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AUSTRALIAN PRODUCTIVITY COMMISSION (PC) DISCUSSION PAPER: COLLECTION MODELS FOR GST ON LOW VALUE IMPORTED GOODS

JOINT SUBMISSION OF THE AUSTRALIAN TAXPAYERS' ALLIANCE (ATA) and MyChoice Australia (MC)

Introduction

1. The ATA and MC thank the PC for the opportunity to present the following comments on collection models for GST on low value imported goods (<\$1,000 AUD value).
2. The ATA is an independent, grassroots political advocacy group representing the interests of Australian taxpayers. We have 50,000+ members nationwide and stand for the principles of individual freedom, economic prosperity, efficient taxes and the roll-back of the nanny state. MC is an autonomous affiliate of the ATA which spearheads campaigns focusing on individual freedom, personal autonomy, consumer choice and public health.
3. The ATA and MC are concerned by any impact the proposed models could have on Australian consumers and businesses through regulatory/administrative burdens, delays, loss of foreign trade opportunities, increased prices, loss of employment as well as any other flow-on effects. In our submission to the Submission to the Senate Standing Committee Inquiry into the *Treasury Laws Amendment (GST Low Value Goods) Bill 2017 ('the Bill')* (attached: Appendix A), we provided extensive evidence that the abolition of the GST-free threshold for low value imports (henceforth referred to as the *de minimis* threshold), is contrary to international trends towards trade liberalisation and is likely to result in a range of adverse impacts including higher prices (beyond the simple addition of the GST), potential tariff retaliation from our trading partners, significant enforcement and administrative costs for businesses and/or government agencies and heightened threat of consumer fraud and/or phishing for Australian consumers. Our submission to the Senate Inquiry also provides evidence that enforcement/compliance connotes difficulty and that the tax, imposed through any model, is unlikely to raise significant revenue for the government despite these difficulties.
4. We also note significant international opposition to the proposal, and present a joint letter signed by 16 international organisations and policy experts representing tens of millions of taxpayers from the United States, the United Kingdom, Canada, New Zealand, Spain, Ukraine & Venezuela (attached: Appendix B).

5. We recognise however, that the Bill has passed both houses of parliament and the PC considers it a *fait accompli*.¹ Although the following submission will analyse the legislated and proposed models in order to minimise these ill effects upon Australian consumers, vendors, businesses and taxpayers whilst upholding the bill's stated rationale of tax neutrality and fairness insofar as possible without unduly prejudicing the abovementioned interests- we nonetheless note that it is open and desirable for the PC to deliver a report and/or recommendations which recognise these issues and adverse impacts.

IMPACTS ON AUSTRALIAN CONSUMERS AND BUSINESSES

To what extent would imposing GST on online purchases from overseas have a material effect on the competitiveness of domestic retailers?

6. Treasurer Scott Morrison, in stating the government's rationale for the bill stated in the Second Reading Speech that "*These changes are about ensuring that Australian businesses, particularly small retailers, do not continue to be **unfairly disadvantaged** by the current GST exemption that applies to imports of low-value goods.*"
7. We note however, that the PC has recognised that "*Bricks-and-mortar retailers can offer a different service than online retailers, and the overseas retailers is often far greater than the 10 per cent price differential between domestic retailers and online GST differential.*"² This has been substantiated by independent studies. For example, Novak (2015) provides a wide-ranging price comparison between identical Australian-sourced goods and goods sourced internationally. The price differentials varied between a low of 14% to 70% for *identical* products. Novak recommends that rather than taxing foreign goods the government ought to focus on ascertaining why Australian prices are as high as they are. Novak attributes the high price of goods, especially at the retail level, to Australia's expensive and highly regulated Labour market as well as regulatory restrictions on retail, trading hours and land use which he found to be a far more significant cause of our comparative disadvantage in retail than the *de minimis* threshold. The ultimate conclusion of the study was that "*Putting a GST on low value imports is unlikely to revive Australian retailing in the face of intense online shopping competition, given the significant price differentials for many popular consumer products.*"³
8. We therefore call on the PC to re-emphasise that the Bill and/or alternative models are unlikely to meet the government's stated policy rationale and further call upon the PC to recognise the need to address the abovementioned regulatory and cost burdens that factor into the price differential between local and overseas goods in order to

¹ Productivity Commission, "Collection Models for Gst on Low Value Imported Goods," (2017), 3.

