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**SUBMISSION TO THE SENATE STANDING COMMITTEE ON
ECONOMICS INQUIRY INTO THE *TREASURY LAWS AMENDMENT*
*(GST LOW VALUE GOODS) BILL 2017***

**Joint submission of the Australian Taxpayers' Alliance and
MyChoice Australia**

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PART I: INTRODUCTION

1. The Australian Taxpayer Alliance (ATA) and MyChoice Australia (MC) welcome the opportunity to present our submission on the *Treasury Laws Amendment (GST Low Value Goods) Bill 2017 'the Bill'* which proposes an extension of the GST levy to imported goods below \$1,000 value to be collected through a vendor registration model.
2. This submission will firstly focus on the broader issue of reducing or abolishing the \$1,000 value threshold for imports which attracts the GST. The second section will focus on issues that will arise as a result of the vendor registration model.
3. The ATA is a non-partisan grassroots public advocacy group representing Australia's taxpayers with over 40,000 members nationally. Our campaigns focus on fighting unfair, inefficient and inequitable taxes, repealing bureaucratic red tape and wasteful spending and supporting individual and civil liberties. MC is an autonomous affiliate organisation of the ATA which focuses on consumer choice, regulations, and civil liberties.
4. The ATA and MC note that this measure to broaden the government's taxable revenue base has been proposed within the context of concerns about government debt and the sustainability of current and future government spending. The ATA and MC recognise that successive 'debt and deficits' are a problem that represents a handbrake on economic growth and prosperity. We note that the primary aggravating factor behind successive budget deficits has been increases in expenditure and not declining revenue¹ and call upon the government to reduce expenditure rather than attempt to increase revenue further.
5. The ATA and MC note that the reduction of the tax-free threshold for imports from \$1,000 to \$0 poses a serious threat to Australia's standing in the international economy as such tariffs and other trade barriers not only run contrary to the ongoing long-term trend of developed, prosperous nations reducing their trade barriers but also risk tariff retaliation from our trading partners which could seriously damage the viability of domestic businesses and threaten the livelihood of those they employ.
6. It is likely that the 'trade equalisation' and protectionist rhetoric fuelling this proposal would be co-opted by our trading partners whose own businesses would be adversely affected by the policy. This will lead to the imposition of trade barriers against Australian exporters and manufacturers which could damage or even cripple our businesses.
7. The ATA and MC are especially concerned by the regulatory burden imposed upon Online Marketplace Providers (OMPs) who do not hold the goods in question such as eBay, Alibaba, ETSY and Amazon as these businesses will be held responsible for the

¹ Makin, AJ and Pearce, J 2016, 'Fiscal Consolidation and Australia's Public Debt', *Australian Journal of Public Administration*, vol. 75, no. 4, pp. 424-440.

collection of the GST. This requirement not only imposes a regulatory burden and cost which could render the Australian operations of OMPs unviable, but is an especially burdensome, potentially unfeasible regulation given the challenging July 2017 compliance deadline as these businesses are responsible for processing millions of transactions internationally on a daily basis. Millions of Australian consumers rely on OMPs and as such, the imposition of trade or regulatory barriers/burdens upon these businesses connotes significant negative ramifications for Australians. A compliance date of July 2017 is simply unworkable and may potentially lead to significant scaling back of online marketplaces in Australia.

8. The ATA and MC note that if the government's rationale is to make overseas vendors responsible for GST collection, then it is antithetical to treat transaction facilitators such as eBay, Etsy or Alibaba, who neither hold the goods nor engage in their actual sale/supply, albeit merely provide a platform for the transaction to occur – the same as platforms such as Amazon which serve a dual function as an online marketplace provider as well as a seller. We note that OMPs such as eBay have been singled out for the imposition of the bill's proposed regulatory burden per the bill's Explanatory Memorandum, purely on the basis that “...*the operators of electronic distribution platforms are better placed to comply with GST obligations because they are generally larger and better resourced entities than individual suppliers.*”
9. Australian consumers will suffer from reduced consumer choice due to the potential scaling back or even closure of some online marketplaces, as well as an inability to access online marketplaces and increased prices due not only to the imposed tax but also the passing on of OMP regulatory costs to them. Australian consumers will effectively pay more for the same foreign goods and services than anyone else in the world. The closure or damage to OMPs in Australia would also lead to a reduction in revenue for the government rather than the increase which the policy aims to achieve.
10. Similarly, Australian businesses, especially small businesses, reliant upon imported ingredients, resources or components will suffer from the increased cost/reduced market choice and will be forced to pass on costs to the consumers they service both domestically and overseas – potentially rendering their business models unviable.
11. There is a genuine concern that the closure of these businesses or merely the artificial increase in prices of advertised goods will lead to their replacement or supplantation by black market and unregulated, dangerous, unreliable sites that will appear more enticing to Australian consumers. These sites would be practically impossible to regulate and would likely lack a number of basic consumer protections possessed by major OMPs including payment protections, ability to enforce local/domestic consumer laws and anti-scam/phishing protections. This risk is heightened by the \$75,000 AUD minimum annual turnover threshold for a foreign business to have to register with the Australian government under the bill.

12. The ATA and MC recommend that the government consider the original public policy grounding behind the \$1,000 value *de minimis* threshold below which imported goods are GST exempt.
13. A ***De minimis* threshold** for the purpose of this submission is defined as “*a valuation ceiling for goods, including documents and trade samples, below which no duty or tax is charged and clearance procedures, including data requirements, are minimal.*”² The practical purpose behind the institution of *de minimis* thresholds worldwide is that the cost of enforcing, collecting and regulating the tax on low value consignments on individuals, businesses and trade/economic activity more broadly outweighs the benefit of collecting the revenue.
14. In 2005, the Howard Coalition government declined to lower the threshold to \$500 as part of the government’s commitment to “reduce the burden of regulation” upon the private sector and consumers.³ The policy imperative since the early 2000s has historically favoured liberalising and facilitating international trade and minimising regulatory burden over maximising Commonwealth revenue with neither the Liberal National Coalition nor Labor federal governments since then favouring an illiberal, protectionist approach to the issue as connoted by this bill.
15. The ATA and MC further note significant international opposition to this bill, and present a joint letter signed by 16 international organisations and policy experts representing tens of millions of taxpayers from the United States, the United Kingdom, Canada, New Zealand, Spain, Ukraine & Venezuela (Appendix A).
16. The ATA and MC note that this bill is bad for business, bad for consumers and bad for trade. We recommend that the bill should not proceed and that the Australian parliament look for ways to cut chronic overspending before burdening our consumers and businesses with more tax and regulatory burdens.

² This definition has been adopted from the International Chamber of Commerce (ICC) Customs Guidelines (2003) (revised – 2011) which represents an internationally recognised standard.

