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Director Sharing Economy Reporting
Corporate and International Tax Division - Treasury
Via email: sharingeconomyreporting@treasury.gov.au

2 August 2021

Dear Sir/Madam,

Submission on *Introducing a sharing economy reporting regime* - Exposure Draft

Menulog welcomes the opportunity to share feedback regarding the Exposure Draft legislation on implementing a reporting regime for sharing economy platform providers. As an Australian-born business that has supported local restaurants for more than 15 years and more recently, provided tens of thousands of people the opportunity for flexible work through its delivery network, Menulog is pleased to be able to share its learning and insight in order to assist with this consultation.

Background to the Menulog business

It is pertinent to provide a summary of how the Menulog business operates in this market given its multiple business streams and stakeholders that require significant consideration with regards to the proposed legislation. Menulog's service in recent times has become essential to the continued operation of many restaurant and hospitality businesses, and for the livelihood of many on-demand delivery couriers, amid ongoing COVID-19 restrictions. The ongoing operation of Menulog's services continue to provide important stimulus to the Australian economy.

Menulog was founded in Australia in 2006 and began as a 'self-delivery' marketplace; offering restaurants with their own delivery drivers online ordering solutions. In 2015, Menulog was acquired by a global on-demand delivery marketplace, Just Eat, which in 2020, merged with Takeaway.com to become Just Eat Takeaway.com.

In 2018, Menulog launched its delivery service, providing restaurants without their own drivers a new option for delivery, as well as new opportunities for flexible work to contracted on-demand delivery couriers. Being later to market allowed Menulog to launch with world-class technology, leveraging existing market insight in best practice.

In April 2021, Menulog announced it would investigate avenues of operating an employment model in Australia, beginning with a trial of employed on-demand delivery couriers in the Sydney CBD.

As such, Menulog's stakeholders include restaurants operating with and without their own drivers, contracted couriers and a small group of employed couriers, along with over four million active Australian customers. Being part of the global Just Eat Takeaway group also means Menulog has a number of centralised business functions, including technology.

Menulog feedback on Exposure Draft legislation

There are some key areas of the draft legislation where further clarity regarding the proposed responsibilities of platform providers is needed, as well as some areas of concern for how proposed mechanisms would work in practice. Please see a summary below:

Scope of legislation

- Menulog seeks further clarity on what transactions are captured by the proposed legislation, particularly given the multi-faceted nature of the business as noted above. Menulog has transactions between restaurants (self-delivery and Delivery Service) as well as its large network of contracted on-demand delivery couriers.
- Menulog advocates this clarification be included in the draft, with an understanding from initial conversations with Treasury that transactions between Menulog and restaurant partners will be excluded. Menulog agrees with this approach because of the nature of the “supply” from the restaurant (i.e. food), which is characterised as ‘goods’.
- Menulog also notes that in Europe, DAC7 is imposing additional reporting requirements for digital platforms. Menulog’s parent group, Just Eat Takeaway.com, is exploring these matters in the Netherlands and throughout Europe and, would welcome the opportunity to share experiences with Treasury.

Transfer of data

- It is important to highlight the extremely high volume of data that would be required to be reported under the current proposal. Menulog is happy to provide examples of this in a separate confidential document if it is useful for the consultation. While Menulog believes at this early stage that it is technically feasible to regularly extract and report this level of data, on initial review it would be operationally cumbersome and will require additional resources diverted to reporting. This may have an impact on the speed of service provided to other Menulog stakeholders, including restaurants and couriers.
- It is also important to stress the volume and format of data that would be provided to the ATO would require significant Government resources to review and collate this data.
- Menulog would need to further analyse how easily this kind of information can be extracted from global Enterprise Resource Planning platforms, as well as confirming there are no legal/privacy concerns with the dissemination of this information to an external party, once requirements are finalised.
- Menulog would seek confirmation on what specific information is strictly required so that this can be expressly set out in any of its privacy notices in compliance with the Privacy Act 1988.
- Furthermore, it will be important for Menulog to glean further detail relating to the system through which the reporting will take place. In particular, if it is anticipated that businesses will need to modify systems or engage other third party organisations in order to transmit the data. Again, this could require coordination with both local and global stakeholders.

Potential duplication of data

- Menulog advocates further detail be shared with regard to how the proposed draft reporting legislation interacts with existing third party reporting legislation to ensure that there is no duplication of data gathering or reporting. All stakeholders Menulog engages have reporting obligations under Australian tax laws and as such, there is significant potential for duplication with examples under the Taxable Payment Reporting System (TPRS) including fields such as ABNs, addresses, date of Birth and more. Noting again the cumbersome process for data extraction and sharing, Menulog suggests both reporting platforms be streamlined to avoid possible duplication.

Verification of data

- Menulog's existing process for securing information from all business partners (including couriers) ensures reasonable care is taken to assess the validity/accuracy of external data provided. It is the responsibility of business partners and contractors to ensure any changes to this information are promptly communicated to Menulog to ensure the information remains current and accurate. Menulog also has systems in place to monitor the validity of documentation and to communicate to stakeholders where such documentation may have expired or renewed documentation is required. It does not however go beyond this level of verification, given the nature of the relationship between Menulog and its business and courier partners (each of whom operate their own businesses independently).
- Given the significantly increased volume of data that Menulog is being asked to provide on behalf of external stakeholders as part of the proposed changes, Menulog seeks the addition of wording in the Exposure Draft that confirms the limits of platforms' responsibility (and capability) of verifying data provided so that it is not false or misleading, as per Menulog's current process. Also, if the ATO will provide further data validation tools as part of this process it would be helpful to understand this upfront.
- Menulog requests further clarity on the compliance resources that will be applied and what reassurance can be provided by the ATO regarding its data collection and reporting processes.

Future requirements

- Menulog understands that compliance is scheduled by 1 July 2023 for transactions relating to the Menulog business. However it is of interest to Menulog to understand whether a review of changes is planned, including how changes are working operationally, and the Government has any expectation that additional or updated requirements will be applied after this period.

Menulog is, of course, open to discussion and further consultation regarding this submission or the consultation in general. Please do not hesitate to get in touch via:

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Yours sincerely,

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