

Director, International Tax Branch  
Corporate and International Tax Division  
Treasury  
Langton Crescent  
Parkes ACT 2600

Via email: [mnetaxintegrity@treasury.gov.au](mailto:mnetaxintegrity@treasury.gov.au)

## ARA SUBMISSION TO TREASURY REGARDING PUBLIC COUNTRY-BY-COUNTRY REPORTING

The Australian Retailers Association (ARA) welcomes the opportunity to comment on the Treasury's proposed public country-by-country (CBC) reporting transparency measure.

The ARA is the oldest, largest and most diverse national retail body, representing a \$400 billion sector that employs 1.3 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate in all states and territories, across all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA recommends that the following principles underpin Australia's approach to taxation of multinational entities (MNEs) noting that the issue of cross-board tax arrangements is international in nature and will require a global response.

1. MNEs should pay their fair share of tax in Australia.
2. MNEs should be taxed fairly and consistently across the globe.
3. Australia's approach to addressing cross-border tax avoidance should be in step with the Base Erosion and Profit Shifting (BEPS) framework, being developed and implemented by the Organisation for Economic Cooperation and Development (OECD).
4. Domestic mechanisms to address tax avoidance need to consider international efforts to ensure that regulations are not duplicated, and that Australia's corporate tax system does not become overly complicated or inconsistent with international initiatives.
5. Regulations should be practical and workable for tax paying entities and tax authorities and their staff.

Specific recommendations about the proposed public CBC reporting measure are below.

### **RECOMMENDATION 1:**

#### **AUSTRALIA'S REPORTING REQUIREMENTS SHOULD NOT EXCEED INTERNATIONAL REQUIREMENTS**

This proposed measure exceeds international transparency requirements in terms of the information required to include in the report and the implementation timeline of the legislation.

The ARA notes that Action 13 of the OECD BEPS framework requires MNEs to prepare a CBC report using aggregate data and share it confidentially with tax administrators. There is no requirement for public CBC reporting.

We note that the European Union (EU) has introduced a public CBC reporting directive but the rules are not set to be applied until the commencement date of the first financial year starting on or after 22 June 2024 - almost one year later than the proposed commencement date of Australia's measures.

Additionally, the EU directive only requires MNEs to report their tax affairs separately for each EU member country and jurisdictions deemed non-cooperative by the EU – in essence, tax havens. Information for other jurisdictions may be aggregated. The EU directive also requires MNEs to disclose a more limited list of information. For example, details of assets (both tangible and intangible) and effective tax rate are not required.

Given the substantial commitment Australia and other governments have made to international initiatives and the significant progress already made, the ARA maintains that Australia should move in step with global requirements and trading partners. This will also avoid disincentivising MNEs from doing business in Australia.

## **RECOMMENDATION 2**

**INFORMATION REPORTED TO THE PUBLIC SHOULD BE LIMITED TO WHAT IS USEFUL AND UNDERSTANDABLE, AND NOTE REQUIRE THE DISCLOSURE OF COMMERCIALY CONFIDENTIAL INFORMATION**

The ARA supports the principle of transparency. However, requiring entities to publish information for every jurisdiction in which they operate could overwhelm and confuse the public with information, such that it is no longer meaningful or useful. The public interest would therefore be outweighed by the compliance burden on reporting entities.

A better approach could be to limit the countries on which entities are required to report to those that are most in the public interest. This would also reduce the compliance burden on MNEs. For example, reporting could be limited to the jurisdictions that make up 80% (or a similarly high percentage) of the entity's revenue, plus a list of tax havens and/or problematic patent box regimes determined by the government.

The need to maintain strict confidentiality to prevent the disclosure of commercial confidential information was one of the principles that underpinned the OECD BEPS Action 13 recommendations. Any requirement for more public tax transparency needs appropriate safeguards so that commercially sensitive information does not need to be disclosed. Otherwise, such disclosures will place in scope MNEs at a commercial disadvantage compared to their competitors who are not subject to these proposed measures. Further, the requirement to provide such disclosures will act as a disincentive to new MNEs looking to set up operations in Australia.

Similarly, the list of information required to be disclosed to the public could be shortened to include only information that is most useful to the public. While useful for regulators, it is unclear how a list of intangible assets would be of value to the average citizen wanting to learn about how an MNE structures its tax. The ARA notes that MNEs are already required to disclose most of this information to the Australian Tax Office confidentially under Australia's commitment to the OECD BEPS Action 13. Here too, any small public interest in accessing that information will be outweighed by the cost of collecting, verifying and providing it, as well as the harm to legitimate commercial interests and to competition from the publication of confidential, strategic information.

Further, in relation to the requirement to report on tangible assets, we seek clarity on what would be included. For example, would reporting require an asset-by-asset listing or would listing by category of assets be sufficient? We note that for some enterprises, including major retailers, an asset-by-asset list could be millions of lines and we are not sure that this would be relevant or if it is, in fact, the intention of the proposal. We note that public annual reports often contain the requisite information in relation to tangible assets.

Thank you again for the opportunity to provide a submission to Treasury. We look forward to further engagement as consultations and the drafting process continues.

Any queries in relation to this submission can be directed to our policy team at [policy@retail.org.au](mailto:policy@retail.org.au).