³ Howard, J 2005, 'Letter addressed to Senator the Hon Chris Ellison', Department of Prime Minister and Cabinet, FOI Disclosure foi-2013-021. http://www.dpmc.gov.au/foi/ips/disclosure_logs/dpmc/docs/2012-13/foi-2013-021.pdf

PART II: GST on Low Value Imports

***The Bill* proposes an effective Tariff on Imports**

17. The proposal to extend the GST to low value imported goods (below the \$1,000 AUD *de minimis* threshold) is premised on the notion of creating a ‘level playing field’ for domestic GST-taxed businesses to compete with foreign businesses.⁴
18. It is submitted that the ‘level playing field’ argument ignores a number of advantages which domestic businesses enjoy over foreign businesses such as geographical proximity to the consumer and the resultant ability to provide a physical experience of the product, lower shipping and handling costs, and access to input credits. As such, extending the GST to low value foreign good imports will confer additional disadvantages upon OMPs and overseas vendors. The bill’s proposal is protectionist in effect in that it effectively shields domestic businesses from foreign competition.
19. Goods and Service Taxes (GST) are considered as ‘taxes on consumption’ as they are paid for by the end user or consumer of the good. In practice however, the GST applies as a tax on sales with input credits. This is because the GST is levied at each stage of sale along the production chain of the good (E.g. Timber producer > Chair maker > Chair wholesaler > Chair retailer > Consumer). The net effect of ensuring that the consumer bears the burden of the tax is achieved through the return of the GST levied at each point prior to consumption in the form of ‘input credits’ which are refunded to the sellers at each stage of the production/supply chain.
20. In the case of imported goods, the government does not refund the overseas vendor or OMP the input credits as these stages of the production process occurred outside of Australia.
21. The effect of this problem is that GST on imports, whilst appearing to connote equitable treatment of imports and domestic products, disadvantages importers relative to domestic sellers as they are unable to claim the input credits which domestic sellers receive for paying the same rate of GST. The GST extension proposed under the bill is hence equivalent to a tariff levied upon imports which were previously not subject to the tariff.
22. Given the practical operation of the measure as a tariff, it is likely that Australia’s trading partners will view the proposal as deliberately protectionist. They are hence likely to respond by retaliating and establishing protectionist measures of their own which will

⁴ Scott Morrison MP, Secondary Reading Speech

prejudice Australian exporters. The following section will canvass the current position of other major trading nations and will elaborate upon tariff retaliation.

International Trends, Consumer Impact and Tariff Retaliation

23. According to the United Nations Conference on Trade And Development (UNCTAD), rapid trade liberalisation and worldwide reduction in tariffs has been an ongoing trend since 1995.⁵ This has coincided with a period rapid increase in global trade, innovation and technology exchange which has connoted immense prosperity and growth in consumer choice for Australians. This is especially pertinent for Australians as our domestic cost of living, especially in major cities such as Sydney, has increased significantly⁶ and continues to do so,⁷ while our wages growth (adjusted for inflation) has slowed down markedly.⁸ The need to reduce cost of living by fostering domestic access to cheaper consumer goods is also connoted by the failure of real wages statistics to take into account increased unemployment. For example, states like South Australia which has experienced high real wages growth relative to other states despite having the country's highest unemployment rate.⁹ Technological innovation and product development also supports this imperative as it connotes the demand for new forms of foreign consumer technology to maintain our standards of living relative to the rest of the developed world.
24. Taking these circumstances into account, the imposition of trade barriers to make consumer goods imports more expensive is a regressive step which hurts Australian consumers and fuels existing disenchantment with rising household costs of living. In 2013, a McCrindle Research study showed that the rising cost of living was the number one concern across the country. 52% of respondents blamed either their Federal, State or Local government as responsible of increased cost of living.¹⁰ The bill, if enacted into law and implemented, is likely to exacerbate this disenchantment while doing nothing to mitigate a concern which facilitating trade liberalisation through retention of our *de minimis* threshold helps alleviate.
25. Although there has been a slowdown in the rate of trade liberalisation since 2005, this has mainly been the result of non-tariff barriers such as sanitary and phytosanitary standards, technical barriers to trade, quotas, contingency measures etc. Notably, these barriers are non-protectionist in intent yet UNCTAD has nonetheless noted them as aggravating factors behind recent slowdowns in international trade due to the regulatory burden and

⁵ UNCTAD, Key Statistics and Trends in International Trade 2015 pg.9 (link:

http://unctad.org/en/PublicationsLibrary/ditctab2015d1_en.pdf) (Accessed: 6 April 2017)

⁶ <http://www.smh.com.au/data-point/rising-price-of-living-in-australia-20130426-2ik16.html>

⁷ Australian Bureau of Statistics, Consumer Price Index, Australia, Dec 2016 Link:

<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6401.0>

⁸ Per Australian Bureau of Statistics data, collated by the Australian Broadcasting Corporation (ABC) Fact Check: <http://www.abc.net.au/news/2016-06-17/fact-check-is-wage-growth-lowest-on-record/7505512>

⁹ Greg Jericho, 'Never had it so good? The misconceptions about the cost of living

' *The Guardian*, 9 August 2016 Link:

<https://www.theguardian.com/business/grogonomics/2016/aug/09/never-had-it-so-good-the-misconceptions-about-the-cost-of-living>

¹⁰ <http://mccrindle.com.au/the-mccrindle-blog/cost-of-living-still-the-number-one-issue-australian-federal-budget-2013>

trade diversionary effects they impose.¹¹ In these circumstances, moves to de-liberalise trade by imposing what is effectively a tariff on imports and which mandates additional regulatory burdens on businesses that facilitate trade with Australia should be avoided as they are likely to further contribute to this slowdown by compounding burdens imposed by existing global regulatory standards along the supply chain.

26. ***De Minimis threshold:*** As part of trade liberalisation, countries including USA and those of the EU have consistently sought to maintain or increase rather than decrease their minimum *de minimis* threshold i.e. declining to impose GST/VAT on imported goods below a certain value. This practice is consistent to international conventions (eg. The Revised Kyoto Convention (RKC) to which Australia is a party) that such "low value" transactions should not be exposed to needless cost or intervention, especially given that many of the transactions are undertaken by individual consumers. This practice is reflected in many Free Trade Agreements (FTAs) whereby transactions below a prescribed "*de minimis level*" do not require the use of a certificate of origin or other declaration even where preferential rates under the FTA are claimed.
27. **USA:** In 2016, the US government implemented the *Trade Facilitation and Trade Enforcement Act 2015* which raised its *de minimis* threshold on imported goods from \$200 USD to \$800 USD¹² (approximately \$1,054 AUD).¹³ This measure has effectively brought the USA, one of our major trading partners and the base country for many major OMPs relied upon by Australians such as eBay, Amazon, Alibaba ETSY etc. in line with our current *de minimis* threshold of \$1,000 AUD. It was formally endorsed by the US Chamber of Commerce which noted that "*such an increase would facilitate legitimate trade, reduce transaction costs, and improve security at U.S. ports of entry*". They also elaborated that the previous *de minimis* threshold "*fails to reflect the modern reality of online commerce*". Significantly, they note the importance of reciprocity: "*This bill would also clear the path for U.S. negotiators working on future free trade agreements to begin to push for commercially meaningful de minimis levels from our trading partners, which is essential to promoting market access and efficient supply chains.*"¹⁴
28. Given the principle of reciprocity, there is a risk that imposing the regulatory burden and tax upon US OMPs and other vendors by abolishing our *de minimis* rule will trigger tariff retaliation. The most recent increase in the *de minimis* threshold was implemented by the Obama administration. In late 2016, the Trump administration was elected. President Donald Trump has expressed a greater willingness to de-liberalise foreign trade especially where trade arrangements, tariff levels or protectionism levels between the US and one of its trading partners are not considered fair or equitable.¹⁵ These political developments

¹¹ UNCTAD, Key Statistics and Trends in International Trade 2015 pg.9 (link: http://unctad.org/en/PublicationsLibrary/ditctab2015d1_en.pdf) (Accessed: 6 April 2017)

¹² US Customs and Border Protection website, March 11 2016 Link: <https://www.cbp.gov/newsroom/national-media-release/de-minimis-value-increases-800> (Accessed: 8 April 2017)

¹³ NOTE: All currency conversion rates utilised in this submission are current as of 6 April 2017.

