

Australian Productivity Commission Inquiry - Collection models for GST on low value imported goods

Final Submission

Prepared for eBay, Alibaba Group
and Etsy

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Glossary of terms

3P – third party service providers of on-line marketplaces

1P – one party service providers of on-line marketplaces

APC – Australian Productivity Commission

ATO – Australian Tax Office

B2B – Business to business transactions

B2C – business to consumer transactions

GATT – *General Agreement on Tariffs and Trade 1994*

GST – Goods and Services Tax

LVG Act – *Treasury Laws Amendment (GST Low Value Goods) Act 2017*

LVIG – Low value imported goods

LVPPT – Low Value Parcel Processing Taskforce

MSMEs – Micro, small and medium sized enterprises

OECD – Organisation for Economic Cooperation and Development

RIA – Regulatory Impact Assessment

SCM – Agreement on Subsidies and Countervailing Measures

SMEs – Small and medium enterprises

VAT – Value Added Taxes

WTO – World Trade Organisation

1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

This submission is made on behalf of eBay, Alibaba Group and Etsy, three international providers of on-line marketplaces where business to consumer (B2C) and business to business (B2B) transactions occur. The on-line marketplaces provided by these companies support trade in low value imported goods (LVIG).

Nature of on-line retailing

Chapter 3 of the submission explains that these on-line marketplaces are purely spaces where businesses can create their individual digital shopfronts from which consumers can purchase goods. The individual businesses using these marketplaces to sell their goods own, control, warehouse, price and distribute products. In the case of eBay some of the goods offered for sale by business and consumers via its marketplace are second hand items. Accordingly, eBay, Alibaba Group and Etsy are referred to as 3P (third party) service providers.

The 3P marketplace is distinct from 1P (one party) provision. There are a variety of 1P scenarios in the on-line retail market and include:

- Traditional retailers who offer consumers the option of purchasing on-line branded goods that the retailer may manufacture, own, warehouse, control, price and distribute (for example, international department stores such as Marks and Spencer);
- On-line only retailers who offer consumers the capacity to choose from a variety of branded goods in specific market segments, but where those goods may or may not be controlled, priced and distributed by the on-line retailer (for example, Net a Porter which offers consumers the choice of designer fashion); and
- On-line marketplaces who offer consumers the capacity to choose from a variety of branded goods across many market segments (including the 1P service provider's own goods), and where those goods are warehoused, controlled, priced and distributed by the on-line retailer (for example, Amazon).

This distinction should be a critical factor when considering the appropriate application of value added taxes (VAT), such as the Goods and Services Tax (GST), as 3P service providers, unlike 1P provision, are not value adding other than offering a digital shopfront for buyers and sellers to connect and transact.

Trade impacts

Chapter 4 discusses the equivalency of the Australian Government's legislated model (vendor model) in the *Treasury Laws Amendment (GST Low Value Goods) Act 2017* (LVG Act) with other jurisdictions, the potential for the model to represent a non-tariff trade barrier and the risk of trade retaliation against Australia by jurisdictions whose exporting businesses are adversely affected by the model. It is suggested that because the intention of the LVG Act is to protect the competitiveness of domestic retailers it may be contrary to the principles in the *General Agreement on Tariffs and Trade 1994* which treat such actions as non-tariff barriers to trade.

This risk is heightened by the legislated model because there is no international equivalent system for collecting and remitting VAT on LVIG. As the legislated model is one that the Australian Government is likely to find difficult to enforce with international vendors without enlisting the cooperation of foreign governments, efforts to enforce the LVG Act internationally may create trade tensions with other nations. Australia's two-way international trade in goods and services was \$672.7 billion in 2016 and it is critical contributor to the economy. Any trade retaliation by other jurisdictions to the effects of the legislated model on their businesses importing to Australia is a risk that may not be worth the revenue expected to be collected under the legislated model. It would be a perverse policy outcome if the legislated model in the LVG Act operated to encourage trade retaliation which harmed Australian business.

Regulatory efficiency

Chapter 5 compares how the legislated model (vendor model) and the model recommended by the Low Value Parcel processing Taskforce in 2012 (hybrid border/transporter model) comply with internationally agreed principles of administrative and regulatory efficiency. It is suggested that these principles are fundamental to the design and implementation of public policy and regulation in any sector and market. Deficiencies in the regulatory efficiency of the models when assessed against global standards may increase the trade retaliation risks discussed in Chapter 4.

The assessment demonstrates that the legislated model does not comply with the principles of regulatory efficiency as well as the Taskforce model. This increases the risk that the legislated model will need to be reviewed and refined in the short term to achieve the intended objectives of improving the collection of GST on LVIG. It is not administratively efficient for the Government to pursue a model that includes this risk, given that the purpose of the LVG Act is to respond to concerns by the Australian retail industry about its competitiveness in an increasingly globalised retail market.

If the Government is concerned enough about the competitiveness of the domestic Australian retail industry, then it has an economic responsibility to apply a GST collection model for LVIG that represents the most effective regime for tax compliance. A regime which is inferior will be less able to achieve the tax neutrality, competitive neutrality for Australian retailers, and increased revenue collection which the Government seeks through the LVG Act

A key deficiency with the legislated model is that it has not been subject to a regulatory impact assessment (RIA), unlike the Taskforce model. The Australian Government is publicly committed to pursuing best practice regulation, including the conduct of RIAs, as part of its support for the regulatory efficiency principles recommended by the OECD. However, this commitment has not been applied in relation to the legislated model. At the very least a RIA should have examined whether the legislated model:

- Represents an effective and efficient revenue collection processes that promotes tax neutrality with other goods for consumption in Australia;
- Passes appropriate collection costs onto the importer;
- Provides administrative and competitive neutrality between different import streams where appropriate; and
- Supports Australia's interaction with the digital economy by ensuring the system is user friendly, imposes no added barrier to trade and allows for the large expected increase in online retailing.

The assessment of these issues in this chapter affirms that the legislated model is not compliant with regulatory efficiency principles. Some key issues are:

- The legislated model promotes a non-compliance or tax debt ratio that is between 8 and 12 times higher than Australia's overall tax non-compliance rate and non-compliance between 2 and 4 times higher than the average OECD rate. This does not promote tax neutrality with other goods for consumption in Australia.
- Unlike international approaches, such as one in the United Kingdom, the legislated model seeks to extend Australia's tax reach to goods purchased and distributed via on-line marketplaces when those goods are not in Australia at the time of purchase or distribution. This over-reach is one of the reasons for an expected low compliance rate because it is virtually impossible for the Australian Tax Office (ATO) to enforce the LVG Act in relation to overseas based businesses which do not wish to collect and remit GST to the ATO.
- To overcome this inherent difficulty with enforcement the LVG Act seeks to hold all on-line marketplaces, including 3P service providers, responsible for collecting and remitting the GST as if they were the actual importer. This is not consistent with regulatory efficiency because 3P service providers do not control the importation of goods and most goods transacted via their platforms are outside Australia at the time of purchase.
- The global evidence is that indirect tax management actions are complex for even large global companies to structurally and systematically implement. Therefore, any assumptions about competitive neutrality in import streams should consider the difficulty and likelihood that micro, small and medium sized enterprises (MSMEs) using 3P marketplaces would have collecting and remitting GST. This reality affirms the Australian Treasury's expectations about low compliance and enforcement rates under the legislated model.
- The likelihood that MSMEs using 3P marketplaces will be unable or unwilling to comply with the LVG Act increases the risk that 3P service providers will be treated by the ATO as the 'importers of last resort'. Where the costs of compliance exceed the benefits of operating, 3P service providers may restrict the access of Australian consumers to the supply of LVIG.
- If 3P service providers exit the market for the importation of low value goods it may entrench the market power of 1P on-line retailers and lead to anti-competitive effects. This may particularly arise in relation to 1P service providers which are vertically integrated and control various supply chain features such as the provision of their own and other branded products, and product pricing, warehousing and distribution.

Business and consumer impacts

Chapter 6 examines impacts on business and consumers associated with on-line retailing and 3P marketplaces. It demonstrates that in circumstances where 3P service providers restrict supply of LVIG to Australia via their marketplaces, such action would have minimal impact on the viability of 3P service providers, but could have significant adverse impacts on Australian consumers and business, particularly micro, small and medium enterprises (MSMEs).

This is because Australia represents a small part of the global trade in 3P service provision, but Australian business relies the most heavily on digital platforms for their purchasing in the OECD, and Australian consumers have proportionally high rates of on-line buying. For example, Australia represents 4 percent of eBay's global users, but 70 percent of Australian business use on-line purchasing and 73 percent of what they purchase is LVIG under A\$300. About 30 percent of Australian's use eBay and overall 78 percent of what consumers purchase on-line is LVIG under A\$300.

The historic and continuing upward global trend in the number of consumers using on-line purchasing and value of sales of goods via digital platforms, combined with the further development of emerging economies, means that for 3P service providers, Australia may become an increasingly irrelevant market should the legislated model prove to be a non-tariff barrier to trade.

Where restrictions are applied on non-resident suppliers importing LVIG to Australia, trade retaliation by other nations may force 3P service providers to also restrict use of their platforms by Australian exporters. This would have negative impacts on business productivity as access to trusted digital platforms to reach international customers provide MSMEs with a productivity dividend. Access to 3P marketplaces is an important way Australian MSMEs can boost their share of export value which remains one of the lowest in the Asia Pacific Economic Cooperation (APEC) region. The APEC region contains the majority of Australia's top 15 trading partners.

Under the legislated model international vendors and 3P marketplaces face a higher regulatory burden and this may encourage some to leave the Australian marketplace. This would limit competition and consumer choice, the latter being one of the primary reasons consumers choose on-line purchasing in the current proportions. Previous submissions from the parcel transport industry to the Taskforce estimated that consumer welfare under the legislated model will be A\$482 million lower in the 2017-20 period.

Taskforce model – suggested issues for Commission assessment

Based on the Taskforce report and Australian parliamentary inquiry into the LVG Act, it appears that the costs of complying with the Taskforce model purported by Australia Post was potentially one reason why the Australian Government opted for the legislated (vendor) model. It is impossible to assess these costings without transparency of Australia Post's assumptions. This highlights the need for a published RIA to be conducted on the legislated model, which has not been undertaken by the Australian Government prior to its inclusion in the LVG Act.

An RIA would be able to assess the net cost for Australia Post given its existing investments in the parcel market such as its \$595 million capital investment in systems, processes and infrastructure to boost network capability, support future parcel volume growth and improve customer service and satisfaction; and improving its parcel tracking capability including to support growth in on-line shopping and small parcels.

2. INTRODUCTION

2.1 New legislation to apply GST (VAT) to LVIG in Australia

In 2017 the Australian Government introduced legislation to apply the Goods and Services Tax (GST)¹ to imported goods below \$1000. This was in response to concerns raised by domestic retailers that the purchase of low value imported goods (LVIG) by consumers from international on-line retailers was having negative effects on the competitiveness, profitability and employment capacity of the Australian retail industry. The Australian Parliament approved the *Treasury Laws Amendment (GST Low Value Goods) Bill 2017* (the LVG Act), but amended the legislation by delaying its commencement until July 2018 and requiring the Australian Productivity Commission (the APC)² to examine and report back on the most appropriate model for collecting the GST on LVIG.

Australian Parliamentary amendment of the new legislation

The Australian Parliament intervened to amend the LGV Act because the legislated model of collection it imposes:

- Is not consistent with the outcomes of the only detailed examination of possible collection models which was undertaken by the Australian Government in 2011-12; and
- The decision of the Australian Government in 2017 to depart from the recommendations of its previous detailed 2011-12 examination and support the legislated model is not based on any equivalently robust policy and regulatory analysis³.

2.2 Submission scope

This submission responds to questions that the APC has asked in its Discussion Paper on *Collection models for GST on low value imported goods*⁴. The APC has sought submissions by the end of August 2017 and is due to report by the end of October 2017. The Australian Parliament has requested the APC to consider appropriate models of collecting GST on LVIG. The APC has undertaken a high-level survey of possible models and has determined to further examine two models. These are:

¹ The Goods and Services Tax is levied at 10 percent of the value of traded goods and services and is akin to the Value Added Tax (VAT) applied in various international jurisdictions

² The Australian Productivity Commission is an independent Australian Government agency tasked with providing independent research and advice to Government on economic, social and environmental issues affecting the welfare of Australians

³ http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Report

⁴ Released for public comment in July 2017 and available at <http://www.pc.gov.au/inquiries/current/collection-models/discussion>

- A hybrid border/transporter model which was recommended by the Low Value Parcel Processing Taskforce (LVPPT) established by the Australian Government in 2011 (**the Taskforce model**). Under this model the Australian Department of Customs would assess the GST liability on low value parcels and once released, the transporter of the parcel (Australia Post or private parcel carrier companies) would collect and remit the GST to the Australian Tax Office (ATO)⁵; and
- The vendor model which the Government has now included in the *Treasury Laws Amendment (GST Low Value Goods) Act 2017* (the LVG Act) (**the legislated model**). The LVG Act applies the GST to LVIG and requires international vendors to collect and remit the GST. This includes individual international retailers; organisations which provide on-line marketplaces and warehouse and distribute goods (Amazon); and organisations which only provide on-line marketplaces and do not control any products sold via them (eBay, Alibaba Group and Etsy).

The submission is also instructive for regulators in other jurisdictions who may be considering the application of valued added taxes (VAT) to LVIG and appropriate mechanisms to administer tax compliance. The submission is instructive because it compares the two models being examined by the APC against a range of internationally agreed economic and tax policy principles including regulatory efficiency, trade impacts, and business and consumer welfare. The analysis includes an assessment of business and consumer welfare issues in regional areas and impacts on market participants who rely on electronic commerce to address historic economic disadvantage, such as female business owners.

2.3 Submission objectives

The objectives of this submission are to:

- Assist the APC fully and fairly examine the comparative efficiency; trade impacts; micro, small and medium enterprises (MSME) impacts; and consumer welfare of the two models it is considering;
- Demonstrate why the legislated model (vendor model) is inferior to the Taskforce model (hybrid border/transporter model) when assessed against internationally agreed economic and tax policy principles; and
- Alert the Commission to the fact that its assessment of these models is likely to have implications for the regulation of international commerce because (a) the legislated model (vendor model) is unique in the world; and (b) other jurisdictions are investigating approaches to improve the collection of VAT on LVIG and may rely on the Commission findings as part of their considerations.

