1 June 2015

Tax White Paper Task Force
The Treasury
Langton Crescent
PARKES ACT 2600

By email: bettertax@treasury.gov.au

Dear Sir/Madam

The Australian Subscription Television Association (ASTRA) welcomes the opportunity to comment on the Tax Discussion Paper.

ASTRA is the peak industry body for subscription media in Australia. ASTRA's membership includes the major subscription TV (STV) operators, as well as over 20 independently owned and operated entities that provide programming to these platforms, including Australian-based representatives of international media companies, small domestic channel groups and community-based organisations.

Now in its 20th year, STV is one of Australia's most popular industries, enriching the lives of millions, creating 6600 jobs, investing more than $600 million annually in production and adding $40 million to the economy every week. In 2015, one third of Australians subscribe, along with millions more who watch subscription content in public venues. Every week more than 1000 hours of first-run locally produced content is broadcast, as well as the best international content.

This submission primarily addresses the application of the GST to imported services and intangibles purchased online and consumed in Australia. ASTRA also makes comment on the taxation incentives which are available for Australian television production.

ASTRA supports the separate submission made by ASTRA member Foxtel.

Competition in the audio-visual content services sector

There have never been more audio-visual entertainment options for Australian consumers than there are today. In addition to the subscription services offered by ASTRA's members, consumers also have access to services including commercial and national free-to-air (FTA) television and their online catch-up services, digital download-to-own and download-to-rent services and now, an expanding range of subscription video on demand (SVOD) services.

ASTRA's members welcome competition in the provision of audio-visual content services to Australians and believe that competition on equal terms delivers the best outcomes for consumers in terms of innovation and range of competing service options.

However, we emphasise the need for a level playing field for competition to truly deliver for consumers and in this regard welcome the Discussion Paper's acknowledgement that the current exemption from GST for intangible imports will "affect the competitiveness of domestic businesses over time."

GST and Australian audiovisual content services

The current rules for collection of GST on imported intangibles put local operators of audiovisual content services at a significant competitive disadvantage and it is ASTRA's view that there is no public policy rationale for the difference in treatment between local and foreign operators. Rather there are strong public policy arguments in favour of addressing this anomaly and levelling the playing field for all operators whose services are consumed in Australia.

To take the example of SVOD, the services available to Australian consumers include Presto Movies, Presto TV (a joint venture between Foxtel and Seven West Media), Stan (a joint venture between Nine Entertainment Co. and Fairfax Media), Quickflix (listed on the ASX) and Netflix (a US-based company with over 23 million subscribers worldwide).[1] The current monthly fees for all of these services except one are GST-inclusive. A Presto subscription starts at $9.99 a month, Stan is priced at $10 a month and Quickflix's streaming product is $9.99 per month.

The differential in price between the Presto, Stan and Quicklix monthly fee and the Netflix monthly fee of $8.99 is equivalent to the GST component of Presto, Stan and Quickflix's monthly fee.

Price is a significant consideration for consumers when making media subscription purchasing decisions. IIt is clear that the ability for foreign suppliers to avoid charging GST on locally-consumed goods immediately puts them at a strong competitive advantage.

Not only is this inequitable, it is in the long run a bad outcome for consumers if the number of service providers or the quality of their offerings decreases due to an inability to compete strongly on price and maintain a viable business model (margins on SVOD services in particular are quite low and are very sensitive to price variation).

Companies based in Australia are also employers of Australians, and it is a poor outcome if taxation laws put them at a competitive disadvantage as against foreign entities who are making no contribution to Australian employment.

ASTRA also notes that the current rules for GST and imported intangibles were introduced some time ago into a very different economy, well before the current ubiquity of e-commerce. For the consumer, the location of the company through which they obtain products online is often now irrelevant in terms of quality of product and ease of transaction. In this environment, internationally sourced products and services should not be given an advantage over locally supplied goods and services.

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[1] http://seekingalpha.com/article/265310-netflix-q1-earnings-up-88-percent-adds-3-m-subscribers

Further to the competitive disadvantage that arises in terms of pricing, it should also be noted that local operators are also required to meet the costs of collecting GST, which are not insignificant.

ASTRA also supports the observations made in the Discussion Paper that the current arrangements, if allowed to continue, would result in increased GST revenue foregone.

For these reasons, ASTRA fully supports legislative change to require foreign resident suppliers to charge GST where their services are consumed in Australia.

ASTRA welcomes the release by the Government of draft legislation to effect this change. ASTRA is considering the legislation and the opportunity to comment.

Tax incentives for local television production

Although not raised in the Taxation Discussion Paper, ASTRA wishes to comment on the current tax incentives for local television production.

The Producer Offset is administered by Screen Australia and paid through the Australian company tax system after a project is completed. It provides rebate of 20% of 'qualifying Australian production expenditure' for television programs and 40% for feature films.

At the time the Producer Offset was legislated, and through subsequent Government reviews of film funding, ASTRA has advocated for parity in the incentives available to film and television production activity.

The funding disparity in favour of film over television under the Producer Offset scheme is becoming ever more difficult to justify given the increasing prominence of television (and other platforms) as vehicles for distribution of quality audio-visual content. Increasing the offset rate to 40%, to align with film, would encourage greater investment and production on the platforms where content is more likely to be seen by Australian audiences.

In ASTRA's view, a guiding principle should be that of a consistent offset to Australian content regardless of the format or distribution mechanism for delivering that content. The cultural objectives of having Australian stories produced and viewed are equally realised via television as they are through feature film. In addition, the local television production industry is just as valuable a creator of jobs and expertise as the local film production sector and is as deserving of stimulus.

Please consult Holly Brimble, Policy and Regulatory Manager on 02 9776 2688 if you have any queries relating to the above.

Yours sincerely

Andrew Maiden
CEO