² Productivity Commission, "Collection Models for Gst on Low Value Imported Goods," (2017), 6.

³ Novak, M (2015) No to the GST tax attack: Why the exemption for online purchases should stay, *Institute of Public Affairs*.

meaningfully address the rationale of GST collection on low value imports.

To what extent would the different alternatives entail higher prices for consumers and/or additional processes or delays to purchases they make?

9. In the case of domestic firms, the 10% GST is passed on in full, to the end user (customer). However, it is submitted that many unique factors impact transactions with foreign sellers through the online medium which connote different outcomes.
10. Goods and Service Taxes (GST) are considered as 'taxes on consumption' as they are paid for by the end user or consumer of the good. In practice however, the GST applies as a tax on sales with input credits. This is because the GST is levied at each stage of sale along the production chain of the good (E.g. Timber producer > Chair maker > Chair wholesaler > Chair retailer > Consumer). The net effect of ensuring that the consumer bears the burden of the tax is achieved through the return of the GST levied at each point prior to consumption in the form of 'input credits' which are refunded to the sellers at each stage of the production/supply chain.
11. In the case of imported goods, the government does not refund the overseas vendor or Electronic Distribution Platform (EDP) the input credits as these stages of the production process occurred outside of Australia. The effect of this problem is that GST on imports, whilst appearing to connote equitable treatment of imports and domestic products, disadvantages importers relative to domestic sellers as they are unable to claim the input credits which domestic sellers receive for paying the same rate of GST.
12. It is therefore submitted that the proposed models may put pressure on the prices of low value imports in excess of the 10% figure which applies in the case of domestic goods.
13. **Vendor registration vs EDP registration:** Under the legislated model, the government intends to capture overseas vendors who would qualify for mandatory GST registration were they domestic firms, by requiring that these overseas vendors register to pay GST. This is largely analogous to domestic firms' GST eligibility. However, the legislated model also intends to capture foreign sellers who would not be required to register to pay GST in Australia were they domestic sellers. This is achieved by requiring EDPs to establish and maintain infrastructure for levying and accounting for the GST, based not on the size of the individual seller (as is the case with the GST within Australia), but based on the size of the EDP itself and despite many EDPs having no role as seller. Hence, prices for customers are likely to increase even further than the simple 10% cost increase as the administrative costs involved in maintaining this infrastructure are likely to be passed on to the consumer.
14. The inconsistency of the legislated model's requirement of EDP registration with the rationale for the GST as a consumption tax (levied as a sales tax with input credits in cases where a vendor is obliged to account for it), is best exemplified in the following

quote from Economists Chris Berg and Professor Sinclair Davidson of RMIT University: *“Imagine if instead of a buyer and seller trading on an electronic distribution platform they conducted their business over the telephone. If this bill were to operate in a consistent manner it would then be imposing the tax liability on the telephone company.”*⁴ If we consider taxes as a tool to influence the behaviour of actors within an economy, it is evident that the tax operating in such a manner discourages EDPs from continuing to facilitate mutually beneficial cross-border transactions with Australians. The act of facilitating international commerce through innovative platforms and technology is to the benefit of Australian individuals and businesses and should be encouraged rather than discouraged.

