

**Submission 075**

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House Standing Committee on  
Infrastructure and Communications  
Inquiry into IT Pricing

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57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 Fax 02 9577 3377 Email [ausconsumer@choice.com.au](mailto:ausconsumer@choice.com.au)  
[www.choice.com.au](http://www.choice.com.au)

## About CHOICE

CHOICE exists to unlock the power of consumers. Our vision is for Australians to be the most savvy and active consumers in the world.

As a social enterprise we do this by providing clear information, advice and support on consumer goods and services; by taking action with consumers against bad practice wherever it may exist; and by fearlessly speaking out to promote consumers' interests - ensuring the consumer voice is heard clearly, loudly and cogently in corporations and in governments.

To find out more about CHOICE's campaign work visit [www.choice.com.au/campaigns](http://www.choice.com.au/campaigns) and subscribe to CHOICE Campaigns Update at [www.choice.com.au/ccu](http://www.choice.com.au/ccu).

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## 1. Executive Summary

CHOICE has identified examples of large price differences in IT hardware and software products between the Australian and US markets. Our analysis suggests the most likely cause of these differences is international price discrimination, which disadvantages Australian consumers and business.

- CHOICE has examined the prices of music downloads (iTunes), PC games, software, Wii console games and computer hardware in Australia and the US. This research has identified price differences of approximately 50%. All products were affected by price differences to various degrees.
- IT pricing disparities are well documented. Similar price differences were noted in CHOICE's submission to the Productivity Commission's inquiry into the Economic Structure and Performance of the Australian Retail Industry last year.
- The inquiry's final report noted several costs/factors which may contribute to Australia's higher retail prices. These were derived from the submissions of key stakeholders, and included wages and labour costs, occupancy costs and rent, GST, retail profit margins, and logistics and transportation. However, it is clear that these costs, even cumulatively, cannot account for the 50% price differences identified in IT hardware and software products.
- In particular, CHOICE believes the current low value threshold (LVT) exemption for GST and duty on imported goods does not account for the price differences identified, and there is no evidence that lowering the LVT would benefit Australian consumers.
- A sixth cost identified by the Commission was international price discrimination. As this increases the cost of retailers' purchases (wholesale costs), it has a greater impact on retail prices. CHOICE believes that international price discrimination is the most likely cause of Australia's high IT prices.
- International price discrimination impacts the costs and productivity of Australian businesses operating in the digital economy, and this flows through to consumers.
- Australians with lower incomes and those in remote locations are less likely to have access to a computer and the internet. CHOICE believes that this digital divide is exacerbated by international price discrimination, where this results in Australians paying a higher price for IT hardware and software products.
- Parallel imports are one means by which Australian consumers can avoid international price discrimination and access cheaper products on the international market. This exposes copyright holders to competition, and can put pressure on them to lower their Australian prices to global parity. CHOICE believes the Federal Government should play a greater role in educating consumers on the protections and rights they have when shopping online.

- International businesses pursue a number of strategies to curb parallel importing, such as effective technological measures. CHOICE believes these measures restrict competition and disadvantage Australian consumers.

**Recommendation 1:** CHOICE recommends that the Federal Government play a greater role in educating consumers on the protections and rights they have when shopping online. This includes their right to return faulty products, their right to access legitimate parallel imports from foreign markets, and their rights to privacy and security.

**Recommendation 2:** CHOICE recommends that the Federal Government investigate whether technological measures that allow suppliers to discriminate against Australian consumers such as region-coding or the identifying of IP addresses should continue to be allowed.

CHOICE considers these measures to be anti-competitive when they result in significant price differentials for Australian consumers.

**Recommendation 3:** CHOICE recommends that the low value threshold (LVT) exemption for GST and duty on imported goods remain unchanged at \$1000. It is clear that the LVT does not account for the price differences identified in IT hardware and software products. There is no evidence that lowering the LVT would be cost-effective. Rather it would decrease the efficiency of parcel processing, disadvantaging Australian consumers.

## 1.1. Terms of Reference

- Whether a difference in prices exists between IT hardware and software products, including computer games and consoles, e-books and music and videos sold in Australia over the internet or in retail outlets as compared to markets in the US, UK and economies in the Asia-Pacific
- Establish what those differences are
- Determine why those differences exist
- Establish what the impacts of these differences might be on Australian businesses, governments and households
- Determine what actions might be taken to help address any differences that operate to the disadvantage to Australian consumers

## 2. Price differentials

This section addresses the first two points of the inquiry's terms of reference, namely whether pricing disparities exist, and what they are. For this purpose we focus on five digital and IT products:

- Digital music downloads (iTunes);
- PC games;
- Software (personal, business and educational);
- Wii console games; and
- Computer hardware.

### 2.1. Music - iTunes

The iTunes store is accessible either online or as a permanent application on popular Apple products such as the iPhone and iPad, which are sold internationally. Yet despite the fact that consumers are accessing the exact same product in the exact same way, large price disparities are still common across national boundaries.

CHOICE's submission to the Productivity Commission last year compared the prices of 12 albums at both the US and Australian iTunes stores. It found that Australian consumers were paying, on average, 73% more<sup>1</sup>. In this submission, CHOICE provides a similar analysis of both iTunes songs and albums.

Firstly, we consider the price differentials of 50 individual songs. All the songs were taken from the Australian iTunes top 100 list. They are compared in order of their popularity; however any songs that were not also available for purchase in the US iTunes store are omitted.

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<sup>1</sup> CHOICE, (2011), *Submission to Productivity Commission: Inquiry into the Economic Structure and Performance of the Australian Retail Industry*. Also see Denniss, R., Fear, J., Irvine, B., Richardson, D., (2011), 'The Rise and Rise of Online Retail', *The Australia Institute*, Technical Brief No. 8

**TABLE 1 - 50 TOP MUSIC ITEMS (ITUNES AUSTRALIA COMPARED WITH ITUNES US)**

Title	Artist	iTunes Australia	iTunes US	iTunes US (\$A)	Difference
Call Me Maybe	Carly Rae Jepsen	\$2.19	\$1.29	\$1.31	67%
Back In Time (From "Men In Black III")	Pitbull	\$2.19	\$1.29	\$1.31	67%
Whistle	Flo Rida	\$2.19	\$1.29	\$1.31	67%
Payphone	Maroon 5	\$2.19	\$1.29	\$1.31	67%
Don't Wake Me Up	Chris Brown	\$2.19	\$1.29	\$1.31	67%
The Fighter	Gym Class Heroes	\$1.19	\$1.29	\$1.31	-9%
Where Have You Been	Rihanna	\$2.19	\$1.29	\$1.31	67%
Never Let Me Go	Florence and The Machine	\$2.19	\$1.29	\$1.31	67%
Wide Awake	Katy Perry	\$2.19	\$1.29	\$1.31	67%
Starships	Nicki Minaj	\$2.19	\$1.29	\$1.31	67%
I Won't Let You Go	Jame Morrison	\$1.69	\$1.29	\$1.31	29%
How We Do	Rita Ora	\$2.19	\$1.29	\$1.31	67%
I'm All Yours	Jay Sean	\$2.19	\$1.29	\$1.31	67%
Scream	Usher	\$2.19	\$1.29	\$1.31	67%
Princess of China	Coldplay and Rihanna	\$1.19	\$1.29	\$1.31	-9%
Boyfriend	Justin Bieber	\$2.19	\$1.29	\$1.31	67%
Dance Again	Jennifer Lopez	\$1.19	\$1.29	\$1.31	-9%
Turn the Lights on	T-Pain	\$2.19	\$1.29	\$1.31	67%
Nothings Real But Love	Rebecca Ferguson	\$2.19	\$1.29	\$1.31	67%
We are Young	Fun.	\$2.19	\$1.29	\$1.31	67%
Undefeated	Jason Droll	\$1.19	\$1.29	\$1.31	-9%



Title	Artist	iTunes Australia	iTunes US	iTunes US (\$A)	Difference
So Good	B.o.B	\$1.19	\$1.29	\$1.31	-9%
Brokenhearted	Karmin	\$2.19	\$1.29	\$1.31	67%
Gold On the Ceiling	The Black Keys	\$1.19	\$1.29	\$1.31	-9%
Pound the Alarm	Nicki Minaj	\$2.19	\$1.29	\$1.31	67%
One Thing	One Direction	\$2.19	\$1.29	\$1.31	67%
What Makes You Beautiful	One Direction	\$2.19	\$1.29	\$1.31	67%
Bangarang	Skrillex	\$2.19	\$1.29	\$1.31	67%
Drive By	Train	\$2.19	\$1.29	\$1.31	67%
Die In Your Arms	Justin Bieber	\$2.19	\$1.29	\$1.31	67%
Wild Ones	Flo Rida	\$2.19	\$1.29	\$1.31	67%
Somebody That I Used To Know	Gotye	\$2.19	\$1.29	\$1.31	67%
Kiss From A Rose	Seal	\$1.19	\$1.29	\$1.31	-9%
Timebomb	Kylie Minogue	\$1.19	\$1.29	\$1.31	-9%
Lonely Boy	The Black Keys	\$2.19	\$1.29	\$1.31	67%
Let's Go	Calvin Harris	\$2.19	\$1.29	\$1.31	67%
Part of Me	Katy Perry	\$2.19	\$1.29	\$1.31	67%
Heard It All	Illy	\$2.19	\$1.29	\$1.31	67%
I can Only Imagine	David Guetta	\$2.19	\$1.29	\$1.31	67%
More Than This	One Direction	\$2.19	\$1.29	\$1.31	67%
Live My Life	Far East Movement	\$2.19	\$1.29	\$1.31	67%
Make It Bun Dem	Skrillex	\$1.19	\$1.29	\$1.31	-9%
Paradise	Coldplay	\$2.19	\$1.29	\$1.31	67%
Tonight Is The Night	Outasight	\$2.19	\$1.29	\$1.31	67%

