmonisation of regulation by SEC and ASIC. In effect Australia is seeking from the SEC the same regulatory relief which Australia already provides to the US under the Corporations Act and ASIC Policy Statements 176 and 178, in order to allow US investors direct access to Australian securities and managed funds



- mutual recognition of licences for securities dealers and for products issued by SEC and ASIC, so that an Australian product approved by ASIC can be sold in the US and vice versa

- reducing onerous disclosure requirements (under Sarbanes Oxley) for capital raisings by foreigners in the US

Discussions are still at a fairly general level. The Australian team got a good feel from its various US interlocutors regarding SEC perspectives. The US side gained an improved appreciation of Australia's objectives. There is increased recognition in the US of the potential benefits to both sides from greater regulatory harmonization, especially given the increased globalisation of securities markets.

There is also an improved appreciation in the US of the fact that Australia has a strong regulatory system. But the SEC is still very preoccupied with investor protection issues and reducing the scope for regulatory arbitrage.

The key outcome of these meetings was that Australia would prepare a paper detailing Australia's position and addressing questions raised during the visit.

The Financial Services Committee will meet again early next year, hopefully before the Joint Ministerial Committee which has now been delayed till February next year.

Meanwhile, Australian negotiators feel there is still a major education task ahead. Against this background, Treasury and DFAT jointly sponsored a visit by a team of senior US Congressional staffers to Canberra and Sydney last week.

The Congressional team included Jim Conzelman, Chief of Staff to Congressman Michael Oxley, who had a big hand in drafting the Sarbanes-Oxley Act. The team met with the ABA, IBSA and IFSA and was effective in showcasing Australian industry and regulatory systems at that level.

It is worth recalling that Australia is committed under AUSFTA to undertake, within 18 months, a review of the

current coverage by the Foreign Investment Review Board, of portfolio investment.

Although the Financial Services Committee does not have authority to handle this issue, the US Treasury took the opportunity of the recent Committee meetings to raise this issue and seek reassurance that the review is underway, which it is.

Dismal Outlook for the WTO

The Doha Round is in very bad shape

With only 4 months left to go before the Hong Kong Ministerial Meeting on 13 -18 December, and no first draft of the Ministerial Declaration available before the Northern Hemisphere Summer break, the Doha Round is clearly in deep crisis.

The problem, ultimately, lies in EU intransigence on agricultural market access. The stalemate on Agriculture has spilled over into the Non-Agricultural Market Access talks (Manufacturing). Business is focussed, meanwhile, on the bilateral trade agenda.



Whatever happens in the WTO on Agriculture, it is important to remember that a successful Doha Round simply can not be achieved without substantial progress on Services.

Higher Level of Ambition needed on Services

Its high time to get serious big time, about Services

68 initial offers have now been made. 25 revised offers are also on the table. This is a significant improvement in the number of offers.

Australia's offer is probably the most ambitious of all the offers tabled. It has been very well received internationally.

But the overall quality of other offers is extremely poor. The sectoral coverage of many developing country offers is very thin. And most are not even "standstill" offers ie they do not even go as far as to offer regulatory stability to potential investors by binding the status quo.

Clearly, in the absence everywhere of a single

Minister responsible for "Services" there is a major vacuum in terms of political will. And clearly the GATS request/offer negotiating process is simply, on its own, not working.

There is no doubt, therefore, that we need a further round of offers after the Hong Kong Ministerial. Australia will need to play its part and to pull out all the stops, eg as provided for in AUSFTA.

And WTO Ministers must, in Hong Kong, set some major new directions on the GATS.

Ministers need to establish a simple and ambitious target to achieve increased sectoral coverage of commitments.

Just as in agriculture and manufacturing, services industries need to be able to assess the commercial value of any negotiating outcome.

So we need some benchmark to define what constitutes a meaningful market access gain.

But the negotiating mood is not good. No consensus is yet emerging on the idea of setting a target.

This is particularly disappointing when we recall that it is in the services sector where the bulk of the potential forecast gains of the Doha Round will be reaped.

ASR members are invited to join the

Global Services Coalitions

Visit to the next WTO Services cluster

Geneva

28 September 2005

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