⁵ Low Value Parcel Processing Taskforce, Final Report 2012, <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2012/Government-Response-Parcel-Processing/Government-Interim-Response>

3. THE ON-LINE RETAILING MARKET

3.1 Key points

The legislated model extends the responsibility of collecting and remitting GST to all international vendors including electronic distribution platforms (EDPs). In doing so the Australian Government has applied a one size fits all approach by assuming that all on-line marketplaces supporting business to consumer (B2C) and business to business (B2B) transactions have the same business models and market activities. This is a key impediment to the capacity of the legislated model to be fit for purpose in the manner intended by the *OECD 2012 Recommendation on Regulatory Policy and Governance* and the Australian Government's best practice regulation commitment.

Through their previous submissions to the Australian Government⁶ and other governments internationally, on-line marketplace providers such as eBay, Alibaba Group and Etsy have emphasised that there are varying business models and market activities in the international on-line retail market, and any regulatory regime to apply value added taxes to the supply of LVIG should recognise these variations to be able to be fit for purpose. Fundamentally they have indicated repeatedly that unlike most other kinds of on-line retailing they only provide marketplaces which connect buyers and sellers in B2B and B2C transactions; they do not sell or brand their own products via these marketplaces; they do not control the prices of goods purchased via their marketplaces; and they do not integrate the warehousing and direct delivery of goods in their business models. Accordingly, they have maintained that their marketplaces should be considered third party (3P) service provision compared to most other on-line retailing which can be regarded as one party (1P) service provision.

3.2 Types of on-line retailing

The variations in on-line retailing include:

- **Traditional largescale international retailers with physical and on-line shopfronts.** Some companies are international branded retailers operating across a range of retail market segments and offering consumers in multiple jurisdictions the capacity to purchase their goods on-line. These retailers can control the sourcing, manufacture, pricing, supply and distribution of goods offered under their brand and other branded products. The international British based department store, Marks and Spencer, is one example of this. It targets a range of markets including clothing, homewares, furniture and food, and controls the quality and the price of the goods it sells to consumers in those markets. It sells its own branded goods and other branded products.

⁶ Alibaba Group, eBay and Etsy, Submission to the Senate Economics Legislation Committee in relation to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Submissions

To exercise control over the quality, production and supply of its goods Marks and Spencer employs buyers who source core materials and products from around the world; establishes and controls its own factories or contracts specialised manufacturers; and controls the warehousing and distribution channels of its products. Marks and Spencer offers its goods for sale via fourteen jurisdiction specific websites, including Australia. This enables it to collect and remit the appropriate VAT in each jurisdiction applying to the sale of its goods and minimise the delivery costs for its consumers⁷.

- **Small and medium enterprises with physical and on-line shopfronts.** In every segment for goods and services in the retail market there are SMEs offering boutique products. This includes SMEs who control every aspect of the products they offer from manufacturing to distribution, and SMEs who simply trade other company brands directly to the market. Some SMEs can own and operate their own on-line selling platforms and other SMEs can use third party marketplaces like those offered by eBay, Alibaba Group and Etsy. Depending on the nature and scale of their international on-line market presence SMEs may or may not be registered to collect and remit VAT in different jurisdictions.
- **On-line only retailers.** It is not uncommon for some retail companies to have only an on-line presence. These companies can range from SMEs to larger companies wishing to reduce their cost of service. These companies may control every aspect of the products they offer from manufacturing to distribution, or simply trade other company brands directly to the market. Some can own and operate their own on-line selling platforms and others can use third party marketplaces like those offered by eBay, Alibaba Group and Etsy. Larger companies may have their own websites and use third party marketplaces.

One example of an on-line only retailer trading products manufactured and owned by other companies is Net a Porter which specialises in selling designer fashion. It is registered in Hong Kong but via its single website sells and ships goods to over 170 countries, including Australia. However, it appears that it may only be registered to collect and remit VAT in the United Kingdom⁸.

- **On-line marketplaces with product and pricing control.** The primary example of this kind of company is Amazon. Its on-line marketplace offers branded products across a wide variety of market segments including books, clothing, accessories, travel goods, computers, and office supplies. The Amazon marketplace is one where it and other companies sell products. For example, in relation to clothing the Amazon marketplace sells over 50 recognised brands produced and owned by other companies, such as Calvin Klein. These brands and individual items are sold by over 50 sellers including Amazon itself. Beyond this the Amazon Basics range which includes electronic product accessories, homeware, kitchenware, pet supplies and fitness accessories are a mix of products with some carrying the Amazon Basics brand. Accordingly, Amazon is likely to control the pricing of third party goods that it sells as well as the goods that carries its brand. There is no consumer price bidding for goods sold via the Amazon marketplace⁹.

⁷ <http://www.marksandspencer.com/au/homepage>

⁸ <https://www.net-a-porter.com/au/en/content/about-us>

⁹ <https://www.amazon.com/>

It has been reported in the international media, that the Amazon business model includes integrated product warehousing and home delivery to an extent that has enabled Amazon to enter the United States grocery market through its planned acquisition of Whole Foods in 2017 for US \$14 billion¹⁰.

In its submission to the Australian Senate Inquiry into the *Treasury Laws Amendment (GST Low Value Goods) Bill 2017*, Amazon has indicated that it does not possess the compliance systems to collect and remit the GST on LVIG sold by third parties on its marketplace. It has made the important point that while it is able and does collect and remit sales taxes in the United States for products that it sells (for example its Amazon Basics products), it is not required in the US jurisdictions to collect and remit sales taxes on behalf of third parties (businesses) selling via its marketplace¹¹.

- **On-line marketplaces with no product and pricing control.** The primary examples of this kind of company are eBay, Alibaba Group and Etsy. The marketplaces of each of these companies have some common features which are (a) none of these companies sell their own branded products or any other company's goods via their marketplaces (unlike Amazon); (b) their marketplaces are purely to support the B2C or B2B connection between sellers and purchasers around the world; (c) they do not control the pricing of goods sold via their marketplaces (unlike all other kinds of on-line retailing); and (d) their business models do not include the warehousing of goods sold via their marketplaces to meet market demand and support delivery.

The differences between these companies are primarily that:

- eBay's marketplace includes the capacity of consumers to bid prices for goods offered via an auction process. This confirms that eBay is not selling or controlling the prices of items offered. eBay's marketplace includes recognised branded products of other companies (for example, Country Road the clothing label). It offers goods in various segment markets including fashion, motor parts, electronics, toys and alcohol, sports equipment, and home and garden.
- Alibaba Group's marketplace appears to have the widest coverage of sellers and purchasers from around the world and the widest range of products. For example, in addition to the everyday consumables offered by eBay, it offers a range of specialised products targeting businesses such as industrial machinery, construction products, chemicals, agriculture, rubber and plastics. Its branded products are not well known worldwide as its suppliers are a diverse range of SMEs in emerging and advanced economies. The legislated model in the LVG Act primarily affects its AliExpress marketplace which is used by suppliers in China to service the Australian market.
- Etsy's marketplace appears to be primarily used by boutique MSMEs which produce and sell their own products. There are no well-known brands offered via the marketplace, and most of the sellers using its platform are micro businesses. The marketplace offers products in a range of market segments including clothing, accessories, entertainment and homewares. Unlike Alibaba Group, the Etsy website does not list the regions and countries from which suppliers are sourced.

¹⁰ Financial Times, Aldi allies with Instacart to battle Amazon in the US, August 14 2017

¹¹ Amazon, Submission to the Senate Economics Legislation Committee in relation to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Submissions

Table 1: Key differences between variations in on-line retailing¹²

Type of on-line retailers	Example	Supply chain control such as manufacturing, warehousing, and distribution	Sell third party products	Sell own products	Control product pricing	Only offer digital platform to connect buyers and sellers	May use other marketplaces to sell
Traditional largescale international retailers with physical and on-line shopfronts	International department stores such as Marks and Spencer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Small and medium enterprises with physical and on-line shopfronts	Any kind of retailing business	<input checked="" type="checkbox"/> but depends on type of business and scale	<input checked="" type="checkbox"/> depending on nature of business	<input checked="" type="checkbox"/> depending on nature of business	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
On-line only retailers	Net a Porter and ASOS	<input checked="" type="checkbox"/> but may have some warehousing and distribution control	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> depending on arrangements with product owners	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
On-line marketplaces with product and pricing control	Amazon	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
On-line marketplaces with no product and pricing control	eBay, AliExpress and Etsy	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> enable third party sellers but don't sell themselves	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

¹² Aegis Consulting Group analysis 2017

4. COMPARATIVE TRADE IMPACTS

4.1 Key points

The LVG Act and the model used to administer the collection and remittance of GST may have ramifications for Australia's international trading relationships. This is because the intention of the LVG Act to protect the competitiveness of domestic retailers, may be contrary to the principles in the *General Agreement on Tariffs and Trade 1994* which treat such actions as non-tariff barriers to trade.

This risk is heightened by the legislated model because there is no international equivalent system for collecting and remitting VAT on LVIG. As the legislated model is one that the Australian Government is likely to find difficult to enforce with international vendors without enlisting the cooperation of foreign governments, efforts to enforce the LVG Act internationally may create trade tensions with other nations. Australia's two-way international trade in goods and services was \$672.7 billion in 2016 and it is a critical contributor to the economy. Any trade retaliation by other jurisdictions to the effects of the legislated model on their businesses importing to Australia is a risk that may not be worth the revenue expected to be collected under the legislated model. It would be a perverse policy outcome if the legislated model in the LVG Act operated to encourage trade retaliation which harmed Australian business.

4.2 Equivalency with other jurisdictions

This section discusses equivalent low threshold GST or VAT models across comparable countries. As several submissions to various reviews on this topic have pointed out the seminal work in the area was done recently at the OECD¹³.

The 2015 OECD report *Addressing the Tax Challenges of the Digital Economy* examines in detail in *Annex C – The Collection of VAT/GST on Imports of Low Value Goods* the models that are currently considered. These models are based on the difference between which person/entity is liable to account for the VAT/GST. They are:

- **The Traditional Collection model** – Under the Traditional Collection model, the customs authorities generally determine the duties and taxes payable on each individual consignment of goods on the basis of the import customs declaration. In principle, the VAT/GST on imports is collected at the same time as the customs duties before the goods are released from customs control¹⁴.

¹³ OECD, *Addressing the Tax Challenges of the Digital Economy*, Action 1 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, 2015

¹⁴ OECD 2015, p195

- **The Purchaser Collection model** – Under the Purchaser Collection model, the purchaser would be required to self-assess and pay the VAT/GST on its purchases of low value goods. Standard customs procedures would apply for goods above the *de minimis* customs value¹⁵.
- **The Vendor Collection model** – Under a Vendor Collection model, the obligation to collect and remit the VAT/GST relating to imports of low value goods would be on the non-resident vendor. The non-resident vendors would be required to register for VAT/GST in the destination jurisdiction and remit the VAT/GST there (as a registered non-resident vendor)¹⁶; and
- **The Intermediary Collection model** – Under the Intermediary Collection model, the liability to remit the VAT/GST on the imported goods in the jurisdiction of importation is transferred from the non-resident vendor onto particular intermediaries in the supply chain. Under this approach, consideration needs to be given to the intermediaries' ability to collect and remit the tax prior to the importation, rather than at the time of importation (in which case their intervention may not increase the efficiency of the collection of import VAT/GST)¹⁷.

As the OECD states:

“The Traditional Collection model is the model that is generally applied currently for the collection of duties and taxes at importation, and that is often combined with a VAT/GST exemption of imports of low value goods. The other three models present possible alternative approaches for a more efficient collection of VAT/GST on the importation on low value goods, which could allow countries to reduce or remove the VAT/GST exemption thresholds for the importation of these goods”¹⁸.

The OECD observes that nations may adopt variations of these models. It concludes by noting that:

“It is recognised that any reform to improve the efficiency of the collection of VAT/GST on low value imports will need to be complemented with appropriate risk assessment and enhanced international administrative co-operation between tax authorities to enforce compliance”¹⁹. This last point regarding international co-operation – and it could be added acceptance – is highly important.

¹⁵ OECD 2015, p196

¹⁶ OECD 2015, p197

¹⁷ OECD 2015, p201

¹⁸ OECD 2015, p194

¹⁹ OECD 2015, p208

The Australian Low Value Parcel Processing Taskforce principally restricted itself to looking at three jurisdictions. That is the United Kingdom, Canada and Singapore²⁰. The Taskforce based its support for a hybrid border/transporter model partly on the effectiveness of the similar LVIG VAT collection models applied in the other jurisdictions, where the VAT threshold is already much lower than Australia.

The United Kingdom's system applies from a low threshold of £15 in value. Simply put the system works in a few straight forward steps:

- Import charges are calculated by the United Kingdom Border Force (UKBF) staff at postal depots when the packages are received.
- After necessary customs quarantine and security checks are made they are released to Royal Mail for collection and remittance of the revenue liability.
- Once payment has been made to Royal Mail, the recipient of the goods can arrange for the goods to be delivered at the cost of a Royal Mail handling fee²¹.

In the 2016 Budget the UK Government announced that it is exploring new provisions. Further observations on the UK model are made in section 5.3.4.

In respect of Canada the Taskforce noted that it has a tax threshold of C\$20. The system works in the following manner:

- All international mail items are itemised by Canada Post for the Canada Border Services Agency (CBSA) on arrival.
- Duty and taxes payable are determined by CBSA and when the goods are released they go to Canada Post for delivery and collection of the revenue owed at the time of delivery and Canada Post charges the recipient a C\$8.50 processing charge.
- Canada Post is responsible for remitting the revenue collected to the CBSA²².

With respect to courier companies, Canada operates the Courier Low Value Shipment (LVS) Program. This streamlines the processing of low value shipments through customs and provides the courier industry with more timely releases. According to the Taskforce report, when the goods are of no further border interest to the CBSA, they are released to the courier operator. A customs broker representing the importer estimates the duty and taxes to be paid. The broker remits the amounts owing the CBSA at the end of each month and recovers these costs from the importer²³.

