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PARKES ACT 2600

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Dear Ms Kleuver

Australian Payments Network (AusPayNet) welcomes the opportunity to respond to the Treasury consultation paper, *Tackling the Black Economy: A Sharing Economy Reporting Regime*.

AusPayNet is an industry association and self-regulatory body for the Australian payments industry. AusPayNet manages and develops regulations, procedures, policies and standards governing payments clearing and settlement within Australia. We have previously made submissions to the Black Economy Taskforce (BET), including the initial consultation process in August 2017, and the June 2018 inquiry, *Introducing an Economy-Wide Cash Payment Limit*.

Rather than comment specifically on which sellers, marketplaces or circumstances it would be appropriate for sharing economy platforms to report, our submission focuses on the considerations in the design of any future sharing economy reporting regime.

### Existing Arrangements

AusPayNet supports the overarching purpose and objective of tackling the black economy, “to make our society both fairer and more equitable by creating a level playing field”.<sup>1</sup> We agree that all businesses should pay their fair share of tax, including those in the sharing economy, therefore we welcome Treasury’s examination of how this could be made easier for participants.

It is crucial that the design of any future reporting regime strikes the correct balance, given that the sharing economy has been a key driver of innovation, growth and increased consumer choice for Australia and Australians.

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<sup>1</sup> Black Economy Taskforce, *Final Report*, p1

## The International Experience

Having consulted with overseas payment associations and members with operations across several jurisdictions, including New Zealand, the United Kingdom and the United States, AusPayNet is not aware of any existing regulations at a national level for such a reporting regime, over and above those referenced in the paper.

As the consultation paper and the Organisation for Economic Co-operation and Development (OECD) have noted, digitisation and changes in work practices have implications for tax policy and tax administration for governments across the globe.<sup>2</sup> A number of the sharing economy platforms are global entities operating in numerous jurisdictions.

Given these points, and the fact the OECD work for the G20 continues, a key lesson would be that a globally consistent approach to reporting is preferable to a regionalised, market approach. Any future reporting regime for Australia should continue to support, rather than stifle, innovation and consumer choice and should not create unnecessary barriers to entry.

## What should a reporting regime for sharing economy platforms look like?

The paper outlines the five important factors to consider for any new reporting regime for the sharing economy, in that it:

- *Promotes a positive user experience*
- *Influences behavioural change in reporting taxable income*
- *Adopts a light touch regulatory approach*
- *Ensures a level playing field*
- *Ensures sufficient and reliable information is periodically received by the Government in a standardised format<sup>3</sup>*

The paper goes on to outline specific tests for the financial sector: *For a reporting obligation on financial institutions to be a workable option, it would be necessary for data regarding the source, timing and amount of payments to be collected efficiently.*<sup>4</sup>

AusPayNet agrees that these are sensible and relevant considerations in the design of a sharing economy reporting regime. To be efficient the information provided to the Australian Taxation Office (ATO) should be comprehensive and avoid unnecessary duplication by multiple entities.

## Consideration of Reporting Options

The paper outlines two possible approaches:

- *Option 1: Reporting by Sharing Economy Platforms* – where operators of sharing platforms are required to collect and report to the ATO.

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<sup>2</sup> OECD Policy Note, *Tax and Digitalisation*, October 2018

<sup>3</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p6

<sup>4</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p10

- *Option 2: Reporting by Financial Institution (FI)* – where FIs such as banks and payment processors are required to provide transaction data to the ATO for data matching and pre-filling purposes.

We have considered the merits of each option, against the factors identified by Treasury to be important in any new reporting regime. In summary AusPayNet’s view is that Option 1, rather than Option 2, is better suited and more effective in delivering the objectives sought by Treasury, for the reasons we outline below.

- **Promotes a positive user experience**

In order to promote a positive user experience and meet a range of tax obligations, such as income tax and goods and services tax (GST) a reporting regime needs to deliver sufficient and reliable information. It should also reduce the need for verification and make it easier for participants to pay tax.

