The Manager

Indirect Taxes and Not-for-Profit Unit

Individuals and Indirect Tax Division

The Treasury

Langton Crescent

PARKES ACT 2600

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**SUBJECT: GOODS AND SERVICES TAX ON LOW VALUE TRANSACTIONS**

PayPal provides payment services for consumers and merchants that facilitate commerce and support consumer choice and opportunity. PayPal has operated in Australia for more than 10 years and globally processes in excess of 1.5 billion transactions annually. During 2016 PayPal facilitated significant levels of cross-border trade both to and from Australia.

PayPal has reviewed the Exposure Draft of the *Treasury Laws Amendment (2017 Measures No.1) Bill 2017* (the draft Bill). The draft Bill seeks to address the challenge of implementing an efficient and effective administrative mechanism for the collection of GST on physical goods valued at less than $1,000 purchased by consumers and imported into Australia. PayPal acknowledges the merit of the equity argument advanced in support of this measure while recognising that a variety of economic factors contribute to competitive advantage in any developed market. PayPal also recognises that Australian consumers shop on-line for a range of reasons including convenience and availability of goods in a global marketplace. This is particularly true for Australians living outside of capital cities.

There have been several previous reviews of issues connected with the low value goods threshold – including the 2011 Productivity Commission inquiry into the retail industry and the 2012 Taskforce Report into Low Value Parcel Processing. PayPal notes that the collection mechanism proposed in the draft Bill for goods valued at less than $1,000 is different from that applying to goods valued at over $1,000 and is different again to the regime applying to goods purchased overseas and brought into Australia by individuals in the context of personal international travel.

PayPal is aware of the principles proposed in Guidelines prepared by the OECD in 2015 relating to the VAT treatment of the most common types of international transactions that focusedon trade in ***services and intangibles***.

In those Guidelines the OECD stated:

*…the most effective and efficient approach to ensure the appropriate collection of VAT on cross-border business-to-consumer supplies is to require the non-resident supplier to register and account for VAT in the jurisdiction of taxation.*

The approach recommended by the OECD Guidelines was largely adopted in the framing of the *Tax and Superannuation Laws Amendment (2016 Measures No1.) Act 2016.* That legislation dealt with the taxation of digital products and services. The draft Bill appears to extend the application of those Guidelines to the taxation of physical goods.

PayPal notes that in section C3.3.10 of the OECD Guidelines it is stated:

*“Jurisdictions should aim to implement a registration-based collection mechanism for business-to-consumer supplies (of services and intangibles) by non-resident suppliers, without creating compliance and administrative burdens that are disproportionate to the revenues involved or to the objective of achieving neutrality between domestic and foreign suppliers.”*

Considering the very low value of an overwhelming majority of on-line sourced cross-border transactions, PayPal is of the view that the proposed collection mechanism contained in the draft Bill will create a disproportionate compliance and administrative burden on foreign suppliers, goods forwarders and electronic distribution platforms – as well as ultimately Australian businesses.

PayPal notes that the OECD specifically envisaged that taxing jurisdictions (sovereign nations) will support each other in the implementation of the Guidelines by taking full advantage of available instruments that support exchange of information and mutual assistance in debt recovery. Plainly stated, in implementing a registration system for foreign suppliers providing low value goods to Australian consumers, the Treasury is in effect identifying that Australian businesses that sell online to consumers outside Australia should expect to comply with any supplier registration system established in jurisdictions with which Australia has a taxation information sharing agreement or other relevant bi-lateral agreement.

PayPal also presumes that the Treasury will expect the ATO to assist those international tax authorities in enforcing compliance by Australian businesses with the indirect tax laws of those jurisdictions where a registration system applies.

Given that PayPal Australian based merchants in 2015 transacted with PayPal customers in 203 federal jurisdictions (noting that is some countries VAT/GST is levied at a State or even city level) this would represent a potentially devastating increase in tax administration for Australian businesses such as to bring into question the value for many of conducting cross-border trade.

After careful consideration, PayPal is of the view that the mechanism proposed for the collection of GST on low value transactions (supplier registration combined with imposed taxing obligations on the operators of electronic distribution platforms and goods forwarders) will:

* Be administratively cumbersome and uncertain for Australian citizens, foreign suppliers and goods forwarders;
* Highly problematic for electronic distribution platforms who do not sell proprietary goods or store the goods sold via their platform;
* Impose significant administrative burdens on thousands of Australian small businesses carrying on cross-border trade, susceptible to reciprocal administrative registration obligations to foreign taxing authorities including obligations arising from laws that do not include registration thresholds; and
* Require the Australian Taxation Office to implement a complex and potentially expensive global enforcement regime based on international tax information sharing agreements.

PayPal is of the view that Treasury should re-consider the draft Bill and the underlying principle inherent in the foreign registration scheme for the collection of indirect taxes on low value goods.

PayPal encourages the Federal Government to give further consideration to the appropriate level of a de minimis taxing threshold for low value transactions. Such consideration should particularly consider developments across Australia’s major trading partners, the costs to on-line retailers of foreign registration systems and the impact on domestic retailers of Australian consumers sourcing very low value (less than $100) goods from overseas.

In this context PayPal notes the decision of the US Congress to raise the USA de minimis threshold in 2016 to US$800 for imported goods. In considering this move by a major Australian trading partner and important commercial partner the Federal Government should give specific consideration to the consequences for Australian businesses arising from the widespread development of reciprocal foreign indirect taxation registration regimes.