It is further noted that in determining alternative applications the Taskforce examined self-assessment systems in comparable countries. The Taskforce noted that: *"Finally, a self-assessment system would rely on the voluntary participation of people ordering goods online from overseas. Experience in other countries with voluntary schemes suggests relatively low levels of participation may be expected. For example, both Canada and the UK have schemes whereby overseas suppliers can opt to pre-pay the duty or tax liability on behalf of their customer. Neither program is widely taken up."*²⁴

²⁰ Low Value Parcel Processing Taskforce, Final Report 2012, Table 2.2.7 p 39

²¹ LVPT 2012, p161

²² LVPT 2012, pp 160-161

²³ LVPT 2012, p161

²⁴ LVPT 2012, p150

There is no detailed discussion of the Singapore system by the Taskforce. It is understood that Singapore's system is similar to that of the UK and Canada. Closer to home it is noted that in New Zealand, generally GST on imported goods is collected by Customs at the border on goods exceeding the *de minimis* threshold of \$60. NZ Post is responsible for the initial identification of mail items and NZ Customs contacts the importer to arrange payment of the duty and a processing fee²⁵.

In the European Union, generally the collection of VAT on goods occurs through a customs process similar to the Australian process for goods above A\$1,000. Where imports from non-EU countries arrive for consumption in the EU, VAT and duty is payable if the value of the import is above a threshold. Of course, in the EU the VAT thresholds and rates tend to be different for each EU member. The EU has had a €22 low value threshold. On 1 December 2016, it announced it was exploring new ways to deal with imports from non-EU countries. With respect to low value threshold goods it announced it would abolish the existing threshold and look at the greater use of the EU VAT One Stop Shop as an electronic system, and the use of web portals and intermediaries for tax collection²⁶. As announced by EC Commissioner Pierre Moscovici on 28 June 2017, this is a part of a much wider overhaul of the EU VAT system that is currently ongoing and to be announced in the Northern Autumn²⁷.

4.3 Non-tariff trade barriers

The World Trade Organisation (WTO) and the rules based trading system that began with the *General Agreement on Tariffs and Trade* (GATT) has been grappling with the issue of non-tariff barriers since 1947. While in many respects the “low hanging fruit” (as it is described) of tariff reductions, especially in manufactured goods, has been a long-standing success story of the system there has been an ongoing problem with non-tariff barriers.

The treatment of taxation under the WTO can be simply stated but when it gets to the details it can become very complicated. The *General Agreement on Tariffs and Trade 1994* states in Article III, paragraph 1 that:

*“The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products ... should not be applied to imported or domestic products so as to afford protection to domestic production”*²⁸.

²⁵ Amazon, Submission to the Economics Legislation Committee Treasury Laws Amendment (GST Low Value Goods) Bill 2017, 10 April 2017 pp 22-23

²⁶ European Commission, Modernising VAT for e-commerce, Brussels, 1 December 2016

²⁷ Moscovici, Pierre, Speech to European Commission's Tax fairness conference, Brussels, 28 June 2017

²⁸ General Agreement on Tariffs and Trade 1994, Art. III, para 1

The GATT 1994 goes on to state:

“The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1”²⁹.

Under the WTO's *Agreement on Subsidies and Countervailing Measures* (SCM) indirect taxes are defined as “sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges”³⁰. As Schenk and Oldman point out: *“Under the SCM Agreement which is Annex 1 to the WTO, a contracting party is restricted in its ability to grant subsidies to exports or to impose more burdensome taxes on imports than apply to domestic goods”³¹.*

The SCM Agreement implements the international consensus that the application of VAT in international trade should be based on the destination principle, which is that the total tax paid in relation to a supply of a good or service be determined by the rules applicable in the jurisdiction of its consumption, not the jurisdiction or origin where the value adding occurred³². The destination principle is supported by the WTO because it is considered the most effective approach to achieve tax neutrality in international trade³³.

The implementation of the destination principle in international trade is considered relatively straightforward.

“When a transaction involves goods being moved from one jurisdiction to another, the goods are generally taxed where they are delivered. The exported goods are free of VAT in the seller's jurisdiction (and are freed of any residual VAT via successive businesses' deductions of input tax), whilst imports are subject to the same VAT as equivalent domestic goods in the purchaser's jurisdiction. The VAT on imports is generally collected at the same time as customs duties, although in some jurisdictions collection is postponed until declared on the importer's next VAT return. Allowing deduction of the VAT incurred at importation in the same way as input tax deduction on a domestic supply ensures neutrality and limits distortions in relation to international trade”³⁴.

²⁹ GATT 1994, Art. III, para 2

³⁰ Agreement on Subsidies and Countervailing Measures annex to the WTO

³¹ Schenk, Alan and Oldman, Oliver (2007), *Value Added Tax: A Comparative Approach*, Cambridge University Press, p6

³² OECD, *International VAT/GST Guidelines* 2015, p12

³³ Ibid

³⁴ OECD 2015, p13

The destination principle and its method of implementation at customs borders is a clear underlying principle of the interaction of trade rules and domestic tax systems.

The purpose of the LVG Act is to achieve equitable tax treatment amongst import streams. However, as a party to the WTO, Australia needs to be clear that the legislated model (vendor model) of GST collection does not pose a risk to tax neutrality in international trade. As presently constructed the legislated model seeks to focus on collecting GST from non-resident suppliers, rather than as part of final consumption in Australia. Thus, Australia will need to be sure that its “imposition” of the new taxes is defensible internationally.

It is apparent that other countries have pushed the envelope on these matters. Analysis indicates that:

“Perhaps the greatest challenge regarding the design of multilateral trade rules is the concern that trade liberalization commitments with respect to one policy instrument, such as tariffs, may be vitiated by other protectionist instruments unconstrained by such rules. Consequently, multilateral trade and other agreements must address a wide range of potentially protective measures, including tax measures other than tariffs”³⁵.

Writing for the International Monetary Fund Daly points out that: *“since 1995, taxation has been the cause of over 40 of the 500 disputes that have been initiated with Members’ requests for consultations submitted to the WTO’s Dispute Settlement Body”³⁶.*

A number of these cases directly dealt with the administration of VAT, as it affected importers. Two high profile cases have occurred relatively recently. One example was the Philippines’ case against Thailand’s VAT on cigarettes heard by the WTO Dispute Settlement Body (DSB) in 2011³⁷. The matter related to VAT exemptions and rates but also the additional administrative requirements that were placed on the resellers of imported cigarettes. The DSB found against Thailand, including on the administrative matters. Another case involved the action against Argentina brought by the EU and involving VAT administration in relations to its general treatment of imported goods³⁸.

Daly concluded that: *“In connection with [national treatment obligations], the [WTO’s Dispute Settlement Body] has made clear that differences in taxation concern not just tax rates, but administrative measures, and that GATT exemptions do not provide a means of escaping from [national treatment] obligations in*

³⁵ Daly, Michael, Is the WTO a World Tax Organization? A Primer on WTO Rules for Tax Policymakers, Fiscal Affairs Department, International Monetary Fund, March 2016, p1

³⁶ Daly 2016, p2

³⁷ WTO, Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines (WTDS371/AB/R), 2011

³⁸ WTO, Argentina – Measures Affecting the Export of Bovine Hides and Import of Finished Leather (WT/DS155/R), 2000

this regard”³⁹. He goes on to say: “Trade Policy Reviews suggest that complaints brought before the DSB are merely the tip of an increasingly large iceberg. Accordingly, one can expect more tax measures to be challenged at the WTO”⁴⁰.

An additional point elaborated on elsewhere in this paper is the limited ability of the Australian Government to reach into another jurisdictions economy to extract tax. Thus:

“Under the territoriality principle, Australia has the legislative jurisdiction to impose GST on non-resident suppliers, however, Australia has no jurisdiction over enforcement. While Australia is a signatory of the Convention on Mutual Administrative Assistance in Tax Matters (the Convention), this does not provide the Australian Government with the power to make direct contact with a non-resident supplier and/or issue a tax invoice for unpaid GST. Doing so would breach sovereignty. If the non-resident enterprise was located in a state that is a signatory to the Convention, the Australian Government may attempt tax recovery through the court system of that country”⁴¹.

Another important related point is that:

“This route would be a complex procedure and could only be considered in extreme cases as both governments need to be willing to commit resources to collect the revenue, and where the administrative burden on the other country would need to be in proportion to the claim/benefit to Australia. Adding to the enforcement challenge is the fact that some of Australia’s trade partners have multiple layers of government, each responsible for the collection of different taxes. In the United States for example, it is state governments that are responsible (where applicable) for the collection of sales tax (the GST equivalent) and not the federal Internal Revenue Service. While the Convention allows for an exchange of information, and the recovery of foreign tax claims, these jurisdictional differences provide a layer of complexity as the United States (federal) government has no jurisdiction over sales tax. Hence the Australian Government may need to work through individual American states to enforce compliance”⁴².

In their paper Berg and Sinclair mount the argument that: “The fact that the government is seeking to lead the world on this approach leaves it vulnerable to accusations – in our view, correct accusations – that the policy is being driven by protectionist sentiment rather than concerns with the viability of the Australian

³⁹ Daly 2016, 41

⁴⁰ Daly 2016, p42

⁴¹ Centre for International Economics, Final Report on the economic impacts of changing arrangements for the importation of low value products Levying GST and import processing charges on low value imports, Prepared for Conference of Asia Pacific Express Carriers, February 2016, pp 11 citing Boccabella, D and Bain, K (2015), Removal of the GST low value threshold: analysis of main design options and enforcement issues, Australia Tax Law Bulletin, p172–176.

⁴² CIS 2017, p12

taxation system”⁴³. They also suggest that “in this context, it is highly likely that the government’s policy will be challenged as a violation of Australia’s free trade commitments. One of the central positions of Australian foreign policy is its desire to reduce barriers to trade and foster economic integration. This as we have seen is one of the stated purposes of the low value threshold. Eliminating this threshold – particularly in a manner as to try to impose extraterritorial taxation – is likely to bring Australia into conflict with either trading partners or foreign firms wishing to trade with Australia”⁴⁴.

If competitor nations were to adopt a similar view, they would be likely to mount challenges through the WTO or simply take retaliatory action irrespective of WTO rulings.

4.4 Trade retaliation by other jurisdictions

Australia’s two-way international trade in goods and services was \$672.7 billion in 2016⁴⁵. Trade is a key factor in the lifeblood of the Australian economy. Given the substantive discussion in section 4.3 above an obvious but crucially important point can be made.

That is that it is important that the Australian Government approach the administration of low-value products in a careful and thoughtful way to avoid any undue adverse reactions from trading partners/competitors.

It should be realised that one of the ultimate purposes for the change in the GST treatment of foreign goods that were initiated in 2015 and to be implemented in the LVG Act was to support Australian small business. It would be a perverse outcome if the Australian administrative apparatus resulted in retaliatory administrative regimes by our trade partners/competitors such that Australian small businesses faced new nontariff barriers against their desire to build export markets.

In the fiercely competitive world of international commerce Australia as a nation is heavily dependent on the rules based system. Despite being one of the leading trading nations of the world it nonetheless cannot unilaterally decide to proceed with contrary regulatory systems and hope to rise above any consequences. That attitude is one that few countries have the luxury of taking. Not even the USA and China can expect to take such attitudes and come through unscathed.

Several jurisdictions are exploring options for how it proceeds on low value threshold VAT taxation. It is understood that they are closely watching the current deliberations on this subject in Australia. It is important to get the administrative arrangements correct from the beginning.

⁴³ Chris Berg and Sinclair Davidson, *Submission to the Senate Standing Committee on Economics Inquiry into the Treasury Laws Amendment (GST Low Value Goods) Bill 2017*, 2017, p11

⁴⁴ Berg and Davidson 2017, 12

⁴⁵ Department of Foreign Affairs and Trade, at <http://dfat.gov.au/about-us/publications/trade-investment/australias-trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2016.aspx>, 19/08/2017

4.4.1 Treatment of foreign businesses

There are several internationally agreed principles with which the legislated model does not appear to comply. These relate to the taxation treatment of foreign businesses in international trade, and the administrative burden which domestic law imposes on international business.

It is generally agreed that *“with respect to the level of taxation, foreign businesses should not be disadvantaged or advantaged compared to domestic businesses in the jurisdiction where the tax may be due or paid”*. Essentially this means that foreign businesses should not be exposed to the burden of irrecoverable VAT⁴⁶. However, this risk is created by the legislated model (vendor model) in circumstances where MSMEs selling via 3P marketplaces do not include the GST in their product pricing and therefore 3P service providers are unable to collect it from these sellers, but the ATO seeks to collect the GST from 3P service providers. Where this risk occurs, the legislated model would be operating contrary to the internationally agreed requirement that *“legislation in place in the country where VAT is incurred by foreign businesses should not discriminate against them nor favour them as regards the imposition of tax and their right of deduction or recovery of VAT compared to domestic businesses”*⁴⁷.

If the risk of irrecoverable GST discourages 3P service providers from enabling the supply of LVIG to Australia, the legislated model would be also operating inconsistently with the *“application of the principle that VAT should be neutral and equitable in similar circumstances to international trade [and] that the VAT system should not encourage or discourage businesses from investing in or undertaking activities in a specific country. Such business decisions should be made on the basis of market and other non-tax considerations”*⁴⁸.

As technology develops to support newer e-commerce platforms and on-line marketplaces some international vendors and platforms they rely on may seek to comply with the LVG Act and others may not because of the added costs. Those that do not wish to comply may seek to structure their operations specifically to avoid the need for GST compliance and this would also be inconsistent with the policy principle outlined above.

The risk of irrecoverable GST faced by 3P service providers and the tax regime discrimination this represents may be contrary to OCED Guidelines which state that *“where specific administrative requirements for foreign businesses are deemed necessary, they should not create a disproportionate or inappropriate compliance burden for the businesses”*⁴⁹.

These risks should be carefully balanced against the proper intention to achieve tax neutrality between domestic and international suppliers in import streams.

⁴⁶ OECD, International VAT/GST Guidelines 2015, p16

⁴⁷ OECD 2015, p17

⁴⁸ Ibid

⁴⁹ OECD 2015, p18

5. COMPARATIVE EFFICIENCY ISSUES

5.1 Key points

In this chapter, we discuss how the comparative models meet the internationally agreed principles of administrative and regulatory efficiency⁵⁰, which are fundamental to the design and implementation of public policy and regulation in any sector and market. Deficiencies in the regulatory efficiency of the models when assessed against global standards may increase the trade retaliation risks discussed in Chapter 4.

