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Committee Secretary
Senate Economics Reference Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sirs or Madams,

Thank you for your 27 October 2014 invitation to provide a submission to the Senate Economics Reference Committee regarding its inquiry into corporate tax avoidance and minimisation.

As background, Apple Pty Ltd (**APL**) is an Australian incorporated company that employs thousands of Australians and pays tens of millions of dollars each year in corporate, fringe benefits and payroll tax. APL complies fully with its Australian tax obligations. All of Apple's operations in Australia (distribution of finished goods, retail, online and iTunes) are conducted through APL. Australian-based Apple customers of these operations deal with APL directly, with such revenue reported by APL in the company's statutory accounts and tax paid thereon in Australia. As such, APL collects hundreds of millions of dollars of Australian GST on the sale of its products. In addition, APL's operations contribute to many thousands of Australian jobs in areas such as retail, logistics and IT directly supporting Apple's business, as well as providing a platform for many more Australians to market and sell their products (music, television, movies and apps) both locally and globally.

Your invitation requests input regarding various aspects of the Australian tax system, along with information regarding the company's tax arrangements. As indicated in your letter, we have not sought to address the full terms of reference but rather only address particular items. Our comments below follow the same referencing as presented in your invitation.

Comment topic (b): Transparency.

Transparency between the taxpayer and tax administrations must go both directions and be based on the multilaterally agreed upon measures reflected in the Organization of Economic Cooperation and Development's ("OECD") Base Erosion and Profit Shifting ("BEPS") guidance. Advanced Pricing Agreements ("APA") are effective means of achieving the transparency desired in the BEPS

guidance and providing both taxpayers and administrations with consistency and certainty.

Apple supports the use of APAs and has had a longstanding, open and cooperative relationship with the ATO that began with the ATO and Apple entering into an APA in the early 1990s. Unfortunately, despite the company's efforts to renew, APL's APA has expired, but, APL was and remains willing to enter into a further APA with the ATO for future years. In the meantime, APL continues to have an open relationship with the ATO and continues to comply fully with its Australian tax obligations.

While APAs do provide an effective means for achieving transparency between tax administrations and taxpayers, any policies directed at the public disclosure of such agreements need to take into consideration a range of issues, such as the potential disclosure of commercially sensitive information (e.g. trade and operational secrets), compliance costs, and the potential for the information which is disclosed to be misunderstood or misconstrued.

Comment topic (c): Opportunities for international collaboration on international tax reform.

While we are not in a position to comment on the adequacy of Australia's current tax laws, Apple supports efforts to revisit international tax policies in multinational frameworks and forums. Sound policy making will tell you that multilateral discussions and resolutions regarding tax policy changes need to provide clear, unambiguous and consistent approaches that are applied on a prospective basis. Such changes need to be well thought out across international stakeholders, have clear implementation and transitional rules, and consider potential impacts on inward investment. In addition, dispute resolution mechanisms also require multilateral agreement in order to prevent multiple levels of taxation on the same profit.

International collaboration is critical in order to ensure consistency and certainty for both taxpayers and tax authorities. The opportunity for such collaboration already exists and is underway through the OECD's BEPS project at the request and direction of the G20. As part of the BEPS project the OECD has gone to great lengths to ensure that both OECD member countries and non-member countries, in particular developing countries, are at the table and participate in the policy conversations and proposals. This type of collaboration across members and non-members is critical to ensure that there is a single set of recommendations regarding international tax reform as opposed to countries taking unilateral measures. Unilateral measures will only serve to increase uncertainty, compliance costs for both taxpayers and tax authorities, and bilateral disputes. We recommend that Australia continue to actively participate in the BEPS process, support gaining consensus amongst the countries involved in the BEPS projects, and avoid unilateral action.

Your invitation also requests information on Apple Australia's tax arrangements.

APL has had longstanding operations in Australia as a distributor of Apple products. More recently, operations have expanded to include Apple's retail stores, online store and iTunes business. The bulk of APL's revenue is derived from the distribution of Apple finished goods (iPhones, iPads, iPods and Mac Computers) to Australian businesses and consumers. APL purchases those finished goods from its offshore affiliates at an arm's length price, resulting in profits commensurate with the value of APL's activities in Australia.

From Apple's perspective, the key cross border tax issue is the determination of the arm's length price that APL pays for those finished goods. As indicated above under comment topic (b), Apple has always maintained an open and co operative relationship with the ATO, evidenced by the fact that Apple was one of the first multinational companies to enter into an APA with the ATO over 20 years ago, with the APA renewed with the ATO over the years. This agreement between APL and the ATO set a framework and an annual review mechanism to ensure that both parties to the Agreement were satisfied that APL was complying with Australia's transfer pricing laws.

As discussed in our response to comment topic (b), APL's APA with the ATO has expired but APL remains willing to enter into a further APA with the ATO for future years. In the meantime, Australian-based Apple customers continue to deal with APL directly, with revenue reported by APL in the company's statutory accounts and income tax returns. APL continues to have an open relationship with the ATO and continues to comply fully with its Australian tax obligations. APL's effective tax rate, both on a cash and an accounting basis, in each of two years following the expiry of the last APA has been above the Australian statutory rate of 30%.

In closing, we appreciate the opportunity to comment on these topics and hope you find our comments helpful to the Senate Economics Reference Committee's project.

Very truly yours,

Tony King
Managing Director of Australia and New Zealand