ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

Inquiry into Improving Access to Victorian Public Sector Information and Data

Melbourne — 30 September 2008

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Mr S Edwards, Manager, Government and Industry Affairs, Microsoft.

The CHAIR — I welcome Simon Edwards, Manager, Government and Industry Affairs, Microsoft. Today's parliamentary inquiry relates to improving access to Victorian public sector information and data. All evidence taken at the hearing is protected by parliamentary privilege; comments you make outside the hearing are not afforded such privilege. Please state your full name and address, whether you are attending in a private or professional capacity, and the position and name of the organisation you are representing.

Mr EDWARDS — I am Simon Edwards from 1 Epping Road, North Ryde, NSW 2113. I appear as the Manager of Government and Industry Affairs for Microsoft in Australia.

The CHAIR — I understand you wish to make some comments prior to our questions.

Mr EDWARDS — First of all, I apologise that our national technology officer for Australia, Greg Stone, unfortunately had to go to Redmond this week. He really wanted to be here to talk on this subject. He is quite passionate about the subject, but he sends his apologies.

I appear today not as a patent lawyer or a licensing lawyer; I could have brought some of those with me, but I thought we would have a much better conversation if we did not have them with us. I do not appear as a technology expert. My background is in economics, law and public policy; however, I do come here with a genuine interest in this subject area and the importance of information in our society, not just as blood to our democracy but as effectively the blood of our democracy. Public information is essential to a proper functioning democracy, it is essential to a proper functioning economy, and to the extent that public information can be made more freely available — and I use the word 'freely' in the context of made more freely available to the public at large in whatever form and in whatever means — I think I can speak on behalf of my company in saying this, that we believe that democracies work better, that economies work better, and that people are therefore better off as a result.

To that extent I did not want to make extensive comments. Our submission was put in. It focused, as you would obviously have seen, essentially around those technical issues of technology that we deal with, particularly around our collaboration in the open source community, our own development of open source software which is primarily in collaboration with other software projects, but it also touches on a number of the issues around licensing and development methods and the notion of open standards, which I would be happy to discuss.

I also wanted to congratulate the many other people who have submitted to this inquiry. I have taken some time to go through many of those submissions, and I must say they are some of the very highest submissions I have seen to public inquiries. I think again it reflects the significance of the subject matter the committee is investigating and the very deep interest at this time in society that this particular issue affords us all. It is a great opportunity, and hopefully from the committee's recommendations Victoria at least will be a leading light in the availability of public sector information.

With that I am more than happy to take any questions or open a discussion.

The CHAIR — I start with what you think might be the key benefits of the Victorian Government adopting a neutral procurement policy for its ICT projects.

Mr EDWARDS — There are a number, but I think the primary one relates to the message a neutral procurement policy sends to the development community at large. It really says that as a government you are not telling someone, or a developer in particular, how they should go about developing and licensing their intellectual property. It is saying that is a decision for the developer. It allows different business models to operate. It allows people to focus on what is the most important thing — that is, the quality of the code they write and the benefit that comes from the end product.

When you have procurement preferences or procurement directive policies, developers in particular have to make decisions about the extent to which the market that they want to operate within is open to them and how innovative they can afford to be. An open neutral procurement policy says, 'That is up to you, that is a decision for you. You focus on what you need to focus on and we will judge you on the end product, not on how you went about getting to that end product or how you end up licensing that end product'.

Mr THORNLEY — Let me just first put on the record, if I may, Chair, that I had the pleasure of visiting with some of the Microsoft folks when we were in Brisbane and looking at the work that they did with the Queensland department in their child protection officer support system. That is a really exciting example of how moving to internet-based architecture makes things happen better, faster, cheaper. But that is a little aside from the broader question.

I was keen to tap into the corporate wisdom that you have at Microsoft, given your global geographic spread, at a high level and just get a sense of what you know and your colleagues know. Which of the jurisdictions do you think are the most advanced in thinking this through and that have practicalised this fundamental world view into an effective regime of open information and, wherever appropriate, open architecture?

Mr EDWARDS — I think the most advanced, from the conversations I have had with colleagues around the world, is in Europe at the present time. The UK are very well developed in actually examining the issue and considering the different frameworks and steps that a public body needs to take. The European directive around the availability of public sector information has really been taken up by the UK in a very positive way, and I think the frameworks they have put in place are really demonstrating how it can be done.