When assessed against these principles the Australian Government's legislated model in the LVG Act (vendor model) clearly does not meet these tests as well as the Taskforce model (hybrid border/transporter model). This increases the risk that the legislated model will need to be reviewed and refined in the short term to achieve the intended objectives of improving the collection of GST on imported goods. It is not administratively efficient for the Government to pursue a model that includes this risk, given that the purpose of the LVG Act is to respond to concerns by the Australian retail industry about its competitiveness in an increasingly globalised retail market.

If the Government is concerned enough about the competitiveness of the domestic Australian retail industry, then it has an economic responsibility to apply a GST collection model for LVIG that represents the most effective regime for tax compliance. A regime which is inferior will be less able to achieve the tax neutrality, competitive neutrality for Australian retailers, and increased revenue collection which the Government seeks through the LVG Act⁵¹.

5.2 Administrative and regulatory efficiency principles

The development and administration of policy and regulation is generally inefficient if regulators do not properly understand the market they wish to regulate. Inadequate understanding can arise when regulators fail to apply the fundamental principles of administrative efficiency which include⁵²:

- Consulting effectively with stakeholders;
- Recognising that domestic regulation can have wider market impacts in an increasingly globalised economy; and
- Ensuring that regulation is fit for purpose in an era of rapid technological change.

⁵⁰ The general principles of administrative and regulatory efficiency are agreed by key international organisations including the OECD, World Bank and APEC. See OECD, 2012 Recommendation on regulatory policy and governance at <http://www.oecd.org/governance/regulatory-policy/2012-recommendation.htm>

⁵¹ The purpose of the LVG Act is explained in media statements by the former Australian Treasurer, the Hon J Hockey 2015 and current Australian Treasurer, the Hon S Morrison 2017

⁵² Kleitz, Experience and best practices in achieving regulatory efficiency and open markets, OECD Trade Directorate, Paris 2001

The *OECD 2012 Recommendation on Regulatory Policy and Governance*⁵³ encourages jurisdictions to ensure that regulation reflects administrative and regulatory efficiency principles. Key recommendations of the OECD in relation to regulatory and administrative efficiency that governments should implement are described in the table below.

Table 2: Key regulatory and administrative efficiency principles recommended by the OECD

OECD recommendations on regulatory policy and governance ⁵⁴		OECD recommended actions to ensure administrative and regulatory efficiency ⁵⁵
2	Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including online) for the public to contribute to the process of preparing draft regulatory proposals and to the quality of the supporting analysis	<ul style="list-style-type: none"> Effective stakeholder consultation
4	Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals	<ul style="list-style-type: none"> Acknowledge that domestic regulation can have wider market impacts in an increasingly globalised economy; Avoid unnecessary trade restrictiveness Ensure that regulation is fit for purpose in an era of rapid technological change Apply competition principles Use international standards as a basis for regulations Consider whether any equivalent foreign measures are in place
9	As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective. Regulators should assess how regulations will be given effect and should design responsive implementation and enforcement strategies	
10	Where appropriate promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government	
12	In developing regulatory measures, consider all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction	

⁵³ <http://www.oecd.org/governance/regulatory-policy/2012-recommendation.htm>

⁵⁴ OECD 2012 Recommendation on Regulatory Policy and Governance; p5

⁵⁵ Kleitz, Experience and best practices in achieving regulatory efficiency and open markets, OECD Trade Directorate, Paris 2001

The Australian Government supports the *OECD 2012 Recommendation on Regulatory Policy and Governance*, and it has publicly committed to pursue best practice regulation consistent with the OECD recommendation including via:

- *“timely use of evidence to inform decision making as required through the Australian Government’s regulatory impact analysis system;*
- *maintenance of an effective, fit-for-purpose stock of Commonwealth regulation evolving with economic needs and emerging risks;*
- *effective and responsive administration of regulation; and*
- *transparency and accountability in decisions and outcomes.”*⁵⁶

While supporting these principles in general, it is not apparent that the Australian Government has fully and carefully applied these principles to the development of the LVG Act and the legislated model. This is particularly concerning as Australia chaired the OECD Regulatory Policy Committee at the time the *OECD 2012 Recommendation on Regulatory Policy and Governance* was developed⁵⁷.

5.3 Comparative process transparency and rigour

5.3.1 Stakeholder consultation

One of the reasons that the Australian Government believes that all on-line retailing should be treated as an electronic distribution platform (EDP) for the purposes of the LVG Act is that it has failed to consult effectively with stakeholders. This has disabled it from fully understanding the differences between 3P and 1P service provision, and thus it has failed to design the legislated model to reflect the differences that exist between on-line retailing and marketplace services and between variations in marketplace services.

There are two clear reasons why the Australian Government has failed to consult effectively on the LVG Act. These are:



- It appears to have ignored the recommendations of the previous process in 2011-12 examining the appropriate GST collection model on LVIG. This extensive process resulted in the Taskforce model (hybrid border/transporter model); and
- It has consulted inadequately on the development and design of the legislated model (vendor model).

The ineffective consultation undertaken by the Australian Government on the LVG Act is not consistent with its commitment to best practice regulation recommended by the OECD and creates the basis for all other implementation risks associated with the legislated model, including compliance risks. The figure below illustrates the inadequate consultation undertaken by the Australian Government on the LVG Act compared to the development and recommendation of the Taskforce model.

⁵⁶ Department of Prime Minister and Cabinet, Australian Government, best practice regulation at <https://pmc.gov.au/regulation/best-practice-regulation>

⁵⁷ The Chair was the former Chair of the Australian Productivity Commission, Gary Banks AO. See OECD 2012 Recommendation on Regulatory Policy and Governance, p2

Figure 1: Comparative consultation with stakeholders

2010	2011	2012	2013	2014	2015	2016	2017
Taskforce model 					Legislated model 		
<ul style="list-style-type: none"> December: In response to concerns from Australian retail sector about competitiveness the Australian Government asks the APC to examine the retail industry 	<ul style="list-style-type: none"> November: The APC recommends that a Taskforce be created to investigate applying the GST on LVIG 	<ul style="list-style-type: none"> January: Australian Government establishes the Low Value Parcel processing Taskforce July: Taskforce recommends the hybrid border/transporter model November: The Australian government prepares a Regulatory Impact Statement (RIS) in response to the Taskforce recommendation 	No action	No action	<ul style="list-style-type: none"> August: Australian Treasurer announces in a media release that the Government will introduce a vendor registration model 	<ul style="list-style-type: none"> May: Budget papers released that refer to revenue from vendor model November: Exposure draft of legislation issued for one-month consultation 	<ul style="list-style-type: none"> February: Bill introduced to Parliament April: Senate Inquiry held May: Senate Committee supports LVG Act but seeks APC examination of GST collection models August: APC begins Inquiry
Consultation with stakeholders							
eBay made a submission to the APC Inquiry ⁵⁸	Government chooses retail industry experts as Taskforce members ⁵⁹	Taskforce consults widely on various GST collection models for LVIG ⁶⁰	No industry consultation process	No industry consultation process	No industry consultation process	Provision of draft exposure legislation to some groups prior to public release but not 3P service providers ⁶¹	3P service providers made submission to Senate Inquiry ⁶²

⁵⁸ eBay Submission to the Productivity Commission Inquiry on the economic structure and performance of the Australian retail industry at

<http://www.pc.gov.au/inquiries/completed/retail-industry/submissions>

⁵⁹ Low Value Parcel Processing Taskforce, Final Report 2012

⁶⁰ Ibid

⁶¹ eBay, Alibaba Group and Etsy, Supplementary submission to the Senate Economics Legislation Committee in relation to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Submissions

⁶² eBay, Alibaba Group and Etsy, Submission to the Senate Economics Legislation Committee in relation to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Submissions

5.3.2 Policy assessment process

When assessed against the OECD recommendations and Australian Government's own commitment to them, the development of the LVG Act does not compare favourably to the assessment of the Taskforce model. The table below illustrates the comparative policy assessment processes.

Table 3: Comparative policy assessment process of models

OECD recommended regulatory policy principles ⁶³		OECD recommended actions for regulatory efficiency ⁶⁴	Australian Government's commitment to best practice regulation ⁶⁵	Compliance of Taskforce model	Non-Compliance of Legislated model
2	Open government, including transparency and public participation in the regulatory process	<ul style="list-style-type: none"> Effective stakeholder consultation 	<ul style="list-style-type: none"> Transparency and accountability in decisions and outcomes 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> 2011 APC public Inquiry 2012 Taskforce public Inquiry 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> Treasurer media release
4	Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process	<ul style="list-style-type: none"> Acknowledge that domestic regulation can have wider market impacts in an increasingly globalised economy; Avoid unnecessary trade restrictiveness Ensure that regulation is fit for purpose in an era of rapid technological change Apply competition principles 	<ul style="list-style-type: none"> Timely use of evidence to inform decision making as required through the Australian Government's regulatory impact analysis system Effective and responsive administration of regulation 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> RIS conducted 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> No RIS No industry consultation paper Exposure draft legislation released for one month
9	Apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective				
10	Promote international regulatory coherence	<ul style="list-style-type: none"> Use international standards as a basis for regulations Consider whether any equivalent foreign measures are in place 	<ul style="list-style-type: none"> Maintenance of an effective, fit-for-purpose stock of Commonwealth regulation evolving with economic needs and emerging risks 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> APC and Taskforce recommend approach consistent with international practice and trade 	<input checked="" type="checkbox"/> <ul style="list-style-type: none"> Option is unique internationally
12	Ensure impacts on international commercial activity meets international norms				

⁶³ OECD 2012 Recommendation on Regulatory Policy and Governance; p5

⁶⁴ Kleitz, Experience and best practices in achieving regulatory efficiency and open markets, OECD Trade Directorate, Paris 2001

⁶⁵ Department of Prime Minister and Cabinet, Australian Government, best practice regulation at <https://pmc.gov.au/regulation/best-practice-regulation>

The detailed parameters⁶⁶ used by the Taskforce to assess options and determine the suitability of the hybrid border/transporter model sought to achieve the most appropriate balance between tax, trade, economic and regulatory policy. The application of these parameters was consistent with OECD's recommended approach to regulatory assessment. By comparison the legislated (vendor) model in the LVG Act was developed without any specific documented terms of reference consistent with the intention of the Taskforce parameters or any apparent systematic application of the costs and benefits of alternative approaches.

The parameters which framed the Taskforce consideration were that any new approach to collect GST on LVIG should⁶⁷(emphasis added):

- **Allow for effective and efficient revenue collection processes that promote tax neutrality with other goods for consumption in Australia;**
- Streamline the assessment of customs duty;
- Minimise any processing and administration costs, delivery delays and other compliance costs;
- **Pass appropriate collection costs onto the importer;**
- **Provide administrative and competitive neutrality between different import streams where appropriate;**
- Not compromise border protection. The new system should support the Australian Customs and Border Protection Service and DAFF Biosecurity in this role by: – allowing for risk based assessment; – minimising administrative touch points outside of the natural supply chain for movement and delivery; and facilitating pre-arrival information through electronic data interchange where practical;
- **Support Australia's interaction with the digital economy by ensuring the system is user friendly, imposes no added barrier to trade and allows for the large expected increase in online retailing;**
- Have regard to Australia Post's profitability in the international mail stream including impacts on capacity and technological change, and its universal service obligations;
- Consider the costs and volumes of goods associated with possible administrative thresholds, including the level at which GST or duty may be payable and the levels at which differing amounts of information are required;
- Consider the role of customs duty;
- Consider compliance measures required to identify and respond to attempts at avoiding or evading customs duty, GST or other tax or charges;
- Consider implications of the new approach for the management of other risks at the border, for example as a result of changed process or from an additional focus on revenue;
- Consider international developments and best practice, covering both policy trends, technological advancements and agreements through organisations such as the Universal Postal Union; and
- Consider alternative arrangements for revenue collection, including the parties responsible for revenue collection and the points in the supply chain at which revenue is collected.

⁶⁶ Terms of reference provided by the Assistant Treasurer to the Low Value Parcel Processing Taskforce, Low Value Parcel Processing Taskforce, Final Report 2012

⁶⁷ Ibid

Regulatory impact assessment

Of these terms of reference applied to the assessment of the Taskforce model, there are four which should have been systematically applied at the very least during the development of the legislated model in the LVG Act to ensure that the regulations were efficient for on-line retailing. These are:

- Allow for effective and efficient revenue collection processes that promote tax neutrality with other goods for consumption in Australia;
- Pass appropriate collection costs onto the importer;
- Provide administrative and competitive neutrality between different import streams where appropriate; and
- Support Australia's interaction with the digital economy by ensuring the system is user friendly, imposes no added barrier to trade and allows for the large expected increase in online retailing.

These issues are key because they form the basis of careful consideration of the relationship between tax and trade impacts. Ideally these issues would have been considered as part of a formal regulatory impact assessment (RIA) of the legislated model. As discussed above the Australian Government has committed to *"timely use of evidence to inform decision making as required through the Australian Government's regulatory impact analysis system"* as part of its undertaking to pursue best practice regulation consistently with OECD principles⁶⁸.

While the Australian Government conducted an RIA in relation to the Taskforce model, no RIA appears to have been undertaken on the legislated model before the Government committed to it in the LVG Act. Accordingly, it is not clear whether the key issues referred to above were carefully assessed in the development of the legislated model.

5.3.3 Effective and efficient revenue collection

In its evidence to the Australian Parliament, the Australian Treasury confirmed that the estimated revenue in the first three years of the LVG Act is estimated to be \$300 million (\$130 million in the third year), representing a collection rate of about 27 percent⁶⁹. The Treasury estimated compliance under the LVG Act would become mature in 2022-23, and at this peak it expected compliance rates to be 54 percent⁷⁰.

This suggests that non-compliance or tax debt owed to the Australian Tax Office (ATO) under the legislated model would be between at least 46 and 73 percent for the life of the Act. This compares unfavourably to Australia's general tax compliance performance within the OECD. In 2013 total tax debt owed to the ATO

⁶⁸ Department of Prime Minister and Cabinet, Australian Government, best practice regulation at <https://pmc.gov.au/regulation/best-practice-regulation>

⁶⁹ Australian Parliament, Senate Economics Legislation Committee, Report on the Treasury Laws Amendment (GST Low Value Goods) Bill 2017, p15

⁷⁰ Ibid

(excluding disputes) as a percentage of the total net tax revenue collected was 5.7 percent⁷¹. On this comparison, the legislated model promotes a non-compliance or tax debt ratio that is between 8 and 12 times higher than Australia's overall tax non-compliance rate.