15. Furthermore, customers may be impacted by significant delays before they can shop through certain EDPs again as the infrastructure will need to be tested and refined to ensure accuracy given that many EDPs do not handle the good and mostly relegate payment processing to financial intermediaries such as PayPal. Though the government has delayed the implementation of The Bill until July 2018, it is evident that there is significant uncertainty around whether the government will choose an alternative model in light of any recommendations made in the outcome of this PC inquiry. This commercial uncertainty will hence make it difficult for EDPs and vendors to effectively make decisions in the near-future about implementing new infrastructure which will be compliant with whatever model is ultimately adopted in the long-term. This is hence likely to result in delays and disruptions, whereby several EDPs and vendors may refuse to trade with the Australian market for a substantial period of time, or until both the uncertainty and the necessary software solutions are resolved. Several EDPs and vendors may cease Australian operations indefinitely depending on the impacts of any model on their business.
16. This outcome is especially concerning for Australian businesses and consumers as several Australian small and medium-sized businesses rely on EDPs to conduct their trade, including with overseas markets. These businesses are likely to be disrupted by the flow-on effects of the legislated model as they will lose their EDP platform.
17. EDPs, especially the well-established and large EDPs which are captured by the Bill's GST registration requirement, offer the unique benefit of seller ratings which allow businesses, including Australian businesses, to accumulate and advertise their reputation on the platform in order to attract customers and promote consumer confidence. The legislated model however, in forcing many EDPs to cease dealing with the Australian market, will damage these businesses due to the loss of the goodwill attached to the seller formerly under the EDP. Consumers in turn, will be put at risk as they can no longer access the seller ratings contained in the now-defunct Australian operations of the EDP. Furthermore, businesses may be forced to move onto smaller, more dubious and/or less recognised EDPs in the event of an exit from the market of the larger EDPs. This will reduce competition within the Australian import market and is hence in turn, likely to result in increased prices for consumers.

⁴ <http://www.news.com.au/finance/money/tax/government-urged-to-scrap-online-gst-changes/news-story/ccbe527c48ee840300c4c9ad77217f88>

18. Conversely, it is arguable that some level of cost will be borne by the vendor or EDP rather than passed on to the consumer, given that online shopping for low value goods is characterised by many small individual or business sellers who are forced to compete to a greater degree than that which is observed in the brick-and-mortar retail industry which is characterised by a relative oligopoly given the market share of large players and store chains such as Harvey Norman and Dick Smith. Notably however, this actually exacerbates the likelihood of EDPs and sellers leaving the Australian market given that they may consider the resultant depletion of their profit margins to no longer be worthwhile. This will lead to reduced competition and is hence likely to result in higher prices for Australian consumers.
19. Furthermore, it is submitted that, to the extent that foreign vendors and EDPs exit the Australian market, the levels of competition experienced by Australian retailers will reduce and this connotes upward pressure on prices for consumers due to a decline in the threat of competition faced by Australian retailers.
20. The PC must also consider the impact of regulatory compliance and tax burden on entrenching monopolies or oligopolies as the larger firms and vendors are best placed to bear these burdens whilst maintaining potential profitability of their business. Notably however, the legislated model places these burdens on EDPs. EDPs are relied upon by tens of thousands of small and medium-sized businesses within Australia and it is therefore likely that these businesses will be severely compromised if the EDPs they rely upon exit the Australian market. This is especially true where such businesses have relied upon goodwill and reputation generated and represented by the in-built rating and review system which they stand to lose.

Would these effects alter consumer shopping patterns and preferences?

21. In a 2014 study, Einav et al. researched the sensitivity of online sales to sales taxes, utilising data from eBay (an EDP) for this purpose. A tax which increased the price by 10% was correlated with a 15% decline in online purchases with a larger effect for some products such as computers and electronics. In terms of relative effects of domestic sales taxes against online sales taxes, a 1% increase in tax applicable to goods sold at stores was found to increase online purchases by 2% and to reduce domestic, intrastate purchases by 3-4%.⁵ Notably, the study was conducted in America whereby Australian consumers are more likely to import goods from overseas and are hence more likely to have their consumer behaviour influenced by shipping and delivery time. Hence, any adverse impact on delivery times and/or cost increase due to the tax and enforcement/accounting burden is likely to influence consumer behaviour by increasing the relative competitiveness of domestic retailers. However, it is submitted that this is undesirable as it will not make Australian retailers more competitive in terms of fairness/equity nor in terms of offering Australian consumers a better deal. Rather, it will simply change the system to one which

⁵ 2 Liran Einav et al., "Sales Taxes and Internet Commerce," *The American Economic Review* 104, no. 1 (2014)

unfairly disadvantages overseas vendors and EDPs.

LEGISLATED MODEL

What rate of compliance can be expected, are the Treasury's rates of compliance estimates realistic?

