



## **2017-18 pre-Budget Submission**

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## Context

The Australian Sporting Goods Association Incorporated (ASGA) welcomes the opportunity to make a 2017-18 pre-Budget submission to the Treasury.

ASGA was formed in 1981 as the national industry association representing a broad spectrum of sporting and active lifestyle goods industry participants, including brands, manufacturers, distributors and retailers.

Members of ASGA include the world's leading sports brands and major Australian retailers. We represent over 1000 sporting and active lifestyle goods retail stores around Australia.

Sports retailers range from the very large (1,000+m<sup>2</sup>) like Rebel Sport and Sportsmart, through to franchisees like The Athletes Foot, family-owned businesses in the High Streets of regional towns and tiny golf club pro-shops. Ownership and business models include franchises, listed corporations, family-owned companies and vertically-integrated international brands.

ASGA is a leading industry voice on issues impacting the health, trade, regulation and taxation of the sporting and active lifestyle goods industries. ASGA aims to foster market growth, provide services and advocate for increased participation in sport and physical activity.

As such, this submission will focus on two distinct areas.

1. Combating Australia's physical inactivity crisis through increased participation in sport and recreation
2. Business and regulatory issues affecting sporting goods retailers and the supply chain.

## Summary of Recommendations

Sporting and active lifestyle brands and retailers across Australia are facing similar issues to brands and retailers in other sectors, including taxes and regulations, counterfeiting, employment, retail tenancy and transport. In addition, the sector ASGA represents has a distinct interest in advocating for and encouraging a healthy community, where sports participation and physical activity are seen as not only fun activities but a vital area of preventative health. As such this submission is broken into two parts:

1. Sports and Physical Activity Participation
2. Business and Regulatory Issues

### *Sports and Physical Activity Participation*

1. That the Federal Government, under the auspices of COAG, set up a Sport and Physical Activity Commission.
2. That the Sport and Physical Activity Commission develop a National Physical Activity Plan, using the most effective programs from around the world.
3. That the Federal Government continue funding the AusPlay sport and recreation participation research.
4. That the Federal Government, through the Smart Cities Plan and the Cities Reference Group, incorporate the four Calls to Action, as outlined in the *Designed to Move: Active Cities* report as part of the cities' planning process.
5. That any schools that receive Federal Government funding be required to open their facilities to community use.
6. That the Federal Government work with State Governments to require all primary schools to have dedicated and qualified PE teachers.
7. That the Federal Government work with State Governments to require all primary schools to offer at least 150 hours of physical activity per week to all students.
8. That the Government renew its funding for the Sporting Schools initiative for the next three years.

## *Business and Regulatory Issues*

1. That the Federal Government ensures large overseas online retailers are registered for GST and collect the GST at the point of purchase
2. That Customs be given the powers and resources to stop goods at the border that have not paid GST at the point-of-purchase, so the consumer can pay the GST at that point
3. That the ATO set up a mechanism whereby Australian businesses can identify overseas competitors that should be registered to charge GST to Australian consumers
4. That the Government extend the FBT exemption so small and medium enterprises can offer an FBT-exempt subsidy to their employees to access off-site fitness services.
5. Improve border control measures to identify and halt the importation of counterfeits
6. Remove of the “personal use” exemption for importation of counterfeit goods under the Trade Marks Act 1995
7. Institute a “no counterfeits” declaration on passenger arrival cards used for entry into Australia
8. Increase public awareness of the impact of counterfeit products
9. Clarify the right of citizens and companies to act as “private prosecutors” in criminal cases involving counterfeit products.
10. That the Federal Government works with the retail sector to improve its image as an employer of choice
11. That the Federal Government assists employers to recognise the importance of training and qualifications for the sector
12. That the Federal Government provides significant funding for training and qualifications for the sector.
13. That the Federal Government works with State governments to encourage them to reform existing retail tenancy laws to provide a level playing field for tenants.
14. That the Federal Government prioritises transport infrastructure investment that assists retailers
15. That the Federal Government works with State governments to encourage them to prioritise warehousing space that is appropriate
16. That the Federal Government ensures transport and logistics is a priority area for funding for innovation, technology and training