¹⁴ Chamber of Commerce (2013), *Official Press Release from Office of Rep. Aaron Schock*, Link: http://www.legistorm.com/stormfeed/view_rss/305672/member/949.html (Accessed 6 April 2017)

¹⁵ Haberman, M. (2016). Donald Trump says he favors big tariffs on Chinese exports. *The New York Times*—First Draft. Retrieved July, 22.

connote greater risk that the US will respond by reducing or eliminating their *de minimis* threshold which would seriously and adversely impact Australian exporters, vendors and manufacturers. Academic studies of the trade relationship between the USA and Canada have noted a retaliatory pattern between the two trading partners,¹⁶ and it is likely that the USA will respond in kind to a significant change in the trade arrangements we afford to its businesses. The high-profile nature, recognisability and number of Americans employed by OMPs connote further political factors which could see the USA reciprocate or otherwise adversely respond to the abolishment of Australia's *de minimis* threshold.

29. Economists have noted that larger countries are generally in a better position to manipulate their terms of trade to their advantage using tariffs with less fear of tariff retaliation. Where tariff retaliation nonetheless results, it is likely that both countries will incur a net loss and there will be a decline in trade between the two. However, if one country is substantially bigger than the other, then the larger country stands to benefit despite retaliation.¹⁷ A tariff war between Australia and USA is hence likely to result in Australia and our consumers being in a worse-off position with even lesser government revenue resulting in the long-term from the proposed change under the bill.
30. Another incentive for the US government to engage in tariff retaliation is that the GST levied on American companies, businesses, vendors and/or OMPs under the bill amounts to a deduction under their tax laws.¹⁸ This means that the tax levied would represent a direct transfer of wealth from the US to Australia as it reduces the total income of the American companies affected that is taxable by the US government.
31. **European Union (EU):** A 2014 report from the Cross-border Research Association, Lausanne, Switzerland in co-operation with HEC University of Lausanne and University of Bamberg, Germany recommended that the EU raise its *de minimis* threshold on imports from outside the EU from 22 EUR (\$35.20 AUD) to 80 EUR (\$128 AUD). This recommendation was based upon findings that the total cost of collection faced by Customs administrations as well as the private sector currently exceeds the revenue collected.¹⁹
32. More recently, the EU under its Digital Single Market package, plans to modernise and streamline its VAT collection process for cross-border E-commerce by 2021, noting that importers and businesses currently incur average VAT compliance costs of EUR 8 000 annually. The package aims to reduce cross-border VAT compliance costs by 95% in order to facilitate cross-border trade and predicts that this facilitation will actually increase VAT revenue for EU member states.²⁰ Notably, the package took into account

¹⁶ Bohara, A. K., Gawande, K. and Kaempfer, W. H. (1998), The Dynamics of Tariff Retaliation Between the United States and Canada: Theory and Evidence. *Review of International Economics*, 6: 30–49. Link: <http://onlinelibrary.wiley.com/doi/10.1111/1467-9396.00085/abstract>

¹⁷ Kennan, J., & Riezman, R. (1988). Do big countries win tariff wars? *International Economic Review*, 81.

¹⁸ United States of America, Internal Revenue Service (IRS) website:

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

¹⁹ <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> pg. 2

²⁰ https://ec.europa.eu/taxation_customs/business/vat/digital-single-market-modernising-vat-cross-border-ecommerce_en

the regulatory burden and costs which could be imposed upon businesses and importers and **did not recommend or adopt VAT collection by online marketplaces as mandated by the bill.**

33. The United Nations Economic Commission for Europe (UNECE) in its Trade Facilitation Implementation Guide,²¹ endorses a 2015 policy paper from the International Chamber of Commerce which found that “*raising de minimis thresholds would provide significant benefits to businesses of all sizes. Setting a meaningful de minimis level will most notably have a positive impact on small- and medium-sized enterprises and offer opportunities for increased e-commerce.*” The ICC recommends a global baseline *de minimis* threshold of \$200 USD or \$266 AUD, finding that this would boost the global economy, facilitate job creation and produce economic benefits by refocusing revenue collection on more efficient sources. The ICC states that governments should ideally implement a high, commercially significant *de minimis* threshold of \$1,000 USD (\$1330 AUD) to reap the greatest benefit.²²
34. **New Zealand:** In 2011, New Zealand declined to reduce or abolish its current *de minimis* threshold of \$400 NZD (\$368.15 AUD) stating that such a change would impose high costs and a compliance burden on importers without a worthwhile increase in government revenue.²³ Although the review at the time assumed that compliance and collection would be performed by customs authorities at significant cost, the passing on of these costs to the vendor under the model proposed by the bill would simply shift these costs onto importers who would pass them onto consumers, thereby exacerbating the ill impact of the proposal for both consumers and businesses in Australia as well as OMPs and other vendors overseas.
35. **Canada:** Canada currently implements a relatively low *de minimis* threshold of \$20 C (\$19.78 AUD). This is likely to have been influenced by Canada’s unique geographical and geopolitical position whereby it possesses an extensive land border with the USA which remains its primary importer and trading partner. As a majority of these goods pass by land, the cost of revenue collection on low value goods is likely to be significantly lower than it would be for Australia.
36. With regards to Canada, however, this low threshold has been under severe scrutiny in recent years with calls to increase rather than lower it.²⁴ Accordingly, the Canadian government is currently considering an increase to its threshold with the measure raising significant public debate and support.²⁵ A 2016 report from the C.D. Howe Institute found

²¹ <http://tfig.unece.org/contents/de-minimis.htm>

²² International Chamber of Commerce (2015) “Policy Statement on Global Baseline De Minimis Value Thresholds” Link: [http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2015/ICC-Policy-Statement-on-Global-Baseline-De-Minimis-Value-Thresholds-\(2015\)/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2015/ICC-Policy-Statement-on-Global-Baseline-De-Minimis-Value-Thresholds-(2015)/) (Accessed 7 April 2017)

²³ Williamson, M. (2011), “No change to de minimis”, 18 March 2011, Link: <http://www.beehive.govt.nz/release/no-change-de-minimis> (Accessed 6 April 2017).

²⁴ Stairs, A 2016, 'Canada's customs threshold: out of step and out of pocket', *The Globe and Mail*, 23 June.

²⁵ See, “Government mulls waiving taxes and duties on smaller-value online purchases,” Ottawa Citizen, Jan.13, 2016, available at <http://ottawacitizen.com/news/politics/government-mulls-waiving-taxes-and-duties-on-smaller-value-online-purchases> ; “Canadians are burdened with antiquated customs paperwork for

that raising Canada's *de minimis* threshold would be either positive or fiscally neutral for the Ottawa state government and noted that "*The effects are clearly positive for consumers and businesses, particularly small- and medium-sized businesses because the cost savings for smaller entities is disproportionately large.*"²⁶ It is highly likely therefore that this shall be raised.

