

Australian Spatial Data Policy: Legal issues arising from data delivery via the Internet

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TS 02 - Web Based Approaches to Spatial Information Management (TS 02)
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What are the risks to government of providing spatial information data free on-line to the community, and how can these risks be mitigated or minimised?

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This presentation

Introduction

Purpose/Significance of research

Context and Environment

Spatial policy
The Internet and Information Revolution
Litigation and liability

Issues to consider

Response

Policy
Technical
Legal

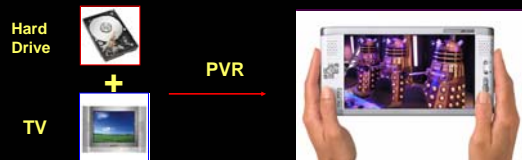
Implications and Conclusion

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Purpose/Significance of Research

1. Quantify legal issues of spatial data provision
2. Reform to minimise adverse impacts

Complexity of current environment – technology convergence



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Purpose/Significance of Research



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Purpose/Significance of Research

"The real business of websites has just begun - the inventions are there to be used, technology convergence is what is lacking.

It may be three years, five, ten - but the next decade will use existing technology to dramatically improve the web through convergence".

Ross Lasley

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CONTEXT: Spatial Policy

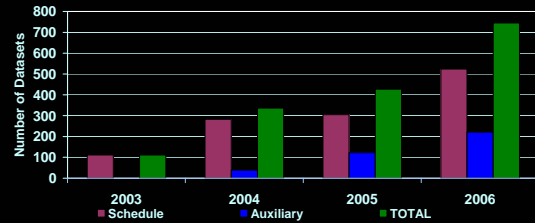
2001 Spatial Data Access and Pricing Policy (SDAP)

- 1. Provide access to data:** maximise the "net benefits" to the community, noting that the Commonwealth's spatial data holdings are an asset" which if made more accessible, "[could] deliver economic and social benefits" outweighing direct financial returns; and,
- 2. Encourage wider use:** encourage the use of the internet for online distribution of particular datasets, hence reducing the cost of delivery of the data to consumers.

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CONTEXT: Spatial Policy

Number of spatial datasets listed on the Schedule and Auxiliary List by calendar year 2003-2006

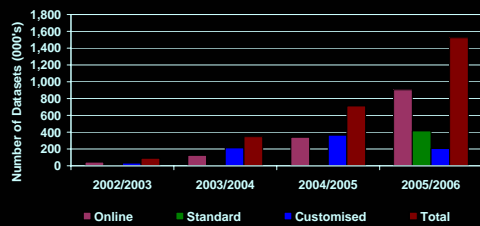


Source: Commonwealth of Australia - Office of Spatial Data Management SDPE Annual Reports 2002-2006

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CONTEXT: Spatial Policy

Number of spatial datasets delivered over period 2002 - 2006



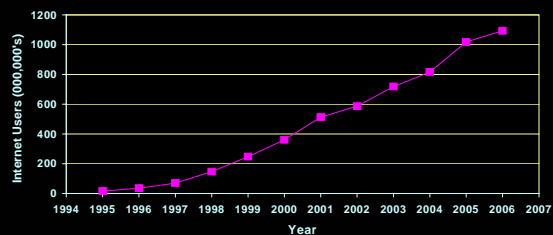
Source: Commonwealth of Australia - Office of Spatial Data Management SDPE Annual Reports 2002-2006

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CONTEXT:

Internet and Information Revolution

World Internet Usage 1995-2006



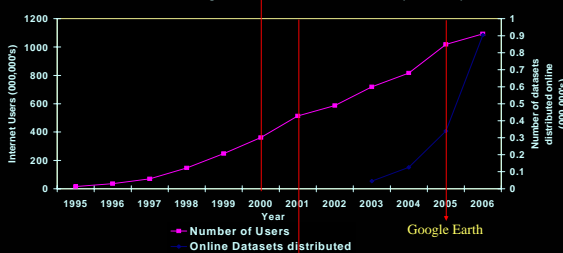
Source: Internet World Stats (the Internet Coaching Library - viewed at www.internetworldstats.com)

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CONTEXT: Internet and Information Revolution

Selective availability turned off

World Internet Usage v Online Dataset Distribution (Aus Govt)



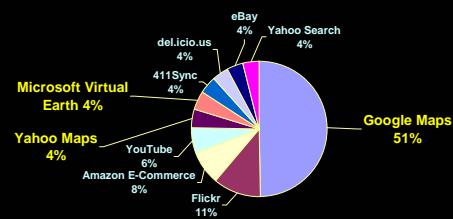
Data sourced from: Internet World Stats and Office of Spatial Data Management

Australian SDAPP

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CONTEXT: Internet and Information Revolution

Top 10 Application Programming Interfaces (API's) for mashups



Source: ProgrammableWeb.com May 2007

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CONTEXT: Litigation and Liability

Liability for provision of data may arise through negligence by way of:

- errors in represented location;
- representations of error free data; or
- unintended or inappropriate uses.

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CONTEXT: Litigation and Liability

Case law

- *Reminga vs United States*, 631 F.2d 449 (6th Cir. 1980)
- *Stephen Finlay McMartin v Newcastle Wallsend Coal Company Pty Ltd and Others*, [2004] NSWIRComm 202

Govt liability

Judiciary Act 1903, s64
Federal Tort Claims Act, s2674

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Issues to Consider

- \$\$ paid out in public liability, third-party liability and professional indemnity

60%

- "...an expectation of the public to sue when something goes wrong" Insurance Council of Australia (2002)

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RESPONSE Mechanisms

Policy :

- Standards policy (Spatial Data Infrastructure)
- Certification of professionals
- Limitation of liability

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RESPONSE Mechanisms

Technical:

- Metadata (ANZLIC standards)
- Geo Digital Rights Management (GeoDRM)
- Methodology, Linealogy, Fit for purpose

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RESPONSE Mechanisms

Legal:

- The Commons approach to data distribution
- Disclaimers, licensing, liability caps



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Implications and Conclusion

- **Complex nature of the environment and the industry**
- **Multi-faceted approach**
- **Continual adjustment**
- **Global**

- **Finalisation of research – early 2008**

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Thankyou

Questions?

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