# Sports and Physical Activity Participation

Australia, like much of the rest of the developed world, is facing a physical inactivity crisis. Obesity has risen to record highs, with over 65 per cent of adults classified as being overweight or obese. One in five Australian adults has cardiovascular disease. Over 25 per cent of 5-17 year olds are overweight or obese.<sup>1</sup>

Physical inactivity contributes 6.6 per cent of the overall health burden in Australia and 10 per cent of all deaths.<sup>2</sup>

To its credit, the Government has recognised this problem, releasing the [National Physical Activity and Sedentary Behaviour Guidelines](#) in 2014 to prescribe physical activity levels for children and adults.

Unfortunately, according to the ABS, in 2011-12 only 43 per cent of adult Australians met the 'sufficiently active' threshold of 150 minutes of physical activity over five or more separate sessions per week. Only 19 per cent of Australian children and young people (5-17 years) met the physical activity recommendation of 60 minutes of moderate and vigorous physical activity (MVPA) every day.<sup>3</sup>

While the Federal Government and most states have plans to combat this physical activity crisis, more can be done and, most importantly, the efforts must be coordinated at the national level.

This section of the submission will look at several ways the Federal Government can combat the physical inactivity crisis:

- National Coordination
- Creating Active Cities
- Encouraging Active Children

## *National Coordination*

A national approach to combating physical inactivity is vital. While individual programs at the state and national level are welcome, there appears to be little coordination of, or even conversations about, the positives and negatives from each program. States and the federal government need a forum to share intellectual property to deliver the most effective programs.

## Sport and Physical Activity Commission

As part of securing the legacy of the London Olympics, and inspired by the momentum behind [Designed to Move](#) in the UK, a Physical Activity Commission was formed in October 2013 to respond to Britain's physical inactivity problem. After holding hearings across all sectors of government, and the NGO and private sectors, the Commission received over 150 submissions from groups including parents, sports organisations, health professionals and corporations.<sup>4</sup>

ASGA believes Australia is in an excellent position to both use existing Australian programs (see, for example, the New South Wales [Make Healthy Normal](#) campaign) and to leverage successful international programs.

We recommend forming a small, multi-sector task force (including representatives from sport, health and education) to set up our own Physical Activity Commission, under COAG, to review the outcomes and recommendations of the UK Physical Activity Commission; identify local and global pro-physical activity solutions and develop a National Sport and Physical Activity Plan for all levels of Government, the private sector and the non-government sector.

## National Sport and Physical Activity Plan

One of the objectives of the Sport and Physical Activity Commission should be to develop a National Sport and Activity Plan.

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<sup>1</sup> <http://www.sportforall.com.au/wp-content/uploads/2016/01/Maximising-the-potential-of-Australian-Sport-CAS-15.9.14.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> Australian Bureau of Statistics (2013). *Perspectives on Sport, 2013*, Cat. No. 4156.0.55.1 Canberra, Australian Bureau of Statistics.

<sup>4</sup> <https://parliamentarycommissiononphysicalactivity.files.wordpress.com/2014/04/apcoba-final.pdf>

Without wanting to pre-empt the Commission, the Plan should develop a set of measurable targets for sport and active recreation participation (ASGA supports the Confederation of Australian Sport's target of a 15 per cent increase by 2020<sup>5</sup>) and adopt strategies and programs that have proven effective from around Australia and globally.

As part of the Plan, a national media campaign should be implemented to educate the Australian public about the physical activity strategy and the benefits of behavioural change.

### Sports and Recreation Participation Research

The Australian sporting and active lifestyle goods industry welcomed the launch of the first set of results from [AusPlay](#), the new sport and recreation participation survey by the Australian Sports Commission, in late 2016.

ASGA has been calling for a national sports participation survey since the old ERASS survey was discontinued in 2010, so we are very pleased to see the AusPlay research.