Title	Artist	iTunes Australia	iTunes US	iTunes US (\$A)	Difference
Can't Say No	Conor Maynard	\$1.19	\$0.99	\$1.01	18%
Burn It Down	Linkin Park	\$2.19	\$1.29	\$1.31	67%
A Thousand Years	Christina Perri	\$2.19	\$1.29	\$1.31	67%
Want U Back	Cher Lloyd	\$1.69	\$1.29	\$1.31	29%
Sell It Off	Timomatic	\$2.19	\$0.99	\$1.01	117%
Sexy and I Know It	LMFAO	\$2.19	\$1.29	\$1.31	67%

Average 52%

All data collected on the 04/06/2012. Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. Australian Prices do NOT include GST. SOURCE [apple.com/itunes/](http://apple.com/itunes/) and [apple.com/au/itunes/](http://apple.com/au/itunes/).

Median 67%

The average price differential is **52%** across all 50 songs. Meanwhile, 37 of the 50 songs (or 74%) have a price difference of **67%** which is the median price difference. The median was included because of the effect that certain outliers had on the average<sup>2</sup>. Even though the average is 52%, a consumer is more likely to experience a price differential much higher than that when purchasing from Australia's iTunes store.

In addition to buying individual songs, consumers can also purchase whole albums. Furthermore, iTunes offers a wide variety of music, including older titles. The following table shows the price differentials for 20 classic albums chosen at random.

**TABLE 2 - 20 CLASSIC ALBUMS (ITUNES AUSTRALIA-ITUNES US)**

Title	Artist	iTunes Australia	iTunes US	iTunes US (\$A)	Difference
1	The Beatles	\$20.99	\$12.99	\$13.22	59%
U218 Singles	U2	\$22.99	\$14.99	\$15.26	51%
Chronicle: 20 Greatest Hits	Creedence Clearwater Revival	\$19.99	\$9.99	\$10.17	97%

<sup>2</sup> There is no clear common characteristic between the 9 titles that were less expensive in Australia than in the US. Some of these can be easily explained; for example Seal's 'Kiss From a Rose' that was re-released in Australia to promote the reality television program on which Seal is a judge. Others, such as the Black Keys 'Lonely Boy' and Coldplay and Rihanna's 'Princess of China', appear to have been more popular in Australia than in the US (featuring in the iTunes top 100 list in Australia, but not in the US). However others, such as Gym Class Heroes 'The Fighter' have been equally popular in both the US and Australia.

Title	Artist	iTunes Australia	iTunes US	iTunes US (\$A)	Difference
The Wall (Remastered)	Pink Floyd	\$29.99	\$16.99	\$17.29	73%
Who's Next (Remastered)	The Who	\$16.99	\$11.99	\$12.20	39%
Thriller	Michael Jackson	\$16.99	\$9.99	\$10.17	67%
Appetite for Destruction	Guns N' Roses	\$16.99	\$9.99	\$10.17	67%
American Pie	Don McLean	\$8.99	\$9.99	\$10.17	-12%
Piano Man	Billy Joel	\$9.99	\$9.90	\$10.08	-1%
Pet Sounds (40th Anniversary)	Beach Boys	\$13.99	\$9.99	\$10.17	38%
Imagine (Remastered)	John Lennon	\$17.99	\$9.99	\$10.17	77%
Goodbye Yellow Brick Road	Elton John	\$16.99	\$15.99	\$16.27	4%
London Calling	The Clash	\$11.99	\$7.99	\$8.13	47%
Led Zeppelin IV (Remastered)	Led Zeppelin	\$16.99	\$8.99	\$9.15	86%
ABBA (Remastered)	ABBA	\$16.99	\$9.99	\$10.17	67%
At Folsom Prison (Live)	Johnny Cash	\$16.99	\$10.99	\$11.18	52%
Highway 61 Revisited	Bob Dylan	\$16.99	\$9.99	\$10.17	67%
Born in the USA	Bruce Springsteen	\$16.99	\$10.99	\$11.18	52%
Nevermind	Nirvana	\$16.99	\$9.99	\$10.17	67%
Rumours	Fleetwood Mac	\$12.99	\$10.99	\$11.18	16%

Average 51%

All data collected on the 04/06/2012. Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. Australian Prices do NOT include GST. SOURCE: apple.com/itunes/ and apple.com/au/itunes/..

Median 55%

In this instance, the average and median are closer; **51%** to **55%** respectively. The average price differential is essentially the same for both songs and albums.

It is important to note that these products are identical and are delivered directly to consumers through a means which bypasses many production and overhead costs, such as rent, distribution and labour. Furthermore, as the songs are sold online from foreign servers, GST does not apply. Therefore, CHOICE does not believe that a price difference of 50% is justifiable.

## 2.2. PC Games

PC games are similar to digital music downloads in that they are largely identical products. Unlike many console games, PC games are not subject to region coding. Yet despite this there are noticeable differences in the prices charged to Australian and US consumers.

Popular gaming sites such as steampowered.com provide direct downloads of PC games. Like iTunes, Steam is providing customers across national boundaries with digital copies of products that are identical.

The Steam website can detect a user's location through their IP address in order to charge them different prices. This is a tactic used by many online shopping sites today. CHOICE has previously stated that we believe that websites should not be able to unfairly discriminate against Australian consumers in this way<sup>3</sup>.

The price differentials between the Steam websites in various countries have been scrutinised by the website steamprices.com which allows users to compare prices across ten different countries/regions. The top 10 'rip-offs' (when matching Australia to the US) according to the site are shown below.

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<sup>3</sup> CHOICE, (2011), *Submission to Productivity Commission: Inquiry into the Economic Structure and Performance of the Australian Retail Industry*

**TABLE 3 - TOP TEN GAMES WITH HIGHEST PRICE DIFFERENTIALS (AUSTRALIA AND THE US) ON STEAM.COM**

Title	Steams Australia	Steam US	Steam US (\$A)	Difference
Call of Duty: Modern Warfare 2	\$89.99	\$19.99	\$20.34	342%
Shift 2 Unleashed	\$79.99	\$19.99	\$20.34	293%
Lord of the Rings: War in the North	\$73.99	\$19.99	\$20.34	264%
Dark spore	\$69.99	\$19.99	\$20.34	244%
Dead Space 2	\$69.99	\$19.99	\$20.34	244%
Medal of Honor	\$69.99	\$19.99	\$20.34	244%
Rage	\$89.99	\$29.99	\$30.52	195%
Soldier of Fortune	\$54.99	\$19.99	\$20.34	170%
Aliens vs. Predator	\$39.99	\$14.99	\$15.26	162%
Mafia II	\$79.99	\$29.99	\$30.52	162%

All data collected between 28/05/2012 and 06/06/2012. Exchange rate at \$1A = \$USD 0.97815 (average for 28/05/2012 to 06/06/2012). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST. SOURCE: steamprices.com/au/topripoffs

Average **232%**

The average price difference for these 10 games is **232%** even though, like the iTunes products, they can be delivered with minimal rental, labour and distribution costs.

These are the highest-priced titles chosen from a selection of thousands. In order to get data which represents gaming price differences more broadly, we have also examined 20 upcoming and recently released titles.

These prices have been collected from international retailer EB Games, which operates in several countries including Australia and the US. The games were selected based on their popularity and release date, according to the Australian site.

**TABLE 4 - PRICE COMPARISON OF 20 RECENT AND SOON-TO-BE RELEASED GAMES (US AND AUSTRALIA)**

Title	EB Games Australia	EB Games US	EB Games US (\$A)	Difference
Diablo III	\$88.00	\$59.99	\$61.05	44%
Guild Wars 2	\$88.00	\$59.99	\$61.05	44%
Max Payne 3 Special Edition	\$138.00	\$99.99	\$101.76	36%
Max Payne 3	\$88.00	\$59.99	\$61.05	44%
The Elder Scrolls Online	\$98.00	\$59.99	\$61.05	61%
Star Wars: The Old Republic	\$59.00	\$49.99	\$50.88	16%
Bioshock Infinite	\$98.00	\$59.99	\$61.05	61%
Call of Duty: Black Ops II	\$98.00	\$59.99	\$61.05	61%
World of Warcraft: Mists of Pandaria	\$58.00	\$39.99	\$40.70	43%
Sid Meier's Civilization V: Gods & Kings	\$48.00	\$29.99	\$30.52	57%
Dishonored	\$78.00	\$59.99	\$61.05	28%
XCOM: Enemy Unknown	\$98.00	\$49.99	\$50.88	93%
Aliens: Colonial Marines	\$88.00	\$49.99	\$50.88	73%
Metro: Last Light	\$88.00	\$49.99	\$50.88	73%
Tomb Raider	\$88.00	\$49.99	\$50.88	73%
Saints Row the Third: Enter the Dominatrix	\$48.00	\$29.99	\$30.52	57%
Company of Heroes 2	\$88.00	\$59.99	\$61.05	44%
The Secret World	\$88.00	\$49.99	\$50.88	73%
The Elder Scrolls V: Skyrim*	\$59.56	\$59.99	\$61.05	-2%
Borderlands 2	\$88.00	\$59.99	\$61.05	44%

Data collected between 31/05/2012 and 04/06/2012. Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST SOURCE: SOURCE: ebgames.com and ebgames.com.au. \*Title was on sale. RRP and not sale price was used.

