



Australian
Retailers
Association

The Hon Scott Morrison MP

Treasurer

ARA response to *Toughening the Multinational Tax Avoidance Law* consultation

February 2018

Background

The Australian Retailers Association (ARA) offers support, information and representation to over 7,500 retailers across the nation, representing more than 50,000 shopfronts. The ARA ensures the long-term viability and position of the retail sector as a leading contributor to Australia's economy.

The ARA convenes Australia's leading anti-illicit trade coalition, Australians to Stop Counterfeiting and Piracy (AUSCAP). The ARA and AUSCAP are pleased to provide this submission in response to the ***Treasury Laws Amendment (Measures for a later sitting) Bill 2018: MAAL*** consultation.

Measures Outlined in Exposure Draft Legislation:

The ARA and AUSCAP are supportive of the outlined measures to expand the reach of the Multinational Anti-Avoidance Law (MAAL). This will assist Australian authorities in capturing lost taxation revenue and enforce compliance. Broadly speaking, we are supportive of the measures outlined, as any form of tax evasion has broader taxation, competition and public revenue implications.

However, the ARA and AUSCAP believe that further reforms to the MAAL should be considered by Treasury to ensure that multinational corporations fully comply with all applicable taxation obligations when trading in, or into, Australia. This includes:

- A reduction in the corporate tax rate as leverage to increase compliance;
- Consideration to include the Low-Value Import Threshold for GST collection measures as part of the MAAL;
- Measures to address revenue derived from the sale of counterfeit products, and contravention of intellectual property rights.



Other Measures:

Upon reviewing the exposure draft legislation, we believe that further measures warrant due consideration. This includes a re-drafting of the definition of a 'significant global entity', as outlined under section 1.5, with the express purpose of lowering the required annual global income threshold from \$1 billion to \$750 million, which will better-reflect the global reach and revenue raising capacity of multinationals due to technological advances and globalisation.

The following measures should also be considered relevant to ensuring multinational corporations fulfil their compliance obligations under Australian taxation laws.

Tying GST Collection on Imported Products to the MAAL:


The ARA has been at the forefront of the progression towards applying the GST to Low-Value Imported Goods purchased online from vendors domiciled overseas. The ARA is supportive of the measures legislated to impose an obligation on overseas vendors to collect GST on goods sold into Australia from July 1, 2018. While supportive of the aforementioned date, the ARA views this as a first-step in collection, as the quickest and simplest means on implementation.


The ARA is concerned that the legislated vendor collection model will have significant limitations to the amount of tax that it will collect. We believe a transporter liability model is the next most practicable step in implementation. The ARA believes this to be a relevant consideration to the MAAL, as this relates to the revenue and profits of overseas entities, generated in Australia by virtue of their provision to Australian consumers. We believe there is a case to argue that the risk of non-compliance with the legislated model significantly contributes to the avoidance of tax on the profits of overseas companies.

The ARA is concerned that the collection model's predicted low-level of compliance will represent the exploitation of yet another loophole for multinationals to avoid their Australian tax obligations. We believe this will contribute to the large amounts of excise revenue already leaking from our borders. Therefore, the ARA sees it as necessary to expand the collection model to include a transporter liability model, which could also be applied to capture lost excise revenue at border for other imported goods. The ARA has outlined our position on this matter in our recent Pre-Federal Budget Submission, and in a submission to the Productivity Commission in August 2017.

- *State of the local retail industry:*

Australian Bureau of Statistics data shows retail business survival is trending below the overall average; tellingly, retail has plunged from 84.3 per cent as at June 2012 to a low of





56.9 per cent in June 2016¹. More recent developments in the industry have seen some of Australia's best-known retailers enter into administration or even shut their doors entirely. One retailer recently elected to close over 300 stores 2018. The impact of these decisions, including a loss in business investment and widespread job losses, may only be the tip of the iceberg.

An inefficient tax system which is yet to be fully addressed sees many businesses lacking international competitiveness, and in some cases offshoring their administrative and support parts of the businesses to remain competitive. Business profitability has been hit hard by rising cost pressures from wages to compliance burden. We have seen an easing in some costs like energy due to Federal Government action and global markets jobs.

The ARA is committed to ensuring that the environment for doing business in Australia gives our local business sector a competitive and productive edge, and that multinational corporations engage in fair conduct and comply with Australian laws.

Corporate Tax and the MAAL:

The ARA, along with the Australian Chamber of Commerce and Industry, advocate the view that each dollar raised in tax revenue is one dollar less that a business or household must spend. At present, given the high corporate tax rate in Australia, investment levels are floundering despite low interest rates. Businesses need incentives and certainty to grow and employ more workers, which in turn, will support wages growth.


