Deliveroo submission on the draft exposure legislation, Treasury Laws amendment (measures for consultation) Bill 2021: Introducing a sharing economy reporting regime

2 August 2021

Introduction

Deliveroo welcomes the opportunity to comment on the draft exposure legislation to require electronic platform operators to provide information on transactions facilitated through the platform to the ATO.

Deliveroo was founded in 2013 in London and today works with tens of thousands of restaurants and riders to provide the best food delivery experience in the world.

Deliveroo launched in Australia in November 2015 and is proud to offer flexible well-paid work to more than 10,000 self-employed food delivery workers - or riders - across Australia. Deliveroo partners with more than 13,000 of Australia's best-loved restaurants and grocery partners across 15 cities - Sydney, Wollongong and Newcastle in NSW; Melbourne, Geelong, Ballarat and Bendigo in Victoria; Brisbane, Gold Coast, the Sunshine Coast and Cairns in Queensland; and Perth, Adelaide, Canberra and Hobart - to bring great tasting food and on demand convenience groceries straight to people's front doors. Our partners range from small, independently owned restaurants and cafes, to catering businesses, franchises, larger chains and grocery convenience stores, all of whom are required to have an ABN and report on their earnings under the Business Activity Statement system, or similar, and GST under their GST returns where applicable.

As an established business within the gig economy sector we take our obligations to comply with the law, including our tax obligations, very seriously. We fulfil our responsibilities to report on our own earnings, and have been providing data about rider earnings under the Taxable Reporting Payments System (TPRS) diligently since inception.

In reviewing the draft legislation on introducing a third-party reporting regime which would require us to provide data on the revenue earned by our restaurant partners, we have strong concerns about whether: 1) we are covered under the definitions and 2) if we were to be included, the onerous cost and resourcing requirements to do so.

Our submission outlines our view that Deliveroo, as a gig economy participant and platform that enables the sale of food between restaurants and consumers, should be exempt from this proposed reporting regime. If we are required to participate, we provide feedback on the proposed approach. We note the commencement date of 1 July 2023.

Further, we would welcome the opportunity to discuss our views with the relevant people in the Treasury.

Sharing economy vs gig economy

In the Explanatory Material, the ATO states: *The Australian economy has fundamentally changed in recent decades. Traditional employment models have shifted in favour of more flexible options including contracting, self-employment and use of labour hire. Consumers are increasingly paying to 'use' rather than 'own' assets, creating new income opportunities for the owners of assets. These two trends have led to the emergence of the sharing economy, also sometimes known as the gig economy.*

There is no universally accepted definition of the term 'sharing economy'. The sharing economy involves two parties entering into an agreement for one to provide services and/or loan personal assets to the other, for a payment. Traditionally this kind of activity would occur between related parties and take place informally. The internet has helped to formalise this activity and created opportunities for parties to earn a regular income through these activities by making it easier for otherwise unrelated parties to identify one another and to facilitate these types of transactions. Many of these types of transactions are now facilitated through an electronic platform.

We agree with these definitions of a sharing economy, however we believe the gig economy is different. The gig economy is an economy characterised by flexible and temporary jobs involving freelancers and independent contractors, whereas the sharing economy refers to an economy based on the sharing, acquiring and providing goods and services through the facilitation of an online platform.[1]

The Fact Sheet states that: *the sharing economy has grown significantly over recent years and there is a risk that some sellers who use these platforms are not reporting their full income or paying the right amount of tax.*

This may be true of the sharing economy, however in our view, the gig economy is connecting independent contractors to those who pay for their service. In our business model restaurants and convenience stores use our platform so consumers can purchase food and have it delivered by independent contractors - who we call riders.

There is more likely to be a tax gap where individuals rent out a room of their house, than with our business model where we partner with established bricks and mortar businesses that are aware of their tax obligations. We support the ATO's efforts to be able to correctly operate tax in these relatively new industries but also want to ensure that established businesses are not adversely impacted, given the reporting requirements and legal obligations that already exist.

While Deliveroo appears to fall within the definition of an Electronic Distribution Platform because our *service is delivered by electronic communication (for example, an app store or*

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[1]

Read more: Difference Between Sharing Economy and Gig Economy | Difference Between http://www.differencebetween.net/business/economics-business/difference-between-sharing-economy-and-gig-economy/#ixzz71n6r5Wk7 *website),* we do not *allow merchants to make sales of imported digital services or digital products available to customers.* As we allow the sale of goods - and transfer of title - through our platform, and facilitate the delivery of those goods through the independent contractors who perform the deliveries, we question again whether we should be included. We specifically note that under the draft legislation there is a reporting exclusion under (d)(i) for:

- “a supply by way of transfer of ownership of goods (within the meaning of the GST Act);”

As goods are sold and not shared through the Deliveroo platform, we seek confirmation that we are exempt from these reporting obligations.

For completeness, please note that all activity through our platform is domestic only - i.e. all revenues are solely generated in Australia and are solely reported in the Deliveroo Australia entity.

<u>Reporting on rider earnings vs restaurant earnings</u>

Deliveroo has been reporting on food delivery worker earnings since the business launched in 2015 through the TPRS regime. There have been many learnings through this process, which were shared with the Treasury in December 2020. These included:
- Partnering with riders as suppliers of business in their own right and, therefore, a valid ABN is required
- the ATO system was not compatible with our systems and the way that the reporting was collated. As a result, it takes two months each time to compile and then submit the data given the sheer volume.

Introducing the TPRS regime makes good sense, given food delivery workers are sole traders and the likelihood that certain riders earn under the income tax threshold, and may not be aware of their tax obligations. This approach captures any taxable income that may otherwise fall through the net.

In determining whether a similar regime should be introduced whereby platforms report on the earnings of those selling goods through our platform - in this instance restaurants, cafes, bottle shops and grocery convenience stores selling food and beverages - we wish to be very clear in stating that these are established businesses that report their earnings and tax through the appropriate processes. Therefore, a similar regime is an unnecessary bureaucracy.

<u>Specific feedback on the legislation</u>

It is noted that the new reporting regime would come into effect on 1 July 2023.

Our specific feedback on the legislation is as follows:
- We would like confirmation that this new reporting obligation does not apply to Deliveroo as our platform allows for the transfer of ownership of goods and therefore we fall within one of the specific exemptions in the draft legislation.

- However, if we are to be covered then we add further:
    - Adopt an annual reporting cadence, rather than biannual, similar to the Taxable Payments Annual Report
    - Do not require platforms to report on the GST element of third party transactions: as this is not information we collect, given we are an enabler of the transaction between the restaurants, grocery convenience stores and the customer, not the seller of the goods. We do not have insight into our partners' GST treatment of their products. Further, the GST treatment of their products is complex given the GST rate rules on food and beverages. If we were to collect this data it would place us at the mercy of the restaurants to complete this information fully and accurately and would place a great strain on our business relationships trying to enforce this.
    - Request leniency on penalties for non-compliance in the first year/s of reporting, so we can get used to the reporting regime.

Conclusion

While we understand the draft legislation is being finalised for introduction to Parliament in the coming days, we ask that our feedback be carefully considered - especially our feedback on whether Deliveroo, as a participant in the gig economy, should be exempt. We would be happy to provide further information and to discuss our views in greater detail.