Average 51%

The price difference for these 20 games is **51%**. Unlike the iTunes products, these Australian prices include GST. However, GST is only 10%, and therefore cannot account for the full 50% price difference. PC games therefore have sizable and unaccounted for price differentials.

### 2.3. Software

Price differentials for software products can have greater implications for business and education, while music and games are predominately used for leisure. From operating systems such as Windows to highly specialised graphic design and production products, software is now a necessity for many businesses and students.

Products used for applications such as databases, word processing and accounting make businesses more efficient, productive and dynamic. If Australian businesses must pay more for these, they will be unfairly disadvantaged in the digital economy.

Software is another product that is broadly the same regardless of where it is sold, yet still attracts price differentials. Previous CHOICE research of recommended retail prices for computer products in 2008 illustrated this. As the table below shows, the average price differential across the 11 products compared was 69%.

**TABLE 5 - RRP COMPARISON BETWEEN AUSTRALIA AND THE US FOR COMPUTER PRODUCTS (MAY/JUNE 2008)**

Product	US	Australia	US (\$A)	Difference
Windows Vista Ultimate (complete)	\$399.00	\$751.00	\$436.00	72%
Windows Vista Ultimate (upgrade)	\$260.00	\$495.00	\$281.00	76%
Windows Vista Home Premium (complete)	\$240.00	\$455.00	\$260.00	75%
Windows Vista Home Premium (upgrade)	\$160.00	\$299.00	\$175.00	71%
Windows Vista Home Basic (complete)	\$200.00	\$385.00	\$218.00	77%
Windows Vista Home Basic (upgrade)	\$100.00	\$199.00	\$108.00	84%
Apple Time Capsule (500GB)	\$299.00	\$429.00	\$327.00	31%
Apple Time Capsule (1TB)	\$499.00	\$699.00	\$544.00	28%
Sony 8GB Video MP3 Player	\$170.00	\$319.00	\$186.00	72%
HP Officejet Pro K8600 printer	\$299.00	\$599.00	\$328.00	83%
Call of Duty 4 PC game	\$50.00	\$100.00	\$53.00	89%

Data collected in May/June 2008. Exchange rate at \$A1=\$US0.92 (21 March 2008).  
Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST  
SOURCE: 'Fair play for pricing?', *CHOICE Computer*, May/June 2008)

Average 69%

In this submission, we compare software products from Windows, Apple and Adobe based on their recommended retail price. All prices have been taken from the official websites of each company. The products compared are popular and used extensively throughout Australia for personal, educational and commercial purposes. In total, 44 different products are compared.



**TABLE 6 - RRP COMPARISON OF 44 SOFTWARE PRODUCTS (US AND AUSTRALIA)**

Title	Australia	USA	USA (\$A)	Difference
Visio Standard	\$449.00	\$249.95	\$254.38	77%
Visio Professional	\$900.00	\$559.95	\$569.87	58%
Visio Premium	\$944.00	\$999.00	\$1,016.69	-7%
SharePoint Workspace	\$235.00	\$159.00	\$161.82	45%
Excel	\$189.00	\$139.99	\$142.47	33%
Access	\$189.00	\$139.99	\$142.47	33%
OneNote	\$109.00	\$79.99	\$81.41	34%
InfoPath	\$349.00	\$229.00	\$233.06	50%
PowerPoint	\$189.00	\$139.99	\$142.47	33%
Outlook	\$189.00	\$139.99	\$142.47	33%
Word	\$189.00	\$139.99	\$142.47	33%
Publisher	\$189.00	\$139.99	\$142.47	33%
Project Standard	\$999.00	\$599.95	\$610.57	64%
Project Professional	\$1,699.00	\$999.95	\$1,017.66	67%
Visual Studio 2010 Professional (Full version)	\$810.00	\$499.00	\$507.84	60%
Expression Studio 4 Web Professional (Full version)	\$239.00	\$149.95	\$152.61	57%
Visual Studio 2010 Ultimate with MSDN (New Subscription)	\$20,775.00	\$11,899.00	\$12,109.71	72%
Adobe CS6 Design Standard	\$2,169.95	\$1,299.95	\$1,322.97	64%
Adobe Acrobat X Pro	\$699.95	\$449.95	\$457.92	53%
Adobe InDesign CS6	\$1,169.95	\$699.95	\$712.34	64%
Adobe Illustrator CS6	\$999.00	\$599.95	\$610.57	64%

Title	Australia	USA	USA (\$A)	Difference
FileMaker Pro 12 (Full version)	\$419.95	\$299.95	\$305.26	38%
Windows 7 Home Premium (Full version)*	\$299.00	\$199.99	\$203.53	47%
Windows 7 Professional (Full version)	\$449.00	\$299.99	\$305.30	47%
Windows 7 Ultimate (Full version)	\$469.00	\$319.99	\$325.66	44%
Microsoft Office Home and Student 2010 (1 PC 1 user)	\$189.00	\$119.99	\$122.11	55%
Microsoft Office Home and Business 2010 (1 PC 1 user)	\$279.00	\$199.99	\$203.53	37%
Microsoft Office Professional 2010 (1 PC 1 user)	\$499.00	\$349.99	\$356.19	40%
Songsmith	\$35.00	\$29.95	\$30.48	15%
Parallels Desktop 7 - Switch to Mac Edition	\$119.00	\$99.95	\$101.72	17%
iWork	\$129.00	\$79.00	\$80.40	60%
iWork Family Pack	\$169.00	\$99.00	\$100.75	68%
Microsoft Office for Mac Home and Student 2011 Family Pack	\$199.95	\$149.95	\$152.61	31%
Microsoft Office for Mac Home and Business 2011 - 1 license	\$279.95	\$199.95	\$203.49	38%
Acrobat X Pro (Student and Teacher Edition)	\$163.62	\$119.00	\$121.11	35%
Adobe CS6 Design Standard (Student and Teacher Edition)	\$330.00	\$349.00	\$355.18	-7%
Adobe Captivate 5.5 (Student and Teacher Edition)	\$412.00	\$299.00	\$304.29	35%
Adobe CS6 Design & Web Premium (Student and Teacher Edition)	\$402.00	\$449.00	\$456.95	-12%
Adobe CS6 Master Collection (Student and Teacher Edition)	\$604.00	\$799.00	\$813.15	-26%

Title	Australia	USA	USA (\$A)	Difference
Adobe CS6 Production Premium (Student and Teacher Edition)	\$402.00	\$449.00	\$456.95	-12%
Dreamweaver CS6 (Student and Teacher Edition)	\$149.88	\$179.00	\$182.17	-18%
Flash Professional CS6 (Student and Teacher Edition)	\$181.00	\$199.00	\$202.52	-11%
Photoshop CS6 Extended (Student and Teacher Edition)	\$201.00	\$249.00	\$253.41	-21%
Photoshop Lightroom 4 (Student and Teacher Edition)	\$108.62	\$79.00	\$80.40	35%

Data collected between 31/05/2012 and 04/06/2012. Exchange rate at \$A1=US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST SOURCE: adobe.com, adobe.com/au, store.apple.com/us, store.apple.com/au, microsoft.com/en-us and microsoft.com/en-au

\*Title was on sale. RRP and not sale price was used

Average 34%

The average price difference across the 44 products is 34%. However, these results are the most varied so far, stretching from a saving of 26% for Australian consumers to a price increase of 77%. Adobe's student and teacher products offer the most consistent savings for Australians, although the other Adobe products included in the investigation averaged much higher at 61% (almost double the overall average).

This shows that companies are able to price fairly for the Australian market. The average price difference for the Adobe student and teacher range is 0%. However there was some notable variation within these products as well, from a high of 35% to a low of -26%.

Removing student and teacher editions from the data increases the average by over 10 points to 45%. Furthermore, some of the price differences appear particularly unreasonable. For example, the product Visual Studio 2010 Ultimate with MSDN (New Subscription) has a monetary price difference of \$8,665.29. For this amount, it would be cheaper to employ someone for 46 hours at the price of \$21.30 per hour and fly them to the US and back at your expense - twice.

## 2.4. Wii console games

Unlike PC games, Wii console games are region locked. This means that the consoles sold in certain regions will only play the games sold in those regions. For example, a game bought in the US will not work on a console bought in Australia.

Console locking makes it easier for companies to enforce price discrimination as it restricts the flow of goods across international borders. It prohibits consumers from circumventing domestic

markets and buying goods online from websites like Amazon or eBay. Other products which are region locked include DVDs and Blu Ray films.