37. **The Philippines:** In 2016, The Filipino government significantly raised its *de minimis* threshold on inbound consignments from \$0.28 AUD to \$279.30 AUD. The United Parcel Service, world's largest package delivery company and a provider of supply chain management solutions, noted that "*Philippines importers and global exporters will benefit from significant cost savings in duties and taxes, faster customs clearance and delivery, and an improved customer experience.*"²⁷
38. **Other major economies** with significant *de minimis* thresholds and with no plans or proposals to abolish them include **China, India, Russia, Japan** and **Mexico**.²⁸ There is also a risk that these countries, many of whom are significant trading partners of Australia, may respond to the bill's implementation with tariff retaliation of their own given the potential impact on their businesses and vendors exporting to Australia.
39. **Multilateral Trade Conventions and Australia's International Obligations:** The Revised Kyoto Convention (RKC), by the World Customs Organization (WCO), calls for Customs administrations to set *de minimis* thresholds below which duties and taxes are not charged. Imports falling into this category are to be released expediently with minimum documentary requirements. The WTO Bali agreement of 2013 supports future trade facilitation, including the implementation of relevant *de minimis* levels across the globe.²⁹ Australia is a formal signatory of both these conventions and the abolishment of our *de minimis* threshold on imports is hence a regressive step contrary to these obligations.
40. **Organisation for Economic Cooperation and Development (OECD):** Though the OECD has not explicitly considered *de minimis* thresholds, the option of a GST on foreign vendors and intermediaries as opposed to a tax levied at the border as is current practice, has been considered as part of a wider appraisal of base erosion and profit shifting. The OECD concluded that alternatives to tax enforcement at the border such as that which is stipulated under the bill "*will need to be complemented with appropriate risk assessment and enhanced international administrative co-operation between tax*

imports as low as \$20," Financial Post, Oct. 28, 2015, available at <http://goo.gl/nu4ECI> ; "Low duty minimums cause pain for online retailers," The Globe and Mail, Oct. 1, 2015, available at <http://goo.gl/elQOdO> ; "Price gap help: Tax cuts for cross-border orders could pay off," CBC News, Dec. 18, 2014, available at <http://goo.gl/8ePR1e>

²⁶ McDaniel, C. A., Schropp, S., & Latipov, O. (2016). Rights of Passage: The Economic Effects of Raising the DMT Threshold in Canada. *The C.D. Howe Institute* Link: <https://www.cdhowe.org/public-policy-research/rights-passage-economic-effects-raising-dmt-threshold-canada> (Accessed: 7 April 2017)

²⁷ https://www.ups.com/content/cn/en/about/news/service_updates/20161028_phdeminimis.html

²⁸ <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> pg. 9

²⁹ <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> pg. 8

authorities to enforce compliance.”³⁰ Notably, a comprehensive risk assessment of the radical change proposed in the bill has not been undertaken. This is especially problematic due to the various and serious concerns about adverse impacts raised by the bill which are outlined in this submission. The necessity of ‘enhanced international administrative cooperation between tax authorities to enforce compliance’ is especially complicated and impractical given concerns highlighted at pts. 62 to 67 of this submission. The OECD further noted that the risk of requiring foreign intermediaries such as OMPs to collect the GST was that it “*may come at an additional cost that may be passed on to the purchaser*”.³¹

41. **Free Trade Agreements (FTAs) and Uncertainty:** The ATA and MC commends the Federal government for facilitating trade liberalisation by delivering FTAs with China, Japan and South Korea as well as upgrading our FTA with Singapore. We note that these FTAs will contribute to Australia’s prosperity by creating jobs, encouraging competition and enhancing future economic growth. However, we further note that these successes and their potential benefits are likely to be severely undermined by the bill, should it be passed and implemented.
42. Commercial law firm Gadens has noted that many of Australia’s current bilateral and multilateral FTAs contain provisions which waive the requirement for a Certificate of Origin or Document of Origin for imported goods which are <\$1,000 AUD in value. The basis for these provisions is that these goods are tax exempt under the current *de minimis* threshold. The abolishment of the *de minimis* threshold hence connotes uncertainty about the application or potential re-negotiation of these provisions.³² Notably, our major FTAs were secured with the intention of trade liberalisation and facilitation. The bill represents a backward step which could compel the renegotiation of our terms of trade with our major trading partners under FTAs. This in turn exacerbates commercial uncertainty and detriment for Australian businesses and businesses looking to trade with or establish operations within Australia. It is hence possible that the Federal government’s successes in negotiating recent FTAs may be undone.
43. **Asia-Pacific Economic Cooperation (APEC) forum:** At its 2011 Summit, APEC Leaders endorsed a new Pathfinder to institute a common *de minimis* value of \$100 USD or \$133 AUD.³³ This decision is based on a study conducted by the Conference of Asia-Pacific Express Carriers (CAPEC) which indicated that a *de minimis* threshold of \$200 USD or \$266 AUD would generate a net economic benefit of about \$30.3 billion USD or \$40.3 billion AUD among the 21 APEC economies.³⁴

³⁰ Organisation for Economic Cooperation and Development (2015) ‘Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report’ *OECD/G20 Base Erosion and Profit Shifting Project* Link: <http://www.oecd.org/tax/addressing-the-tax-challenges-of-the-digital-economy-action-1-2015-final-report-9789264241046-en.htm> (Accessed: 7 April 2016)

³¹ Ibid.

³² <http://www.gadens.com/publications/Pages/Eliminating-de-minimis-for-GST-on-imports.aspx>

³³ http://www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm.aspx

³⁴ <http://www.capec.org/publications.php#>

44. Significantly, CAPEC found that even though 76% of these savings would be derived from cuts to government compliance costs, virtually all of the remaining 24% would result from cuts to compliance costs and red tape for business. CAPEC noted that “*The latter are particularly important for small and medium-sized enterprises (SMEs) as they generally face disproportionate burdens in completing customs formalities... Most, if not all, APEC economies would benefit by increasing their existing thresholds by a substantial amount.*” Conversely, the proposal outlined in the bill aims to impose significant regulatory cost on SMEs and significant regulatory burden on OMPs, transaction facilitators and overseas vendors.
45. The following table from the CAPEC report demonstrates the beneficial impact of higher *de minimis* thresholds for a diverse sample of APEC economies. Note that these statistics date to August 2011, however the phenomena and conditions they consider are still relevant in providing an estimate of the potential benefits today.