AusPlay is a continuous survey that will report accurate and reliable data and trends every six months. It shows how active Australians are, what drives them to be active, what sports and physical activities they take part in, how much they spend on participation fees and what are the most popular activities. Results from the AusPlay survey will complement existing data and research conducted by the ASC in recent years. This research is aimed at giving sports reliable information so they can plan strategies to get more Australians participating in sport and physical activity.<sup>6</sup>

While it is early days, ASG strongly supports continuing with the AusPlay research; allowing third parties access to the raw data, and giving third parties the opportunity to add relevant questions to the survey, to increase our understanding of specific aspects of sport and recreation participation.

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## **RECOMMENDATIONS – National Sport Coordination**

1. That the Federal Government, under the auspices of COAG, set up a Sport and Physical Activity Commission
2. That the Sport and Physical Activity Commission develop a National Physical Activity Plan, using the most effective programs from around the world.
3. That the Federal Government continue funding the AusPlay sport and recreation participation research.

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### *Creating Active Cities*

Research from around the world has shown cities that encourage physical activity have better health and economic outcomes for their residents.<sup>7</sup> For example, consistent stair use can be linked to a 12 to 20 percent reduction in all-cause mortality, including reductions in cardiovascular disease.<sup>8</sup> Other studies have found that redeveloping business areas to promote mixed use and walkability increased employment by 300 percent.<sup>9</sup>

ASGA is concerned the Government's [Smart Cities Plan](#) does not adequately address the vital importance of designing and managing cities to be more pro-movement.

As noted in the Designed to Move resource [Designed to Move: Active Cities](#):

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<sup>5</sup> <http://www.sportforall.com.au/wp-content/uploads/2016/01/Maximising-the-potential-of-Australian-Sport-CAS-15.9.14.pdf>

<sup>6</sup> <https://www.clearinghouseforsport.gov.au/research/smi/ausplay>

<sup>7</sup> [Designed to Move: Active Cities. Page 8.](#)

<sup>8</sup> Meyer, P., Kayser, B., & Mach, F. (2009.) *Stair Use for Cardiovascular Disease Prevention*. European Journal of Cardiovascular Prevention & Rehabilitation, 16(2 suppl), S17-S18.

<sup>9</sup> Lawlor, E. (2013.) *The Pedestrian Pound: The Business Case for Better Streets & Places*. United Kingdom: Living Streets & Just Economics Report.

“From a city planning standpoint, the evidence presents a strong case to design cities to be more active. In some instances, that can simply be a matter of making the most of existing space – opening up school grounds for public use, for example. Other solutions will involve more substantial changes to urban design and public policy...

Put simply, the research shows active cities are healthier, wealthier, safer, greener and more cohesive. Not surprisingly, the people who live in them are happier.”<sup>10</sup>

While significant detail can be found on the Designed to Move website and the various reports it contains, the infographic below summarises the research:



*Designed to Move: Active Cities. Figure 2, Page 9.*

ASGA supports the four Calls to Action as described in the *Designed to Move: Active Cities* report. These Calls to Action implore governments to put movement first when designing, building and using city infrastructure by:

1. *Prioritising physical activity as a solution* – Build physical activity into master plans, administrative actions and incentives.<sup>11</sup>
2. *Make existing resources active resources* – Look at existing resources for low-cost, high-gain interventions, like abandoned space and after-hours access to facilities.<sup>12</sup>
3. *Design for people to be active* – Cities should be built for people, not just cars. Rethink how you measure where, why and how people move.<sup>13</sup>
4. *Build a legacy of movement* – Create changes that will live beyond the current administration, such as infrastructure and policies.<sup>14</sup>

<sup>10</sup> [Designed to Move: Active Cities. Page 8.](#)

<sup>11</sup> [Designed to Move: Active Cities. Page 19.](#)

<sup>12</sup> [Designed to Move: Active Cities. Page 28.](#)

<sup>13</sup> [Designed to Move: Active Cities. Page 31.](#)

<sup>14</sup> [Designed to Move: Active Cities. Page 34.](#)

The Government's Smart Cities Plan is a great step in focusing on the future needs of Australian cities. The Cities Reference Group is an ideal body to consider how all levels of government, the community and private sector can work together to improve Australian cities. ASGA considers the *Designed to Move: Active Cities* report a vital addition to the knowledge base of the Cities Reference Group.