In the developer community that we work with — we have a very large software development community across the world — many work off that platform, many work exclusively off our platform, many others, particularly small developers, work across platforms. The real benefit of those sorts of systems which are making public information more available, is that it gives them information to start working on in terms of where is the end demand for a product. It is one of those things, all information has value, the only question is, what is that value and who can — I hate to use the word, but — 'monetise' it in some way. It does not mean that all information has to have a monetary payment at the end of the day. It can be public good that could be the benefit that comes from it, but all information has value.

The challenge we have had in a public policy level is that up to now we have relied upon experts who are not really experts to make decisions about the value of this information. We consider, national security issues are a classic one already today, where we allow individuals who we say are our national security experts to make decisions, perhaps rightly, about whether or not a piece of information must be kept confidential, away from the public. Now, that may be the right thing to do.

Certainly in an area of national security you would hope that those experts are the right people to be making those decisions and you actually employ them for that very purpose. Across the breadth of the public sector, however, we have tended to take the view that the information the public sector generates is the public sectors' information; and that from an initial point of view you take the position that that information stays within the public sector because primarily it is public sector information and belongs to the public sector, instead of taking the view that that information actually belongs to the public and moving to the position where you make that information available to the public.

Others will then take that information and find ways to make it relevant potentially to the public. If we released data cubes of every single thing that the public sector knew, it would be worthless to the public. It is really in the interpretation of that data, the formatting of the data, the

re-engineering of the data, that the public find value in that information, but somebody has to see how they can make that happen.

The more information that is available to the public, and the UK is a great example of this, the more developers can start trialling ideas. Whether that is through an open source development program, or a proprietary program, is not really relevant. At the end of the day they will find a way to make that information available and be valuable to the public, and in their own way they will obtain value from that.

The long way of answering your question, is that really it is the UK I would point the committee to, because I think it is an example of where in a framework that is common to our own, they have taken many steps already that show how to consider, how to evaluate, how to put frameworks around information, how to make that information available and to actually make departments of state put a priority and a focus on this, without creating enormous costs.

The CHAIR — Can I press you a little more on that: you are saying, 'the UK', but can we hone in to specific examples that you might be able to direct our research team to investigate further?

Mr EDWARDS — In terms of?

Mr THORNLEY — There are some fairly potent applications, I suspect, that have come out in the early rounds. What would be some of the most potent examples?

The CHAIR — What would you flag?

Mr EDWARDS — I hesitate to pick one out, but I would be more than happy to provide some to the committee because I can get some from our UK office — some of the developers — and provide those to the committee.

I was speaking to my UK counterpart last week in preparation, and one of the issues where clearly there is great opportunity, we believe, for benefit and some applications already seen, but I think there will be more to come, is in the area of geographic spatial information.

It is a classic one because the capacity to use information that exists and actually make it real for people, through mapping technologies, is an obvious example, and where we already have the capacity to make that information valuable, we just need access to the information. I would be more than happy to provide some examples directly to the secretary.

The CHAIR — You mentioned the British example: were you primarily focusing in on Britain or would your team in Britain have good examples on that they could perhaps provide at a later date?

Mr EDWARDS — I would be happy to get our entire European group to have a trawl through what is going on in their countries and provide some examples.

The CHAIR — Wonderful, thank you.

Mr CRISP — We are looking at public information and data, but I pick up in your submission, there is a sensitivity to open source software, and I am putting in a concern that we should not entertain open source software, as a government, to purchase. I am looking to see where you think the general geographic boundaries lie between the open source software and the open source and creative commons and other areas which deal with just data and information, rather than that. I am interested in that boundary.

Mr EDWARDS — Let us take the two issues in a sense separately, if I can. On open source software, Microsoft is a proprietary software company; we are a platform company. That is our history, that is our background, that is what we have been. However, we also collaborate

extensively with the open source community, and we have developers within Microsoft who work exclusively on open source software development.

The challenge has been, how do you bring these two development models, in the first part, together, and the most complicated part about that is, how do you bring the two licensing models together when, at least in theory, the two are quite separate? The proprietary licensing model seeks to define the intellectual property ownership in the developer, and that gives the right to that person to determine who will be able to access, use and copy their software code.

That individual generally working in a proprietary model seeks to monetise that exclusivity within the law. The open source philosophy has been that you develop the code, you make the code available generally and you develop a commercial model on the back of that code, which either involves the maintenance of the code within the product, or the development of alternative proprietary products that link into that code that you alone then have and monetise.