22. The EDP-collection/ dual vendor/EDP collection model is an unprecedented proposal which has not been implemented in any other country. As a result, estimates about compliance expectations cannot be informed by practical application. The ATA and MC are deeply concerned that the government have passed the Bill without the preparation of a Regulatory Impact statement which is standard and best practice in the case of similar significant changes including prior amendments to GST laws and regulations. Furthermore, the Treasury have not made public their estimated rates of compliance and we note that Treasury officials were unable to provide specific answers about expected rates of compliance at the Senate Inquiry hearings.
23. Independent accounting firm KPMG estimates a compliance rate up to 27%.⁶ The compliance rate is likely to be further reduced as eligible foreign vendors and EDPs can easily skirt the law as it is practically impossible to verify that all but the largest, most well-established and socially responsible EDPs and vendors meet the threshold required to register under the Bill. As these are foreign vendors, compliance rates are also likely to be reduced by the level of English knowledge and difficulty in interpreting Australian legislation without the aid of legal and technical advice. Though the government has stated that it will assist registrable vendors and EDPs with meeting their obligations, this is an impractical task given the difficulty of even verifying the registrable status of all but the largest EDPs and vendors.

To what extent will overseas vendors and EDPs voluntarily comply? What factors will contribute to rates of compliance among them?

24. It is highly unlikely that all but the most well established and reputed EDPs and vendors will voluntarily comply due to the impracticality of enforcement and the inability of government agencies to verify a foreign business's records to ascertain whether it meets the threshold necessary for mandatory registration. For example, the ATO (Australian Tax Office) has very little power to audit and enforce compliance against companies located overseas, including the vendor, EDP or both. Some estimate could be made through the audit of domestic consumers, however this will only provide vague and unverifiable guidance that a vendor/EDP may, due to its particularly high profile within the Australian market, be sufficiently large enough to need to comply with The Bill's registration requirement.

⁶ KPMG, "Estimating the Direct GST Revenues from Alternative Collection Models," (2017).

25. Studies have shown that it is likely that at least a near-majority of people will evade paying a tax if there is a safe way to do so.⁷
26. Blanthorne found that taxpayers who have the opportunity to underreport income underreported their income to a greater extent and underreported their income more often. These taxpayers were also found to have lower tax reporting ethics than those who lacked the opportunity to underreport.⁸
27. Antonides and Robben found that the probability of tax evasion was tied to the availability of opportunity to hide income.⁹
28. Carnes and Englebrecht found that tax compliance increases as the visibility of income to the taxing authority increases.¹⁰ In the case of the legislated model, the records of foreign companies are usually inaccessible to agencies such as the ATO.
29. Notably, these studies made assessments by observing income tax compliance. In the case of consumption/sales taxes payable or accountable for by commercial businesses acting as vendors or EDPs, this non-compliance figure is likely to be significantly higher due to the additional pressure of competing within a market of firms whereby those which do not comply are at a competitive advantage against those that do.
30. Compliance is also likely to be lower as Australian individuals and businesses may be motivated to comply voluntarily due to a sense of national pride or identity as well as a perception that money invested in the government benefits their society, country and communities as a whole. This motivation is evidently absent in the case of foreign vendors and EDPs. Compliance rates, voluntary or otherwise, are hence likely to be low given the difficulty and impracticality of enforcing compliance per the legislated model.
31. Companies that do comply will be motivated by international reputation, goodwill and corporate social responsibility policies. This is also likely to be the case where the EDP or vendor possesses sufficient market share to ensure that any competitive disadvantage against non-complying vendors/EDPs can be neutralised or ameliorated. Such factors are not typical of most businesses and individuals acting as vendors/EDPs who would technically be required to pay/account for the GST under the Bill.

⁷ Martinez-Vazquez, J., Harwood, G., & Larkins, E. (1992). Withholding position and income tax compliance: Some experimental evidence. *Public Finance Quarterly*, 152-206.

⁸ Blanthorne, C. M. (2000). *The role of opportunity and beliefs on tax evasion: A structural equation analysis*. Arizona, United States: Arizona State University

⁹ Antonides, G., & Robben, H. (1995). True positives and false alarms in the detection of tax evasion. *Journal of Economic Psychology*, 617-640.