Table 1: Net economic benefit of alternative *de minimis* thresholds, USD billion per year

Alternative Threshold USD	APEC-6 Economies (a)		APEC-21 Net Economic Benefit
	Net Economic Benefit	NEB as Share of APEC-6 GDP (%)	
50	0.031	0.001	0.16
100	3.89	0.056	19.8
150	4.90	0.071	25.0
200	5.93	0.086	30.3

Notes: (a) Canada, Indonesia, Japan, Malaysia, the Philippines and Thailand

Source: Estimates by ITS Global Asia Pacific

Table 2: Net economic benefit of alternative *de minimis* thresholds, by selected APEC economy (a), USD million per year

Alternative Threshold USD	CA	ID	JP	MY	PH	TH
50	30.6	0	0	0	0.28	0.35
100	3,771	38.8	0	0	16.9	61.8
150	4,662	44.4	104	0	18.7	70.3
200	5,453	48.7	304	22.5	20.7	78.5

Notes: (a) Canada (CA), Indonesia (ID), Japan (JP), Malaysia (MY), the Philippines (PH) and Thailand (TH)

Source: CAPEC and Trade Data International Pty Ltd, estimates by ITS Global Asia Pacific

Adverse Impacts of the *De Minimis* regime on Domestic Competition are Insignificant & Unclear

46. Treasurer Scott Morrison, in stating the government’s rationale for the bill stated in the Second Reading Speech that “*These changes are about ensuring that Australian businesses, particularly small retailers, do not continue to be unfairly disadvantaged by the current GST exemption that applies to imports of low-value goods.*”

47. It is notable that Australian domestic prices of consumer goods are high even relative to the rest of the developed world. Novak (2015) provides a wide-ranging price comparison between identical Australian-sourced goods and goods sourced internationally. The price differentials varied between a low of 14% to 70% for *identical* products. This should connote significant concern for the Australian government given the abovementioned rising disenchantment about the rising cost of living in Australia. Novak recommends that rather than taxing foreign goods the government ought to focus on ascertaining why Australian prices are as high as they are. Novak attributes the high price of goods, especially at the retail level, to Australia's expensive and highly regulated Labour market as well as regulatory restrictions on retail, trading hours and land use which he found to be a far more significant cause of our comparative disadvantage in retail than the *de minimis* threshold. The ultimate conclusion of the study was that "*Putting a GST on low value imports is unlikely to revive Australian retailing in the face of intense online shopping competition, given the significant price differentials for many popular consumer products.*"³⁵
48. The following table measures the price differential between identical goods in Australia and overseas, taking into account the effect of a removal of the GST threshold.³⁶ These findings demonstrate that the abolishment of Australia's *de minimis* threshold would not significantly impact retail competition or even domestic competition more broadly as the threshold on low value goods accounts for only a small component of broader pricing differentials which result, in larger part, from current regulatory and tax burden. Given these findings, the chief practical rationale for the bill is a slight broadening of the government's revenue base at substantial cost and regulatory burden to consumers and businesses.

³⁵ Novak, M (2015) No to the GST tax attack: Why the exemption for online purchases should stay, *Institute of Public Affairs*.

³⁶ Novak, M (2015) No to the GST tax attack: Why the exemption for online purchases should stay, *Institute of Public Affairs*.

Table 1: Price comparisons of identical goods, Australian dollars

Item	Domestic price (retailer)	International price (retailer)	International price (incl. GST on import)	Difference between domestic & international price	Difference between domestic & international price (incl. GST on import)
Books: 'Gone Girl' by Gillian Flynn	\$25.98 (Dymocks)	\$13.94 (Book Depository)	\$15.33	46%	41%
Cameras: Nikon Coolpix P600 (digital)	\$508.95 (Camera House)	\$362.54 (Camera Paradise)	\$398.79	29%	22%
Personal: Amouage Jubilation 25 Women Eau de Parfum 50ml	\$304.00 (David Jones)	\$257.40 (HQ Hair)	\$283.14	15%	7%
Shoes: Men's Clarks Desert Boot	\$149.95 (Clarks Australia)	\$128.69 (Planet Shoes)	\$141.56	14%	6%
Toys: Star Wars Ultimate FX Lightsaber	\$89.98 (Toys R Us)	\$67.05 (Amazon)	\$73.76	25%	18%
Deal of the day: Fit Band (models vary)	\$76.53 (Catch of the Day)	\$48.95 (Living Social)	\$53.85	36%	30%
Groceries: Gillette Fusion ProGlide Power Razor Cartridges (8 pack)	\$51.10 (Coles)	\$15.27 (FastTech)	\$16.80	70%	67%
Health products: Optimum Natural 100% Whey Gold Standard	\$94.95 (Nutrition Warehouse)	\$59.06 (Bodybuilding.com)	\$64.97	38%	32%
Apparel: Ben Sherman Red Harrington jacket (men)	\$139.99 (Ben Sherman Australia)	\$106.91 (Atom Retro)	\$117.60	24%	16%
Watches: Hugo Boss Orange Men's watch (woven strap)	\$349.00 (David Jones)	\$263.10 (Macy's)	\$289.41	25%	17%
Music: AC/DC 'Rock or Bust' (compact disc)	\$24.99 (Sanity)	\$19.83 (Grooves Inc.)	\$21.81	21%	13%
Homeware: Fred Hopside Down beer glass	\$29.95 (David Jones)	\$14.06 (AliExpress)	\$15.47	53%	48%

49. The impact of the *de minimis* threshold on domestic competition has already been taken into account by the original rationale of the policy. Since 2005, the threshold has not been subject to indexation. The Board of Taxation noted in 2010 that this non-indexation “*will reduce over time any potential bias in favour of imported goods over local goods of the same quality and value*”.³⁷ Notably, when the \$1,000 AUD threshold was first set in 1985 it was the equivalent of \$2,780 AUD in 2016 dollars. It is inferable that the threshold intends to foster rather than inhibit competition between domestic suppliers and international suppliers of goods whilst minimising bias over goods of the same quality and value. This bias will not be resolved by abolishing the *de minimis* threshold.

³⁷ Board of Taxation 2010, Review of the Application of GST to cross-border transactions: A report to the Assistant Treasurer, Commonwealth of Australia, Canberra.

50. Significantly, the current debate about abolishing or lowering the *de minimis* threshold began in the 2010-2013 time period when the high value of the Australian dollar relative to the US dollar gave an especially strong advantage to foreign retailers than domestic retailers than that which presently exists. It is a principle of good policymaking that long-term radical changes with uncertain outcomes are not predicated upon short-term political factors, especially where data and comprehensive research indicates that the problem which the abolishment of *de minimis* thresholds aims to address would not be solved by the change.
51. It is widely expected that online retail and e-commerce more broadly, will continue to experience significant growth over the next few years. According to some projections, the total online domestic and international retail spending by Australians will rise by 14-16% each year over the course of the current decade, reaching a total of \$41 billion in expenditure by 2020.³⁸ These statistics and circumstances indicate that the Australian retail industry and the global retail industry more broadly is undergoing a period of significant structural change whereby traditional ‘bricks-and-mortar’ retail stores must and should be encouraged to adapt to compete more effectively. This can be implemented through technical and business model innovations designed to achieve compelling product value and outstanding service for customers.³⁹ A move to instead shield the domestic retail sector from competition by effectively imposing a tax to be collected by overseas vendors is hence counter-productive and will only slow down the progress of the market towards a more competitive paradigm given that abovementioned statistics do not indicate that the current comparative disadvantage of the domestic retail sector is due to the small price differential imputed by the low value goods threshold.
52. In their 2014 report on *de minimis* thresholds in the European Union, the Cross-border Research Association in co-operation with HEC University of Lausanne and University of Bamberg studied trends in the European retail industry and noted that “*an increasing number of such companies are either already expanding or considering to expand towards multichannel sales and distribution systems potentially enabling them also to benefit from the proposed higher de minimis level for imports into the EU.*”⁴⁰
53. The structural change in the global and American retail industry was canvassed by Darrell Rigby, Partner and Head of Global Innovation & Retail Practices at global management consultancy firm Bain & Company. Writing for the Harvard Business Review in 2014, Rigby noted that “*About half of those e-commerce sales are actually going to retailers with physical stores. Brick and mortar retailers still control between 94% and 97% of total retail sales. Several large store-based retailers (including Apple and Macy’s are growing their e-commerce sales even faster than Amazon.*”⁴¹

³⁸ Urbis, 2011, ‘Unravelling online retail’, <http://www.urbis.com.au/think-tank/white-papers/unravelling-online-retail-%E2%80%93-urbis-reveals-all> Urbis, 2013, ‘Retail Trends, Drivers & Outlook’.