In order to assess the impact of region locking on prices, we have gathered pricing data across three countries: Australia, the US and the UK. Both Australia and the UK share a region for Wii games, known as PAL. The US, however, is in a separate region called NTSC-U/C.

Twenty games are compared. The games were selected from the official Wii website, which listed them in order of their release. Prices were again taken from the EB Games websites (known in the UK as Gamestop). Games which were not available from all three sites were omitted. As the prices were collected at the end of the Australian financial year, RRP were used, not the sales prices

**TABLE 7 - RRP COMPARISON OF 20 WII GAMES (AUSTRALIA, THE US AND THE UK)**

Title	PAL (Australia)	PAL UK (\$A)	Difference (Australia - UK)	NTSC-U/C USA (\$A)	Difference (Australia-USA)	Difference (UK-US)
The Amazing Spiderman	\$48.00	\$58.33	-18%	\$30.52	57%	91%
Brave	\$48.00	\$39.40	22%	\$50.88	-6%	-23%
LEGO Batman 2	\$68.00	\$44.13	54%	\$40.70	67%	8%
Xenoblade Chronicles	\$98.00	\$52.02	88%	\$50.88	93%	2%
Mario Party 9	\$68.00	\$55.18	23%	\$50.88	34%	8%
The Adventures of Tintin*	\$49.09	\$36.24	35%	\$40.70	21%	-11%
WWE '12*	\$59.28	\$28.35	109%	\$35.61	66%	-20%
The Legend of Zelda: Skyward Sword	\$98.00	\$53.60	83%	\$50.88	93%	5%
The Black Eyed Peas Experience*	\$49.28	\$37.82	30%	\$30.52	61%	24%
Rayman Origins*	\$59.36	\$48.86	21%	\$20.34	192%	140%
Zumba Fitness 2*	\$69.47	\$52.02	34%	\$40.70	71%	28%
Need For Speed The Run*	\$79.36	\$36.24	119%	\$30.52	160%	19%
LEGO Harry Potter: Years 5-7*	\$69.36	\$42.55	63%	\$20.34	241%	109%
Call of Duty: Modern Warfare 3*	\$69.68	\$53.60	30%	\$50.88	37%	5%
Cartoon Network Punch Time Explosion*	\$49.36	\$39.40	25%	\$20.34	143%	94%

Title	PAL (Australia)	PAL UK (\$A)	Difference (Australia - UK)	USA (\$A)	Difference (Australia-USA)	Difference (UK-US)
Disney Universe*	\$59.28	\$22.04	169%	\$20.34	191%	8%
NCIS*	\$39.09	\$18.89	107%	\$40.70	-4%	-54%
Ben 10 Galactic Racing*	\$49.36	\$34.66	42%	\$20.34	143%	70%
Driver San Francisco*	\$49.23	\$22.04	123%	\$30.52	61%	-28%
The Penguins of Madagascar: Dr. Blowhole Returns*	\$29.23	\$29.93	-2%	\$20.34	44%	47%
<b>Average:</b>			<b>58%</b>		<b>88%</b>	<b>26%</b>

Data collected on 08/06/2012. Exchange rate at \$A1=\$US0.9826 and \$A= £0.6338 (Average between 28/05/2012 and 13/06/2012). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST. SOURCE: ebgames.com, ebgames.com.au and gamestop.co.uk. \*Title was on sale. RRP and not sale price was used.

As the table shows, Australians pay the most of any of the three countries. However, while the average price difference compared with the UK was **58%**, the average for the US was **88%**. From this, two observations can be made:

1. Australian consumers face steep price differences compared to both the UK and the US.
2. The UK faces price differences when compared to the US.

This is important because it illustrates the restrictions imposed by region lock outs. Australian consumers cannot shop around for the best deal possible because in many cases the cheapest copy of a particular product will not work on their console. So while Australians can make considerable savings by purchasing UK editions, they are denied the greater savings that would be achieved by purchasing US editions. While consoles can be altered to disable region locks, this will often void the warranty on the device.

CHOICE believes that it is unrealistic and unfair to continue region locking in light of the rise of online purchasing which enables consumers to access international marketplaces.

## 2.5. Computer Hardware

Computer products are made for the international market, and are not generally subject to region locks and other distribution restrictions.

However, there are a number of methodological issues that arise when comparing computers. With the exception of Apple devices, computers can be almost entirely custom built and are

subject to countless variations. Even mass-produced models such as Sony Vaio laptops can differ in their specification from region to region. This makes it hard to find identical products to compare.

This submission examines Dell computers. These computers come in basic models, which can be altered and customised as desired. However even these basic models vary from country to country. Nevertheless, we were able identify 12 models which have the same specifications in both Australia and the US.

**TABLE 8 - PRICE COMPARISON OF 12 DELL COMPUTERS WITH THE SAME SPECIFICATIONS (AUSTRALIA AND THE US)**

Product	Australia	USA	USA (\$A)	Difference
Inspiron 660s	\$499.00	\$399.99	\$407.07	23%
XPS 8500 Desktop	\$1,199.00	\$749.99	\$763.27	57%
Inspiron One 2320	\$899.00	\$749.99	\$763.27	18%
Dell XPS One 27	\$1,699.00	\$1,399.99	\$1,424.78	19%
Alienware Aurora Desktop	\$2,699.00	\$1,499.00	\$1,525.54	77%
XPS 13 Ultrabook	\$1,199.00	\$999.99	\$1,017.70	18%
Inspiron 14z	\$799.00	\$499.99	\$508.84	57%
Alienware M14x Gaming Laptop	\$1,499.00	\$1,099.00	\$1,118.46	34%
Vostro 260s slim tower desktop	\$799.00	\$629.00	\$640.14	25%
OptiPlex 390	\$1,199.00	\$649.00	\$660.49	82%
Vostro 260 Mini Tower Desktop	\$719.00	\$479.00	\$487.48	47%
Vostro 3350 Laptop	\$1,199.00	\$899.00	\$914.92	31%

Data collected between the 12/06/2012 and the 13/06/2012. Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST. SOURCE: dell.com/us and dell.com/au

**Average 41%**

The average price differential for these products was 41%. While more examples would have been preferable, these results nevertheless indicate substantial price differences faced by Australian consumers.

As mentioned before, Apple’s computers are configured consistently across national boundaries. It is therefore easier to find more products for comparison. The table below compares 20 of Apple’s computer products including iPads.

**TABLE 9 - PRICE COMPARISON OF APPLE COMPUTER PRODUCTS (AUSTRALIA AND THE US)**

Product	Australia	USA	USA (\$A)	Difference
MacBook Air (11 inch 64 GB)	\$1,099.00	\$999.00	\$1,016.69	8%
MacBook Air (11 inch 128 GB)	\$1,249.00	\$1,099.00	\$1,118.46	12%
MacBook Air (13 inch 128 GB)	\$1,349.00	\$1,199.00	\$1,220.23	11%
MacBook Air (13 inch 256 GB)	\$1,689.00	\$1,499.00	\$1,525.54	11%
MacBook Pro (13-inch: 2.5 GHz)	\$1,349.00	\$1,199.00	\$1,220.23	11%
MacBook Pro (13-inch: 2.9 GHz)	\$1,689.00	\$1,499.00	\$1,525.54	11%
MacBook Pro (15-inch: 2.3 GHz)	\$1,999.00	\$1,799.00	\$1,830.86	9%
MacBook Pro (15-inch: 2.6 GHz)	\$2,499.00	\$2,199.00	\$2,237.94	12%
MacBook Pro (15-inch: 2.3 GHz Retina)	\$2,499.00	\$2,199.00	\$2,237.94	12%
MacBook Pro (15-inch: 2.6 GHz Retina)	\$3,199.00	\$2,799.00	\$2,848.57	12%
iMac (21.5-inch: 2.5GHz)	\$1,399.00	\$1,199.00	\$1,220.23	15%
iMac (21.5-inch: 2.7GHz)	\$1,698.00	\$1,499.00	\$1,525.54	11%
iMac (27-inch: 2.7GHz)	\$1,949.00	\$1,699.00	\$1,729.09	13%
iMac (27-inch: 3.1GHz)	\$2,299.00	\$1,999.00	\$2,034.40	13%
Mac Pro Quad-Core	\$2,999.00	\$2,499.00	\$2,543.25	18%
Mac Pro 12-Core	\$4,599.00	\$3,799.00	\$3,866.27	19%
Mac Pro Server	\$3,599.00	\$2,999.00	\$3,052.11	18%
iPad (Wi-Fi + Cellular) 16GB	\$679.00	\$629.00	\$640.14	6%
iPad (Wi-Fi + Cellular) 32GB	\$789.00	\$729.00	\$741.91	6%
iPad (Wi-Fi + Cellular) 64GB	\$899.00	\$829.00	\$843.68	7%

Data collected between the 12/06/2012 and the 13/06/2012. Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST. SOURCE: store.apple.com/us and store.apple.com/au.

Average 12%



The average price difference for Apple's computer products is **12%**. This is only marginally higher than the 10% GST rate, and therefore it could be claimed that Apple's Australian hardware prices are more or less at parity with the US.

## 2.6. Conclusion

Both the median and the average for the price differentials across of the products examined (excluding those from 2008) was **56%**. If we exclude the products taken from the steampowered.com website, the average falls 9 points to **47%**, while the median falls 6 points to **50%**. It is therefore apparent that significant price differences of approximately **50%** exist for IT products between the US and Australian markets.

