



7 December 2018

Principal Adviser  
Corporate and International Tax Division  
The Treasury  
Langton Crescent PARKES ACT 2600

**By email:** [corporatetax@treasury.gov.au](mailto:corporatetax@treasury.gov.au)

Dear Principal Adviser,

The Digital Industry Group Inc (DIGI) welcomes the opportunity to provide comments to the Treasury Consultation Paper ‘The digital economy and Australia’s corporate tax system’. DIGI includes representatives from Amazon, Facebook, Google, Oath, and Twitter. DIGI members collectively provide digital services to Australians including Internet search engines, online stores and other digital communications platforms.

### **The digital economy is the Australian economy**

Over the past decades, Australian businesses and individuals have increased and integrated their use of online services in meaningful ways that deliver value both at the micro- and macro-economic levels. So much so that, according to the most recent report by the Joint Standing Committee on Trade and Investment Growth *Trade and the Digital Economy*, the ‘digital economy’ is no longer separate or entirely distinguishable from the Australian economy itself.

“The ‘digital economy’ should not be seen as separate to, or distinct from, The Economy. Increasingly, the economy *is* a digital economy, and Australia—like every other country—needs to ensure it is not left behind.”

Moreover, the Committee noted the “centrality of digital technologies to trade in the 21st century”. Citing sources provided by the Department of Foreign Affairs and Trade, the Committee found that:

“The internet is making ‘it easier, quick and cheaper for consumers and businesses to trade goods, services and exchange information’ globally. An estimated 90% of Australians are online and approximate 84% of our small to medium-sized

businesses have an online presence. So it follows that an open, free and secure internet will drive economic growth through digital trade and create significant opportunities for Australian businesses.”

## **The progress of digital integration**

This increasing digitisation can be found across all sectors of industry. For example:

- Ford [turned itself around using data analytics](#) and is [building its own data centre](#) to enable connected vehicles;
- Australian media companies are adopting sophisticated online platforms and are highly data driven in their customer management and advertising sales; and
- Traditional Australian bricks and mortar companies are building a sophisticated online presence which allows them to gain more detailed data to better target products and services to consumers.

In particular, small and medium sized enterprises (SMEs) are using online services to grow sales, which has had a positive impact on employment and the economy more broadly.

We note Deloitte’s *Connected Small Business Report* found that businesses engaging with digital platforms are 50% more likely to be growing revenue, eight times more likely to be creating new jobs, and earn 60% more revenue per employee than those businesses that are not utilising digital platforms.<sup>1</sup>

Further, PricewaterhouseCoopers’ *Connecting Benefits Report* found that Australian businesses using online services reach relevant customers, locally and internationally, allowing them to grow organically and employ more people.<sup>2</sup> The *Connecting Benefits Report* also found that there is a new phenomenon of Australian businesses being “born global” — able to successfully pursue international markets within just two years of establishment.

## **The risks of attempting to ring-fence the ‘digital economy’**

This deep integration of digital services in Australian daily and commercial life means that any attempts to ring-fence the so-called ‘digital economy’ or industries for special tax treatment will inevitably involve governments engaging in arbitrary line-drawing, in essence picking winners and losers. Creating arbitrary definitions of so-called ‘digital businesses’ subject to a special tax regime would present significant and constantly evolving enforcement challenges, add uncertainty to financial reporting and to the business

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<sup>1</sup> ‘Connected Small Business 2017’, prepared for Google by Deloitte Access Economics, 2017, accessible at <https://www2.deloitte.com/au/en/pages/economics/articles/connected-small-businesses-google.html>

<sup>2</sup> ‘Connecting benefits How social networking supports Australian small businesses and communities’, prepared for Facebook by PwC Australia, August 2018, accessible at <https://www.connectingbenefits.com.au>

environment in general, and risks creating uncertainty and distortions that would negatively impact business growth, local investment, and jobs.

In addition, we are deeply concerned that the need for any interim measure, outside of existing multilateral processes to reform international tax principles, has not been substantiated by meaningful evidence. We are concerned that any unilateral action would raise serious legal, technical, economic and political issues, including but not limited to the following:

- multiple layers of taxation, particularly when charged on revenues which are already subject to corporate income tax in a particular jurisdiction with no offsetting credit;
- the need to take into account the significant investments made in software and other technology made by companies outside of Australia;
- a tax on turnover is a tax on investment and growth, in particular for smaller players in the ecosystem;
- confusion as to whether the tax is a direct, hybrid, or indirect tax, and therefore whether it conforms with national laws and double tax treaties;
- confusion as to how the measure, which departs from well-established existing international tax principles that were recently revised in response to the G20/OECD Base Erosion and Profit Shifting Project, would be implemented;
- the lack of consensus internationally or among governments on defining user contributions to digital platforms as a tax base;
- the lack of certainty for businesses in calculating and implementing such fundamental changes in international tax law, as there is little consensus internationally or among governments on defining user contribution to businesses to ensure accurate tax collection and reporting while remaining compliant with applicable data protection and privacy laws;
- the lack of clear audit and enforcement mechanisms for revenue authorities, especially where a nonresident taxpayer does not have a physical presence in Australia;
- unfair treatment of Australian SMEs even though the measures may be designed with large, multinational companies in mind; and
- the risk that any unilateral approach could draw counter action from third countries, including adverse and arbitrary taxation of Australian company revenues in those jurisdictions.

All of these factors combined would contribute to increased consumer prices as businesses are forced to pass on these costs, or else if they cannot do so, be placed at a competitive disadvantage or even forced to cease local business activities where the cost of compliance becomes too high.

In summary, we encourage the Australian Government to opt for international leadership in reforming international taxation principles through comprehensive, coordinated, and multilateral processes at the OECD instead of unilateral action. DIGI members are already participating constructively to help achieve the goal of fair taxation in a globalised digital economy, and we welcome the opportunity to work with the Australian Government in these efforts.

Kind regards,

DIGI