¹⁰ Carnes, G. A., & Englebrecht, T. D. (1995). An investigation of the effect of detection risk perceptions, penalty sanctions and income visibility on tax compliance. *Journal of the American Taxation Association*, 26-41.

32. It is likely that the cooperation of foreign governments might be the only possible way to ensure a significant level of compliance by overseas sellers and EDPs. However, such significant and burdensome efforts on the part of foreign governments are highly unlikely – even from the governments of developed nations.
33. The United States of America provides a useful example as a large proportion of foreign vendors and high-profile EDPs selling to or dealing with Australians are based there. The US government is unlikely to cooperate with Australia in enforcing compliance with the legislated model as the tax represents an outflow of capital from their shores to ours and amounts to a deduction under US tax laws,¹¹ thereby reducing US government revenue.
34. Furthermore, America's state-based sales tax regimes are noted for their own tax evasion and obligation compliance/enforcement issues, with a recent study finding that *"there remains a gap in enforcement coverage that allows unacceptably large amounts of sales tax theft to escape detection."*¹² Given America's own issues in this regard, it is unlikely that the US government will invest resources in assisting the Australian government with ensuring compliance and enforcement of Australian tax laws.
35. Notably, the current US president has called into question America's trade and economic arrangements with its trading partners and has shown willingness to favour domestic interests over those of foreign governments by engaging in protectionist measures such as tariffs.¹³ He has also posited the reduction of tax and regulatory burden on American firms as a policy platform.¹⁴ This further reduces the likelihood that the US government will assist Australia in promoting compliance and enforcement of the legislated model.

How will complying affect their competitiveness with other vendors in the market?

36. As outlined above, vendors and EDPs that comply will immediately be placed at a disadvantage to those who do not. Furthermore, it is likely that firms that do comply will be incentivised to leave the Australian market. Several high-profile firms whose customers and (in the case of EDPs) users include many Australian individuals and

¹¹ United States of America, Internal Revenue Service (IRS) website:

<https://www.irs.gov/individuals/international-taxpayers/foreign-tax-credit> (Accessed: 8 April 2017)

¹² Christian, P. G. (2013, June). Why evasion under a national sales tax would explode the tax gap: Lessons Learned from the States. In Tax Administration at the Centennial: An IRS-TPC Research Conference, 152.

<https://www.irs.gov/pub/irs-soi/13resconevasiontaxgap.pdf>

¹³ <https://www.bloomberg.com/news/articles/2017-01-18/why-trump-s-tariff-threats-get-taken-so-seriously-quicktake-q-a>

¹⁴ <https://www.forbes.com/sites/anthonymitti/2017/07/13/what-will-the-trump-tax-cuts-mean-for-your-wallet/#791a08be5465>

businesses, have already flagged their intention to do so.^{15 16} These include Alibaba, eBay and Etsy amongst others.

How effective will the ATO enforcement activities be?

37. At the Senate Inquiry hearings, the Treasury were unspecific about their enforcement activities or their likely effectiveness. Notably, Treasury have stated that “*Generally, we believe that most organisations that have an obligation to comply with the legislation will do so.*”¹⁷ This statement is at odds with their own estimate of a low 27% expected compliance rate.

Will some vendors ‘over-comply’, for example by ignoring standard exemptions to GST or purchases by registered businesses?

38. It is likely that this will be the case, especially with smaller vendors and/or EDPs. This will result in Australians, both individuals and businesses, paying higher prices in the short term.

PARCEL PROCESSING TASKFORCE HYBRID MODEL

39. The ATA and MC believe that the model recommended by the Parcel Processing Taskforce offers a number of advantages over the legislated model, particularly in terms of enforcement and compliance. Furthermore, this model is likely to avoid forcing EDPs to cease selling to Australians and is therefore likely to prevent the harms associated with such an outcome such as consumers being pushed towards less trustworthy websites where they are vulnerable to consumer fraud and serious damage to Australian businesses reliant upon EDPs both as vendors and purchasers.
40. In terms of enforcement and compliance with the new de minimis threshold-free GST regime on imports, the ATA and MC favour compliance through effective incentive rather than punitive sanctions. In this regard, the Hybrid model is superior to the legislated model as vendor compliance is incentivised through the opportunity to avoid collection at the border. Furthermore, the voluntary ‘trustworthy vendor’ recognition which allows compliant vendors to pre-pay their GST in an efficient manner with fewer processing delays acts as an additional incentive whereby vendors seeking to gain footing in the Australian market are incentivised to improve their GST compliance by seeking ‘trustworthy vendor’ status as this would improve their reputation among domestic consumers.