### 3. Why do price differentials exist?

Australian consumers face higher prices for a variety of goods and services. These were documented in the Productivity Commission's *Economic Structure and Performance of the Australian Retail Industry* inquiry last year<sup>4</sup>.

The Commission's report provided extensive analysis of retail price differentials, and possible reasons for them. The Commission addressed claims from some international suppliers of IT products that price discrimination was caused by unique requirements in supplying to the Australian market, and found that these arguments were "in most cases...not persuasive."<sup>5</sup>

There is no evidence that factors such as wages and labour costs, occupancy costs and rent, GST, retail profit margins, and logistics and transportation can, even cumulatively, account for some of the price differentials identified in IT hardware and software products. CHOICE addressed a number of these factors in our submission to the Commission's inquiry<sup>6</sup>.

Although we believe that retail profit margins disadvantage Australian consumers in relation to some goods and services, our key concern in IT hardware and software is international price discrimination, particularly in those instances where, as the Commission observed, "the costs of delivery to the customer are practically zero and uniform around the world."<sup>7</sup>

While we do not intend to rehearse the issues already addressed by the Commission, CHOICE is concerned at continued calls from retail industry groups to reduce the low value threshold (LVT) exemption for GST and duty on imported goods. We will focus on this issue in the context of IT hardware and software price differentials.

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<sup>4</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

<sup>5</sup> Ibid

<sup>6</sup> CHOICE, (2011), *Submission to Productivity Commission: Inquiry into the Economic Structure and Performance of the Australian Retail Industry*.

<sup>7</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

### 3.1 Is the GST to blame?

It is clear that the LVT does not account for the price differences identified in IT hardware and software products. There is no evidence that lowering the LVT would be cost-effective. Rather it would decrease the efficiency of parcel processing, disadvantaging Australian consumers.

#### 3.1.1 The Low Value Threshold

Australia has a Low Value Threshold (LVT) of \$1,000 on imported goods. This means that products purchased online from overseas under this value are exempt from the 10% GST. They are also exempt from customs duties, fees and charges and reporting<sup>8</sup>.

A number of retail stakeholders discussed the LVT in their submissions to the Productivity Commission's inquiry into retail last year<sup>9</sup>. The ANRA recommended that the LVT be lowered to \$100<sup>10</sup>. Since the release of the inquiry's final report, industry groups have continued to campaign on the LVT.

The price comparisons in this submission include GST while the US prices do not include sales tax. However, the GST is only 10% and therefore cannot account for price differences of 50%. We also note that the iTunes products compared do not include any GST, and are still significantly higher in price.

#### 3.1.2 Should the LVT be lowered?

In 2009 the Board of Taxation concluded that the administrative costs of lowering the LVT would outweigh the benefits. For example, Customs has indicated that it would take 45 minutes and cost \$20.63 to process a package for revenue. This would require significant new investments in infrastructure to cope with increased processing<sup>11</sup>. Overhead costs would also increase due to increased volume<sup>12</sup>.

Overall, the Productivity Commission's analysis agreed that the costs of lowering the LVT would exceed the benefits. It calculated that lowering the LVT to \$100 would cost \$2.42 for every \$1 raised in revenue<sup>13</sup>. Lowering the LVT to \$500 would still incur higher costs than benefits<sup>14</sup>.

It is also worth noting that that even at a much lower threshold of \$100, the LVT would still not apply to most online sales anyway. According to Customs data, 68.59% of international mail parcels entering Australia in 2010-011 were under \$100 in value<sup>15</sup>.

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<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Australian National Retailers Association, (2011), *Submission to the Economic Structure and Performance of the Australian Retail Industry*

<sup>11</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid

The LVT applies not only to GST, but also a number of other charges and processes. New declarations would have to be introduced, and these would have to be validated and processed. This would reduce the efficiency of cargo logistics operations, which would in turn mean longer waits for deliveries into Australia<sup>16</sup>. A more complex system for formal declarations would further increase delays. These inefficiencies would all impact negatively on consumers, making online purchasing less appealing and thereby reducing competition in the retail sector.

### 3.1.3 Conclusion

It is clear that the LVT does not account for the price differences identified in IT hardware and software products. There is no evidence that lowering the LVT would be cost-effective. Rather it would decrease the efficiency of parcel processing, disadvantaging Australian consumers. CHOICE's view is consistent with the Productivity Commission's analysis of this issue:

“the exemption from payment of GST and customs duty on goods valued less than \$100 is not the main factor affecting the international competitiveness of Australian retailers... Indeed the issue of the level of the LVT may be *distracting attention from more fundamental issues facing the retail industry* arising from their increasing exposure to international competition”<sup>17</sup>

## 3.2 Are occupancy expenses to blame?

Retail rents in Australia are higher than in the US, however they have a limited impact on retail prices.

International comparisons of rental prices are problematic as they often cannot control for impacts that location, quality and earnings potential can have on price. Keeping these limitations in mind, some studies have nevertheless indicated that occupancy costs in Australia are high by international standards. For example, a Morgan Stanley study in 2011 found that electronic retailer JB Hi-Fi paid 78% more per square metre than a similar US retailer Best Buy<sup>18</sup>.

However occupancy costs represent a small proportion of retail prices. For example, JB Hi-Fi pays just 3.88% of its revenue in 'occupancy expenses'<sup>19</sup>. Applying the 78% difference that Morgan Stanley calculated for JB Hi-Fi's rental costs, the impact on prices is only 3%. This is obviously below the 50% price difference that we have noted across IT products.

We can explore the impact of rental costs further by comparing prices from Australian and US online retailers which have no physical shop fronts.

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<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Ibid, emphasis added.

<sup>18</sup> Schlesinger, L. (2011), 'Australia's retail rents the highest in the world: Report', *Smart Company*, 01/07/2011, <http://www.smartcompany.com.au/retail/20110701-australia-s-retail-rents-the-highest-in-the-world-report.html>

<sup>19</sup> JB Hi-Fi, (2011), *Annual Report 2011*

**TABLE 10 - ONLINE PRICES COMPARED (AUSTRALIA AND US)**

Title	Difference	Australia	US	US (A\$)	Difference
Windows 7 Home Premium (Full version)*	47%	\$249.00	\$159.00	\$161.82	54%
Windows 7 Professional (Full version)	47%	\$381.00	\$239.00	\$243.23	57%
Windows 7 Ultimate (Full version)	44%	\$405.00	\$283.00	\$288.01	41%
Microsoft Office Home and Business 2010 (1 PC 1 user)	37%	\$238.00	\$149.00	\$151.64	57%
Adobe CS6 Design Standard	64%	\$1,798.00	\$1,289.00	\$1,311.83	37%
Adobe Acrobat X Pro	53%	\$587.00	\$399.00	\$406.07	45%
<b>Average</b>	<b>49%</b>			<b>Average</b>	<b>48%</b>

Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST SOURCE: buycheapsoftware.com and estore.com.au

**TABLE 11 - ONLINE DISCOUNTS FROM RRP**

Title	RRP (Australia)	Online Price (Australia)	Discount	RRP (US)	Online Price (US)	Discount
Windows 7 Home Premium (Full version)*	\$299.00	\$249.00	20%	\$199.99	\$159.00	26%
Windows 7 Professional (Full version)	\$449.00	\$381.00	18%	\$299.99	\$239.00	26%
Windows 7 Ultimate (Full version)	\$469.00	\$405.00	16%	\$319.99	\$283.00	13%
Microsoft Office Home and Business 2010 (1 PC 1 user)	\$279.00	\$238.00	17%	\$199.99	\$149.00	34%
Adobe CS6 Design Standard	\$2,169.95	\$1,798.00	21%	\$1,299.95	\$1,289.00	1%
Adobe Acrobat X Pro	\$699.95	\$587.00	19%	\$449.95	\$399.00	13%
<b>Average</b>			<b>18%</b>		<b>Average</b>	<b>19%</b>

Exchange rate at \$A1=\$US0.9826 (Average between 28/05/2012 and 13/06/2012 ). Exchange rate data from the Reserve Bank of Australia. All Australian prices include GST SOURCE: buycheapsoftware.com and estore.com.au

The price differentials between the Australia and the US remained more or less the same for the online stores (48%), as they were for the RRP's (49%). Furthermore, the discounts that the US site applied (19%) were consistent with the discounts the Australian site applied.

Therefore, while it is true that retail rents are higher in Australia, this does not appear to have a large enough impact to account for the 50% price differential on IT products. Significant price differences are sustained between retailers with no physical shop fronts.

### 3.3 Australia distributor prices and international price discrimination

International price discrimination is the most likely cause of Australia's relatively high IT hardware and software prices. By increasing the wholesale cost of products, it significantly impacts retail prices.

#### 3.3.1 What is international price discrimination?

A number of retailers have raised concerns regarding price discrimination by international brand owners, suppliers and manufacturers<sup>20</sup>. In Australia, many retailers purchase from wholesalers who are officially licensed distributors of a particular international brand. These distributors must pay licences fees for the right to operate. This signals to retailers that the products are genuine and that the supplier is reliable<sup>21</sup>. However, this also increases retail prices.