³⁹ Novak, M (2015) No to the GST tax attack: Why the exemption for online purchases should stay, *Institute of Public Affairs*.

⁴⁰ <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> pg. 44

⁴¹ Rigby, D. (2014), “E-commerce is not eating retail”, available at: <http://blogs.hbr.org/2014/08/e-commerce-is-not-eating-retail/> (Accessed 7 April 2017).

54. Rigby further noted that “*Pure-play online retailers don’t have the economic advantages that many observers ascribe to them. Analyzing the profitability of public e-commerce retailers, including the mighty Amazon, Bain finds that e-commerce’s pricing advantages mostly stem from unsustainably lower profit margins rather than from lower costs. The information technology, distribution centers, shipping, and returns processing required by e-commerce companies can actually cost as much as running physical stores.*”
55. He concluded that “*Omnichannel retailers—those that seamlessly integrate the best of both digital and physical worlds at each step of the customer experience—are likely to enjoy significant advantages over retailers that try to pursue either one alone or both independently. For omnichannel retailers, websites and mobile apps are not just e-commerce ordering vehicles, they are front doors to the stores.*”⁴²
56. These observations and inferences connote the minimal extent to which the abolition of the *de minimis* threshold will positively impact competition with online retailers as well as the potential for such a measure to disrupt the natural process of innovation and responsiveness to global market forces which connotes better outcomes and experiences for consumers. Notably, Rigby’s observations reveal that bricks-and-mortar stores continue to enjoy the comparative advantage over retail of offering an interactive experience which cannot be replicated by international and online retailers. “*Stores are not just showrooms, they are digitally-enabled inspiration sites, testing labs, purchase points, instantaneous pickup places, help desks, shipping centers, and return locations.*” This notion is supported by the number of American e-commerce platforms which have subsequently made the foray into physical stores such as Arby Parker, Athleta, BaubleBar, and Bonobos.⁴³
57. Further notably, these developments observed in 2014 were followed by the US government’s decision to raise their *de minimis* threshold to an even greater level than the Australian status quo rather than lower or abolish it in 2016. The developments observed in Europe have also been followed by the recommendation of raising rather than lowering the EU’s *de minimis* threshold as well as the current move towards modernising and streamlining its cross-border VAT collection. It is likely that such innovations and structural changes, if allowed to fully occur within Australia, will resolve much of the political factors and pressures currently pushing the bill.

⁴² Ibid.

⁴³ Ibid.

PART III: Implementation, Enforcement, Vendor Registration Model

Adverse Impact on SMEs (Small and Medium Enterprises)

58. In their 2014 report, the Cross-border Research Association in co-operation with HEC University of Lausanne and University of Bamberg found that higher *de minimis* thresholds are relied upon more by SMEs than larger businesses. One of the consulted experts whose findings were upheld by the report noted that “*I see specific importance of higher de-minimis levels in the context of global value chains where intermediate products cross borders multiple times, on their conversion to become ‘final products’.* Here each border crossing introduces an additional cost for the value chain – and some of these costs could be avoided”. In emphasising the detrimental impacts of low-value import GST compliance upon SMEs, the report further noted that “*SMEs have a ‘negative double-dip’ with low de-minimis levels: first, trade and customs compliance costs are known to be relatively higher for SMEs than for bigger companies due to lack of economies of scale, and secondly, SMEs have a tendency to order and consume relatively more small consignments than bigger companies*”.⁴⁴
59. Though the government’s proposal seems to place regulatory burden upon overseas vendors, it is a practical reality that the cost of implementing this regulation will be passed on to the consumer. Australia-based SMEs which rely upon consignments of ingredients and resources as well as smaller Australian retailers and shopfronts are hence likely to be adversely affected especially given their relatively small economies of scale. The bill’s proposal will hence put Australian SMEs at an even greater disadvantage to larger or multinational competitors who import larger consignments and benefit from greater economies of scale. This will hold especially true where the value of the small consignment has already been bolstered by the collection of VAT at multiple international borders prior to the import’s arrival in Australia for processing, consumption or on-sale. Notably, the government’s own policy rationale behind the bill of creating a tax system which is fair to both Australians and overseas vendors is defeated as GST collected at multiple points along the supply chain of a good within Australia is ultimately refunded yet this is not the case where GST or VAT is levied on a good at multiple points on an international supply chain.
60. Where an Australian SME merely imports consignments of goods for the purpose of processing prior to export to other countries, the paradoxical and adverse impact of the abolishment of the *de minimis* threshold is highlighted further as it would amount to a tax on the carrying out of a business activity, ostensibly employing Australians and generating stimulus for the Australian economy, in Australia. This outcome is in stark contrast to the government’s current and historical conception and rationale for the GST as a ‘tax on consumption’.
61. Furthermore, where an Australian company or business is an OMP or otherwise facilitates the transaction, even if the transaction is between two individuals in countries outside

⁴⁴ <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> pg. 42

Australia and the good never passes physically through Australia, there is a risk that the new bill will not only tax that transaction but will force the business/OMP to collect and account for the GST. This is a manifestly unfair and inequitable outcome and one which explicitly puts Australian companies at a disadvantage to International counterparts.

62. When an Australian business pays more for its business inputs than its global counterparts, it can only compete for buyers by cutting profit margins. When sales to foreign customers account for a majority of the company's revenue, as is often the case for SMEs that trade on platforms such as eBay – then this competitive disadvantage can be the difference between success and failure.

Enforceability is Impractical

63. As a general rule, the model proposed under the bill is impractical to enforce or even monitor and relies to a great degree on the goodwill or compellability of foreign governments and companies whom neither the ATO nor any other Australian government agency has the power to effectively audit.
64. A reputable, well-known international distribution platform such as eBay (based in the US) might register and collect GST revenue which is then reported to the ATO. However, if transactions are facilitated through low-profile, dubious platforms there is no effective way for the ATO to compel compliance – whether the vendors/sites in question simply decline to collect the GST, collect the GST but decline to register with the ATO or simply do not register with the ATO. There is also no effective way to ascertain whether these platforms generate a turnover greater than \$75,000 which would even require them to register with the Australian government as these may be subject to financial records overseas which the ATO has no power to compel disclosure of. In this manner, the bill puts reputable, high-profile and ethical OMPs and other transaction facilitators at an explicit disadvantage to dubious platforms whereby there is significant incentive to skirt the rules especially given the high cost and burden of compliance imposed by the bill.
65. The only practical option to compel enforceability in such cases, even assuming the application of strict monitoring at significant cost to ATO and Customs resources, is to hold the good in question at customs until GST is surrendered. It is likely that the cost and resources incurred by such measures will greatly outweigh the revenue generated by even levying the GST on these low-value goods that to at significant impediment to the facilitation of international trade at the behest of reputed transaction facilitation platforms.
66. If the government implements a model of identifying electronic/online platforms that violate the rules and banning them within Australia through the use of a net filter, the government will need to compel Internet Service Providers (ISPs) to implement this filter which will itself connote significant time and cost. The recent example of Federal Court rulings against media piracy websites engaged in copyright infringement illustrates this point.⁴⁵ Experts have noted that the blockage of non-compliant sites in Australia by ISPs was easily overcome by a number of users through the use of VPNs or Virtual Private

⁴⁵ *Roadshow Films Pty Ltd v Telstra Corporation* [2016] FCA 1503.

