

Director Sharing Economy Reporting
Corporate and International Tax Division
Treasury
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Submission on implementing a reporting regime for sharing economy platform providers

Dear Director,

Thank you for the opportunity to make a submission regarding the introduction and implementation of a reporting regime for sharing economy platform providers.

This submission is made by the Technology Council of Australia (the TCA), Australia's peak industry body for the tech sector. The Australian tech sector is a key pillar of the Australian economy, contributing \$167 billion to the Australian economy annually, and employing 861,000 people. This makes the tech sector equivalent to Australia's third largest industry, behind mining and banking, and Australia's seventh largest employing sector. With 23 member organisations, including leading Australian software as a service and platform companies, multinational companies, and venture capital and investment advisory firms, the TCA represents a diverse cross-section of the sectors needs.

The TCA is a new body launching on 11 August 2021. We therefore request that our submission is kept confidential until after the launch date.

TCA position on regulation of new products and services

TCA members acknowledge the need for best practice regulation of new economy products and services, including ensuring tax compliance. We believe Australia can be a leader in this area globally, requiring businesses and governments to work together on where regulation is required related to the introduction of innovative new products and services, and how best to design and implement this regulation.

In designing such regulation, we recommend the adoption of the following design principles:

- **Efficiency:** does the design of the regulation achieve its stated regulatory and policy objectives in an efficient manner, and without imposing unreasonable cost on either regulators, industry or consumers?
- **Proportionality:** is the approach specified in the regulation commensurate with the value and risk of the opportunity being regulated, and does it target regulation to activity of concern, whilst allowing legitimate activity and new services to be introduced without undue restrictions?
- **Responsibility:** does the regulation allow for the safe introduction of new products and services, and does it respect the rights and responsibilities of consumers?

TCA comments on the design and implementation of the reporting regime for sharing economy platform providers

TCA members appreciate the need for greater transparency of legal income generated via sharing economy platforms and look forward to working constructively with the government on the design and introduction of the reporting regime.

Our comments on the scheme primarily relate to the definition of an electronic platform and the definition and targeting of data collection and reporting obligations, particularly once the scheme is expanded in 2023 to a broader array of platform users and platforms.

In particular, we believe the definition of an electronic platform may need further clarification and possibly the inclusion of exemptions, and data collection and reporting obligations imposed on online sharing platform providers should be targeted and tested before full-scale introduction in 2023 to ensure they are efficient, proportionate and responsible.

Definition of electronic distribution platform

The draft legislation intentionally includes a broad definition of an electronic distribution platform, but carves out certain categories of services where they are simply advertising or raising awareness of a service, providing a payment service, or providing a communications service. TCA members welcome these exemptions.

We think it is however possible that the scheme's definition may require clarification about the service providers caught and exempted. This is because electronic based businesses models are common and evolving. They take a number of forms, not all of which may be intended to be caught by the scheme. For example, the current broad definition could capture booking engines for health or other business service providers not selling goods where the booking engine matches the user to available appointments from providers.

We would therefore recommend meeting with the industry ahead of finalising the legislation to confirm if there are additional categories of providers that should be exempted. We also recommend building in a requirement that the legislation is regularly reviewed to ensure the definition continues to be relevant and targeted to the services where transparency is genuinely required, and creating a mechanism by which additional categories can be added to the list of exemptions by regulation given that business models are likely to continue to evolve, and may require ongoing need for clarification. We would be pleased to help facilitate a meeting with our members if helpful.

Design and implementation of reporting

We have carefully reviewed the proposed reporting model and consider that reporting be designed to be more targeted and testable to ensure it is efficient, proportionate and responsible. This is particularly important once the scheme is extended to a greater variety of services from 2023, and where those services are not already covered by reporting schemes.