Sharing economy platforms generally go through a process of verifying their participants. For example, Uber requires, among other things: a valid driver licence, passport or birth certificate, a Visa Entitlement Verification Online (VEVO) check (if needed) and a background check (including criminal records).<sup>5</sup> Airtasker requires Know Your Customer (KYC) processes be followed prior to users receiving payments.<sup>6</sup> In addition, the platforms are able to confirm who is using their services, who is active and when and where the last transaction took place. This enables the platform to provide statements of earnings, giving a clear breakdown of income and GST.

This would make sharing economy platforms, Option 1, best placed to meet this consideration. By contrast, Option 2, as we elaborate below, is likely to provide incomplete information and create unnecessary duplication.

- **Influences behavioural change in reporting taxation**

One of the stated objectives is to act as a catalyst for greater tax compliance and increase awareness of taxation obligations through sharing economy platform participants. Behavioural economics research provides insight into why people choose to declare income tax, suggesting that some individuals may be motivated by the prospect of the penalties associated with non-compliance.<sup>7</sup> Others may perceive the penalties as an acceptable loss, that is outweighed by the potential gains from not declaring income.

As the paper notes, the platforms themselves already undertake “various initiatives ... such as organising information sessions and providing discount tax services to sharing economy sellers.”<sup>8</sup> This makes them ideally placed to drive awareness of their participants tax obligations depending on their business model. Australian start-up Car Next Door highlighted this when stating that “the ATO recently clarified exactly which expenses car-sharers can be claiming on their vehicle.”<sup>9</sup> Having this

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<sup>5</sup> Uber, *Driver-Partner Requirements*, ([link](#))

<sup>6</sup> Airtasker, *Why do I need to provide ID to receive payment?* ([link](#))

<sup>7</sup> *Tax and Benefit policy: insights from behavioural economics*, Institute for Fiscal Studies, July 2012

<sup>8</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p10

<sup>9</sup> Australian Financial Review, *Start-ups give backing to Treasury Sharing Economy Tax Crackdown*, p9

information available ensures individuals are aware of their tax obligations, when to agreeing to use and transact on the platform.

Furthermore, given that many sharing platforms are headquartered overseas, they may not have an existing working relationship with the ATO. Option 1 would provide the ATO with an opportunity to open a dialogue with the sharing platforms, better understand how they operate and gain more insight into how to effectively reach their participants. Conversely, as any reporting regime through FIs would be decoupled from the actual activity on the platform, this would create the impression that compliance is not their problem. This, in our view, makes Option 1 more effective in influencing behavioural change.

AusPayNet is supportive of the Government and specifically the ATO in continuing to raise potential tax obligations with sharing economy participants relating to their associated activities, via campaign activity.

- **Adopts a light-touch regulatory approach**

Placing the onus for income reporting onto FIs would have far-reaching implications for Australian taxation policy and the financial system. FIs are currently not responsible for income reporting for Australians. For example, pay as you go (PAYG) taxation is undertaken through employers, and dividends earned from shares or gains from property or other investments are not reportable by FIs.

While the consultation paper notes that banks already report on some types of income earned, such as account interest, the scope of this reporting is defined and uniform. This is income that the account holder earns directly from the FI on their balance at the FI. As a consequence, FIs are able to provide a breakdown of these annual interest payments, including any tax already deducted, as they have a complete picture of all interest earned on that particular account. By contrast, earnings through the sharing economy would lack this consistency. Payments could be irregular, come from different jurisdictions, from different entities, and use legal structures designed to make the payer's identity difficult to determine. It is unclear how FIs would be able to separate and identify relevant data. The use of additional consumer datasets (that may involve personally identifiable information) for matching purposes could potentially raise privacy concerns.

There are different interpretations in precisely how to define the boundaries of the sharing economy, which are often unclear. As the sharing economy continues to grow and new business models emerge and exit the market, it is likely that these boundaries will blur further. Therefore, FIs will have no reliable way of tracking which platforms they need to be reporting on.