CHOICE believes international price discrimination damages both local retailers and consumers. It pressures retailers to charge higher prices for their products. Increasingly, consumers are turning away from domestic retailers in favour of international operators who have lower wholesale (and therefore lower retail) prices<sup>22</sup>. However, despite this, international price discrimination is "sustained through sufficient demand from consumers, lack of competitive rivals and the ability for market and/or consumer segments to be kept separate"<sup>23</sup>.

#### 3.3.2 Gross margins vs. Cost of goods

International price discrimination means that Australian consumers face higher prices from international copyright owners. These prices flow through from the wholesale cost of products to the retail price.

For example, if we look at JB Hi-If's gross margin<sup>24</sup>, we can identify various cost drivers.

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<sup>20</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56

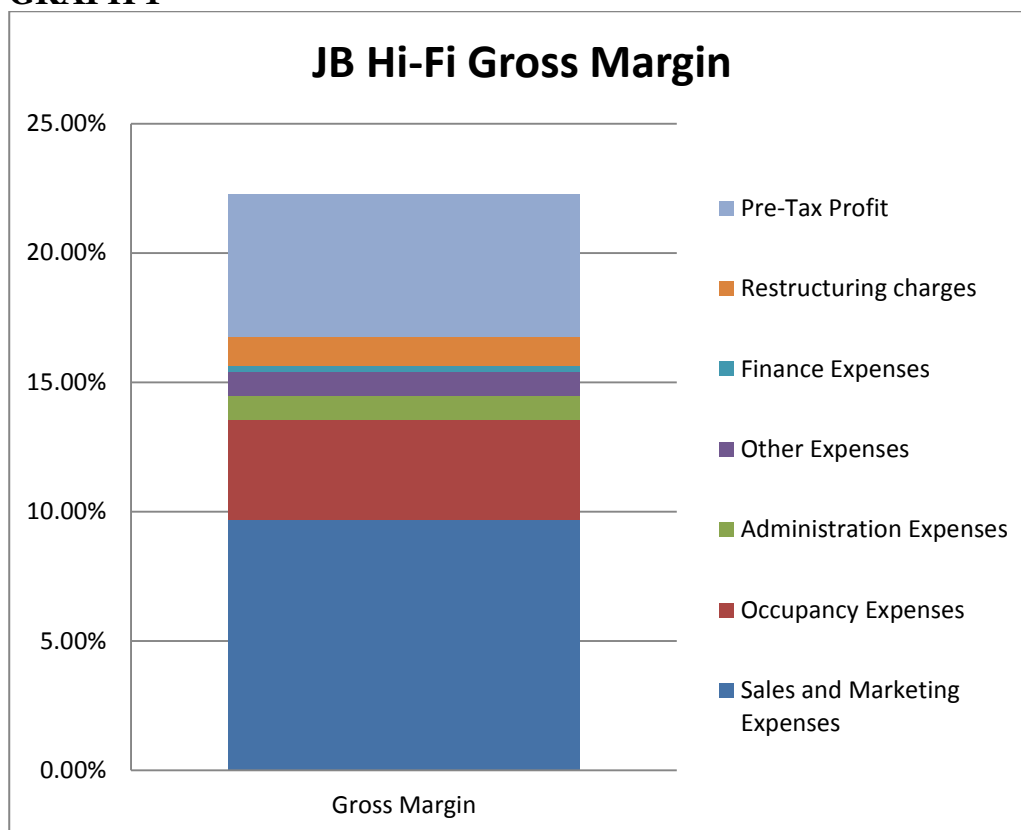
<sup>21</sup> Australian National Retailers Association, (2011), *Economic Structure and Performance of the Australian Retail Industry*

<sup>22</sup> Research from the Australian Institute shows that 81% of internet shoppers use online purchasing primarily because is cheaper. Meanwhile, according to the ABS, the amount of online shoppers has increased from 15% on internet users over 18 years old in 2001-02, to 68% in 2010-11.

<sup>23</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56

<sup>24</sup> The gross margin is the percentage of the retail price which does not include the purchase cost. The gross margin therefore includes all the costs of doing business (such as rents, wages, transport etc.) as well as the profit.

**GRAPH 1**



SOURCE: JB Hi-Fi (2011), *Annual Report*

Some factors such as rent (3.88%) and profit margins (5.5%) are clearly identifiable. Others such as labour costs are included amongst other expenses (sales and marketing expenses) and therefore cannot be isolated. However, it is clear that any one of these factors will influence only a small proportion of the final retail price.

### 3.3.3 Example: The impact on prices

Using this data we can attempt to work backwards and estimate how JB Hi-Fi might price a hypothetical product. We will assume the RRP of the product in Australia is A\$299, compared to a RRP in the US of A\$199. From this we could estimate that the wholesale cost of the good in Australia is approximately \$211.92.

**TABLE 12 - COST BREAK-DOWN (USING JB HI-FI GROSS MARGINS)**

Cost	Value
Retail Price:	\$299.00
GST:	\$27.18
Profit:	\$14.95
Rent:	\$10.55
Labour, Transport and all other costs:	\$34.76
<b>Cost of goods:</b>	<b>\$211.92</b>

By using gross margin data from US retailer Best Buy<sup>25</sup>, we can estimate how wholesale prices for Australia and the US might compare:

**TABLE 13 - COST BREAK-DOWN (JB HI-FI AND BEST BUY)**

Cost	JB Hi-Fi	Best Buy
Retail Price:	\$299.00	\$203.50
GST:	\$27.18	\$0.00
Profit:	\$14.95	\$9.46
Costs of Doing Business	\$45.31	\$40.46
<b>Cost of goods:</b>	<b>\$211.92</b>	<b>\$149.09</b>

Here we can see that a price differential of 37% in the retail price (less GST) could become a price differential of 42% in the wholesale cost to the retailer. This is a crude comparison but it does illustrate that differences in the costs of goods are a plausible cause of the large price differentials identified in IT products.

### 3.4 Conclusion

Data from individual companies and market analysts shows that the gross margins for the IT retailing industry are approximately 22-27%. It is highly unlikely that any of the factors comprising gross margins, even cumulatively, could account for the price disparities identified in IT hardware and software products. More to the point, significant pricing disparities exist in circumstances where overheads such as distribution costs are practically non-existent. It is therefore most likely large discrepancies in the cost of the goods themselves - the prices the retailer pay - that are causing the higher prices in Australia.

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<sup>25</sup> Best Buy (2011), *Consolidated Statements of GAAP Earnings*



## 4. What are the Impacts?

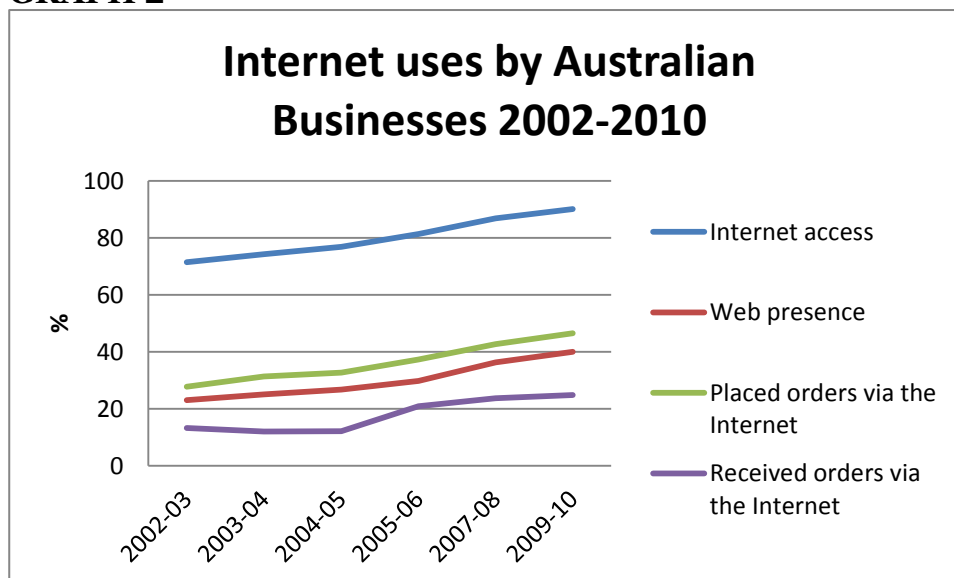
Internet access is increasingly central to the everyday activities of Australian households and businesses. CHOICE believes that unjustifiably higher prices for IT hardware and software products are likely to disadvantage Australian consumers by denying them the full benefits of the digital economy, both directly and also through increased costs to business.

### 4.1 Impact on business and the economy

#### 4.1.1 Digital economy

Australian businesses are increasingly utilising the internet for everyday activities.

**GRAPH 2**



SOURCE: Australian Bureau of Statistics (2001, 2009, 2007), Business Use of Information Technology, Cat. No. 8129.0, 2005-06, 2007-08, 2009-10

According to Deloitte Access Economics, the internet directly contributes \$50 billion to Australia's economy or 3.6% of GDP, and provides \$53 billion in wider benefits to households through added convenience and access to goods, services and information<sup>26</sup>. An estimated \$27 billion in digital productivity increases to business and government flows through to consumers the form of lower prices and more products<sup>27</sup>.