The expected performance of the legislated model is also poor when compared to the OECD average tax debt/ total net tax revenue collected ratio. In 2013 the OECD average was 21.5 percent⁷². On this comparison, the legislated model promotes non-compliance between 2 and 4 times higher than the average OECD rate.

The Taskforce based its support for the hybrid border/transporter model partly on the effectiveness of the similar LVIG VAT collection models applied in the other jurisdictions, where the VAT threshold is much lower than Australia. It noted for example that:

*"In the United Kingdom, where import VAT applies to goods over £15 in value, import charges are calculated by the United Kingdom Border Force (UKBF) staff at postal depots where the packages are received. Once the goods are deemed of no further border or biosecurity risk interest to the border agency, they are released to Royal Mail for collection and remittance of the revenue liability. Once payment has been made to Royal Mail, the recipient of the goods can arrange for the goods to be delivered. Royal Mail charges a handling fee of £13.50 for express parcels imported through the EMS networks and also for high value standard parcels (valued at over €1,000). For all other import parcels, an £8 handling fee applies."*⁷³

This UK model does not appear to be an impediment to the collection of tax revenue by Her Majesties Revenue and Customs (HMRC) as in 2013 the total tax debt owed to HMRC (excluding disputes) as a percentage of the total net tax revenue collected was 2.6 percent, which was 55 percent better than Australia's tax compliance rate⁷⁴.

Given the poor expected compliance performance of the legislated model in the LVG Act compared to existing internationally applied LVIG VAT collection models and the OECD average of tax debt, it is difficult to assume with any certainty that the legislated model will achieve tax neutrality with other goods for consumption in Australia. This outcome is not consistent with the OECD and Australian Government principles for regulatory efficiency, nor is it compatible with the OECD principles for effective tax regimes⁷⁵.

⁷¹ OECD, Tax Administration 2015: Comparative information on OECD and other advanced and emerging economies, p231 at http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015_tax_admin-2015-en#.WZT534VOKUk#page233

⁷² Ibid

⁷³ Low Value Parcel Processing Taskforce, Final Report 2012, p161

⁷⁴ OECD, Tax Administration 2015: Comparative information on OECD and other advanced and emerging economies, p231 at http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015_tax_admin-2015-en#.WZT534VOKUk#page233

⁷⁵ OECD, Implementation of the Ottawa Taxation Framework Conditions, Final report 2003

In comparison, modelling supplied to the Australian Parliament suggests that the Taskforce model (hybrid border/transporter model) could conservatively deliver compliance rates of about 70 percent. This is estimated to provide about \$650M in GST revenue, more than 50 percent higher than the estimated revenue under the legislated model in its first three years⁷⁶.

5.3.4 Passing costs onto importers

The general agreed purpose of value added taxes, including VAT in the European Union or GST in Australia, is to levy a tax on all commercial activities involving the production and distribution of goods and the provision of services above a specific threshold, such as the value of a good or annual turnover of a business⁷⁷. In Australia, the threshold below which businesses do not need to register for GST is \$75,000 per year. Because VAT is a consumption tax the final consumer in a supply chain bears its cost. Accordingly, the Taskforce considered how different collection models passed the cost of the GST onto the importer (business or individual consumer), as that person in an international supply chain is the ultimate consumer.

As discussed in Chapter 3, 3P service providers provide electronic marketplaces which support B2B or B2C transactions, but they are not the importers of goods. Accordingly, consistent with internationally agreed VAT transaction policy, 3P service providers should not be exposed to being treated as the final consumer. Based on the Australian Treasury's estimation of low rates of international vendor compliance with the LVG Act, and requirement for 3P service providers to collect and remit GST, there is a high risk that the legislated model will operate to make 3P service providers responsible for GST as if they were the importers of goods. In effect, the ATO may treat 3P service providers as 'importers of last resort'. The adverse impact on costs for 3P service providers may be compounded where the GST is irrecoverable from international vendors selling via their marketplaces.

This outcome is not consistent with requirements for non-discrimination which underpin OECD regulatory efficiency principles and tax policy principles. For example, the OECD has agreed that "*taxation should seek to be neutral and equitable between forms of electronic commerce and between conventional and electronic forms of commerce.*"⁷⁸ However, discrimination between forms of electronic commerce may occur where the LVG Act holds 3P service providers, who do not control any aspects of the pricing, sale, warehousing and distribution of goods traded via their marketplaces, as equally responsible for collecting and remitting GST as all other forms of retailing and electronic marketplaces (such as Amazon) which do exercise these kinds of controls over goods traded via their respective electronic platforms.

It may also fall foul of the international principles requiring that foreign businesses should not be disadvantaged by the design and application of VAT or the compliance burdens in regulatory administration. These principles are discussed in section 4.4.1 in this submission.

⁷⁶ KPMG, Estimating the direct GST revenues from alternative collection models, April 2017 supplied as part of the Amazon submission to the Australian Parliament, Senate Economics Legislation Committee, Report on the Treasury Laws Amendment (GST Low Value Goods) Bill 2017

⁷⁷ European Commission, Taxation and Customs Union, what is VAT? At http://ec.europa.eu/taxation_customs/business/vat/what-is-vat_en

⁷⁸ OECD, Implementation of the Ottawa Taxation Framework Conditions, Final report 2003

Similarly, the legislated model seeks to extend Australia's tax reach to goods purchased and distributed via on-line marketplaces when those goods are not in Australia at the time of purchase or distribution. This over-reach is one of the reasons for an expected low compliance rate because it is virtually impossible for the ATO to enforce the LVG Act in relation to overseas based businesses which do not wish to collect and remit GST to the ATO.

To overcome this inherent difficulty with enforcement the LVG Act seeks to hold all on-line marketplaces, including 3P service providers responsible for collecting and remitting the GST as if they were the actual importer. While this may be reasonable in relation to conventional retailers with an on-line purchasing facility and on-line marketplaces which sell, warehouse and distribute goods themselves within jurisdictions (such as Amazon), it is not compatible with the business models of 3P service providers as their goods offered for sale via their electronic platforms are generally located outside Australia at the time of purchase and distribution.

Other jurisdictions have recognised that differences exist between conventional and electronic forms of commerce and between forms of electronic commerce, such as between 3P service providers and EDPs like Amazon. In the UK for example, HMRC is seeking to ensure that goods purchased via electronic marketplaces are subject to VAT and it has been granted extended powers to do so under the *VAT Act 1994*. However, its approach to increase VAT compliance involves approaching on-line marketplaces to discuss their joint or severable responsibility for collecting VAT for goods purchased via their electronic platforms from overseas vendors.

The new arrangements recognise the differences in on-line marketplace provision because *"they will apply to online marketplaces that provide a facility for UK consumers to view and place orders for goods being offered for sale by overseas businesses. For the purposes of this measure, 'overseas businesses' means any business that is not physically located in the UK. However, in practice HMRC will only seek to apply the measure in circumstances where overseas businesses do not have a genuine business establishment in the EU. It will only apply in relation to sales made in the UK for VAT purposes, i.e. where the goods are located in the UK at the time the consumer pays for them or the date they are dispatched to the consumer (whichever happens first)"*⁷⁹.

This approach minimises the risk that 3P service providers will be held responsible for VAT on all transactions even where goods are not located or dispatched in the UK and therefore is consistent with OECD tax policy principle regarding effectiveness and fairness which includes that *"the potential for tax evasion and avoidance should be minimised while keeping counter-acting measures proportionate to the risks involved"*⁸⁰.

By comparison the legislated model in the LGV Act is not consistent with this principle because it seeks to apply the GST to activities that occur outside Australia, and thus treat 3P service providers as if they are importers at the time the transaction occurs.

⁷⁹ HMRC, Guidance: VAT: overseas businesses and joint and severable liability for online marketplaces, August 2016

⁸⁰ OECD, Implementation of the Ottawa Taxation Framework Conditions, Final report 2003

5.3.5 Competitive neutrality of import streams

While the legislated model in the LVG Act is seeking to level the playing field between the supply of imported goods from domestic retailers and international on-line marketplaces it may in practice create competitive disadvantages for 3P service providers and the users of their on-line services compared to conventional retailers with an international on-line presence and on-line marketplaces which price, sell and distribute products themselves.

Important evidence was provided to the Australian Parliament on this issue by 3P service providers. For example, it was indicated by Etsy that:

"[A]s Etsy sellers are predominantly microbusinesses...few of our sellers would ever reach the \$75,000 threshold that would require them to register and apply GST to sales under \$1,000. However, as the legislation currently treats platforms like Etsy as one individual seller, aggregating the sales of all of our international sellers into one and requiring us, as a platform, to register for the collection and remittance of GST, we would be forced to apply this 10 per cent GST charge onto each individual seller's product, even if this is the first sale that they ever make into Australia".⁸¹

The evidence provided to the Australian Parliament also suggested that given the low expected compliance rate under the legislated model, and inability of the ATO to undertake effective enforcement overseas, any international businesses that did comply with the LVG Act would be competitively disadvantaged compared to those non-complying businesses. The poor enforcement potential would likely encourage non-compliance amongst those businesses who seek to avoid collecting and remitting the GST and this would entrench competitive disadvantages between import streams⁸².

To achieve competitive neutrality, the legislated model relies entirely on the extent of a compliance culture amongst international vendors. However, this is highly risky because research indicates that a culture and capacity for compliance with indirect taxes (such as VAT) in globalised markets depends of a range of factors including⁸³:

- Having effective metrics to understand tax liabilities;
- Enabling adequate human resources to manage tax compliance;
- Ensuring clear organisational structures and accountability for tax reporting;
- Applying robust risk management to address tax risks; and
- Investing in technology to improve tax management efficiency.

⁸¹ Australian Parliament, Senate Economics Legislation Committee, Report on the Treasury Laws Amendment (GST Low Value Goods) Bill 2017, p10

⁸² Mr Kevin Willis, Director, Global Trade Services, Amazon, Australian Parliament, Senate Economics Legislation Committee Hansard, 21 April 2017, p20; and Professor Robert Deutsch, Senior Tax Counsel, The Tax Institute, Australian Parliament, Senate Economics Legislation Committee Hansard, 21 April 2017, p53

⁸³ KPMG, 2015 Global benchmark survey of indirect tax and trade compliance, p6

These are organisational features which may not be common to all, or indeed many, businesses as they are often specialised characteristics developed over many years operating in a market. These features are unlikely to be common amongst the MSMEs which use the on-line marketplaces of 3P service providers.

For example, research suggests that even for major global businesses including those with turnover higher than \$20 billion⁸⁴:

- Only 25 percent surveyed in 2015 have specific metrics to collect business information to support indirect tax compliance, down from 41 percent in 2013;
- Only 9 percent of all businesses and 6 percent of businesses with turnover above \$20 billion have metrics to assess VAT/GST;
- Only 38 percent have a resource responsible and accountable for global indirect tax compliance;
- 10 percent fewer businesses have risk management methods for indirect tax compliance than in 2013; and
- Fewer than 50 percent of businesses with indirect tax controls in place have implemented an independent assurance process.

This affirms the low probability that MSMEs using the on-line marketplaces of 3P service providers would have the organisational capacity and willingness to understand, collect and remit GST to the ATO.

To improve compliance of international vendors with the LVG Act, significant capacity building within businesses is likely to be needed, and it is unlikely that the ATO would be willing to dedicate the resources to achieve this. For example, international research suggests that to improve and ensure compliance with indirect taxation applying in global supply chains organisations need to have the capacity to understand, systematically compile, assess and report on⁸⁵:

- *“Tax under management (tax as a percentage of revenue) - to highlight the magnitude and impact of indirect tax on cash flows;*
- *Transaction error rates in accounts payable - to understand value and frequency of errors, and causes;*
- *Accounts payable posting errors/ delays - to highlight cash flow advantages from improved posting accuracy*
- *Transaction error rates on accounts receivable - to understand the value and frequency of errors on sales transactions and causes; and*
- *Timing - calculate average VAT funding delays on supplies and purchases.”*

Given the global evidence that these indirect tax management actions are complex for even large global companies to structurally and systematically implement, any assumptions about competitive neutrality in import streams should consider the difficulty and likelihood that MSMEs would have collecting and remitting VAT, including under the legislated model in the LVG Act. This reality affirms the Australian Treasury’s expectations about low compliance and enforcement rates under the legislated model.

⁸⁴ Ibid

⁸⁵ KPMG 2015, p10

For 3P service providers this reality is particularly acute because the vendors using their on-line marketplaces are largely MSMEs with minimal capacity to collect and remit the GST on LVIG. This confirms that 3P service providers face an increased risk under the legislated model of being treated as ultimate consumers and solely responsible for GST acquittals.

Compliance costs for 3P service providers

In evidence to the Australian Senate, 3P service providers indicated that *“it is near impossible for third party online marketplaces to comply with the current model, as it would involve significant business model and system changes that only apply to the Australian market. There is no software currently available that would be capable of determining the Australian GST treatment as it would need to be capable of assessing multiple variables which include but are not limited to, customer residency, customer’s status as a consumer and the value of individual consignments of goods”*.⁸⁶

This is consistent with the discussion above about the challenges and gaps that companies of all sizes experience in relation to managing international indirect tax arrangements. However, no modelling of the compliance costs including costs of business model restructuring has been undertaken.

Competition effects of 3P service provider market withdrawal

Where 3P service providers choose to withdraw the use of their marketplaces for the importation of low value goods, it is likely that international vendors will seek and utilise other existing and any new emerging on-line platforms available to them. In some cases, such as for micro businesses using Etsy, there may be limited existing and new substitutable alternatives because of the niche market that Etsy supports. In other cases, SMEs may find alternative EDPs who are willing to host the branded products of those SMEs.

Where international vendors can only find substitutable platforms with vertically integrated marketplaces it may reduce product competition and increase prices for Australian consumers. Vertically integrated marketplaces include those which control product pricing, warehousing and distribution and the level of integration can extend to the marketplaces selling their own branded products in competition with vendors using their platform.

⁸⁶ eBay, Alibaba Group and Etsy, Supplementary submission to the Senate Economics Legislation Committee in relation to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/GSTLowValueGoods/Submissions

5.3.6 Supporting digital economy and on-line retailing

There is little dispute that the internet and digital applications it supports has revolutionised the way goods and services are supplied and consumed and reshaped a significant proportion of economic activity around the world. However, the measurable impact of the digital economy is subject to debate and evolving methods of assessment. In 2013 the OECD undertook research about measuring the impacts of the digital economy and suggested that there are three primary methods⁸⁷:

- Examining the direct impact - value added share of GDP generated by internet-related activities.
- Assessing the dynamic impact – productivity growth and net GDP growth generated by all activities related to internet activities.
- Calculating the indirect impact - consumer surplus and welfare gains generated by internet activities.