Networks to mask their IP addresses. Furthermore, the illegal websites were very quickly and flexibly able to skirt the enforceability mechanism by simply changing their domain names.⁴⁶ Enforceability against such tactics which are relatively easy and cost-efficient for the offenders to implement conversely connotes significant time, cost and resource expenditure for government agencies to generate a relatively low amount of tax revenue.

67. In the case of the ‘Deep Web’ which is accessible through the use of encrypted anonymity networks such as Tor, network surveillance or even web traffic analysis is impossible and it is likely that dubious transaction platforms as well as general use of such networks will become more enticing and popular amongst consumers should the bill be acted into law.⁴⁷
68. In the case of foreign companies, the Australian government will need to rely on the goodwill, administrative and legal systems of foreign governments to ensure compliance. The ATO has little power to audit and enforce compliance with Australian tax laws when all the parties to the transaction are overseas and the electronic distribution platform has no connection to Australia. Foreign governments are unlikely to and do not possess sufficient incentive to enforce compliance at some cost to their own resources as they are likely to view such transactions as exports, might not be concerned as these are not goods arriving in their own countries or may even be discouraged from enforcing compliance as the GST levied may amount to a transfer of wealth from their country to Australia given that it could, under their legal system, reduce the amount of income taxable by them domestically. As noted above in pt. 29, this would be the case for the U.S government. Any measure to encourage foreign governments to monitor and/or secure compliance is hence likely to put considerable strain on our diplomatic ties and relationship with these countries whereby they are likely to request concessions or compensation even if they agree to assist the Australian government with ensuring compliance. The burden imposed upon these nations by cooperating with the Australian government to ensure compliance may be used as a ‘bargaining chip’ to secure favourable terms in future trade negotiations, thus prejudicing the negotiating position of the Australian government in return for a relatively small amount of potential revenue as noted from at pt. 73 and pt. 74.

Consumer Safety & Fraud

69. The bill puts consumer safety at risk as firms which undertake vendor registration and collect/pay the GST are likely to be larger, more established firms – a point made explicitly in the Second Reading speech by Treasurer Scott Morrison. This means that smaller foreign firms (with a <\$75,000 turnover) selling online or providing OMPs will be put at a comparative advantage whereby they will be able to engage in and facilitate transactions without the GST collection and levy requirement being effectively used

⁴⁶ Nick Whigham, ‘Site blocking efforts could prove more ‘symbolic’ than prohibitive for keen internet users’ *news.com.au* December 16 2016 Link: <http://www.news.com.au/technology/online/piracy/site-blocking-efforts-could-prove-more-symbolic-than-prohibitive-for-keen-internet-users/news-story/5f4d4722e38ddfa29f033bd5987dbfa2>

⁴⁷ Dingledine, Roger; Mathewson, Nick; Syverson, Paul (13 August 2004). "[Tor: The Second-Generation Onion Router](#)". *Proc. 13th USENIX Security Symposium*. San Diego, California. Retrieved 17 November 2008.

against them. They will hence be able to charge lower prices for the same goods and will be attractive to consumers.

70. The problem is compounded significantly by the Australian government's inability to effectively enforce Australian consumer law upon these companies, including ones whose turnover may exceed the \$75,000 AUD threshold (see 'Enforceability' point above). This places consumers using these websites at considerable risk of fraud without effectively enforceable legal redress/recourse and denies them a number of consumer/fraud protections which are in-built in larger websites/OMPs like eBay.
71. Some of these sites may deliberately be formed to take advantage of the bill and it is likely that the bill will see the number of such sites, including ones formed with the intention of committing scams, rise as consumers will respond to a hike in prices on established sellers' websites and OMPs by turning to these sites offering the cheaper alternative. This will further compound the resource burden of enforceability for the government and it is likely that a number of legal claims will nonetheless be made which shall tax the resources of the court system.
72. As comprehensive enforcement is impractical for the reasons outlined in points above, only established OMPs and sellers such as eBay are likely to comply voluntarily. Under the current status quo, consumers are more likely to avoid sites which are less established or appear untrustworthy due to the reputation of the established websites. However, due to the price sensitivity of various products and given the substantial price increase connoted by the cost of compliance, the role of reputation as a deterrent against purchasing or transacting on dubious or untrustworthy websites/platforms will decrease.
73. When the GST was introduced by the Howard government in 2000, the government conferred a number of powers on the ACCC to prosecute GST fraud and also outlined reporting mechanisms as anti-fraud protection was one of the policy imperatives in that government's defence of the GST policy.⁴⁸ The bill does not provide sufficient detail about how ACCC will enforce and prosecute fraud committed by foreign sellers and OMPs. It is also likely that prosecution of these offenders will connote substantial time and resources for the ACCC which may impact its ability to effectively monitor and enforce domestic GST fraud.

Potential revenue generated is not worthwhile

74. Data from the government's own Tax Expenditures Statement in the Budget Papers for the financial years between 2012-13 and 2016-17 indicate that lost revenue due to the \$1,000 AUD threshold is less than 1% of total GST. Data from the bill's explanatory memorandum showing projections for financial years 2017-18 and 2018-19 similarly concede that the new tax would generate projected revenue of only 0.15% of projected total GST revenue.⁴⁹

⁴⁸ Costello, P 1998, 'Questions without notice: Goods and Services Tax: Price Increases', Commonwealth Parliamentary Debates, House of Representatives, 16 February 2000.