The two are not exclusive, the two are simply examples of different development methods and licensing methods. We have spent a lot of time, money and brain power working out how we can bring those two together. The reason we have done that is that our customers demand it. A customer working with print server open source software and proprietary applications on top of those software code need to be able to bring those two things together. Inter-operability is really what we should all be thinking about, not what was the basis of the code, who made it, how did they make it. Let the individuals continue to choose how they want to develop and license their code, but in doing that they will have to start thinking about how you inter-operate with existing software code, software applications and software platforms. That is the real challenge.

Microsoft has, I like to say, a significant market presence, particularly in the client level of the operating system level. As a result of that, we are forced, and in a commercial sense it is a simple necessity, to work out how we make our software work with other people because our customers are going to use other people's software. We are not the Apple corporation's model of software where they design beautiful products, they make the code, they run the code within their products and nobody else can get in, it is a closed environment. That works for them.

I am sure if Microsoft were to go down that path it could probably work for us too but we are in a position in the market place now where that is just never going to be the case. We have to learn, and we continue to learn, to try to work both with the open source community and collaborate with the open source community. We have direct licensing agreements with over two dozen solely open source firms whereby we license them our software code, they cross license to us and we work out how to collaborate those two forms together. It is about making the product work for the customer. It is not about where the code comes from.

Again another long way of answering a fairly simple question. We do not object to open source software. We do not argue to governments that, 'You should not buy open source software'. You should choose the software that works best for you in whatever given environment you are operating. It is as simple as that. Your customers are the public who elect you as representatives and who pay the taxes. They want their software to work, that is all, that is the obligation.

In relation to that, finally, in terms of making public sector information available, what licensing arrangement should be used? Going through the submissions, I looked at many submissions particularly the University of Melbourne's submission, the Cyberspace Law and Policy Centre's submission, were excellent submissions because again they make the point that you should select the licensing framework that works best. In general that may be a Creative Commons licence without attribution. We would certainly argue that the less restrictive a licence you use the better, because that opens up greater possibilities. You may have some information you simply want to relinquish all copyright and intellectual property ownership of and put it directly into the public domain. You may not need to have a licence for it at all. You simply make it available and say, 'There you are'.

There are other forms of information that, having invested substantially into from public resources, you may want to retain degrees of copyright and intellectual property over and you should licence it appropriately. I think taking a general position — and this is really what the UK has said — you adopt the initial position that for that information which is available to be made public you start with a proposition that it should be made available with as few limitations as possible, and it is the exception rather than the rule which says there is a different framework that operates. If you need to put more licensing conditions on it, do so, but start with the proposition that the information should be in the public domain.

Mr THORNLEY — Clearly the bulk of our inquiry is about open information rather than open software per se, but I think where the rubber hits the road a bit on this — and I can think of certain other software companies that you may think of in answering this question — is in database environments. A lot of the public information that we may want to make available will be housed in a range of databases including those provided by a range of proprietary database software vendors, and the public either as individuals or as corporate or community entities may not be able to interrogate that data without having the tools necessary to interrogate the data architecture under which it is stored. I wonder if you can give us any thoughts you have about what it means as a practical matter to say that all of this data would be available to people, and what the commercial implications of that would be for the database software companies, or how else we can make information that is free, theoretically as a practical matter, actually usable to people?

Mr EDWARDS — If I may say, there are probably two aspects to that question — probably thousands, but I can think of two.

Mr THORNLEY — There are only two aspects to a duopoly, my friend.

Mr EDWARDS — Thinking of data that is already held in databases within government, there are real challenges in how you extract that information. I would hesitate to give a general answer to how you can best go about making that happen. Clearly it will depend on the nature of the format that is being used to store the information and encryption levels that are put on the information. The formatting that the information comes out in is actually readable by other programs and applications. It is all very well to say, even in an open standards environment, that this is an open standard but the application may interpret the information in different ways and communicate in different ways. It is not the be-all and end-all to say, ‘Make information available’. There is a long process that is actually gone through.

The second aspect, though, is for future information; information that will be generated into the future. This is where, in a sense, I think the point around open standards becomes important. To the extent that information can be stored using open standards, it is an incredibly valuable thing to have going forward. Again, I hesitate only in the sense of saying that simply because something has been mandated around an open standard does not mean that that information will be interoperable across your entire computer frameworks and systems, because the nature of computing is that implementation of an open standard within a product is not always the same. We have seen that recently in relation to ODF and open XML, where recent tests suggest that all those applications which are supposedly using the open standard in fact still have trouble communicating with each other because people have interpreted the standard in a different way, and implemented the standard in a different way within their product. There are still real challenges, and I think that is going to be something going into the future.