While not concluding any global values flowing from each of these methods, the OECD made some important observations. These included⁸⁸.

- Ecommerce, such as 3P on-line marketplaces, are a key part of the *direct economic impact* of the internet because they reduce search costs and improve access to better information and matching services such as those connecting buyers and sellers. The OECD notes that a study concluded that in 2010 the direct contribution of the Internet is equal to 3.6% of Australia's GDP⁸⁹.
- Ecommerce value added can be estimated narrowly where only wholesale and retail activities (such as e shops) are considered because these could not occur without the internet and their entire value-added flows from it. Alternatively, estimates can be based broadly on ecommerce activities from all industries across the economy for which data are available (excluding the information sector to avoid double counting) are considered. When these alternatives were applied to the United States, the contribution of ecommerce ranged from 3.2 percent (narrow) to 13.8 percent of total business sector value added (broad).
- In terms of its *dynamic economic impact* the internet increases efficiency in industries producing for and on the internet, as well as those seemingly unrelated to the internet.
- With respect to *indirect economic impact*, internet based activities can occur in a market environment, such as transactions between buyers and sellers of a product or service characterised by a price and market-clearing mechanism (for example the 3P marketplace). Activities also occur in non-market

⁸⁷ OECD, Measuring the internet economy, digital economy papers, No. 226, 2013

⁸⁸ Ibid

⁸⁹ Ibid, referring to a Deloitte Access Economics study in 2010

environments or within a combination of the two. Non-market interactions can contribute to individual utility and the well-being of the entire society beyond a GDP measurement and can include education, health and social connectivity.

Given that the digital economy makes these contributions it is important for regulation that affects it to operate efficiently to promote and increase these impacts, rather than limit them.

6. BUSINESS AND CONSUMER IMPACTS

6.1 Key points

In circumstances where the costs of complying with the LVG Act outweigh the commercial and reputational benefits of providing international vendors with access to the Australian market, 3P service providers are likely to be tempted to restrict supply of LVIG to Australia via their marketplaces. The discussion of business and consumer impacts highlights that such action would have minimal impact on the viability of 3P service providers, but could have significant adverse impacts on Australian consumers and business, particularly micro, small and medium enterprises (MSMEs).

This is because Australia represents a small part of the global trade in 3P service provision, but Australian business relies the most heavily on digital platforms for their purchasing in the OECD, and Australian consumers have proportionally high rates of on-line buying. For example, Australia represents 4 percent of eBay's global users, but 70 percent of Australian business uses on-line purchasing and 73 percent of what they purchase is LVIG under A\$300. About 30 percent of Australian's use eBay and overall 78 percent of what consumers purchase on-line is LVIG under A\$300.

The historic and continuing upward global trend in the number of consumers using on-line purchasing and value of sales of goods via digital platforms, combined with the further development of emerging economies, means that for 3P service providers, Australia may become an increasingly irrelevant market should the legislated model prove to be a non-tariff barrier to trade.

Where restrictions are applied on non-resident suppliers importing LVIG to Australia, trade retaliation by other nations may force 3P service providers to also restrict use of their platforms by Australian exporters. This would have negative impacts on business productivity as access to trusted digital platforms to reach international customers provide MSMEs with a productivity dividend. Access to 3P marketplaces is an important way Australian MSMEs can boost their share of export value which remains one of the lowest in the Asia Pacific Economic Cooperation (APEC) region. The APEC region contains the majority of Australia's top 15 trading partners.

Under the legislated model international vendors and 3P marketplaces face a higher regulatory burden and this may encourage some to leave the Australian marketplace. This would limit competition and consumer choice, the latter being one of the primary reasons consumers choose on-line purchasing in the current proportions. Under the legislated model it is estimated that consumer welfare will be A\$482 million lower in the 2017-20 period.

6.2 Business impacts

6.2.1 General economic contribution of on-line retailing

At 30 June 2016, there were about 2.17 million businesses actively trading in the Australian market. Of these about 131,000 were classified in the retail sector⁹⁰. The direct economic impact or industry value added (IVA) of the total retail sector in 2015-16 was about \$75 billion⁹¹ on total turnover of about \$25.2 billion⁹².

For the purposes of statistical analysis, the retail sector is separated into different classifications, with on-line retailing contained in the Australian Bureau of Statistics (ABS) *non-store retailing and retail commission based buying and/or selling* sub-division 43. Within this category data is available for different kinds of on-line retailing. The ABS applies the following definition to its assessment of on-line retailing – “*retailers who trade with consumers solely via an online store, and have no physical store, are commonly referred to as ‘pure-play’ online retailers. Similarly, retailers who combine a physical store with other non-traditional means such as catalogues, mail-order, telephone-order and/or an online store, are commonly referred to as ‘multi-channel’ retailers*”⁹³.

Using these definitions 3P service providers can support pure play on-line retailers and multi-channel retailers.

The table below illustrates the contribution of all on-line retailing based on turnover at 30 June 2017.

Table 4: Impact of on-line retailing in Australia in 2017⁹⁴

Type of activity	Turnover at 30 June 2017 \$M	Percentage of total retail turnover at 30 June 2017 (%)
Pure play on-line retail trade	335.9	1.3
Multi-channel on-line retail trade	703.3	2.8
Total on-line retail trade	1,039.2	4.1

⁹⁰ Australian Bureau of Statistics (ABS) Cat No 8165.0, 2017

⁹¹ ABS Cat No 8155.0, 2017

⁹² ABS Cat No 8501.0, 2017

⁹³ ABS Cat No 8501.0, 2017

⁹⁴ ABS Cat No 8501.0, 2017

Total retail sector turnover in June 2017 was about \$26.2 billion⁹⁵. It is estimated that total retail sector IVA was about \$78 billion in 2016-17, and the share of this contributed by all on-line retailing was about \$3 billion⁹⁶ or about 3.8 percent. This has grown since 2012-13 when the IVA of on-line retailing was estimated to be about \$1.6 billion or about 2 percent of total retail sector IVA⁹⁷.

It should be noted that this approach to estimating the IVA of on-line retailing is likely to be considered a narrow approach as suggested by the OECD because it assumes that the only direct impact of on-line retailing flows from retailing that relies on the internet⁹⁸. A broader approach to estimating direct impact may consider other kinds of transactions between vendors and purchasers which are not classified as 'retail' for the purposes of ABS calculations, but which equally rely on the internet to occur. For example, Alibaba Group enables sellers and buyers of traditionally non-retail products such as construction, chemical and plastics materials to connect and transact. A boarder approach to assuming direct impact may result in a higher IVA.

6.2.2 General business use of on-line retailing

In Australia businesses are high users of the internet to transact goods and services, but use it to conduct more purchasing than supplying. However, this is not unusual internationally as research demonstrates that for business, particularly micro, small and medium enterprises (MSMEs), importing is more common than exporting, and that importing often triggers exporting by firms⁹⁹.

Table 5: Australian business use of information technology to support commerce in 2015-16¹⁰⁰

Type of business	Internet access (%)	Purchasing via the internet (%)	Sales via the internet (%)
All businesses	95	53	35
Innovation active businesses	98	60	45
Non-innovation active businesses	92	45	25

The OECD estimates that within the G20, Australian business makes the highest use of the internet to conduct business. It estimates that in 2015, 70 percent of Australian businesses placed orders via the internet and 45 percent made sales via it¹⁰¹. Since 2005 this on-line usage to support commerce has increased

⁹⁵ ABS Cat No 8501.0, 2017

⁹⁶ Aegis Consulting Group 2017 using the same multiplier effect that applied in 2015-16 when considering total retail turnover.

⁹⁷ ABS Cat No 8165.0, 2017

⁹⁸ See the discussion at section 3.4.7 of this paper

⁹⁹ Asia Pacific Economic Cooperation (APEC) Policy Support Unit, SME internationalisation and measurement, Policy brief No12, March 2015

¹⁰⁰ ABS Cat No 8167.0, 2017

¹⁰¹ OECD, Key issues for digital transformation in the G20, Report prepared for a joint G20 German Presidency/ OECD conference, Berlin, 12 January 2017, p24-25

by 26 percent, the highest rate of growth in the G20¹⁰². Factors that may explain the high use of ecommerce by Australian business, especially for purchasing, include:

- The OECD considers that “G20 economies that are relatively isolated geographically tend to engage strongly online, as shown by web presence and e-commerce transactions”¹⁰³, and Australia is a prime example of this;
- The Australian economy imports more than it exports. For example, in 2016 Australia’s balance of trade was in favour of imports not exports, with imports worth \$342 billion and exports worth \$330 billion¹⁰⁴; and
- Australian businesses are not significant exporters. In 2015-16 only about 10 percent of all businesses reported targeting export markets. Of these about 1 percent had increased their export activity compared to the previous year and 1 percent had decreased it¹⁰⁵.

The table below illustrates the use of ecommerce by business in Australia compared to Australia’s top 15 trading partners for which comparative data is available.

Table 6: Comparative use of ecommerce by businesses in the G20 in 2015¹⁰⁶

G20 nations	Australia trading partner (rank) ¹⁰⁷	Purchasing via the internet (%)	Sales via the internet (%)
Australia		70	45
Japan	3	32	22
Republic of Korea	4	58	15
United Kingdom	5	50	23
Germany	10	53	27
Indonesia	13	49	42
European Union	-	43	20

The high use of on-line purchasing by Australian businesses, compared to other G20 economies with which Australia trades, is an important factor to consider when assessing the impact of the legislated model on the supply of LVIG and business welfare.

¹⁰² Ibid

¹⁰³ OECD 2017, p6

¹⁰⁴ Australian Government, Department of Freight Affairs and Trade, Australia’s trade in goods and services 2016 at <http://dfat.gov.au/about-us/publications/trade-investment/australias-trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2016.aspx>

¹⁰⁵ ABS Cat No 8165.0, 2016

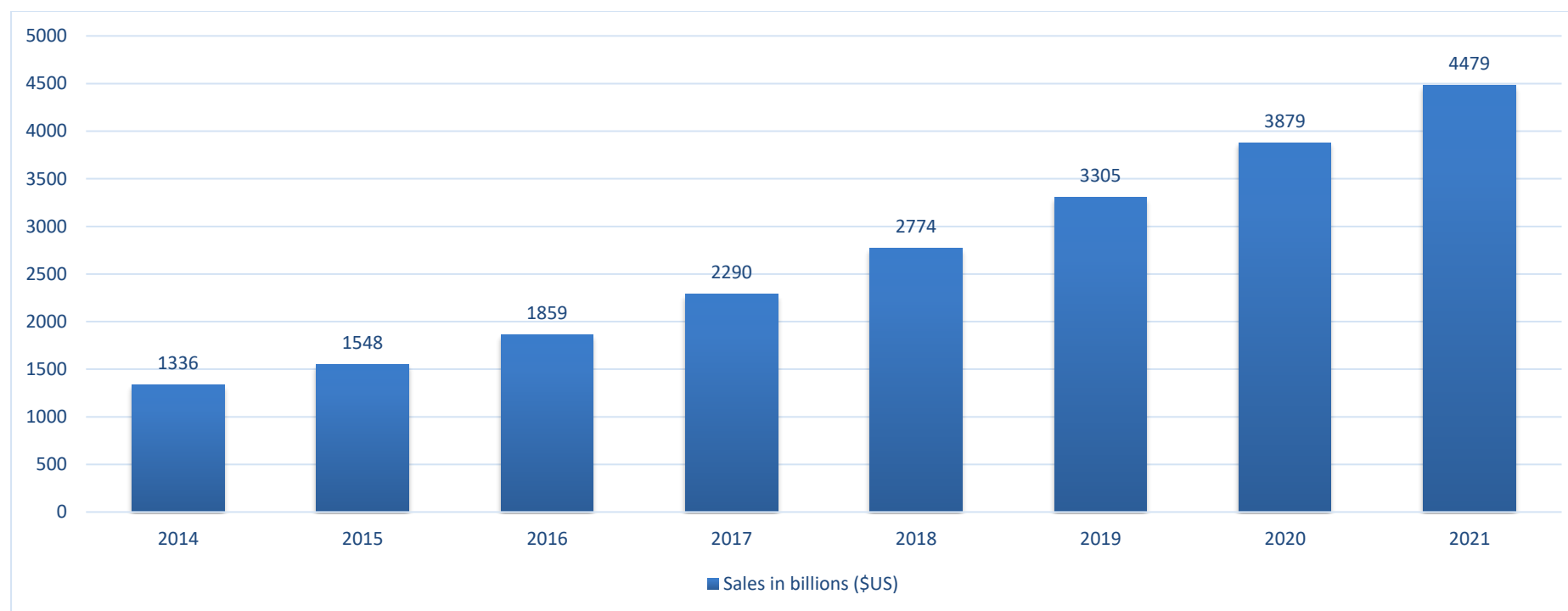
¹⁰⁶ OECD, Key issues for digital transformation in the G20, Report prepared for a joint G20 German Presidency/ OECD conference, Berlin, 12 January 2017, p24-25

¹⁰⁷ Australian Government, Department of Freight Affairs and Trade, Australia’s trade in goods and services 2016

Growth of on-line retailing

Another important issue to consider when assessing the impact of regulation on LGIV sold via 3P marketplaces is the increasing reliance that businesses have on selling their products via digital platforms. Between 2014 and 2017 the value of global on-line sales (\$US) has increased by an estimated 40 percent.

Figure 2: Global growth in the value of on-line sales 2014-2021¹⁰⁸



¹⁰⁸ Statista 2017 at <https://www.statista.com/statistics/251666/number-of-digital-buyers-worldwide/>

6.2.3 Business use of 3P marketplaces

The use of 3P marketplaces by business to purchase and sell goods occurs at rates that are higher than the available ABS and OECD data for all business demonstrates.

Types of users

The types businesses which use 3P marketplaces to sell and purchase goods include large (above 1000 employees), medium (above 20 employees), small (up to 20 employees), and micro (1-4 employees) businesses¹⁰⁹. Large businesses include recognised retailers who may have their own on-line selling platforms, but also use the 3P marketplace. For example, eBay reports that 80 percent of the largest 100 Australian retailers use its marketplace to offer products to consumers, and as eBay's platform is international, this includes export markets¹¹⁰.