Some platforms to which the regulation will apply from 2023 include many users who sell services occasionally and incidentally to their regular employment (e.g. a student that takes a single babysitting job in a year, or an accountant who uses a platform to advertise that they provide

accounting services, rather than to generate work via it). Many of these users generate only small amounts of income via the service. This means activity by these users on the platform may not meet the test of being income or may be below the threshold for taxable income. In such instances, our concern is that it is not clear that it is efficient, proportionate or responsible to mandate highly detailed personal data collection and sharing with the ATO.

The scheme therefore needs to be better targeted to avoid collecting data on users that present no or little risk. Collecting and reporting extensive personal, identifiable and sensitive data on thousands of users generating very small amounts of income does not meet the test of being efficient, proportionate or responsible.

This is firstly because in many cases where users generate small amounts of income the cost of collecting data, reporting data, and investigating issues will greatly exceed any potential tax revenue lost. This makes the proposal as currently drafted an inefficient mechanism for achieving the ultimate regulatory goal - identifying and reducing tax leakage - unless it is targeted to individuals that present a genuine risk of underreporting and underpaying tax, such as those who earn income above a threshold.

Second, the data suggested to be reported by the ATO is personally identifiable and contains a number of sensitive personal fields. This data will also then be matched with other data, and inferences drawn about a person's income, with potential enforce action resulting. In situations where identifiable and sensitive data is being used for sensitive purposes that may adversely impact individuals, it is important that the government targets requests to limit the potential to collect data on individuals that present no risk, or very little risk, as the sensitivity of the data and purpose of collection means to limit broad-based and unnecessary data collection by third parties and governments. It is also important that testing is performed to determine that data-matching is accurate and provides useful and actionable recommendations, with a low risk of false positives. Without such safeguards, the data collection and reporting may not meet the test of being responsible.

Finally, the design of the scheme is not proportionate to the risk of tax leakage in the case of many platforms because the small sums of income involved means there is a very low risk of meaningful tax evasion for most users, but gathering data currently relies on widespread capture and reporting of sensitive personal data.

Airtasker provides a good example of this dynamic. Median tasker earnings on the Airtasker platform last year were \$347 (annually). Of the total 31,266 taskers who earned income on the platform during that period, 68.6% earned less than \$1000. However, under the current design of the reporting scheme, information on all users would have to be collected to the individual level and reported to the ATO.

The heterogeneity in the models of sharing economy distinguishes them from the types of traditional industries and employment models to which the Taxable Payments Reporting System now applies, such as transactions in the building and construction industry, supplies of cleaning, security or surveillance services, and supplies of information technology services.

We therefore recommend that more work is undertaken in collaboration with industry to better map the different types of models that may be caught, and to identify ways to better target data collection whilst still improving transparency over genuine and material areas of taxable income generation via platforms.

Our recommendations

To ensure an efficient, proportionate and responsible approach to data collection and use, we recommend that:

1. Reporting of individual user income data and personally identifiable information is only required where the user generates income above a specified threshold
2. Before the full reporting and data matching scheme is rolled out in 2023, sample datasets are provided to the ATO to determine the accuracy of the data-matching and incidence of users failing to report taxable income, and to determine the cost of collecting, matching and actioning data
3. This information is used to target reporting requirements and their implementation to ensure that:
 - There is sufficient evidence that income is failing to be reported to warrant the stringent inventions proposed for key categories of service providers and segments of users;
 - That the cost of collecting, matching, investigating and enforcing activity for both companies offering platforms and for government regulators does not exceed the value of potential tax revenue foregone;
 - That there are sufficient protections in place to ensure the accuracy of data-matching and enforcement activity
 - Each of the proposed reporting fields by the ATO that capture personally identifiable are necessary
4. Review and amendment mechanisms are build into the legislation, such as allowing the Minister to add further exempted categories of service by regulation, and building in a review of the operation of the scheme after three years.

Thank you for the opportunity to comment on the proposed implementation of implementing a reporting regime for sharing economy platform providers. We would be pleased to meet with the Treasury and ATO to discuss these matters further and workshop the drafting of legislation and introduction of the scheme.

Yours sincerely,

Kate Pounder

CEO

Tech Council of Australia