



20 September 2017

Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Attention: Jonathan Coppel | Presiding Commissioner

CAPEC - Response to the proposed 'Modernized Transporter Model'

Dear Mr. Coppel,

As requested by the Productivity Commission, the Conference of Asia Pacific Express Carriers (Australia) Limited ("CAPEC") offers this submission in response to a proposed GST collection model known as the Modernized Transporter Model ("MTM").

CAPEC has carefully reviewed the MTM and categorically does **NOT** support it.

For ease of reference, CAPEC has itemized its primary concerns under four key sub-headings:

- (1) PROCESS
- (2) ENFORCEMENT & COMPLIANCE
- (3) UNSUBSTANTIATED ASSUMPTIONS
- (4) COLLECTION COSTS

The following tables provide commentary as to why this position has been reached.



PROCESS	CAPEC Comments
<p>The MTM assumes that:</p> <ul style="list-style-type: none"> a) Vendor will perform an estimate of GST at the point of sale (checkout) and collect same from purchaser. b) Overseas transporter will charge the vendor an amount to cover the GST payable by the domestic transporter when shipment is imported into AU. c) The domestic transporter receives an amount from the overseas transporter that covers GST and AU domestic delivery charges. d) The domestic transporter calculates GST and reports same as part of its Self-Assessed Clearance reporting process. e) The domestic transporter periodically submits GST in a BAS-like statement. 	<p>Similar to the legislated model, under the MTM the <i>overseas vendors still have to collect GST at the point of sale.</i></p> <p>Therefore, steps b), c), and d) are all unnecessary and add cost and complexity to the process, even more so when the process has to be reversed for product refunds and GST exemptions.</p> <p>In respect of point e), domestic transporters are being held liable for GST estimates that have been made by overseas vendors and overseas transporters, and will find it difficult to recover funds if insufficient GST has been collected at the point of sale.</p> <p>The MTM is either:</p> <ul style="list-style-type: none"> - a “Ransom” Model, where overseas transporters are responsible for ensuring overseas vendors pass on GST receipts prior to export; or - a de facto “Border Collect” Model holding domestic transporters responsible if overseas vendors and/or transporters have not collected (or have been unable to collect) GST. <p>Under either scenario, delays are bound to occur, resulting in increased costs and a poor customer experience.</p>
<p>The MTM appears to object to the legislated model requiring a “precise calculation” of GST and advocates for an estimate only. (Page 18)</p>	<p>CAPEC understands that GST is to be calculated on the price paid for the goods and not simply estimated and combined into a freight/shipping fee.</p>
<p>The MTM claims to enable consumers to make a single upfront payment. (Page 26)</p>	<p>This may be true, but so does the legislated model (without the additional steps and complexities).</p>



<p>The MTM credit/refund process for goods that are misclassified or returned to origin (Page 31) is extremely complex and cumbersome because of the way it flows back through the domestic transporter (who remits the GST to the ATO), the overseas transporter, and then onto the vendor.</p>	<p>The legislated model is far more efficient and avoids a negative and confusing customer experience, i.e. consumers do not have to obtain a refund of the GST from the domestic transporter and a refund for the goods from the overseas vendor (as they would under the MTM).</p> <p>The inefficiency of the MTM would also be magnified for vendors that pride themselves on providing good returns processes which are becoming an increasingly important factor in consumer experience and choice.</p> <p>In addition, the current Customs Regulations would need to be amended to allow grounds for refunds.</p>
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ENFORCEMENT & COMPLIANCE	CAPEC Comments
<p>“The legislated model requires offshore enforcement of Australian laws against each of these businesses in every country in which they operate” (Page 6).</p>	<p>So does the MTM, which requires overseas transporters to invoice and collect estimated GST from vendors. There is no need to have transporters acting as middlemen when vendors can collect GST and remit it directly to the Australian Tax Office.</p> <p>It is essentially a Border Collect Model enforced at the point of origin.</p>
<p>“Compliance under the legislated model will be low because it requires offshore vendors/marketplaces operating in different jurisdictions to be aware of the specific and unique requirements of Australian GST law” (Page 16).</p>	<p>The MTM has the same requirements and challenges.</p>
<p>“Indeed, a large international business ... will incur significantly higher upfront and annual costs to comply due to factors such as the large volume of products ... and the scale and complexity of ... business”. (Page 17-18)</p>	<p>Vendors will need to do this anyway to be able to estimate and collect the GST at the point of sale.</p> <p>Expecting/enforcing overseas transporters and domestic transporters to do the same will add unnecessary layers of cost and complexity, and undoubtedly result in discrepancies between the three parties involved in each transaction in respect of the true amount of GST payable.</p>

