



**Australian  
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# Senate Economics Legislation Committee

## Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measure) Bill 2024

**ACCI Response to Questions on Notice**

**29 July 2024**

**1. *Can you comment on the aspects of the reporting regime which will discourage investment in Australia?***

The lack of safeguards for commercially sensitive data represents a real risk to MNEs considering investing in Australia.

While an MNE can apply to the Tax Commissioner for an exemption from publication of confidential and commercially sensitive information, there is no guarantee that they will receive it.

There are no clear guidelines on what qualifies for an exemption nor is there specific criteria that the Tax Commissioner must apply in determining whether an exemption is granted.

In comparison, the European Union Country-by-Country Reporting (CbCR) Directive includes a 'safeguard clause' which provides the option for deferral of up to 5 years where disclosure would be deemed to be commercially sensitive. The inclusion of a similar 5-year deferral from disclosure should be included in the Australian CbCR requirements to address concerns about revealing commercially and competitively sensitive information.

Without surety over how confidential and commercially sensitive data will be treated and their ability to protect it, MNEs will not see Australia as an attractive destination for investment.

Further, the inclusion of criminal liability for non-compliance is a new concept in public reporting. The risk of facing criminal liability for mis-reporting or errors in reporting is likely to make the boards of MNEs think twice about investing in Australia. This may deter some MNEs from investing and setting up operations in Australia, or where they already have operation in Australia, it may push them to close and simply sell through distributors.

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**2. *How has the Government's approach to tax transparency reforms created uncertainty and confusion for businesses?***

The clumsy approach to the introduction of the Multinational Tax Transparency – CbCR created considerable uncertainty and confusion for businesses.

Business was greatly alarmed by elements of the initial exposure drafts that went beyond the original intent of the OECD Standard and that of other major jurisdictions such as the EU CbCR Disclosure.

While ACCI appreciated that the initial exposure drafts were withdrawn and the Bill was redrafted after consultation with industry, there are still elements of revised MNE CbCR that have not been dealt with. These including the lack of safeguards for confidential and commercially sensitive information, the extensive list of 41 non-cooperative countries (well beyond the OECD Standard and 22 countries in the EU CbCR Directive) and the inclusion of criminal penalties.

As noted in response to Question 1 above, these factors represent a real risk to MNEs operating in Australia. Until these issues are resolved, there remains considerable vulnerabilities and uncertainty for MNEs looking to invest in Australia.