⁴⁹ Tax Expenditures Statement, Budget Papers 1, Explanatory Memorandum

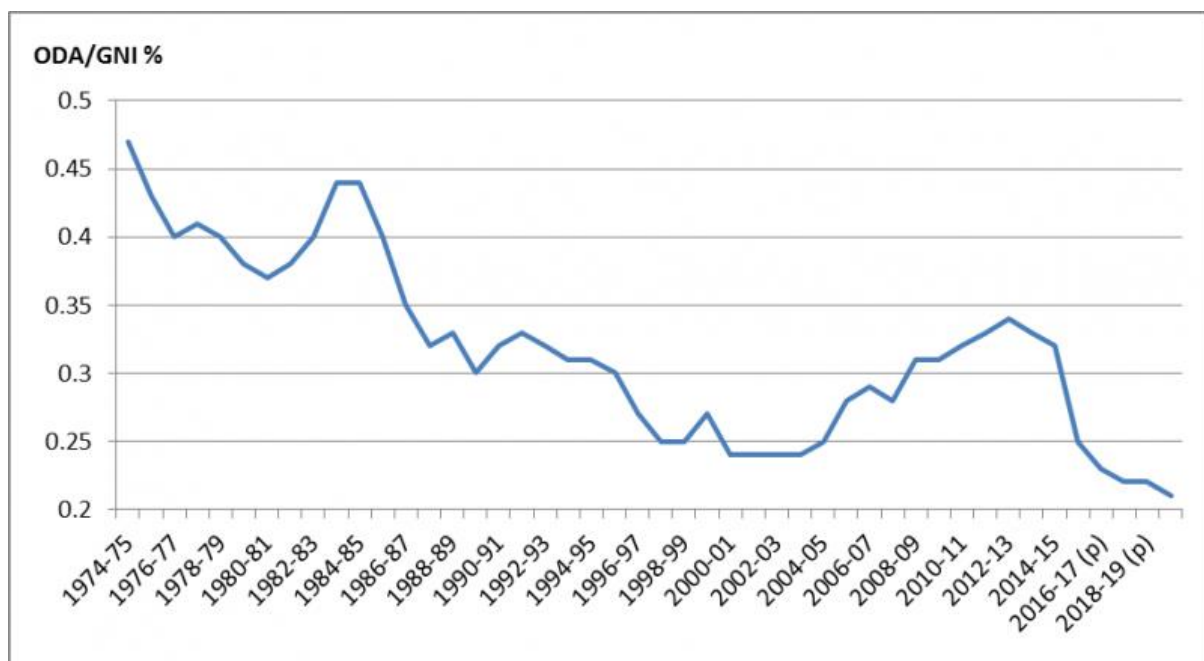
75. Significantly, these figures do not take into account the extent to which they are likely to be offset by the significant costs required to implement and enforce the bill's model and also do not take into account the extent to which the figure would be offset by vendors or OMPs pulling out of the Australian market or refusing to trade with Australians given the high regulatory burden and cost.

Adverse Impact on Overseas/Developing Countries' SMEs

76. As noted in the preceding sections, the bill imposes a significant and difficult regulatory and cost burden upon both large, established OMPs and vendors as well as SMEs. However, this burden and the difficulties inherent in implementing structural changes required are likely to be even more severe for the SMEs of developing countries.
77. Many individuals and families in poor or developing nations have bettered themselves by starting SME's and family businesses which supply specialist markets worldwide. In doing so, they facilitate the prosperity of their countries. As noted by Hazell, Haggblade and Reardon in a 2002 study on the rural economy of developing countries, "*Poor rural households frequently seek economic refuge through distress diversification into low-skill nonfarm activities such as basket making, weaving, pottery [and] small-scale retailing.*"⁵⁰ In doing so, many of these individuals and families often employ traditional methods – usually of some cultural significance, to create distinct products for the international market which are not available or are rare/hard to find in Australia. Often, poorer individuals or families engaged in manufacturing handicrafts or other items are supported by small-scale online retailers in these countries which also function as SMEs.
78. It is likely that government's criteria for mandatory vendor registration, i.e. >\$75,000 AUD in revenue as opposed to profit, will capture many of these SMEs. Importantly, they will be captured regardless of the actual profits they raise whereby some are likely to be not-for-profit corporations or associations formed specifically for the benefit of the local community or workers. Millions of these businesses may not register with the Australian government due to the difficulty involved, especially due to the non-English speaking background of many of these SMEs and those who operate them. The bill mandates that these SMEs read Australian laws and engage in revenue collection on the Australian government's behalf. This is further problematic as many of these SMEs will not even be aware that they are required to register in order to legally export to Australia.
79. It is likely that millions of overseas suppliers of a massive and diverse range of specialty goods (often not available in Australia) will cease to supply Australia. This will adversely impact people overseas in poor countries (especially SMEs), potentially depriving them of their livelihood. It is also bad for Australian consumers.

⁵⁰ Haggblade, S., Hazell, P. B., & Reardon, T. A. (2002). *Strategies for stimulating poverty-alleviating growth in the rural nonfarm economy in developing countries*. International Food Policy Research Institute, Environmental and Production Technology Division.

80. The bill will hence drive the corporatisation of global trade by disadvantaging and driving out small and medium businesses while having an adverse albeit proportionately smaller impact upon larger, established multinational corporations. This connotes frequently raised concerns about globalisation and its potential to connote inequitable outcomes for the business and economies of poorer countries.
81. The bill hence functions as a trade barrier against these small, often family-owned businesses. These protectionist effects ultimately do not even benefit Australian businesses as many of these products are not available locally within Australia. Given the Australian government's commitment to the principles of free enterprise, national sovereignty, free markets and international development, this move is ultimately regressive and damaging.
82. Although the Australian government may not have a duty to account for the interests of foreign businesses, adverse impacts upon SMEs in poorer countries are an important moral consideration which could impact Australia's international reputation and standing. This is especially important at a time when the Australian government has already been criticised by International policy think tanks such as The Lowy Institute which has noted that our foreign aid as a proportion of Gross National Income (GNI) is at its lowest in our history. See Graph:⁵¹

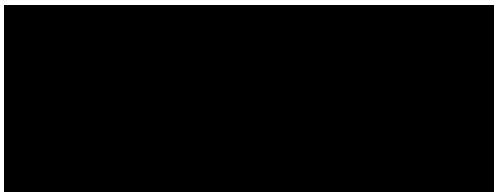


83. The Bill's effects are also likely to impact on our trade and diplomatic relationships with developing nations affected at a time when Australia is striving to achieve closer and more favourable relations with a number of developing Asian countries.

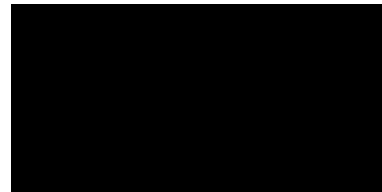
⁵¹ The Lowy Institute website Link: <https://www.loyyinstitute.org/issues/australian-foreign-aid> (Accessed: 9 April 2017)

Conclusion & Recommendations

84. In light of the considerations and problems outlined above and the bill's negative impact upon Australian consumers and businesses as well as trade liberalisation and Australia's long-term economic interests, the ATA and MyChoice strongly recommend that the bill is not passed and the status quo is maintained.
85. In the alternative, we recommend that the current approach of enforcing GST levy at the border remains in place in order to avoid the ill impacts, regulatory burden upon business and uncertainty connoted by the vendor registration model. Should this be accepted, we recommend that the government further amends the bill to reduce rather than abolish our *de minimis* threshold to a level that remains comparable to our trading partners in order to avoid the fallout of a retaliatory response.
86. In the further alternative, we recommend that the July 2017 date of compliance for sellers and OMPs stipulated under the bill is moved to 2022 in order to provide companies with sufficient time to effectively implement the changes, ascertain the most favourable option/model for implementing compliance on their websites/platforms and conduct relevant modelling and projections to account for the full impact of the change. This would also provide the government time to develop more comprehensive and effective enforcement strategies.
87. We thank the committee again for the opportunity to present our submission and welcome the opportunity to appear before the committee at a formal hearing to discuss our submission and field any questions.



Tim Andrews
Executive Director
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Satyajeet Marar
Director
MyChoice Australia