¹⁵ <http://www.news.com.au/finance/business/retail/ebay-threatens-to-block-aussie-shoppers/news-story/40b4a6fbba2692d7f31fda1eb0520680>

¹⁶ <http://www.news.com.au/finance/business/retail/amazon-alibaba-ebay-and-etsy-may-block-australian-users-if-controversial-online-gst-changes-go-ahead/news-story/3a2d62515b247fc79b927f1db0696ba4>

¹⁷ Senate, Official Committee Hansard, Economics Legislation Committee, Treasury Laws Amendment (GST Low Value Goods) Bill 2017, 21 April 2017, p. 8.

41. Although the ATA and MC recognise concerns raised by Australia Post and other transport intermediaries who would be responsible for accounting for the GST and the additional administrative costs that could be borne by them (and ultimately, the consumer), it is submitted that, given the tax's rationale of a 'level playing field' rather than as a revenue raising measure and given that the Treasury's own estimates show that the legislated model would only raise 1% of GST revenue,¹⁸ it is of lesser importance that the Hybrid model may lead to less revenue raised from the tax. Although the Discussion Paper has made reference to the United Kingdom using a similar model and this in turn resulting in increased costs and delays for the consumers, the UK model made use of a lower rather than abolished GST-free threshold whereby significant administrative cost and time would be involved in the assessment stage of processing which is not the case should the de minimis threshold be removed completely.
42. The ATA and MC also recommend the investigation of purchaser registration options which would allow purchasers to register and pre-pay GST voluntarily in order to minimise delays. Although the ATA and MC recognise that this carries the risk of fraud and non-compliance through wrongful declarations of GST liabilities, It is submitted that random and/or intermittent third party audit will significantly improve compliance rates due to fear of potential legal sanction and the public perception that the tax liability cannot be concealed. Purchaser pre-pay registration also makes sense as regular purchasers will benefit from the economies of scale involved in efficient processing of ongoing and future transactions as well as commercial certainty.

SUGGESTED AMENDMENT TO LEGISLATED MODEL: VENDOR REGISTRATION WITH EDP ENFORCEMENT

43. The ATA and MC submit that should the government elect to go ahead with the legislated model and/or the principle of imposing liability on both vendors and EDPs, then the ill impacts of this model will be ameliorated through the following amendment.
44. Under the amendment, vendor registration will remain in place. However, EDP registration and levy is removed in favour of an agreement with EDPs to foster compliance and enforcement. If registrable vendors are non-compliant with their registration and/or GST levy obligations, then the EDP will be required to block them from utilising their platform. EDPs which refuse to work with the government or impose such sanctions can be punished through geo-blocking. Although it is possible for consumers to navigate around geo-blocking, the imposed sanction will nonetheless place these EDPs at a competitive disadvantage to compliant EDPs and will damage the relative reputation of their business, thereby incentivising compliance. Vendors will similarly be incentivised to comply as denial of access to the preferred EDP of their business will connote significant loss and damage to their business models whereby vendors on EDPs are heavily reliant on in-built customer ratings systems and internal scores. Customers are also just as likely, especially in the case of more

¹⁸ Tax Expenditures Statement, Budget Papers 1, Explanatory Memorandum

generic products or brands available outside individual vendors, to demonstrate loyalty to a preferred EDP as they are to a preferred vendor. It is therefore likely that a significant proportion of customers on EDPs will forego non-compliant vendors rather than attempting to trace them on non-compliant EDPs.