However, the majority of 3P marketplace business users are micro, small and medium enterprises (MSMEs). In Australia for example:¹¹¹

- 43,000 small businesses are reported to use eBay;
- Alibaba.com, Alibaba Group's global B2B marketplace, reports 55,000 business exporter accounts; and
- Most Etsy sellers (82%) are businesses of one, and 97% operate out of their homes.

It should be noted that businesses using 3P marketplaces may use more than one of these on-line platforms to sell their goods, and thus there may be overlap in reportable data.

The dominant profile of these businesses accords with the general proportion of MSMEs in the Australian economy. In 2014-15, 99 percent of total employing businesses in Australia were MSMEs¹¹². These businesses contributed about 26 percent of total Australian IVA representing \$379 billion, and employed 4.7 million or 45 percent of private sector employment¹¹³.

Some 3P marketplaces attract and are focussed on supporting particular kinds of entrepreneurs, because of gaps in the market. For example, because Etsy concentrates on supporting creative micro businesses, on a global level it attracts a high proportion of young business people, women entrepreneurs and people in regional areas at rates higher than represented in the general and business population.

¹⁰⁹ Information from eBay, Etsy and Alibaba Group

¹¹⁰ eBay information

¹¹¹ Information from eBay, Etsy and Alibaba Group

¹¹² ABS Cat No 8165.0, 2016

¹¹³ ABS Cat. No. 8155.0, 2016

Table 7: Types of entrepreneurs using Etsy in Australia, United States and United Kingdom in 2017¹¹⁴

Key demographics	Etsy sellers			General business owners			General population		
	AUS	US	UK	AUS	US	UK	AUS	US	UK
Median age (years)	36	37	38	47	50	47	37	38	N/A
Gender (%women)	90	87	86	34	33	20	51	51	N/A
Rural (%)	21	28	32	14.5	17	26	11	18	N/A

The table demonstrates that for Etsy business users the trends are similar in Australia, United States and United Kingdom, namely that:

- The median age of entrepreneurs using the Etsy platform to sell are younger than the median age of business owners and the general population;
- The percentage of women entrepreneurs using Etsy far exceeds the percentage of women business owners in general and the proportion of women in the general population; and
- The percentage of Etsy users in rural areas exceeds the proportion of general business owners in rural areas and the proportion of people living in these areas.

Participation of users in the international supply chain

Like Australia, it is common internationally for MSMEs to dominate economies. For example, the proportion of MSMEs in the Australian economy is similarly experienced by emerging and advanced economies in the Asia Pacific Economic Co-operation (APEC) region including Canada, United States, China, Japan, New Zealand, Indonesia, Singapore and Thailand, which are all in the top 15 of Australia's two-way trading partners¹¹⁵.

Overall in the APEC region, the number of MSMEs as a proportion of total businesses in each economy does not drop below 97 percent, and this highlights the critical contribution made by MSMEs internationally in the supply and purchase of goods¹¹⁶.

Assessing the overall performance of Australian MSMEs by using the APEC region as a comparator is useful because:¹¹⁷

- Of Australia's total exports in 2016 (\$330 billion) 76 percent were destined for APEC economies; and
- Of Australia's total imports in 2016 (\$342 billion), 66 percent were sourced from APEC economies.

¹¹⁴ Etsy, Seller Census, 2017

¹¹⁵ APEC Policy Support Unit, Policy Brief No.8: SMEs in the APEC region December 2013 and Australian Government, Department of Freight Affairs and Trade, Australia's trade in goods and services 2016

¹¹⁶ APEC Policy Support Unit, Policy Brief No.8: SMEs in the APEC region December 2013

¹¹⁷ Australian Government, Department of Freight Affairs and Trade, Australia's trade in goods and services 2016

In general, the export performance of Australian MSMEs is poor compared to firms in Australia's trading partners in the APEC region. For example, in 2013 Australian MSMEs contributed the lowest export value as a share of total economy export value amongst APEC economies. The export value of Australian MSMEs was less than 15 percent of Australia's total export value. By comparison MSMEs contributed about:¹¹⁸

- 25 percent of total export value in 6 APEC economies (United States, Japan, Malaysia, Indonesia, Singapore and Chinese Taipei);
- 35 percent of total export value in 2 APEC economies (Thailand and Vietnam);
- 50 percent of total export value in 2 APEC economies (Canada and the Republic of Korea); and
- 70 percent of total export value in 1 APEC economy (China).

Within this context, the export performance of businesses using 3P marketplaces is high. For example:¹¹⁹

- Globally, there are 1.7 million sellers using Etsy. In Australia 73 percent of Etsy users sell internationally. This compares favourably with other markets such as United Kingdom where 78 percent of Etsy users export, and the United States where 44 percent of users sell overseas.
- More than 1300 Australian brands use Alibaba Group's Tmall and Tmall Global platforms to export to China and over 80 percent of these brands are using Alibaba Group marketplaces to enter the China market for the first time. This contribution is significant because China is Australia's number one trading partner.
- More than 88 percent of Australian businesses using eBay export internationally and the three top destinations for products are United States, United Kingdom and Canada, two of which are amongst Australia's top 15 trading partners, and two of which are within the APEC region where Australian MSMEs overall have low export performance. The rate of e-Bay enabled MSME exporting is also high in the United States (97 percent); Canada (99 percent) and China (100 percent).

Volume and value of business

The 3P marketplaces are significant contributors to the volume on business transacted on-line. In 2016 sales (in Australian dollars) via eBay were worth about \$80 billion worldwide and sales via Etsy globally were worth about \$3.7 billion¹²⁰. The bulk of these goods are consumables.

¹¹⁸ Ibid

¹¹⁹ Etsy and Alibaba Group information

¹²⁰ eBay, Alibaba Group and Etsy information

Table 8: Top exported LVG enabled by eBay in 2016¹²¹

Top 5 LVG exported from Australia (volume sold)	Top 5 LVG exported from Australia (value sold)
Cases, Covers & Skins DVDs & Blu-ray Discs Art Posters Plants, Seeds & Bulbs CDs & DVDs	Mobile Phones Wristwatches PC Laptops & Netbooks Digital Cameras Women's Bags

6.2.4 Productivity benefits of ecommerce

General productivity issues

The OECD considers that research across economies at firm level and industry level confirm that digitalisation increases labour productivity and promotes economic growth. This is despite wide variations in productivity gains across companies flowing from digitalisation¹²². Given this connection the OECD believes that governments should enhance business and consumer access to digital technology and applications, including to increase commercial opportunities for business. It considers for example that:

“Digital technologies also offer new opportunities for firms, including in lowering important barriers to entry. For example, digital technologies can facilitate cross-border e-commerce and participation in global value chains (GVCs) (e.g. Skype for communications, Google and Dropbox for file sharing, LinkedIn for finding talent, PayPal for transactions, and Alibaba Group and Amazon for sales). Enhancing access to networks and enabling SMEs to engage in e-commerce can be an effective way for small firms to go global and even grow across borders where they can become competitors in niche markets. For example, M-Pesa, a Kenyan mobile-money service, is now active across Africa as well as South Asia and Eastern Europe.”¹²³

This is particularly relevant to Australia because of its geographic isolation and the opportunities for MSMEs to increase their share of total national export value in the APEC region from its current low base. Thus, it is important for regulation to support the platforms that businesses use to trade, such as 3P marketplaces.

One of the barriers to MSMEs capacity to participate in global markets is their ability to invest in digital technology, infrastructure and skills. Often their small scale can create barriers to this investment and underinvestment can impede their productivity growth. The OECD considers that MSMEs trail larger firms in technology adaptation because they:

¹²¹ eBay information

¹²² OECD, Key issues for digital transformation in the G20, Report prepared for a joint G20 German Presidency/ OECD conference, Berlin, 12 January 2017, p13

¹²³ OECD 2017, p36

*“face a range of barriers in adopting ICTs and other digital technologies in their operational activities. SMEs tend to have limited financial resources, which makes adopting new technologies, including ICTs, difficult given these tools are often expensive. Another important barrier is related to human and organisational capital since investments in new technologies often require investments in complementary knowledge-based assets. SMEs do not often have the skilled people to operate new digital technologies in their teams, the resources to train these workers, or have the management that can help them make the most of the new technologies”.*¹²⁴

Productivity benefits of 3P marketplaces

One of the key benefits of 3P marketplaces is providing MSMEs with the opportunity to flexibly reach global markets without needing to invest significantly in digital technology normally required to do so. By playing this role 3P marketplaces provide MSMEs with a productivity dividend. As noted by the OECD, MSMEs in nations that are more geographically isolated from trading partners (like Australia) are more reliant on ecommerce, and in these cases the productivity dividend offered by digital platforms is likely to be higher than the average¹²⁵.

The opportunity for this productivity dividend arises because 3P marketplaces provide MSMEs with¹²⁶:

- The capacity to reach international consumers including the ability to target consumer markets, which MSMEs could not achieve on their own;
- Research and the analysis of data about consumer spending, preferences, behaviour and other information which enables MSMEs to plan and execute their business objectives with certainty. This kind of data analytics is not something MSMEs could obtain on their own without considerable investment in market research and technologies to capture consumer data;
- Administrative support which lowers the cost of transactions, including for example, access to consumer market information which reduces the costs of decisions; decreasing the need for contracts between buyers and sellers thereby reducing bargaining costs; lower regulatory costs because the 3P marketplace provides business assurance; and providing secure forms of payment; and
- A digital shopfront and related infrastructure which buyers and sellers can rely on. This includes for example, the capacity to disqualify sellers for poor performance; verification of the authenticity of sellers and buyers prior to 3P marketplace use; and insurance covering buyers and sellers for any damage incurred while using the 3P marketplace.

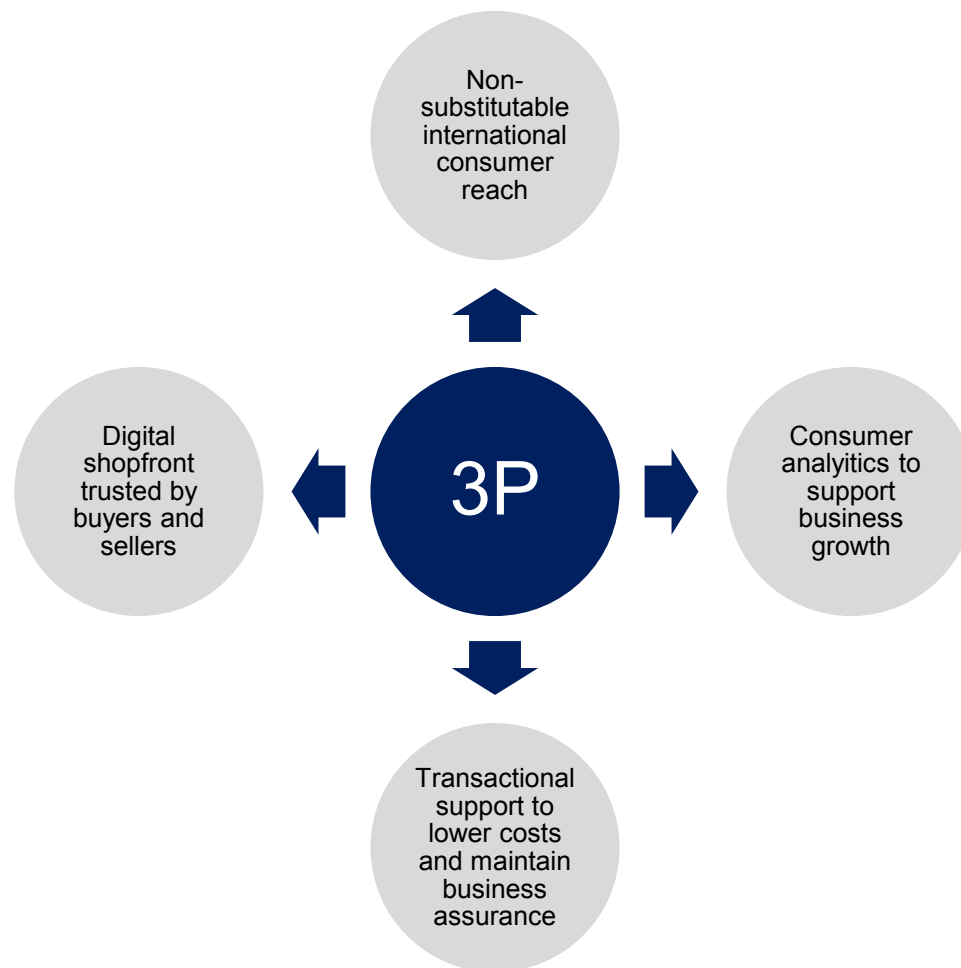
The productivity benefits supported by these factors is potentially higher via 3P marketplaces than other kinds of on-line marketplaces because 3P service providers like eBay, Etsy, AliExpress and Alibaba.com, do not offer their own brands or sell products themselves in competition with MSMEs using their digital platforms.

