

**25 June 2024**

Dr. Sean Turner  
Committee Secretary  
Senate Economics Legislation Committee

Dear Dr. Turner:

S.C. Johnson & Son, Inc. ("SC Johnson") is writing in response to the **Inquiry into Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024**, specifically **Schedule 4 "Multinational tax transparency - country by country reporting"** first read in Parliament on June 5, 2024, and referred to inquiry upon release for consultation and comment, (hereafter, the "Legislation").

SC Johnson supports the government's commitment to transparency (see our previously submitted comment letters from April 2023 and February 2024, respectively), but has two specific comments on the Legislation:

1. **5-year deferral for commercially sensitive data** - The Legislation should be amended to provide an option, consistent with the EU Public CBC Directive ("EU Directive"), to defer public reporting for five years to protect confidential and commercially sensitive data.
2. **Current deferral language lacks certainty needed for investment** - Only allowing for 1-year reporting exemptions at the discretion of the ATO in "limited circumstances" with no guidelines for exercising such discretion fails to provide certainty for businesses looking to make long-term investments in Australia and puts unreasonable demands on the ATO to make policy decisions well beyond its mandate. Providing a 5-year deferral option fixes these problematic policy flaws.

**We also respectfully request a public hearing as we do not believe the Legislation, nor the accompanying Explanatory Memorandum ("EM") adequately addresses the concerns submitted in numerous comment letters. The government seems to believe that the ATO's discretionary authority can be exercised in a way that will avoid negative impacts to the economy but their statements in the EM dramatically restrict this authority rendering it almost meaningless.**

### **Importance of 5-Year Deferral**

As a fifth generation, privately held, family company invested in Australia since 1917, we have benefited from Australia's stable investment environment and proactive economic policies. Recognizing the importance of our partnership with Australia and its people, we have operated our company with the highest commitment to corporate values and, most importantly, to our local employees.

For private companies, the confidentiality of financial information is a key competitive advantage and vital to making generational investments in a country. Having these decisions and related financial data published on a government website promotes anti-competitive behavior, enables larger publicly traded companies and companies without investments in Australia to counter these investments for their short-term advantage. We are concerned that the Legislation will force SC Johnson to disclose sensitive information such as sales, profitability, level of investment and other information that is available to the tax authorities today, but not to interested competitors. A sensible election to delay the reporting of this

information by 5 years balances the need for transparency while protecting commercially sensitive data as done in the EU Directive.

### **Why Current Deferral Language is Inadequate**

The Legislation currently states “the Commissioner may, by notice in writing, specify an entity that is exempt from publishing information ... and the reporting period for which the exemption applies.” The EM points out that any exemption granted will be “for a single reporting period” and is intended only for “exceptional circumstances”.

Businesses typically do not make investment decisions for a single year, but rather for multiple years if it involves a substantial capital investment such as building a plant, acquiring machinery and equipment, or expanding its workforce in a country. Likewise, the multinational companies subject to this Legislation typically consider the pros and cons of several countries before choosing an investment location. Under the Legislation, the financial impact of these sensitive investment decisions will become publicly available and seen by global competitors. Companies will choose other countries for investment and may also change their existing footprint in Australia to avoid the new rules altogether, hurting the local economy and its workers. The fact that the ATO may, at its discretion, provide a 1-year exemption using undetermined guidelines creates an unacceptable level of uncertainty for businesses who are worried about protecting this sensitive information. In addition, there are serious policy concerns with delegating important decisions on business competitiveness and national security to the ATO and requiring it to annually evaluate hundreds of applications with dramatically different fact patterns.

Amending the Legislation to allow companies to elect a 5-year deferral to disclose information it deems competitively sensitive supports the government’s transparency goals while providing the needed clarity and predictability for current and future investors. It also provides the government and ATO a natural transition period to develop guidelines for administering this important exemption which represents the only safeguard in the Legislation against harmful economic impacts.

The EU stated it did not want to disadvantage European companies vis-à-vis their non-EU rivals by adopting public reporting. The 5-year deferral option was a cornerstone of how the EU met that objective. There is little reason for Australia not to include a similar safeguard here. Deferring discretion to the ATO does not provide the needed certainty, especially when one of the government’s main goals of discouraging profit shifting was largely solved by the OECD’s 15% minimum tax recently adopted in over one hundred countries, including Australia.

Sincerely,

[REDACTED]  
[REDACTED]  
S.C. Johnson & Son, Inc.