UNSUBSTANTIATED ASSUMPTIONS	CAPEC Comments
<p>Under the legislated model, “Vendors looking to circumvent the law will easily be able to migrate their goods to non-compliant marketplaces or new marketplaces that operate below the \$75,000 threshold” (Page 7).</p>	<p>Overseas and domestic transporters will have no visibility on which vendors are trading below \$75,000 per annum into Australia. The MTM therefore implies that the threshold will not be applicable, which is contrary to GST legislation.</p> <p>In essence, the \$75,000 threshold cannot exist under the MTM due to the complexity and associated costs involved for vendors and transporters.</p>
<p>“Australia Post can also achieve a collection rate of approximately 60% by the end of the first year of launching the MTM, and more than 93% within four years” (Page 7).</p>	<p>CAPEC questions the veracity of these claims without further verification from Australia Post. Notwithstanding this, Australia Post achieving a collection rate that is comparable to CAPEC members is essential in avoiding an uneven playing field amongst domestic transporters. The MTM does not provide this parity.</p>
<p>The MTM proposal states that the 2011 Productivity Commission finding that it would cost \$2bn to collect \$500k of taxes was based on having to perform formal import declarations on all shipments between \$100 and \$1,000 in value, and was based on a Border Collect Model. It goes on to claim that CAPEC’s collection costs would therefore be reduced from over \$30.00 to approximately \$3.00 per shipment under the MTM.</p>	<p>Under the MTM, the domestic transporter still has to determine what amount of GST (if any) is payable to the ATO. A verification process is therefore required to validate the GST amount collected by the vendor. Moreover, additional processes such as valuation checks and the provision of GST invoices to AU consumers require significant investment.</p> <p>The claim that CAPEC’s collection costs would reduce by 90% is untested and fails to recognise the significant volume growth that has occurred in the six years since 2011. Moreover, it does not take into consideration the cost to administer credit requests from consumers and losses for vendors through GST disputes.</p>
<p>“There is significant risk that the legislated model will drive Australians to non-compliant online market places that do not provide similar levels of protection for their customers” (Page 15).</p>	<p>This general statement ignores another general assumption that AU consumers may be quite happy to pay GST to a reputable online operator rather than save GST by purchasing from a grey market site with lower/no controls on credit card fraud, warranty, returns etc.</p> <p>There is strong evidence to suggest that factors other than price, such as</p>



	product range and convenience, are more important to consumers. ¹
“As technology advances, new marketplaces will proliferate, as the cost of establishing a marketplace continues to plummet. Vendors looking to circumvent the law will easily be able to migrate their goods onto new marketplaces which operate below the \$75,000 threshold, or simply choose to be non-compliant” (Page 16).	CAPEC contends that, should vendors leave EDPs under the legislated model as suggested, there would be significant challenges in terms of promoting their products outside of established distribution channels.
The MTM modeling refers to OECD models and guidelines, and points to the “Logistics Model” as being the most certain, simple, and effective (Pages 12 & 20).	<p>An important point to make is that the OECD’s recommendations are made to a wide group of countries, many of which already have some form of Border Collect Model in place and are desperately seeking more efficient alternatives. It is therefore inappropriate to apply these recommendations to Australia, which will have a significantly different model as of 01 July 2018.</p> <p>Both the OECD² and WCO³ have undertaken extensive research into the most effective and efficient GST collection models and do not advocate the Logistics Model as being the universal solution.</p>
The MTM proponents claim that CAPEC can collect 98% of GST.	<p>This is a significantly higher compliance rate than the 70% quoted by the MTM proponent at the Senate Committee Hearing in April 2017.⁴</p> <p>CAPEC members have had no input into the calculation of market penetration of the MTM. Further, it is unclear whether this high collection rate is distorted by including revenue neutral (B2B) transactions that are not part of the legislated model.</p>

¹ CHOICE nationally representative survey (2014) <https://www.choice.com.au/electronics-and-technology/internet/using-online-services/articles/online-shopping-and-the-gst-threshold>

² http://www.oecd-ilibrary.org/taxation/addressing-the-tax-challenges-of-the-digital-economy-action-1-2015-final-report_9789264241046-en | Annex C

³ <http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-news/ecommerce-and-revenue-collection-wco-news-78-october-2106.pdf?db=web>

⁴ Senate Economics Legislation Committee Hansard | 21 April 2017



COLLECTION COSTS	CAPEC Comments
<p>The MTM implies that GST is collected by the vendor as part of a bundling process that includes GST and freight charges (Page 12)</p>	<p>GST paid needs to be specific to the purchaser, not part of a less precise bundling process that could also include insurance, exchange rate conversions, specialised handling costs, warranty etc. GST should not be masked in this process, especially as GST credits will be necessary on some shipments. A transparent Vendor Collect process will mitigate the risk of non-compliance.</p>
<p>“There is also risk that if the legislated model is replicated in other jurisdictions, vendors/marketplaces will need to incur these costs over and over again to comply with each jurisdiction” (Page 19).</p>	<p>The same principle applies to overseas and domestic transporters under the MTM.</p>
<p>“Domestic transporters will be required to incur a one-time capital cost to update their systems and commercial arrangements to ensure they are charging and remitting GST. These costs should be relatively small when amortized over multiple years and millions of shipments” (Pages 19 & 29).</p>	<p>Evidence was provided at the Senate Committee Hearing in April 2017 indicating that the legislated model would lead to significant upfront costs to vendors of (\$3.2m) as well as annual ongoing costs (\$625k p.a.). CAPEC fails to understand how the MTM would avoid a similar fate for overseas and domestic transporters.</p>

