



Australian Government
**Australian Customs and
Border Protection Service**

Customs House
5 Constitution Ave
Canberra – ACT – 2601

The Hon Nick Champion MP
Committee Chair
House of Representatives Standing Committee on Infrastructure and Communications
PO Box 6021
PARLIAMENT HOUSE CANBERRA 2600

Dear Mr Champion

Thank you for your letter of 28 June 2012 seeking advice from the Australian Customs and Border Protection Service on matters relating to the Inquiry into IT Pricing being conducted by the House of Representatives Standing Committee on Infrastructure and Communications.

The information requested is set out below, together with the contact details of the subject matter expert/s in Customs and Border Protection. We have also provided some information on Customs and Border Protection's role at the border with respect to Intellectual Property.

Taxes and Tariffs

Customs and Border Protection's revenue role at the border is restricted to tangible goods. We have no role in the imposition of taxes and tariffs on services (or on intangibles such as the download of purchased software). Similarly we have no role in collecting data on services or software downloads.

Customs duty

Australia is a signatory to the World Trade Organization (WTO) Information Technology Agreement (ITA), an undertaking to liberalise trade in IT products. The ITA entered into force on 1 July 1997 and currently has 75 participant countries that are responsible for 97% of the global trade in IT products.

On joining the ITA, countries commit to eliminate tariffs on all products covered by the Agreement which include computers and peripheral equipment, electrical components such as semi-conductors, computer software and telecommunications products. These products have been duty free in the Australian Customs Tariff since 1998. Talks are currently underway in the WTO to extend the scope of goods covered by the ITA.

There is no customs duty on goods such as game consoles, ipads and e-readers. Similarly there is no duty on CDs, DVDs and the like.

Taxes

Customs and Border Protection is responsible for collecting GST on imported goods at the border. GST is imposed at a uniform rate of 10% of the value of the taxable importation.

For IT products, the value of a taxable importation is the sum of:

- the customs value of the imported goods,
- the amount paid or payable:
- for the international transport of the goods to their place of consignment in Australia;
- to insure the goods for that transport;
 - to the extent that these amounts are not already included in the customs value;
 - and
 - any customs duty payable in respect of the importation of the goods.

Other Import-related Costs

There are no additional costs specifically associated with the importation of IT goods. The costs set out below apply to importations of all goods.

Consignments with a value more than \$1,000

Most consignments of imported goods that have a value that exceeds \$1,000 (which is both the import entry threshold and low value goods threshold) must be declared on an import declaration and those consignments will be assessed for duty and GST unless a concession or exemption applies. For IT products, as noted above, there is no duty component.

Import Processing Charge

Import declarations are subject to cost recovery. The Import Processing Charge (IPC) is imposed by Customs and Border Protection. The IPC varies depending upon the mode of arrival (air, sea or post) and if the declaration is lodged electronically or not. The charge is approximately \$50.00 per declaration.

Low value consignments

Consignments of goods with a value of \$1,000 or less (excluding goods that are tobacco or alcohol products) have a free rate of duty, are non-taxable importations and no cost recovery charge applies. Most low value consignments are not subject to any payment to Customs and Border Protection.

Industry charges

Importers may be subject to range of charges from industry service providers such as logistical service providers, stevedores and wharf operators, depots and warehouses and licensed customs brokers. Those parties are involved in bringing the goods to Australia, dealing with Customs and Border Protection's formalities and delivering the goods within Australia.

Data collection

Customs and Border Protection provides detailed data to the ABS on imported goods where the value of the imported good exceeds the entry threshold of \$1000. This data includes information on such things as the tariff classification, value and origin of the goods but does not include any information on the method of the purchase, for example, whether the goods were purchased on line. The ABS will have information provided by Customs and Border Protection

that will enable them to provide information on the value of IT purchases above the entry threshold.

Customs and Border Protection does not routinely collect information on the nature of goods below the threshold and does not supply any data to the ABS on these imports.

Intellectual Property Protection and Parallel Importation

Most brands of IT software and hardware are protected in Australia under intellectual property laws, Customs and Border Protection will detain any commercial scale counterfeit imports that infringe these rights, allowing rights holders to take legal action against the importer.

However the parallel importation of genuine trade marked goods is permitted as a way of encouraging the free movement of goods, enhancing competition and providing lower prices for consumers.

Parallel importation occurs when a trade mark is applied to goods overseas either by, or with the consent of, the owner of the trade mark in that overseas country. The application of the trade mark is legitimate and importers may source genuine products from the cheapest legitimate overseas supplier.

Under the *Trade Marks Act 1995*, (the Trade Marks Act) parallel importation is allowed if the trade mark has been legitimately applied overseas with the permission of the trade mark owner unless the trade mark licensee in Australia has exclusive marketing and distribution rights under the licence.

I trust that the information above will be of assistance to the committee. Please do not hesitate to contact the relevant contact officers if further information is required.

Yours faithfully,

Raelene Vivian
National Director Cargo and Trade