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Australian Council of Professions

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Mr Scean Kearns
Project Manager - NICTA Review
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
Canberra ACT 2601

Dear Mr Kearns

Thank you for your recent letter and the opportunity to be part of the review of NICTA being undertaken by the Department for Broadband, Communications and the Digital Economy.

Based on its role, the accumulated extensive knowledge available from within the agency and from its membership base of 17000, the ACS puts forward the following views that are essentially directed to Review Terms of Reference 1 to 3.

Commercialisation and Innovation
The ACS believes that NICTA has developed very good ICT research facilities that are beginning produce good research outcomes through the skills it has retained, its PhD programs and through its partnership arrangements with industry and the University sector.

NICTA has recognised the importance of ICT commercialisation and intellectual property management and is working towards improving commercialization of its research work.

ACS believes that one of key elements of successful commericialisation is industry partnership. It will be difficult to sustain the NICTA model unless it is able attract funding from the industry and produces research work that is directly value-adding to the industry.

More Commercial R&D Centres
The ACS believes that Australia needs many more research bodies like NICTA formed in partnership with the industry to promote Australia as a global centre of excellence for commercial R&D and intellectual property management. However, the NICTA model would require some adjustments prior to replication.

This new NICTA model would become catalyst and reference point to attract private sector investment for ICT innovation and commercialisation networks and industry clusters throughout Australia.

Commoditising R&D
Outsourcing R&D and intellectual property management is fast becoming a major global business. Australian is not seen as a major player in the space.

The NICTA model has the potential to capitalise on this new business opportunity and encourages linkages between commercialisation expertise, intellectual property management expertise and technical development.

There are some key challenges that must be addressed urgently if Australia decides to become the global centre of excellence for commercial R&D and intellectual property. These are:

- changing taxation policy to increase incentives and direct financial support to attract investment in commercial ICT R&D, stimulate innovation and improve global competitiveness. The ACS R&D taxation policy, as set out in our submission to the Federal Innovation Inquiry, is attached;
- significantly improving private sector participation and investment in commercial R&D ventures, such as NICTA;
- increase commercialisation and intellectual property management skills within the Australian ICT sector particularly the University sector and government funded R&D organisation such as NICTA, CSIRO, etc.
- improve knowledge of intellectual property so it is seen as part of an agencies long term investment strategy and valued and reported as such; and
- reduce unproductive competition and lack of strategic coordination between all government funded R&D organisation including NICTA, CSIRO, universities, etc;
- culture change within Australian universities to move their focus from the publication of research outcomes to the commercialisation of research outcomes. The funding arrangements should be structured to encourage partnering with industry to improve exploitation of innovation, facilitate cultural and staff exchange and closer working arrangements.

National Strategy to promote R&D
Compared to other OECD countries, Australia has not been as successful in producing, commercialising and marketing its ICT innovations. Australia does not have a native multi-billion dollar ICT icon such as Nokia, Microsoft, IBM and the like.

To help improve Australia's record, ACS believes that ICT R&D should be a national priority and in declaring it as a priority, we should develop and promote a deliberate strategy to improve private sector participation and investment in R&D.

This will significantly improve NICTA's positioning and standing within the ICT sector and help NICTA in attracting the additional private sector funding and partners it needs to expand it operations and commercialise its innovations.

Further, the ACS believes the NICTA approach to sponsoring PhD candidates should be widely emulated as a means of developing a highly capable technical ICT workforce that is also well versed in the practices and processes of commercialising innovation.

Demonstrating Value of NICTA

The ACS also believes that is essential for the Government and NICTA to be able to better demonstrate the impact that it is having on Australia's innovation landscape in terms of its value add to the economy and the return on investment of the public money being allocated to NICTA. Most of the ACS members are not aware of the value-add of NICTA and its contributions to National ICT innovation agenda.

The Government and NICTA should quantify its direct and indirect contribution to the economy and the benefits that accrue to agencies that participate in the NICTA cluster. This will assist in justifying the public spend on NICTA and provide information for private sector investors to use when considering investing in ICT R&D, helping reduce the perceived risk associated with such investments.

Improved Collaboration and Synergy between ACS and NICTA

NICTA's professional and skills development role has many parallels and common elements to that of the ACS. Its programs promoting careers in ICT aligns well with the career development work done by the ACS.

Given these close common interests and shared industry development goals, the ACS believes there would be significant benefit to formalising a closer relationship between the two agencies to create greater synergies and improve collaboration on skills and industry development, scholarships and career development initiatives.

Should you have any questions on the issues addressed in this submission please do not hesitate to contact me on 02 9299 3666.

Yours sincerely

Kim Denham MACS PCP
CEO

ACS R&D TAXATION POLICY

EXTRACT FROM THE ACS SUBMISSION TO THE GOVERNMENT REVIEW OF AUSTRALIAN INNOVATION

Fiscal incentives and direct financial support are important mechanisms for Government to attract investment in ICT R&D, stimulate innovation and improve global competitiveness.

Current Incentives of Interest to the ICT Sector

R&D Tax Concession (Section 73B – 73Z of the Income Tax Assessment Act 1936)
This tax concession allows companies that have registered with Innovation Australia to deduct up to 125% of eligible expenditure incurred on R&D activities from their assessable income. To be eligible for this concession, a company must spend more that $20,000 and a maximum of $1M on eligible R&D expenditure in the relevant year. An additional 50% deduction may be available in certain circumstances for companies that increase their level of eligible R&D expenditure relative to their average R&D expenditures over the previous 3 years.

