

**Bateman, Melinda**

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From: Taylor, Paul [mailto:Paul.Taylor@acc.gov.au]

Sent: Wednesday, 28 August 2013 1:29 PM

To: Hunt, Andrew

Subject: RE: e-commerce brief for comment - 10 Thurs please [SEC=UNCLASSIFIED]

Hi Andrew

I'm aware that there is very little time to respond to DFAT on this (10.00am tomorrow) but did want to let you know what we had in mind (below). Do please let me know if you have any comments on this approach.

Many thanks.

Paul

Dear Hilary

I am responding in Tim Lear's absence.

As you know the ACCC has a particular interest in Article NN.16: Competition and Consumer Choice, where the text touches on geo-blocking, although I should note that Treasury has the policy lead.

I note that the article has not changed since the last round and that caretaker restrictions apply but we would reiterate the point that geo-blocking is a concern in so far as it prevents an Australian consumer from purchasing any item (electronic or physical) or permits the purchase only at a price determined as a result of price discrimination, based on a consumer's Australian location. Consumers are not able to obtain goods or services at the lowest price at which those goods or services are sold. Consumers are also prevented from acquiring all the benefits of products offered elsewhere. Accordingly they suffer detriment.

For wider context I should add that it was noted in a paper to the OECD meeting in February 2012 that Australia considers it is appropriate for competition and consumer policy makers and enforcement agencies

to recognise harm to consumer welfare and advocate for consumers in this area. Domestically, while this conduct may not in most cases contravene the current consumer and competition law, there may be specific educational messages that competition policy makers and agencies could promote to address such conduct. For example, directing consumers to lawful measures or tools which enable them to circumvent IP or technological protection measures and help them to access the lowest prices. Internationally, Australia considers that there is considerable scope for international action on this issue with a view to limiting such consumer detriment.

Regards

Paul

Paul Taylor