High rates of corporate tax discourage investment and stifle competition, especially with overseas businesses who enjoy better trading conditions. Recent moves by several of Australia's G20 counterparts to reduce corporate tax rates by 2020 will place Australia further behind the world's advanced economies². As recently as December 2017, the United States moved to lower its corporate tax rate to well below that of Australia's. This is a worrying sign, and risks deterring overseas investment in Australia.

However, the ARA also believes that the high rate of corporate tax in Australia contributes significantly to tax evasion by multinational corporations. The ARA believes that this should factor in to the Treasury's consideration of any amendments to the MAAL, to encourage higher compliance and deter tax avoidance.

¹ Australian Bureau of Statistics 2017, *8165.01 Counts of Australian Businesses, including Entries and Exits – June 2012-June 2016*, February 2017.

² Oxford University Centre for Business Taxation 2016, 'G20 Corporation Tax Ranking'.





Closer to home, it is impossible for retailers to compete fairly against companies which operate out of lower taxing jurisdictions, as the higher cost and regulatory burden hampers re-investment in innovation and job creation. The ARA calls for renewed vigour in lowering the corporate tax rate and reviewing and streamlining the tax system as a whole.

A more competitive corporate tax rate will increase investment in Australia from both foreigners and local investors, which boosts incomes for local workers, domestic businesses and households. Two-thirds of the benefits are expected to flow to households, while only one-third flows to businesses. The ARA supports the Government's efforts so far to lower the corporate tax rate to 25 per cent over a decade. The tax cut must be extended to businesses of all sizes to extract maximum benefit – the largest businesses can grow and hire more people and attract significant additional investment under a competitive corporate tax regime.

The MAAL and Illicit Trade:

The ARA and AUSCAP highlight the difficulties faced by retailers above not to excuse multi-national tax avoidance but perhaps to explain a potential driver for companies to seek “artificial or contrived” tax arrangements to remain profitable. While it is ARA policy to advocate for a lighter tax burden on business and individuals to drive stronger economic growth, more jobs and stronger government revenues, we agree that companies generating revenue in Australia should pay their fair share of tax here.


Simultaneously, they should expect to operate in a fair and equitable trading environment. The reality is that due to a lack of enforcement of the *Copyright Act*, and other laws designed to prevent illicit trade, their intellectual property rights and profits are imperilled. The ARA and AUSCAP believe that the associated hit to revenue may encourage corporations to avoid tax operations.


Counterfeit product and intellectual property rights:

Today's global threat environment is characterized by convergence: the merging of an ever-expanding array of illicit actors and networks. The pipelines that link these illicit markets and networks cut across borders, infiltrate and corrupt public institutions and legitimate markets, penetrate fragile governments, and undercut the interests and security of all market stakeholders across the international community.

The harm caused by these illicit actors and threats are of increasing concern in both the public and private sectors and contribute to the booming illegal economy that supports and enables corrupt officials, criminals, terrorists, and their facilitators.

In this globalised world, the uneven application of cross-border enforcement enables illicit actors and networks to exploit differences in regulatory policies to extract maximum illegal





profits. Policy levers activated in one country or market frequently have the undesired effect of driving crime from that country or market into another where regulation and enforcement are less stringent. The trade in counterfeit and pirated goods is an example of a crime type that flourishes anywhere that is not protected.

Here in Australia, where legislation and enforcement are weak, counterfeiting is a significant problem, affecting brand owners and consumers across all industries. Although the serious impacts of counterfeiting have long been known, Australia's anti-counterfeiting laws have simply not kept pace with the problem. Indeed, the flow of fake goods into Australia, and their sale in our markets, continues unabated.

The ARA recommends that at the same time as strengthening the MAAL, Treasury should also enhance the ability of agencies to enforce existing laws and prioritise tax compliance.

Summary:

While broadly supportive of the measures outlined in the MAAL Exposure Draft, the ARA and AUSCAP believe that further reforms to the MAAL should be considered by Treasury to ensure that multinational corporations fully comply with all applicable taxation obligations when trading in, or into, Australia. This includes:

- A reduction in the corporate tax rate as leverage to increase compliance;
- Consideration to include the Low-Value Import Threshold for GST collection measures as part of the MAAL;

Measures to address revenue derived from the sale of counterfeit products, and contravention of intellectual property rights.

The ARA and AUSCAP thank Treasury and the Treasurer for the opportunity to be involved in this consultation and we would be pleased to discuss this submission further, at your convenience.

Please contact ARA Director of Policy, Government and Corporate Relations, Heath Michael at heath.michael@retail.org.au for further comment.

Kind regards,






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