While the Federal Government is advancing initiatives aimed at growing internet access, most notably the National Broadband Network, international price discrimination is a clear barrier to enhanced productivity and service delivery. It has the potential to limit both

<sup>26</sup> Deloitte Access Economics (2011), *The connected continent – how the internet is transforming the Australian economy*

<sup>27</sup> Ibid

direct internet access (through hardware prices) and productivity-enhancing applications (through software prices).

## 4.2 Impact on households and equity

### 4.2.1 Use of the internet by households

Numerous institutions, including private sector service providers and government departments, now offer more services online, sometimes exclusively. According to data from the ABS, just under half of internet users in 2010-11 accessed government services and educational resources online, while 64% paid their bills online.

**TABLE 14 - INTERNET USES BY HOUSEHOLDS 2010-11 (AS % OF ALL INTERNET USERS)**

Activity	Use (%)
Emailing	91%
Research, news and general browsing	87%
Paying bills online or online banking	64%
Social networking and online gaming	55%
Listening to music or watching videos or movies online	53%
Educational purposes	49%
Accessing government services	47%
Buying or selling goods or services	45%
Creating online content	40%
Downloading videos, movies or music	37%

SOURCE: Australian Bureau of Statistics, Household Use of Information Technology, Australia, Cat No. 8146.0, 2010-11

### 4.2.2 Equity

Australians on lower incomes are much more likely to lack access to a computer or the internet.

**TABLE 15 - INTERNET ACCESS BY INCOME QUINTILE**

Equivalised household income quintile	Households with no internet access (%)	Households with no computer access (%)
Lowest quintile	45%	37%
Second quintile	34%	29%
Third quintile	16%	12%
Fourth quintile	12%	9%
Highest quintile	5%	4%

SOURCE: Australian Bureau of Statistics, Household Use of Information Technology, Australia, Cat No. 8146.0, 2010-11

Australians living in regional and rural areas are also much less likely to have access to both a computer and the internet.

**TABLE 16 - INTERNET ACCESS BY REMOTENESS**

Remoteness area	Households with no internet access (%)	Households with no computer access (%)
Major Cities of Australia	19%	15%
Inner Regional Australia	26%	21%
Outer Regional Australia	29%	23%
Remote Australia	30%	25%

SOURCE: Australian Bureau of Statistics, Household Use of Information Technology, Australia, Cat No. 8146.0, 2010-11

Higher IT prices are a barrier to both computer and internet access, which has implications for equity in the Australian economy. Ultimately, this disadvantages low-income Australians and Australians in regional or remote locations.

### 4.3 Conclusion

Higher IT prices have consequences for business productivity, which in turn results in higher costs for consumers. Meanwhile, low-income earners and regional Australians are less likely to have access to a computer or the internet. This in turn restricts their access to a number of increasingly essential services, and prohibits them from fully participating in the digital economy.

## 5. Actions and recommendations

CHOICE believes that international price discrimination is a key contributor to Australia's comparatively high IT hardware and software prices. This price discrimination is sustained because copyright owners prevent goods being traded from markets with lower prices to markets with higher prices.

### 5.1 Parallel Importing

#### 5.1.1 What are parallel imports?

One avenue to reduce digital price disparities is through increasing competitive pressure on copyright owners via the market. According to W Lawyers:

“Parallel imports are legitimately produced goods imported into another country. The goods are manufactured with the authorisation or consent of the intellectual property rights owner and subsequently imported into another country by an unauthorised distributor. Unlike pirated (counterfeit) goods, parallel goods are genuine and manufactured by the intellectual property owners, or licensee of the owner”<sup>28</sup>

A number of online business-to-consumer stores specialising in parallel imports have become popular in Australia. These include the electronics website Kogan, bookseller the Book Depository and a 'direct imports' division of Harvey Norman.

Australians are heading online to buy products more often. Data shows that in 2010-11, 68% of internet users over the age of 15 bought a good or service online<sup>29</sup>. Of these users, 31% bought computer software or hardware, making such products the fourth most popular items for online shoppers<sup>30</sup>.

#### 5.1.2 How will parallel imports help?

Parallel imports help overcome IT price disparities in two main ways:

1. Presenting consumers with lower-priced options for goods; and
2. Putting competitive pressure on copyright owners to reduce their Australian prices

If more consumers engaged in parallel importing, this would pressure copyright owners to reduce prices in the Australian market. This is because “[c]ompetition from parallel importers can undermine the ability of copyright owners to price gouge”<sup>31</sup>.

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<sup>28</sup> Quoted in Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

<sup>29</sup> Australian Bureau of Statistics, *Household Use of Information Technology, Australia*, Cat No. 8146.0, 2010-11

<sup>30</sup> Ibid

<sup>31</sup> Richardson, D., (2004), 'Intellectual property rights and the Australia-US Free Trade Agreement', *Parliament of Australia*, Research Paper No. 14 2003-04

Many international copyright holders actively suppress parallel importing, sustaining international price discrimination in separate national and regional markets. When CHOICE investigated IT price disparities in 2008, we spoke to Calum Henderson, a competition law partner at Deacons, who said that “[a]ny business will have more direct control over its prices when it owns the software copyright and consumers can’t conveniently get it from elsewhere in the world”<sup>32</sup>.

### 5.1.3 The risks of parallel importing

Some companies explicitly state that that will not recognise a product’s warranty if it was not bought in Australia. For example, Nintendo writes on its website that the warranty for its Wii product will not apply if “the Wii™ was not purchased in either Australia or New Zealand”<sup>33</sup>.

Cannon states that “[y]our purchase of any Canon product *within Australia or New Zealand* which is *distributed by Canon Australia or Canon New Zealand* is automatically covered by Canon’s 12-month warranty”<sup>34</sup>. This implies that even parallel imports bought in Australia may not be covered.

According to the ACCC, online shoppers “may not be protected by Australian law”<sup>35</sup>. CHOICE believes this statement typifies the general confusion in communicating with Australian consumers’ about their rights and protections when purchasing online. Practically, it is difficult for any Australian authority to pursue foreign companies in the event that they contravene consumer protection laws<sup>36</sup>.

Companies have exploited these concerns with the apparent aim of dissuading consumers from buying parallel imports. For example, the director of consumer imaging at Cannon Australia, Jason McClean, was quoted as saying that “[b]ecause the grey market is not locally regulated, the restrictions that authorised retailers abide by do not apply... There is no consumer recourse under Australian Consumer Law”<sup>37</sup>. CHOICE believes this is an incorrect statement<sup>38</sup>.

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<sup>32</sup> CHOICE, (2008), ‘Fair Play for Pricing?’, *CHOICE Compute*, May/June 2008

<sup>33</sup> Nintendo, (2012), *Wii Warranty*, <http://www.nintendo.com.au/index.php?sectionID=44&pageID=76>

<sup>34</sup> Canon, (2012), *Genuine Canon Warranty*, <http://www.canon.com.au/Support-Services/Warranty>

<sup>35</sup> Australian Competition and Consumer Commission, (2012), *Buying From Overseas*, <http://www.accc.gov.au/content/index.phtml/itemId/815341>

<sup>36</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

<sup>37</sup> Quoted in Orantia, J., (2012), ‘Grey Imports’: Hundreds of Dollars to be Saved’, *Sydney Morning Herald*, 03/04/2012, <http://www.smh.com.au/digital-life/hometech/grey-imports-hundreds-of-dollars-to-be-saved-20120403-1w9zr.html>

<sup>38</sup> Australia’s consumer protection laws provide recourse for online shoppers irrespective of whether the seller is based in Australia or overseas. The enforcement of these laws may be more difficult to pursue when the seller is located overseas but it is incorrect to state that there is “no consumer recourse under [the] Australian Consumer Law”. Consumers buying grey imports from bricks and mortar stores based in Australia are also fully covered by the Australian Consumer Law.

Some parallel importers offer their own warranty guarantees. For example, Kogan accepts returns for warranty purposes for the products it sells (excluding Apple products which are covered by Apple's international warranty)<sup>39</sup>.

#### 5.1.4 How parallel imports can create broader change - an example

In March 2012, camera manufacturer Nikon announced that it would lower its effective prices for certain models by presenting retailers with a signing bonus if they agreed not to access parallel imports. It also introduced a two-year manufacturer's warranty as an additional incentive for consumers<sup>40</sup>. Major retailer JB Hi-Fi reacted by removing Nikon cameras from its then-operating direct importing business. Nikon's Australian general manager, James Murray, was reported at the time saying the company was focused "on making sure our retail partners can offer globally fair prices, and...more value to customers"<sup>41</sup>.

#### 5.1.5 Why do consumers not shop online?

The ABS has published data on why some Australians avoid online shopping. Some reasons relate to the additional services provided by bricks and mortar stores, while others relate to concerns over security and privacy.