¹²⁴ OECD 2017, p116

¹²⁵ OECD 2017, 24

¹²⁶ Deloitte Access Economics, Platforms, small business and the agile economy 2017 and Aegis Consulting Group analysis

Figure 3: How 3P marketplaces offer MSMEs a productivity dividend

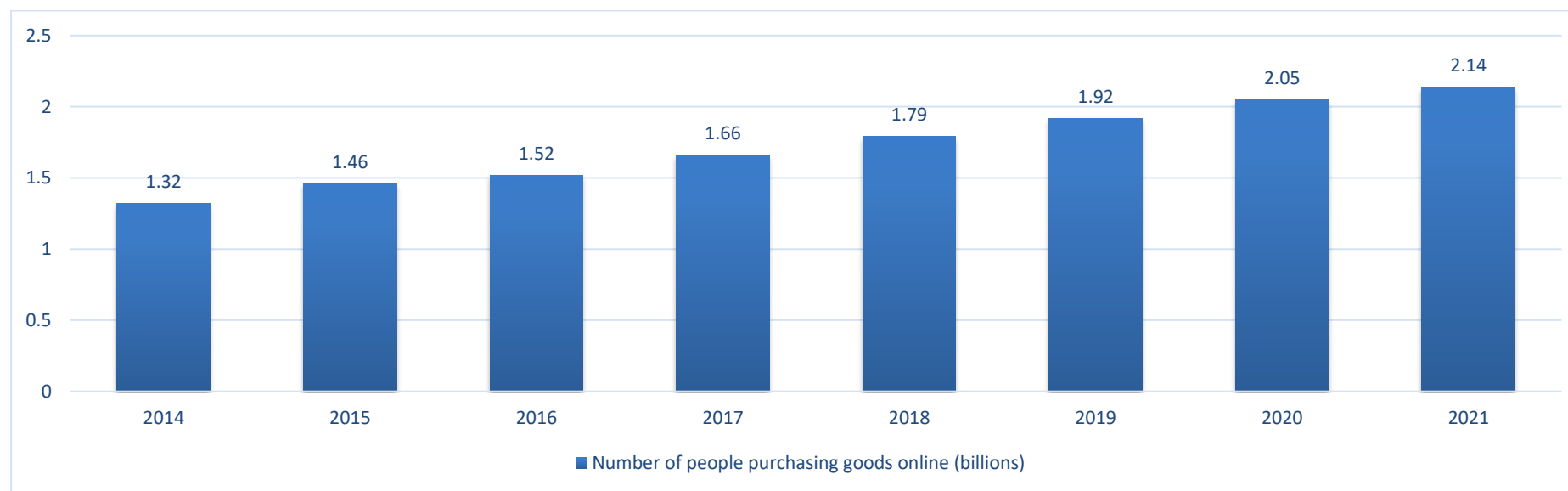


6.3 Consumer impacts

6.3.1 On-line purchasing globally

The opportunities that 3P marketplaces offer MSMEs to trade internationally increases consumer welfare because it expands product choice and convenience of purchasing. These benefits can be especially important for consumers who are geographically isolated from conventional retailing, such as those living in regional areas, and people whose mobility is impeded by age and/or disability. Consumers who are less familiar with the everyday use of digital technology and may be more vulnerable to on-line fraud, such as older consumers, have the benefit of being able to rely on the security and assurance of 3P marketplaces to confidently purchase goods. The number of consumers purchasing items online internationally is estimated to continue to increase over time.

Figure 4: Global growth of on-line consumers 2014-2021¹²⁷



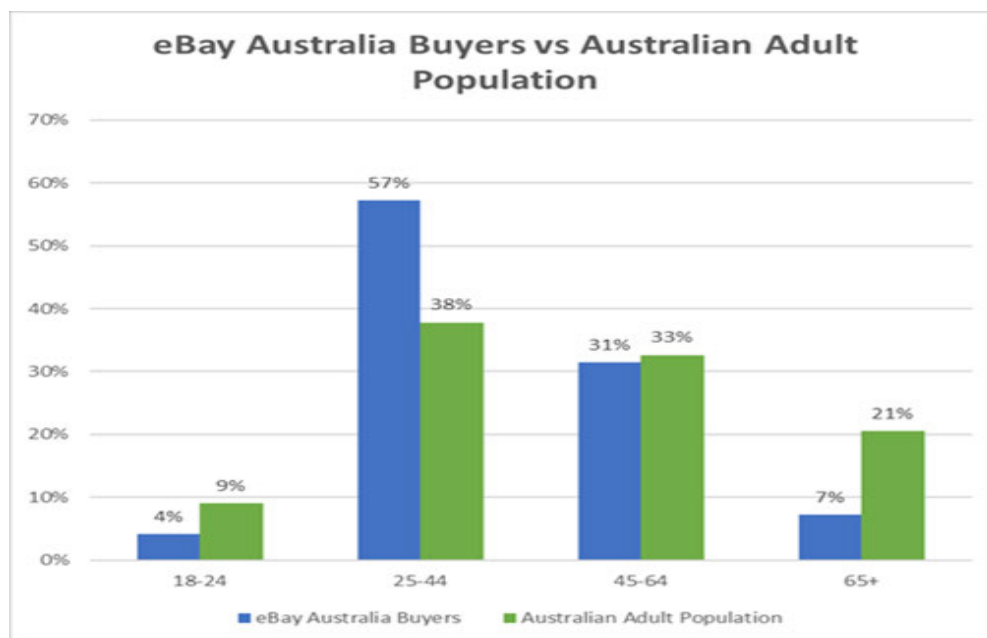
¹²⁷ Statista 2017 at <https://www.statista.com/statistics/251666/number-of-digital-buyers-worldwide/>

It is reported by eBay that globally in 2016 there are 171 million active consumers purchasing goods via its platform¹²⁸. These users are likely to be predominate in nations other than China, as Alibaba Group is the dominate 3P marketplace in the Chinese consumer market with 529 million mobile monthly active users (MAUs) of its retail platforms in China¹²⁹. Based on global use of digital purchasing, consumers using eBay represent just over 10 percent of all on-line consumers.

Purchasing in Australia

It is estimated that in 2016, about 7.7 million people in Australia (about 30 percent of the population) used the eBay marketplaces to purchase goods. About 88 percent of these eBay users were between the ages of 25 and 64.

Figure 5: eBay users in Australia by age¹³⁰



Regional eBay consumers in Australia. eBay reports that:

- Regional Australians benefit comparatively more from eBay than their urban counterparts.
- Regional Australians represent 35 percent of the population, and 35 percent of eBay consumers, but 40-45 percent of eBay total bought items & gross merchandise bought (BIGMB).
- Regional consumers spend > \$600 on average on eBay annually.
- Of the 7.7 million consumers buying via eBay, 2.5 million are from the regions.
- Regional Victoria is the area that over-indexes most heavily on GMB compared to share of population. Regional Victoria comprises about 6 percent of the State population, but represents 11 percent of eBay BIGMB.

¹²⁸ eBay information

¹²⁹ <http://www.alibabagroup.com/en/ir/earnings>

¹³⁰ eBay information

Convenience of purchasing

The digital applications being continuously developed through information and communications technology improvements support the capacity of consumers to engage in on-line purchasing ubiquitously. For example, in 2016, 68 percent of visits to eBay's marketplace were made via a mobile device¹³¹.

Table 9: Main reasons Australians choose on-line shopping¹³²

Reasons	Rank
Shopping at hours that suit	1
Delivery at home	2
Cheaper prices	3
Easily find products	4
Wider product variety	5
Product not in Australia	6
Dislike of bricks and mortar	7

6.3.2 Consumer demand for LVIG

During 2014-15 it is reported that the major private transport companies (TNT, FedEx, DHL and UPS) transported into Australia 8.8 million low value parcels¹³³. This excludes the parcels handled and delivered directly by Australia Post.

In relation to the parcels containing LVIG managed by private carriers, 65 percent were destined for households and 78 per cent of these parcels were for goods below A\$300. Similarly, 73 percent of parcels containing LVIG received by business had a value under A\$300¹³⁴.

Four factors examined in this report suggest that the demand for LVIG in Australia is likely to increase over time:

- The overall upward trend in the value of goods sold on-line globally (see figure 2);
- The overall upward trend in the number of people purchasing on-line (see figure 4);

¹³¹ eBay information

¹³² Centre for Independent Economics, The economic impacts of changing arrangements for the importation of low value products, 2016, p20. Based on a survey by the consumer advocacy group Choice in 2013

¹³³ Centre for Independent Economics, The economic impacts of changing arrangements for the importation of low value products, 2016, p20

¹³⁴ Ibid

- The high proportion of Australian businesses purchasing via digital platforms compared to the rest of the world (see table 6);
- The fact that about 30 percent of the Australian population already purchases on-line and this is most prevalent in age groups with disposal income and technological ability; and
- The primary reasons (convenience and choice) motivating Australian consumers to purchase on-line (see table 9).

The strength of the Australian dollar and economic conditions in supplying nations are also factors which can affect the demand for LVIG.

6.3.3 Consumer welfare

The introduction of the LVG Act is estimated to increase the cost of LVIG by about 9 per cent, reflecting the (average) GST rate of 8.3 per cent and GST compliance costs of 0.8 per cent. Higher priced imports are expected to adversely impact consumers (households)¹³⁵.

Under the legislated model in the LVG Act international vendors (non-resident suppliers) and 3P marketplaces face a higher regulatory burden and this may encourage some to leave the Australian marketplace. This would limit competition and consumer choice, the latter being one of the primary reasons consumers choose on-line purchasing in the current proportions. Under the legislated model it is estimated that consumer welfare will be A\$482 million lower in the 2017-20 period¹³⁶.

¹³⁵ Centre for Independent Economics, p36

¹³⁶ Centre for Independent Economics, p38

7. TASKFORCE MODEL – SUGGESTED ISSUES FOR COMMISSION ASSESSMENT

7.1 Parcel transport sector impact

Of the total number of businesses in Australia, about 133,000 are classified in the transport, postal and warehousing sector. The change in entry rate of businesses between 2014-15 and 2015-16 was the highest in the transport, postal and warehousing sector, with a 4.5 percent increase¹³⁷. The result for this sector implies that it is a competitive one and that its growth can support new entrants, hence it is likely to experience improved dynamic economic impacts over time. This assumption appears to be supported by developments and investments in the parcel transport sector including for example¹³⁸:

- The increased diversity in food delivery businesses in Australia and other markets such as Deliveroo, Foodora and others;
- Entry by Uber, Amazon and Google into the parcel delivery market globally, including Australia; and
- The creation of about 25 disruptive parcel delivery start-ups in the US, Asia and Europe challenging traditional modes of delivery, with almost all being created between 2013 and 2015.

The dynamic impact of the parcel sector suggests that the Taskforce model is unlikely to reduce the direct impact of the sector. However, this is an issue that the Commission may wish to assess further.

7.2 Cost of Taskforce model

It may be the case that the Australian Government has been persuaded to abandon the Taskforce model because of the estimated cost of Australia Post's compliance with the model. The APC has referred to this in its Discussion Paper¹³⁹ for this inquiry. However, as the APC notes, *"other participants expressed concerns with the Taskforce's model. Australia Post submitted that it would incur compliance costs of approximately \$900 million per annum if required to collect GST on low value imported goods"*¹⁴⁰. This costing was contained in the Australia Post submission¹⁴¹ to the Senate Inquiry into the legislation.

Nevertheless, the APC itself notes that: *"It is unclear whether Australia Post was referring to the model put forward by the Parcel Processing Taskforce or another model. This cost estimate is supplied in relation to the 'Transporter' model which [Australia Post] understands has been promoted by a number of large*

¹³⁷ Australian Bureau of Statistics Cat No 8165.0, 2017

¹³⁸ Aegis Consulting Group analysis

¹³⁹ Productivity Commission, *Collection Models for GST on Low Value Imported Goods*, Discussion Paper, Canberra, July 2017

¹⁴⁰ PC 2017, p15

¹⁴¹ Australia Post 2017, *Submission to the Senate Economics Legislation Committee Inquiry into the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 [Provisions]*, April, Sub. 28

international eCommerce platform operators' (Australia Post 2017, p. 1). This is likely a reference to the Taskforce's model, which was supported by several EDPs during the Senate inquiry (Alibaba Group, eBay and Etsy 2017)"¹⁴².

This estimated cost of Australia Post compliance contrasts with the assessment of the Taskforce, which (based on the per-parcel cost estimates above) estimated that 'aggregate collection costs just for the international mail environment at the zero-threshold level would be around \$450 million in 2014'¹⁴³. Nevertheless, both figures exceed the Taskforce's estimate of revenue from the international mail stream with a zero LVT (\$272 million in 2014).

There have been no opportunities to assess the assumptions for the estimated \$900M cost and this highlights the need for a published RIA to be conducted on the legislated model, which has not been undertaken by the Australian Government prior to its inclusion in the LVG Act. For example, it would be useful to be able to examine the net compliance costs of the Taskforce model to Australia Post given its existing investments in its capacity to service the parcel and ecommerce markets which include the following stated in its 2014 Annual Report¹⁴⁴:

"Introducing the new StarTrack"

"Over the past 12 months we've been integrating Australia Post and StarTrack to create a logistics provider that services both business and consumer markets with an unrivalled suite of delivery services.

By combining the trust, reach and convenience that Australia Post is famous for, and the premium service standards, express freight capability and business-to-business strength of StarTrack, we've created the largest logistics force in the country.

The integration of these businesses means we can now service both business and consumer markets with an unrivalled range of parcel, freight, express, courier and international logistics solutions developed with customers' needs in mind.

Through Parcel Post, Express Post and StarTrack, we offer a range of choices in small consignment freight and logistics with same-day, next-flight, next-morning, next-day or our regular three-to-five-day delivery service, all under the StarTrack banner.

"Strengthening our network"

"Our Future Parcels Network program is a \$595 million capital investment in our systems, processes and infrastructure to boost network capability, support future parcel volume growth and improve customer service and satisfaction. The program will deliver major safety, productivity and cost improvements, and double our capacity so that we are equipped to handle more than 320 million parcels per year nationwide by 2019".

¹⁴² PC 2017, p16

¹⁴³ LVPPT 2012, p188

¹⁴⁴ Australia Post, Annual Report 2014 at <http://auspost.com.au/annualreport2014/parcel-services.html>

“Improving our tracking capability”

‘We improved our tracking capability in 2013–14 by completing the deployment of 26,000 new scanners across our network. This allows us to increase the number of item scans as packages travel through our network, providing greater visibility for both senders and recipients, and increasing their confidence in our service.

To ensure that our network can continue to support growing demand, in March we upgraded our eParcel labels and introduced the “smart barcode”. The two-dimensional data matrix barcode, which was developed to a global standard and provisioned for increased data storage, enables a faster scanner response and is more likely to provide a scan if the barcode is damaged or obscured. The introduction of the new barcode was strengthened by address-validation processes, providing data to automate parcel sorting down to the driver delivering the item to a customer's door. An accurate, validated address means more first-time deliveries and fewer returns for customers”.

“Powering online shopping”

“Despite this challenging market, we have had a year of solid performance with our domestic parcel volumes growing by around 12.8 per cent and overall parcel revenue growth of 16.4 per cent. While volumes are increasing, we are still achieving high service performance levels with 97.8 per cent of parcels delivered on time (above our target of 96 per cent)”.

Given these investments by Australia Post in its parcel business it would be important for the APC to fully understand a range of issues including:

- On which collection model is Australia Post's costings calculated?
- On what total revenue stream are the costings based?
- What new administrative arrangements need to be put into place by Australia Post over and above existing GST requirements for goods over \$1,000?
- Given that the Taskforce calculated that aggregate collection costs would be around \$450 million in 2015, why does this differ to the estimate for Australia Post alone?