R&D Tax Offset (Section 73J Income Tax Assessment Act 1936)
This inventive is a refundable tax offset to the value of the R&D tax concession. It is available to companies with an annual turnover of less than $5M and whose total aggregate R&D expenditure is more than $20,000 and less than $1M per year. This threshold takes into account entire group expenditure. If a company makes a choice to take advantage of the refundable tax offset, three is no entitlement to R&D deduction in that year.

The tax offset is advantageous for certain ICT startup enterprises that are not yet making a profit, because they have the option of taking the tax concession as an offset, providing cash to fund their R&D activities.

Suggested Changes to Improve Innovation

Improved Tax Concessions
The value of R&D tax concessions has been reduced from 150% to 125% in the past 10 years. This does not correlate with other OECD countries where R&D tax concessions have been increased.

The reduction of Australian tax concessions coupled, with complex application procedures for tax offsets and grants, is a disincentive, particularly for SMEs, in using the tax concessions.

The UK, for example, offers R&D tax concessions and offsets that specifically target SMEs, recognising that they require more incentive to apply. The UK offers a 125% deduction for qualifying R&D expenses for large firms and a 150% deduction for qualifying R&D for SMEs. These deductions will increase to 130% and 175% during 2008.

The UK has also been proactive in appointing specialist tax inspectors that receive training in the process of R&D for software and engineering related disciplines.

The ACS believes that Australia needs to at least match and preferably exceed tax concessions being offered by other OECD countries, to create an environment favourable to local R&D innovation and to attract firms looking to undertake R&D in ICT to Australia.

The ACS recommends increasing the basic tax concession for eligible R&D back to 150% and the incremental premium concession to 200%.

Additionally, the ACS believes that the basic R&D tax concession for SMEs should be set at 175%.

Multiple Sale Requirements for Computer Software

Section 73B(2A) of the Income Tax Assessment Act 1936 states that computer software is not eligible for the R&D tax concession unless it is developed for sale, rent, licence, hire or lease to two or more non associates of the company – that is, there is a multiple sale requirement on the tax concession. The intention of this exclusion to that expenditure incurred from developing in-house software should not be deductible.

Anecdotal evidence suggests that only around 10% of software R&D firms claim the tax concessions because of the multiple sale or licence limitations.

The ACS believes this clause should be removed from the tax concession rules. This would allow Australian software innovators to exploit opportunities for one off users of their innovation both in Australia and overseas.

Furthermore, there are many situations where the development of in-house software could lead to innovative solutions and competitive advantage that would enhance the economic value of the firm. So the development of in-house innovative solutions should also attract the tax concessions.

Tax Concession and IP

Section 73B(9) of the Income Tax Assessment Act 1936 states that eligible companies cannot claim a deduction at the concessional rate for R&D expenditure on behalf of any other person. This restricts access to the deduction to companies that:

- bear the financial risk associated with the R&D project;
- have control over the R&D project, and
- effectively own the project results.

This is a significant hindrance to firms doing R&D work related to Government or defence work in claiming the tax deductions for R&D. The existing Government purchasing processes usually mean that the Government department or defence agency owns the Intellectual Property and often, has substantial control over the

R&D project, making it difficult for firms doing this work. This creates a disincentive for research and innovation for Government and defence work.

The ACS believes that the IP provisions in the R&D tax concession rules should be relaxed to remove this disincentive.

Administration

The administrative burden on firms should be reduced to simplify access to tax and other incentives.

To apply for tax concessions in Australia, a firm must first register with Innovation Australia and also implement other administrative/accounting changes such as separation of eligible R&D costs from other costs, often resulting in onerous accounting procedures. Failure to register within the required time precludes access to the tax incentives.

Essentially there are 3 portals for applicants to gain information on concessions:

- the ATO;
- Innovation Australia (IR&D Board); and
- the AusIndustry websites.

Applicants directed to the AusIndustry website for an application form, must register with Innovation Australia as well as obtain information from the ATO website and then make the claim in their tax return. This process is unnecessarily complex, difficult and onerous for SMEs in particular, who often require external support to property complete the process.

Also, the tax concessions are only available to companies. The exclusion of other business structures seems unnecessary and is yet another impediment to accessing the concessions.

The ACS believes that:

- the administrative processes for being eligible to tax concessions must be significantly simplified;
- flexibility in registration dates must be allowed to enable access to concession by businesses that are not aware of the registration process;
- more information and help to businesses must be provided at one single site – a one stop R&D tax concession shop;
- eligibility for all forms of business structures to tax concessions be allowed to improve access and eliminate restructure costs.

Tax Offset Threshold

Companies that have an aggregate R&D expenditure that exceeds $1M are excluded from the R&D Tax offset. This restricts the number of companies that could benefit from the offset and acts as an inhibitor to innovation.

The ACS believes that the threshold should be significantly increased (at least doubled) to encourage companies that invest large amounts in R&D to look favourably on Australia as a suitable place to establish commercial R&D centres and to encourage local firms to invest more in R&D.