**TABLE 17 - REASONS AUSTRALIANS DON'T SHOP ONLINE**

Reason	% who agree
Have no need	45%
Prefer to shop in person / like to see the product	28%
Security concerns	22%
Does not have a credit card	9%
Privacy concerns	7%
Someone else does it for them	6%
Trust concerns (receiving or returning goods)	6%
Does not know how	5%
Could not afford it	4%
Other	2%

SOURCE: Australian Bureau of Statistics, *Household Use of Information Technology, Australia*, Cat No. 8146.0, 2010-11

Research by the Australian Communications and Media Authority has shown that lack of trust (23%) and the ability to return products easily (10%) influence consumer decisions to not shop

<sup>39</sup> Kogan, (2012), *Warranty Information*, <http://help.kogan.com/Knowledgebase/Article/View/162/49/where-do-i-take-my-product-for-warranty-repairs>

<sup>40</sup> Anonymous, 'Nikon (and JB) Give Industry 'Peace of Mind'', *Photo Counter Australia*, 06/03/2012, <http://www.photocounter.com.au/2012/nikon-gives-industry-peace-of-mind/>

<sup>41</sup> Ibid

online<sup>42</sup>. Concerns about security also feature prominently (23%) in research from the Australia Institute<sup>43</sup>.

While many Australians do not express a need to shop online, or prefer the more tangible experience of a bricks and mortar retailer, it is clear that concerns around security, privacy and trust also play a role in deterring consumers from online shopping. The rapid growth of online retailing has been accompanied by a rise in credit card fraud<sup>44</sup>. This does not mean that online retailing should be any less secure or trustworthy than bricks and mortar retailing, but it does suggest that increasing numbers of Australians may be confronted with an uncertain and unfamiliar environment when the shop online for the first time, and are therefore more susceptible to security risks.

CHOICE believes the Federal Government should play a greater role in educating consumers on the protections and rights they have when shopping online. This includes their right to return products that do not comply with the Australian Consumer Law, their right to access legitimate parallel imports from foreign markets, and their rights to privacy and security. This is justified given the significant increase in online retailing, and the clear benefits to consumers from participating in the digital economy. Importantly, increasing the level of confidence that consumers have in the online marketplace will also help increase competitive pressure on those businesses that engage in international price discrimination.

#### **5.1.6 Are parallel imports legal for retailers?**

Generally speaking, parallel imports are legal<sup>45</sup>. However some restrictions have been placed on parallel importing by the *Copyright Act 1968*, specifically in relation to branded clothing and footwear bearing copyrighted graphics. The *Copyright Act* allows the holders of copyright to control the distribution of products containing their copyrighted material. Under the Act, a copyright owner cannot restrict the sale of a product in Australia if they consented to its initial release. However, they are allowed to restrict imports from overseas markets to Australia<sup>46</sup>. These restrictions do not apply to several products including computer programs and sound recordings.

While retailers may be able to buy and sell parallel imports, many choose not to. Some retailers value the support they receive from local suppliers, along with other non-price benefits. These include supply, quality assurance, legal trademark checks, customs, and distribution problems,

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<sup>42</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

<sup>43</sup> Denniss, R., Fear, J., Irvine, B., Richardson, D., (2011), 'The Rise and Rise of Online Retail', *The Australia Institute*, Technical Brief No. 8

<sup>44</sup> 'Australian Bankers' Association analysis of APCA payment fraud data', 12 July 2012, accessed at <http://www.bankers.asn.au/Media/Media-Releases/Media-Release-2012/Australian-Bankers--Association-analysis-of-APCA-payment-fraud-data> on 12 July 2012

<sup>45</sup> However, retailers must be careful to not mislead consumers by misrepresenting the origins of goods. Standards and quality can differ from market to market, so importers must ensure that products meet local standards. Labelling must also comply with Australian law.

<sup>46</sup> Productivity Commission, (2011), *Economic Structure and Performance of the Australian Retail Industry*, no. 56, November 2011

all of which may make parallel imports less attractive<sup>47</sup>. Without consumer pressure on prices, retailers will have little incentive to alter their supply<sup>48</sup>.

### 5.1.7 Restrictions on parallel importing

Manufacturers often go to great lengths to restrict the trade of their goods across national boundaries. One way to restrict trade that has already been discussed is the use of regional lockouts - or 'effective technological measures' (ETMs). The use of ETMs by international copyright holders from the US is affirmed in the Australia-US free trade agreement<sup>49</sup>. Indeed, it has been argued that the agreement "entrenched the ability of copyright owners to use technological measures against parallel imports"<sup>50</sup>.

Other technological measures have been utilised in order to restrict access to international editions. Websites are able to detect a user's geographical location through their IP address and charge them different prices accordingly. As discussed, this is a practise used by the online game website steampowered.com.

This tactic was scrutinised recently when it was reported that some fashion retailers were asking international websites to increase prices for Australian shoppers or restrict sales of particular brands. The ACCC has since launched an investigation into the matter<sup>51</sup>.

These restrictions keep prices in national markets artificially high to benefit international copyright holders. CHOICE has previously stated that companies should not use technological measures to discriminate against Australian consumers<sup>52</sup>. We believe the Federal Government should assess whether technological measures that enable international copyright holders to discriminate against Australian consumers should be allowed to continue. Given the rapid growth of online retailing and the increasingly global market for IT hardware and software, Australian consumers should not be disadvantaged through restrictive, anti-competitive practices that sustain international price discrimination.

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<sup>47</sup> Ibid

<sup>48</sup> Ibid

<sup>49</sup> Richardson, D., (2004), 'Intellectual property rights and the Australia-US Free Trade Agreement', *Parliament of Australia*, Research Paper No. 14 2003-04

<sup>50</sup> Ibid

<sup>51</sup> (2012) 'ACCC to Probe Online Price Deals', *The Australian Broadcasting Corporation*, 18/05/2012,

<http://www.abc.net.au/news/2012-05-18/accc-to-probe-online-retail-deals/4019184>

<sup>52</sup> CHOICE, (2011), *Inquiry into the Economic Structure and Performance of the Australian Retail Industry*



## 5.2 Recommendations

**Recommendation 1:** CHOICE recommends that the Federal Government play a greater role in educating consumers on the protections and rights they have when shopping online. This includes their right to return faulty products, their right to access legitimate parallel imports from foreign markets, and their rights to privacy and security.

**Recommendation 2:** CHOICE recommends that the Federal Government investigate whether technological measures that allow suppliers to discriminate against Australian consumers such as region-coding or the identifying of IP addresses should continue to be allowed.

CHOICE considers these measures to be anti-competitive when they result in significant price differentials for Australian consumers.

**Recommendation 3:** CHOICE recommends that the low value threshold (LVT) exemption for GST and duty on imported goods remain unchanged at \$1000. It is clear that the LVT does not account for the price differences identified in IT hardware and software products. There is no evidence that lowering the LVT would be cost-effective. Rather it would decrease the efficiency of parcel processing, disadvantaging Australian consumers.

## 6. Appendix: Methodological Notes- Price Differences

### Product price comparisons

This submission considers the prices of comparable products in the US and Australian markets. The only exception is Wii console games, which are also compared with the UK. This identifies the impacts of regional lockouts on pricing, as the UK and Australia share a region for Wii products.

'Comparable products' are those which are either identical or near identical across national boundaries. Products such as iTunes music downloads are examples of products that are literally identical. Others, such as Wii console games, differ slightly. However these differences are so minor that they cannot in themselves account for price differentials that may exist.

For example, Wii games are region coded, meaning that games bought in one region cannot work on a console bought in a separate region. Although this makes the games themselves physically different, it does alter the functionality or operation of the game.

Furthermore, these region locks are self-imposed. This means that if there was a significant cost in creating a physical product for one region over another, Nintendo could phase out the more costly regions and replace them universally with the least costly one.

### Exchange rates

Because we are comparing prices in different currencies we will be converting them from one currency to another. All conversions were done at the rate of \$A1=\$US0.9826 and \$A= £0.6338 unless otherwise stated. These are the average exchange rates between 28/05/2012 and 13/06/2012, which is the period when all the pricing data was collected. All exchange rate data was collected from the Reserve Bank of Australia<sup>53</sup>.

### Tax rates

All Australian prices include GST unless otherwise stated. However, none of the American prices include sales tax. This is because sales taxes in America are levied by state and local governments, and therefore differ across the country<sup>54</sup>.

### Recommended Retail Prices (RRP)

The pricing data was collected between the 28<sup>th</sup> of May and the 13<sup>th</sup> of June. This period is often a time of steep discounting by retailers in the lead up to the end of the Australian financial year. This would obviously skew the results of the study. For this reason the price shown in the following research are the recommended retail prices and not the sales prices.

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<sup>53</sup> Reserve Bank of Australia, (2012), *Exchange Rate Data*, <http://www.rba.gov.au/statistics/hist-exchange-rates/index.html>

<sup>54</sup> Barrett, W., (2012), 'Average U.S. Sales Tax Rate Drops--A Little', *Forbes*, 02/02/2012, <http://www.forbes.com/sites/williambarrett/2012/02/02/average-u-s-sales-tax-rate-drops-a-little/>

## Previous Research

CHOICE's submission to the Productivity Commission in 2011 showed that consumers in Australia could pay up to 90% more for video games than consumers in Asia and the US. It also included research that showed that Australians were similarly discriminated against in the sale of online music through iTunes<sup>55</sup>. Meanwhile, a 2008 CHOICE survey of recommended retail prices for computer products in both the US and Australia showed price differential of almost 90%<sup>56</sup>.

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<sup>55</sup> CHOICE, (2011), *Submission to Productivity Commission: Inquiry into the Economic Structure and Performance of the Australian Retail Industry*

<sup>56</sup> CHOICE, (2008), 'Fair Play for Pricing?', *CHOICE Compute*, May/June 2008