

Economic Structure & Performance of the Australian Retail Industry

SUBMISSION FOR PUBLIC INQUIRY

On-line purchasing by Australian Consumers

Type of Transaction

With the increase in On-line purchasing by Australian consumers there has been a significant increase in products entering Australia from overseas On-line businesses (which do not have any physical presence in Australia) that deliver their products from overseas via courier or post to the Australian consumer.

When this occurs various issues may arise as mentioned below.

Issues

1 Ability to pursue Consumer rights overseas

The ability of an Australian Consumer to pursue an Overseas On-line business which does not have a physical presence in Australia should there be a breach of warranty or consumer rights or safety issue may prove extremely difficult and or so expensive to mean it is effectively impossible to do so.

Recently the Australian Government has further extended consumer protection legislation, for the benefit of Australian Consumers, much of which will take effect from 1 January, 2012, again, the ability for the Australian Consumers or in fact Government Departments to exercise these rights may on many occasions prove elusive if it involves an overseas On-line business unless that business is willing to resolve the issue without argument due to the complexity and costs of taking actions in overseas jurisdictions.

2. Non Compliance with Safety & Other Compliance Regimes

Successive Governments over many years have been put into place regulatory regimes to protect Australian Consumers Safety and or the Australian Environment. If the Governments have considered it necessary to regulate Australian businesses operating within Australia shores in relation to these matters then surely it is equally important to ensure the same standards applied to products purchased On-line from overseas.

By way of example electrical products imported by an Australian distributor or retailer will need to comply with various regulatory regimes before it can be legally sold within Australia, Minimum Energy Performance Standard (MEPS), Electrical Safety Approval, C-Tick and EMC approvals are examples of these regimes.

Some overseas On-line businesses avoid complying with these types of compliance regimes by simply by sending the item by courier or post from overseas directly to the Australian consumer. In many instances safety and other standards may be ignored thereby allowing dangerous products to be imported. This could pose very real risks, even life threatening risks to Australian consumers. Equally breaches of environmental standards places the Australian environment at a higher risk than is otherwise contemplated by Government policies.

3. Compliance Costs

Australian Business incur substantial costs complying with Safety & Other Compliance regimes, yet, many Overseas On-line businesses simply ignore compliance enabling them to undercut Australian

based distributors or retailers which do comply with such regimes. Compliance is very often at considerable cost to the Australian based business.

4. GST

Overseas On-line business may legally not need to charge GST if the transaction is less than \$1,000, but, in many cases even if more than \$1,000 there may still no be GST paid unless the consumer goes to the trouble to ensure GST is paid.

Evolving Situation

It is apparent there is shift to the way many Australian consumers are choosing to make their products purchases given the options provided by the digital age and this is expected to increase. The reality is that Australian based business are placed at a significant cost disadvantage to those overseas On-line business which either do not need to comply with the equivalent rules which are imposed on Australian based businesses, such as in the case of GST on purchases of less than \$1,000 or in fact simply choose not to comply with the regulatory regimes imposed upon Australian based businesses, such as electrical safety standards. These factors combine to put Australian based businesses at a significant cost disadvantage.

The ability of Australian consumers to enforce their rights or even Government Departments to do so varies enormously based on whether a business has Australian physical presence or not. Whilst the Government is lifting the standards for business with a physical presence in Australia for the benefit of Australian consumers the ability enforce such compliance of the same upon overseas On-line businesses does not appear to be lifting.

GST on low value transactions is not required essentially because the cost of collecting and enforcing collection on low value purchases from overseas On-line businesses is considered to be difficult and expensive to administer compared to the revenue it would raise. It seems a similar position has been adopted in relation to compliance with other regulatory regimes, that is, it is too hard to enforce so in reality compliance is effectively voluntary for overseas based On-line businesses.

A level playing field

Government policies and the consistent application of those policies should ensure Australian based businesses are not disadvantaged in comparison to overseas On-line businesses. Additionally, Australian consumers or the Australian environment should not be put a higher risk when dealing with non Australian based businesses.

Ideally, whether or not a business has a physical presence in Australia the requirement to comply with the Government established compliance regimes should be equally important.

Administrative difficulty is most likely unavoidable if compliance with safety and regulatory regimes is to be achieved in respect of all overseas On-line purchases, but, can administrative difficulty can an excuse to ignore issues such as electrical safety?

Perhaps overseas based On-line business should need to register if they wish to supply products into Australia. Additionally contributions to an insurance scheme to cover public liability and consumer warranties should be considered so that Australian Consumers can recover valid claims. Such monies and or GST could be withheld from payments remitted overseas. Currently, interest payments are subject to deductions if a tax file numbers are not quoted and surely this has an element of administrative difficulty.