Additional considerations:

- The MTM **fails to highlight** that the **liability to pay GST** that has not been collected overseas **falls on domestic transporters**. This is an untenable consequence.
- The **MTM provides no “line of sight”** for the overseas and domestic transporters as to what the true value of the goods is and what GST is paid. This creates additional record keeping requirements and adds to compliance risk.
- Overseas express carriers and postal operators are the only stakeholders referred to in the MTM. However there are many **other reporters of Low Value Goods** that need to be considered to avoid creating unfair competitive advantages.
- How are **exchange rate fluctuations** and **currency conversions**, between the time of GST collection from vendors and remittance to overseas transporters, reconciled?
- Overseas express carriers and postal operators would need to establish huge overdrafts to carry **GST liability**. Has this cost been factored into the MTM?
- How would **small to medium transporters** of Low Value Goods, without a global network or presence, comply with the MTM?
- Who is responsible for ensuring **GST exempt goods** are treated correctly?
- How will the ATO supply express carriers and postal operators with a **receipt for the GST paid** so that this can be passed on to vendors and/or Australian consumers?
- Individual carriers and postal operators have no visibility of a supplier’s status in relation to the \$75k threshold. This is a distinct disadvantage to suppliers that genuinely sit below the threshold, and the **MTM could result in the Australian Government inadvertently giving large e-commerce platforms an unintended market advantage**.
- The implementation **timeline for postal operators** (even for Group 1 countries) appears to be **overly ambitious** and is largely based on the capability of postal authorities in other jurisdictions to capture the GST.
- If Australia Post is not in a position to implement the MTM by 01 July 2018, it would create a **significantly anti-competitive** environment which would be in contradiction to the COAG Competitive Principles Agreement (CPA) referenced in CAPEC’s main submissions to both the Senate and Productivity Commission Inquiries conducted this year. The CPA stipulates that:
 - *Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership; and*
 - *Governments are to ensure that they impose the same obligations on government business enterprises as they would on privately owned enterprises, with regulatory requirements and fees being listed as specific examples.*

The MTM would breach these principles.

- The MTM assumes that overseas express carriers will invoice vendors directly for the GST payable at the same time a request is made for freight payment. However, in many cases it is the e-commerce platforms that contract with the overseas express carriers and arrange freight for their own merchants. **Overseas express carriers therefore have no jurisdiction over the merchants**, nor do they have control, influence or the ability to contact them directly.
- The MTM argues that domestic express carriers should be made liable for GST payment. Using international tax principles, why should a party, which is not a principal party of interest for a transaction, be made liable under the law for a goods and services tax?
- **CAPEC members are neither the buyer nor seller of the actual transaction. They ship parcels on the basis of commodity, weight and volume, not value.**
- The MTM argues that domestic express carriers should be made liable for GST payment. Using international tax principles, **why should a party, which is not a principal party of interest for a transaction, be made liable under the law for a goods and services tax?**
- The substantive work undertaken by the **OECD recognizes that clear challenges exist** in respect of transporters collecting and remitting GST. It is therefore incorrect to suggest that a logistics / transporter based model is the universally preferred position.
- Of all the other alternate GST collection models put forward, CAPEC suggests that only the financial intermediary model warrants further consideration.⁵

CAPEC reiterates that it provides the Government with sufficient data for it to monitor compliance of overseas vendors under the Vendor Collect Model regardless of which transporter(s) they use, and that this data set will be further enhanced as EAD⁶ is progressively implemented by Australia Post and UPU⁷ member countries. The Government currently uses this data for border protection purposes and has the ability to stop non-compliant shipments before they enter Australia. This same principle should be able to be invoked upon overseas vendors who fail to collect/submit GST after being adequately warned of the consequences of not doing so.

In summary, **CAPEC contends that the MTM is simply not a viable alternative to the legislated model.** It is inefficient, adds complexity and cost to the international supply chain process, and is overly ambitious in terms of being achievable by 01 July 2018. It would also result in the Government breaching its own Competitive Principles Agreement. Moreover, the Low Value Threshold Interdepartmental Committee looked at a similar model in 2013 and found it to be unworkable.

Yours sincerely

Kim Garner | Chairman of the Board of Directors
Conference of Asia Pacific Express Carriers Australia Limited

⁵ Low Value Parcel Processing Taskforce Final Report | July 2012 | Recommendation 3.1 | Submission 10 to the Productivity Commission Inquiry

⁶ Electronic Advance Data

⁷ Universal Postal Union