

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

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EBAY RAISES 'GEOBLOCKING' OF AUSTRALIAN CUSTOMERS IF GST LEGISLATION PROCEEDS

As previously reported, the *Treasury Laws Amendment (GST Low Value Goods) Bill 2017* is currently before the Senate Economics Legislation Committee for review (*Shop Talk 14/7/17*). The Bill seeks to apply the GST to 'low value' imported goods (currently, goods less than \$1,000 fall below the 'Low Value Threshold' and do not attract GST). The initial public hearing for the Inquiry was held today in Melbourne and included witnesses such as online platforms like eBay, Alibaba and Amazon, who are deemed (for the purpose of the legislation) as being liable to collect and remit the GST for relevant transactions to the Australian Tax Office (ATO). Recent media reporting on submissions to the Inquiry focussed on eBay's commentary that it may block Australian consumers from overseas goods if the legislation proceeds. This includes a line from their submission that states: "Regrettably, the Government's legislation may force eBay to prevent Australians from buying from foreign sellers". While there is a need to ensure that the GST liability under the legislation is clear and implemented effectively, and eBay has noted that "if the Bill is not withdrawn, then significant amendments will be required to even contemplate third party online marketplaces somehow collecting GST given their current business models do not support it", there is also a need for this key tax integrity measure to proceed as has been scheduled for some time, and agreed between the Commonwealth, and States and Territories. The Committee is due to report on its review of the legislation on 9 May.

NSW CONTAINER DEPOSIT SCHEME: EXEMPT DEVELOPMENT CONSULTATION CLOSING

[Consultation](#) closes next week on an amendment to the *NSW State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to allow minor recycling equipment to be classified exempt development (i.e. without need of planning or building approval) for the operation of the NSW Container Deposit Scheme (*Shop Talk 17/3/17*). Shopping centres are often noted as preferred locations for container collection points.

FINAL REPORT ON THE REVIEW OF THE AUSTRALIAN CONSUMER LAW RELEASED

Consumer Affairs Australia and New Zealand (CAANZ) have released their [Final Report](#) on the review of the Australian Consumer Law (ACL). The review started with the release of an Issues Paper in March 2016 (*Shop Talk 17/6/16*), followed by the release of an Interim Report in October 2016 (*Shop Talk 16/12/16*). Although the review did not cover last year's amendment to the ACL to extend the unfair contract terms law to 'small business contracts' (which is scheduled to be reviewed two years after its November 2016 commencement), we were advised that the broader parameters of the unfair contract terms protections within the ACL were 'within scope' of the review, including matters relevant to law's exemption framework. The Shopping Centre Council made a range of recommendations across a number of submissions to the review, including proposed amendments to clarify the definition of a 'standard form contract' and 'unfair' to reduce uncertainty for business. We also recommended a widening of the current exemption from the unfair contract terms protections for terms required or permitted by federal, state or territory legislation. Unfortunately, these recommendations have not been adopted by CAANZ in its Final Report. In addition, the Final Report proposes extending the ACL unconscionable conduct protections to publicly-listed companies (which we have previously noted as being an odd objective) (*Shop Talk 1/4/16*), and exploring how an "unfair trading prohibition" could be adopted in the ACL. The Final Report also proposes a significant increase in the maximum financial penalties available under the ACL by "aligning them with the penalty regime under the competition provisions of the *Competition and Consumer Act 2010*". Australia's consumer affairs ministers will consider the proposals in the Final Report before they meet later this year. In an accompanying [media statement](#), the Federal Minister for Small Business (who is also responsible for consumer affairs), Michael McCormack, noted that he looks "forward to discussions on topics raised by the report, including penalties for breaches of consumer law".

[PREVIOUS ISSUES](#)