The Centre for Internet Safety welcomes the opportunity to contribute to the enquiry into how to develop an effective regulatory system for digital currency, the potential impact of digital currency technology on the Australian economy, and how Australia can take advantage of digital currency technology.

The government needs to develop thoughtful, innovative and sensible policies that protect the public without stifling digital currency innovation and the resulting economic growth. Businesses which maintain digital currency exchanges or allow consumers to pay with such currencies, such as Bitcoins, require rules to ensure they are operating within the confines of the law.

A key part of these rules is creating certainty for all aspects of the digital currency eco-system allowing for the creation of trust, safety and confidence by businesses and consumers in their use. As digital currency systems develop, it will be imperative for law enforcement agencies that those systems comply with applicable anti-money laundering laws, know-your-customer norms and have the ability to provide applicable agencies with data upon receipt of a lawful request.

A specific set of laws should be created to categorise and define the legal standing of digital currencies, their users, businesses, miners and exchanges. Analogous laws already exist regulating credit and debit card use. These laws have been tested in the marketplace and are well understood by merchants and customers, serving as an ideal foundation for practical digital currency regulation.

About the Author

Nigel Phair is an influential analyst on the intersection of technology, crime and society. He has published two acclaimed books on the international impact of cybercrime, is a regular media commentator and provides executive advice on cyber security issues. In a 21 year career with the Australian Federal Police he achieved the rank of Detective Superintendent and headed up investigations at the Australian High Tech Crime Centre for four years.

About the Centre for Internet Safety

The Centre for Internet Safety at the University of Canberra was created to foster a safer, more trusted Internet by providing thought leadership and policy advice on the social, legal, political and economic impacts of cybercrime and threats to cyber security.

The Centre for Internet Safety is hosted within the Faculty of Law at the University of Canberra. The University of Canberra is Australia's capital university and focuses on preparing students for a successful and rewarding career.

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Due to the novelty involved, this regulation is best suited to be developed by the digital currency industry in concert with applicable Commonwealth, State and Territory authorities.
A barrier to creating legal regulation of digital currency marketplaces is the lack of stakeholder agreement about what type of information should be collected and maintained in transaction records. This will only occur after extensive consultation and determination of interaction with existing legislation. Until further clarification is provided, digital currency businesses and exchanges should keep detailed, confidential records of all data related to their transactions, including information that identifies users.

If this ‘collect everything’ policy were to become a legal requirement, it would give law enforcement agencies the ability to enforce a variety of crimes and ensure compliance with financial regulations. Legislative certainty would hold exchanges accountable and increase consumer trust.

Recommendations

1. To address the perceived illegitimacy of digital currencies and protect consumers, the government should:
   a. Recognise digital currencies as property;
   b. Create regulations for digital currency marketplaces and businesses with specific information about what type of information must be collected and maintained in transaction records;
   c. Support law enforcement to innovate their investigative tools and techniques alongside this new technology in order to ensure investigations are not impeded by any improvement in criminals’ ability to move funds anonymously, and
   d. Involve digital currency advocates and stakeholders when creating regulation.

2. Until further clarification is provided by the government, digital currency businesses and exchanges should keep detailed, confidential records of all data related to their transactions, including information that identifies users.