45. As previously highlighted, established EDPs are likely to comply with voluntary or compulsory arrangements with the government for reasons of corporate social responsibility, business goodwill and commercial reputation. Under the aforementioned amendment, these EDPs will not be encouraged to exit the Australian market. Rather, less reputable EDPs who are entirely unwilling to comply with their obligations under Australian law will be incentivised to exit the market. The ATA and MC support this approach as it punishes foreign businesses that break the law rather than punishing even compliant businesses with significant regulatory burden as in the case of EDP registration and GST collection.
46. Furthermore, the abovementioned amendment offers the key, crucial benefit of fostering international cooperation given the international status of many EDPs. This 'global approach' is particularly pertinent for enhancing the effectiveness, enforcement and compliance rates of the legislated model as one of the model's current, key weaknesses is that it is unprecedented worldwide and this will hurt the willingness of our trading partners and foreign entities to assist us in enhancing compliance/enforcement.
47. Moreover, this amendment, unlike the legislated model, connotes tax neutrality and equity between domestic and foreign businesses which are stated objectives of the GST de minimis threshold's abolition. Only foreign vendors with a turnover of <\$70,000 will be captured in the same manner as domestic vendors registered to pay GST, whereby smaller 'mom and pop' vendors who would not be eligible to pay GST if they were Australia-based will not be captured or unfairly disadvantaged as is the case under the legislated model. In our submission to the Senate Inquiry (Appendix A), we highlighted the severe damage that the legislated model could cause to foreign sellers from developing countries whose businesses are reliant on EDPs and which often play a crucial role in fostering the development and improving living standards of their local communities as well as promoting local culture.
48. A similar approach is already in place in the United Kingdom where prominent EDPs such as eBay work with the British government by notifying sellers who are non-compliant with their VAT and/or sales tax obligations and are willing to take punitive sanctions including denial of their platform to sellers who continue to remain non-compliant.¹⁹ The amended approach, unlike the current legislated model, therefore has precedent and demonstrates a more pragmatic and practical approach.

Conclusion

¹⁹ <https://www.theguardian.com/uk-news/2016/mar/16/amazon-ebay-liable-vat-sellers-budget-2016>

49. Although the ATA and MC oppose the abolishment of the de minimis threshold for GST on low value goods, it is submitted that the Hybrid model is superior to the legislated model in achieving the tax's outcomes due to higher rates of compliance, a focus on vendors and purchasers with regards to tax liabilities (rather than intermediaries such as EDPs), the placement of accounting and levy obligations on transport intermediaries who physically handle the good rather than EDPs who often do not and who are not as well placed to carry out the obligation as a result and the avoidance of forcing EDPs to exit the Australian market to the detriment of Australian individuals and businesses.
50. Alternatively, the amended legislated model outlined from point 43. onwards, is significantly preferable to the current legislated model and should be recommended as it prevents EDPs from exiting the Australian market, rewards EDPs willing to work with the Australian government with a competitive advantage against those which do not and simultaneously takes advantage of the market share and influence of EDPs in fostering GST compliance (as is the intention of the legislated model) without imposing unbearable or overtly onerous regulatory burdens. The amendment is also preferable as the legislated model's current form fails to take a 'global approach' which is crucial for the effectiveness and enforcement of such a significant change to our taxation regime on imports. Finally, the amended model connotes genuine tax neutrality between foreign and domestic businesses eligible to register for the GST rather than capturing smaller foreign vendors serving customers through EDPs in a manner tantamount to a protectionist tariff as under the legislated model. These effects will be to the ultimate advantage of Australian consumers and businesses.
51. Finally and regardless of the model or models ultimately chosen by the PC, the ATA and MC call on the PC to highlight in its final report the need to address the multitude of factors that have a far greater impact on price differential (and therefore, competitiveness) between domestic retailers and foreign vendors if the government's notion of a 'level playing field' is to be genuinely and meaningfully achieved. These include the impacts of burdensome regulations on domestic firms such as high taxes, licensing fees, zoning laws (that drive up prices of land and other business inputs thereby driving up costs), labour laws and red tape. Such changes will not only genuinely foster a 'level playing field', but will be to the benefit of the Australian consumer through genuinely lower costs rather than costs which are simply lower relative to other alternatives.

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