BACKGROUND

Telstra Corporation Limited (‘Telstra’) welcomes the opportunity to comment on the Government’s Draft Intellectual Property (‘IP’) Toolkit.

Australia needs an innovative culture to realise our potential as a nation by boosting productivity and delivering sustainable economic growth. Telstra’s submission reflects the value that we place on innovation as a company (see Appendix 1). As a telecommunications and technology leader, Telstra believes that collaboration is critical to create a national culture of innovation. Facilitating and supporting collaboration between Australia’s publicly funded research organisations and the private sector is an important component in improving Australia’s productivity and enhancing economic prosperity.

Understanding and managing the IP associated with collaborations is a key requirement for successful commercial outcomes. Telstra strongly supports the Government’s initiative to provide guidance to facilitate discussions relating to IP between researchers and industry.

SUBMISSION

General Comments

Business, research organisations and individuals all play significant roles in encouraging innovation and collaboration. However, Government plays a critical role in establishing the environment in which collaboration can flourish, and should therefore play a leadership role in championing collaborative initiatives.

Telstra applauds the Government’s approach in providing resources and a framework to assist collaborators in agreeing positions relating to IP for both input and output materials in collaboration. In particular, Telstra agrees that the IP position must be determined after careful consideration of the project goals for each party. Resources aimed at helping parties identify and understand the relevant considerations can play an important role in reducing costs, improving outcomes and stimulating increased collaborations.

Specific Questions

1. Does the draft IP Toolkit offer useful guidance and tools to simplify and improve discussions on IP in research collaborations?

Telstra considers that the IP Toolkit does offer useful guidance and tools which may be helpful for collaborators to simplify and improve discussions on IP. The resources help streamline the relevant issues and considerations and therefore have potential to reduce the time, cost and risks associated with establishing formal collaboration agreements.
a. What is the most useful part and why?

- **A1 Decision assistance checklist** – A helpful checklist of important considerations for use before (or during) discussions and negotiation of terms. This may assist parties to capture and focus on relevant issues, potentially streamlining discussions and reducing negotiation time.

- **A3 Sample term sheet for the two party model contract** – The sample terms require parties to consider the scope of the project and relevant variables. We anticipate that it could serve as an effective checklist of issues to be agreed, a basis for negotiation, and eventually, as a way of capturing the agreed issues.

- **A4 Model contracts** – This is a comprehensive template for a two party contract, with useful user notes detailing options. We believe this is a useful foundation for an agreement between collaborators and that it will potentially reduce cost and time in developing a collaboration contract.

- **B1 Collaboration tips and case studies** – This section sets out useful tips for collaborations. We consider these have potential be very useful for parties. We also consider that the idea of including case studies is great. However, perhaps more cases could be included, with more details of realistic complexities encountered in collaboration negotiations. (See below ‘2. Are there any gaps in the information provided?’)

b. What is the least useful part and why?

- **A2 Chart of IP considerations in research collaboration projects** – Telstra questions whether this document adds any value or if it just encapsulates the information from the other resources in a different form.

- **B1 Collaboration tips and case studies** – see comments above (‘a. What is the most useful part and why?’) and below (‘2. Are there any gaps in the information provided?’) in relation to the number and level of complexity of the current case studies provided.

2. Are there any gaps in the information provided?

Document A1: Consider including increased discussion around the following points:

- Options for flexible approaches to ownership and access. For example, including a discussion around options for carving up rights
based on geographical territory, target markets/industries and temporal phases.

- Responsibility for avoiding third party infringement – for example who will conduct IP clearance searches, etc.
- The question of whether parties need to allocate responsibility for monitoring market or conducting periodic searches to see if any third parties have infringed developed IP.
- The question of what happens if new IP is generated during the collaboration but unrelated to the project scope.
- The question of what will happen if parties no longer wish to work together. For example, who can terminate and how? What are consequences of termination?

Document A2:

- In ‘4. Consider Contract Arrangements that’, Box 3, include a reference to licensing IP rights in addition to assigning.

Document B1:

- It might be helpful to include additional case studies setting out realistic hypothetical scenarios (perhaps sourced from real cases) to help parties understand the typical contexts and motivations of the parties in the negotiation.

General:

- Perhaps include links to negotiation resources.

3. How could the draft IP Toolkit be improved for the target audiences of SMEs and researchers?

The IP Toolkit could perhaps be linked with a community of prior users and subject matter experts who can provide practical information and advice on their experiences in applying the Toolkit resources.

4. Any other comments or suggestions for improvement?

Telstra believes that the IP Toolkit contains helpful resources to guide parties in collaborations, and that it does have potential to help convert government funded research into commercial innovation outcomes and to boost commercial returns on research. We commend the Government on this initiative.

We note that a national culture of collaboration and innovation will require additional, broader support from Government, including:

- Investment in education and skills
• Government funding for research organisation to undertake fundamental research and to enable them to partner with industry
• Policy to support innovation, for example:
  o Reforms to allow start-ups to offer tax-effective employee share schemes
  o Maintain R&D tax incentives for all Australian companies
  o Maintain regulatory certainty to support innovation
  o Support for modernisation of the IP system
• Encouragement for the private sector to provide funding beyond the start-up stage and develop a better functioning venture capital system
Appendix 1
Creating a culture of innovation at Telstra

Telstra is working on an innovation agenda as we continue to position our company for continued strong and sustainable growth. Telstra’s innovation agenda is strengthened by the engagement of our customers, vendors, partners and our people.

As there is not a one size fits all approach we have a variety of channels for our innovation work and see each of them as important projects in their own right. Together, they are evidence of our company’s widespread commitment to innovation. Our projects currently include:

- **Fix** – our T-Solve platform is an online community where our people seek to fix problems.
- **Innovate** – our Innovation Hub is our online community for innovation. The Hub allows staff to create solutions to problems (internal or customer) and seek internal funding and executive sponsors. We have over 11,000 active users across the company, and over 900 ideas have been submitted many of which have been acted upon and turned into new approaches, products or services. An annual innovation challenge celebrates the idea with the most support.
- **Incubate** – As a concrete way of supporting innovation, Telstra has established an innovation accelerator called muru-D (muru is based on the local Aboriginal word for “path to” and the “D” stands for digital).

muru-D connects promising startups with some of the best brains in the business while providing the funds, facilities and support to help make their dream product or service a reality. The six-month muru-D program handpicks ten standout startups and gives them $40,000, a world-class workspace and access to expert mentors. They also get tailored training programmes that cover all aspects of how to set up and scale a business. In exchange, Telstra is taking a small stake in the concept.
By harnessing the big ideas any of us can have and supporting the passion behind them, muru-D is designed to encourage digital innovations across a broad range of areas. The aim is to enable start-ups to bring their own unique ideas to life, rather than to influence the ideas themselves. This start up accelerator is a practical way in which Telstra can shares its skills and experience with digital innovators who have ideas but need access to capital and skills.

- **Co-Create** – Telstra’s research partner program sees us building relationships with research institutions, such as NICTA, where we work together to apply research, test ideas and potentially build new products and services.

- **Venture** – Telstra Ventures is currently investing in a number of breakthrough companies, both in Australia and internationally. We are actively seeking out opportunities to support new and emerging businesses that can support our future growth and create innovation.