Option 2 therefore would be a heavy-touch solution. It would dramatically expand the scope of reporting requirements for all account holders, include information that is irregular and not well-defined and leave FIs with no reliable way of determining which entities they should or should not be reporting on. Given this, Option 1 is preferable. In the same way that FIs report on the payments they make (interest), sharing platforms should report on the payments made directly by them, as they are likely to hold the necessary information.

- **Ensures a level playing field**

The consultation paper outlines that a key advantage of the current sharing economy model is the existence of centralised platform operators, which ‘means that it is far more feasible to collect information similar to what is gathered through other existing reporting regimes’.<sup>10</sup> Given that the core business of these providers is to track work undertaken and payments made, they are more likely to hold the required information. As the consultation paper identifies, Option 1 has already shown that Government can increase compliance and work effectively with these platforms.<sup>11</sup>

To ensure a level playing field, it is fairer for compliance costs to be borne principally by the sharing economy industry and its users. The cost of implementing Option 2 would be borne by FIs and therefore effectively the broader Australian public – whether or not they work in the sharing economy.

- **Ensures sufficient and reliable information is periodically received by the Government in a standardised format**

Payments made into a bank account do not provide the detailed breakdown required for the pre-filling of tax returns. This means that information held by an FI would not meet the stated objectives of being a ‘sufficient and reliable’ source of information about earnings (the general objective). Nor would it efficiently identify the ‘source, timing and amount’ of earnings (the FI-specific objective).

Financial institutions do not hold the same level of information as sharing platforms do of their own participants and are unlikely to be able to provide an accurate account of that individuals earnings for any given platform. More fundamentally, there is no guarantee that the account information held by an FI represents a complete picture of the gig economy earnings of the account-holder. AusPayNet notes and agrees with the Board of Taxation’s advice that it will usually be mingled with other payments data.<sup>12</sup> Given the close working relationship between the ATO and FIs in the supply of account data, the ATO is in a strong position to understand the limitations of using payments data to underpin this scheme.

Both the BET *Final Report* and the current consultation paper note that a typical gig economy worker will use multiple platforms.<sup>13</sup> Different platforms will offer different options for disbursement. A worker may distribute their earnings to accounts in different banks, directly to a stored-value facility (SVF) or to a card-based account. In these cases, the information held by an FI would potentially be an incomplete portion of total earnings, from any given platform. Naturally, an FI is not able to report on information that does not pass through its systems.

Compounding this, different platforms may have different standards for when payments are released. For example, while AirBnB typically releases payouts within 24 hours after the scheduled check-in time for the guest, payouts for longer stays are released monthly.<sup>14</sup> This may have reporting implications – eg. earnings may occur in one financial year, but not be received in the participant’s bank account until the next financial year. The bank would not be in a position to accurately report

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<sup>10</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p5

<sup>11</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p8-9, 10-11

<sup>12</sup> Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p10

<sup>13</sup> Black Economy Taskforce, *Final Report*, p138; Black Economy Taskforce, *A Sharing Economy Reporting Regime*, p3

<sup>14</sup> AirBNB, *When will I get my payout?* ([link](#))

on when the earnings occurred. In addition, it is not clear how FIs would identify and segregate the types of information required by the ATO. By contrast, platforms should have this information readily available.

As we have previously stated, any FI reporting would require cross-checking and supplementation of banking transactional data (which would originate from the platform) against data held and supplied to the ATO by the platforms themselves, creating unnecessary duplication.

Therefore, Option 1 appears to most effectively meet the stated objectives.

## Conclusion

AusPayNet's view is that Option 1, rather than Option 2, is more suited to meet the factors that Treasury has outlined as being important for a sharing economy reporting regime. FIs do not hold a complete picture on participants in the sharing economy. Option 2 would need to be extensively supplemented by other sources, creating unnecessary duplication and costs for users outside of the sharing economy, whilst potentially still being incomplete and inaccurate for tax reporting purposes.

AusPayNet would be happy to engage further on any of the issues raised in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy White', with a horizontal line underneath.

Andy White

**Chief Executive Officer**