



Internet Society of Australia

A Chapter of the Internet Society

The letter below was a response to a request for input to the [Terms of Reference for the Australian Taxation Office Electronic Commerce Project](#).

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Mr Frank Merrick
ATO Electronic Commerce Project,
Australian Taxation Office,
28 Railway St,
Chatswood NSW 2067

26 January 1997

Dear Mr Merrick

The Internet Society of Australia is pleased to be able to respond to your request for input to the ATO Electronic Commerce Project. We have also emailed the text of this response to your preferred email address.

Taking each of the Term of Reference in turn:

1: The items mentioned in this Term are all ones that must be addressed by an ongoing process of consultation and to some extent evolution. We make the point however, that many traditional concepts and principles of taxation (particularly those of "residency" and "permanent establishment" do not translate into the online world. Attempts to force such concepts onto online commerce will result in law and practice which is at best meaningless and at worst counterproductive.

Issues of evasion, non-disclosure and so forth are no different for the online world than for anywhere else, though the issues of detection and enforcement do change dramatically. With respect to detection and enforcement, we urge that in seeking solutions you do not weaken important protections (such as privacy rights) that the citizen now enjoys.

Most if not all of the "problems" that the Internet is perceived as posing for bodies such as law enforcement and taxation authorities are not in fact unique to the Internet. Steganography, cryptography, high speed transfers of data and so forth can all occur on private networks or even on simple point to point links. One should be careful not to hold the roads responsible for the carriage of illegal goods, so to speak.

In addition, most if not all these tools can be equally well used for good as for bad. That is to say, it is not the technology which is to be feared, but the application thereof. Many technologies seen as "problems" may turn out to be fundamental parts of the solutions! It is therefore important not to implement legislation that would prevent the legitimate and effective use of such technologies either by Government or by private citizens.

2: Any audit methodologies suggested or imposed must be consistent with a principle of minimum intrusion.

There is a tendency in online contexts to seek ever-expanding amounts of information; information which in many cases is gathered "just in case" or "because we can" and which can be used for purposes it was not intended to support.

Thus we urge that any audit requirements imposed be developed in tandem with suitable protections against the misuse of information collected as part of those requirements.

It is also important that requirements imposed on Australian citizens or corporate bodies not infringe the perceived or actual privacy of foreign persons or corporate bodies or the laws under which those foreign persons of bodies operate. Such infringements could severely damage the capacity of Australian taxpayers to engage in commerce with foreign partners and would in all likelihood encourage breaches of local law.

3: We are deeply concerned at the implications in this Term.

We reject absolutely the notion that organisations such as Internet Service Providers should become watchdogs for the ATO, or that they might become responsible for the actions of their customers.

As more and more of people's activities move into the online world, issues such as privacy and security will become ever more significant. Many would argue that their significance even now is severely underestimated by most regulatory bodies.

Attempts to enforce (for example) routine reporting of customer activity by Internet Service Providers or online bankers will drastically erode the confidence that citizens have in those online services. At very least, this would be a major brake on the uptake of such services, to the detriment of the Australian economy.

4:, 5: The extent to which tax compliance will be effected by systems such as the Internet will be dependent on two main factors - the extent to which

compliance is practicable in that context and the likelihood of evasion being detected or enforced. These two factors are of course closely related.

From a compliance point of view therefore it is essential that regulations and procedures be comprehensible, reasonably easy to follow and above all consistent with the context in which they are intended to act. The issues of detection and enforcement are discussed above.

6: It is beyond our scope to adequately address this Term, However, we do caution against attempting to regulate something that is not within the experience or expertise of the regulators.

That is, to have any reasonable hope of producing useable, practicable and effective legislation covering the online communities of the world, the legislators must be familiar with those communities. To build useable taxation regimes, the people designing them must themselves be familiar with the contexts in which those regimes will apply.

We caution most strongly against allowing law or tax policy to be developed by persons with no experience of the matters they are seeking to affect, or who do not themselves operate in the spheres they seek to regulate.

7: The Internet Society would be happy to advise any Governmental or regulatory body seeking expert advice on matters relating to the Internet. Evidentiary issues will tend to be more a technical field than a social one; our membership includes persons of unparalleled depth of experience in such matters.

8: It is of concern to us that the idea of "cost" is so narrowly defined. Tax regimes perhaps more than any others have the potential to promote or to stifle business activity. Enormous care must be taken to ensure that tax policy and implementation do not impact adversely on the ability of Australian industry to conduct its business in the many local and international areas of opportunity that the online world presents. Adverse impacts will indirectly affect all Australians.

9: To the extent that the Internet and similar networks are global rather than local, clearly corroborative efforts are likely to be more effective than isolated regional efforts. However, we urge the ATO to keep in mind the ways in which Australia differs from other countries. In particular, we have expectations regarding privacy, expectations regarding freedom of speech and of assembly, expectations of "a fair go". Physically, we are a great distance from most other centres, distances that make the carriage of data a quite different proposition than for, say, the continental USA.

These practical matters must be kept firmly in mind when considering the suggestions or requests of external agencies, however similar the problems and solutions may appear.

10: The Internet Society of Australia is most interested in remaining involved in the ongoing discussion and development of tax policy as it pertains to the online community. We would be pleased to assist in any way we can.

In summary: The emergence of the online world poses a lot of challenges to many areas of administration. The Internet in particular is one of the very few genuinely new modes of human interaction and commerce to have arisen since the Industrial Revolution. Administrative bodies such as the ATO should not attempt to force the new into the old. Rather, the ATO and similar bodies should be looking at the fundamental purposes behind taxation and seeking to achieve those purposes in the new contexts provided by online commerce and an increasingly online society.

We would be happy to provide any advice and help you might request. If you would like further information or wish to contact a spokesperson, please do not hesitate to write to us care of the above address, or call me on 06/2494627 (bh) or 06/2486607 any time. Alternatively email me at kauer@pcug.org.au.

Thank you for this opportunity to comment.

Yours sincerely,
Karl Auer
Vice President, The Internet Society of Australia.

The Internet Society of Australia

The Internet Society of Australia was formed in November 1996 and currently has over 300 members, most of whom have been deeply involved in the development of the Internet in Australia over a number of years.

The primary objective of the Society is to give expression to the needs and wishes of individuals, groups, or organisations that have a common interest in the viability of the Internet in Australia, so that all Australian users of the Internet may continue to benefit from and contribute to its applications, technologies, and evolution.

The organisation provides a broad-based representation of the Australian Internet community to business, industry, Government, the media and society in general.

See Web page: <http://www.isoc-au.org.au>