Again, as software companies our end focus has to be the consumer. If as consumers of information or as repositories of information governments say to us, ‘Look, this is a priority for us; we want you to help us make this information available’, then I think overall that is going to be a very powerful incentive to companies like my own to work with government to make that possible. Leaving us to our own devices — and by us I do not mean Microsoft but I mean the entire software community — we will probably go around in our usual way and make

wonderfully clever products that do wonderfully clever things in very narrow streams and silos because that is the nature of how we do business. That is not big business, it is all of us — big, small and medium.

The CHAIR — Because Mr Thornley has to leave us early we have agreed to give him some latitude so that he can ask his questions.

Mr THORNLEY — Thank you very much for that. Generalising a little bit, a commitment to open information may be a necessary but insufficient condition for capturing benefits. I am just trying to think through in a systematic way the other hurdles that will need to be jumped until we can really extract the full value from that as a community and as an economy. One of those may be the database structure and the tools that are available to people. Another one may be broadband availability, for example. I wonder if you can brainstorm with us quickly. If tomorrow we decided we were committed to open information — and that is all fantastic; like all engineering, as soon as you break through one bottleneck it exposes you to grow until you hit the next bottleneck, and then you have to solve that until you hit the next one. What do you think those major bottlenecks are on the road between us waking up and saying we are committed to open information and capturing the guts of the value of that as a community?

Mr EDWARDS — There are so many it is hard to think about it. Let us try to work through it almost as an example. Let us just take your database scenario. The first problem will be, as you say, extracting the information from the database in a format that can be widely disseminated. In doing so you are going to have to make decisions about what that information is. Is it information that can be made available currently under the law? Let us assume it is information that does not have privacy, security or third-party intellectual property within it, but is generally available to be made available to the public. You will need to determine the format in which it will be presented, and then think in terms of who is going to make the information available. Is it going to be from a department? Is it going to be through a central agency? Is it going to be through an umbrella agency? What access rights will the public have? Is it all information? Is it all historical information? Is it for a limited time? Will all elements of the community get the same access? Will there be a financial payment to get access to the information? Will it be available in multiple vehicle format? Providing someone with a disk is useless if they do not have any way of playing that disk or extracting the information further. Will the information be capable of manipulation, or is it a single straight, 'There it is, you cannot unlock it, you cannot really change it'.

Having got there as a consumer, I am now at the point where I want to get hold of this information. How do I get hold of it? How readily available is it? Is it available online in a broadband capacity? Are there multiple forms of access to it? Is it available through a mobile as against a fixed component? When I get that information how readily is it available to be manipulated, and then how is it finally communicated? Through all of those steps there are decision processes that can go one way or the other. There is not a general rule you can put and say this is the way it will be. And over all of that, when you have got all of that worked out, does this process you put in place accommodate changes in the technology environment? Does it take into account cloud computing? Does the information continue to sit in repositories within a central database structure within a department or a central holding area, or are you going to make that information available to be held by third party companies and the like? There is an enormous number of questions you can think through.

If you would like, one of the things I would do — because I know my national technology officer would be delighted to take it on as a little project — is take an example like that and actually give you a question and answer type flow chart of things you can consider.

Mr THORNLEY — I think that would be helpful, because I think the purpose of this review, hopefully, is not just to make a philosophical recommendation but to make some practical

recommendations about how such a change would be implemented and what the key milestones would be to seeing value actually captured.

The CHAIR — Stress the milestones. Truly, one of the things that the private sector is doing, in my view far more efficiently than the public sector, is keeping performance indicators and milestones. If you lock that into the thinking of the person who is going to be providing the extra information, I think we will get much more value out of it.

Mr THORNLEY — Create a market for reputation.

Mr EDWARDS — If there are any further questions that come directly in terms of how we can help you in any way, just let us know.

The CHAIR — We have covered most of what we were aiming to do. I was just checking with our research team. Is there anything in addition that you would like to cover, because the key points that we wanted to ask have been answered adequately, thank you.

Mr EDWARDS — Okay.

The CHAIR — Terrific, that is a most efficient use of your time. It just reinforces the point we just made. Thank you very much, Mr Edwards. We will have sent to you in about a fortnight a copy of the transcript. You are free to make any typographical corrections but not change the substance of what you have said. We again place on record our appreciation for your kind offer to provide additional information to our research team.

Mr EDWARDS — I am happy to. Thank you very much, Chair.

Witness withdrew.