ASGA calls on the Cities Reference Group and other stakeholders to incorporate the four Calls to Action in any discussions and planning about future Australian cities.

### Community Access to School Sport Facilities

According to research and recommendations by [Healthy Active by Design](#), shared use of sport and recreation facilities... are important places for regular physical activity, social interaction and the development of a sense of community. It is also cost effective to provide social and community infrastructure through integrated facilities, shared use of facilities and multiple uses of space.<sup>15</sup>

This can benefit adults, just as much as children, but an emerging body of evidence is illustrating those children and adolescents with access to existing school recreational facilities outside of regular school hours are more likely to be active.<sup>16</sup>

Unfortunately, some schools either do not share their recreational facilities or limit the types of shared use and facilities that are available to the public during non-school hours, citing concerns about liability, insurance, safety, cost, staffing and maintenance. While these concerns may be legitimate, it seems shortsighted for the Government to support schools that refuse to provide access to their facilities, given the obvious benefits to the wider community.

Joint use agreements can address the perceived barriers to sharing recreational facilities and programs, between schools and the community. These agreements should address issues such as liability, maintenance, vandalism, crime and other safety issues and scheduling and conditions of use.<sup>17</sup>

ASGA recommends any schools that receive Federal Government funding be required to open their facilities to community use.

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## RECOMMENDATIONS – Creating Active Cities

1. That the Federal Government, through the Smart Cities Plan and the Cities Reference Group, incorporate the four Calls to Action, as outlined in the *Designed to Move: Active Cities* report as part of the cities planning process.
  2. That any schools that receive Federal Government funding be required to open their facilities to community use.
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### *Encouraging Active Children*

According to the 2016 report from [Active Healthy Kids Australia](#) (AHKA), Australian kids are now some of the least active in the world, graded a D minus for physical activity.<sup>18</sup>

Aussie kids are failing to meet the basic physical activity guidelines that lead to lifelong health and well-being. Less than 1 in 5 Australian children aged between 5 and 17 years meet the recommended 60 minutes of physical activity each day.<sup>19</sup>

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<sup>15</sup> <http://www.healthyactivebydesign.com.au/design-features/shared-facilities>

<sup>16</sup> Active Living Research. *Active Living Research: Promoting Physical Activity through Shared Use of School and Community Recreational Resources*. San Diego: 2012.

<sup>17</sup> [http://activelivingresearch.org/sites/default/files/ALR\\_Brief\\_SharedUse\\_April2012.pdf](http://activelivingresearch.org/sites/default/files/ALR_Brief_SharedUse_April2012.pdf)

<sup>18</sup> [http://www.activehealthykidsaustralia.com.au/siteassets/documents/ahka-2016-long\\_form-report-card.pdf](http://www.activehealthykidsaustralia.com.au/siteassets/documents/ahka-2016-long_form-report-card.pdf)

<sup>19</sup> *Ibid.*

On the upside, physical activity and sport help make schools happier places for students. Children who take part in sport clubs have a greater sense of belonging to the school, are happier while they attend it, and place a greater value on the learning they experience.<sup>20</sup>

### Physical Education (PE) in schools

Research cited by the AHKA report showed that:

“State-based data indicate that... 27% of primary schools... report having a specialist physical education teacher who delivers physical education classes, but there was no indication of the level of qualification attained.<sup>21</sup>”

“National data indicate that 33% of primary schools... provide at least 150 minutes of physical education per week to students.<sup>22</sup>”

Less than a third of Australian primary schools have a dedicated PE teacher and barely a third provide the recommended minimum of 150 minutes of PE per week. The Australian education system must do better.

We need to stop treating PE and informal physical activity at school as distractions from academic study and acknowledge it is a vital part of a child’s growth and education. If we are serious about combating childhood physical inactivity, students at the primary school level require dedicated PE teachers and a minimum of 150 hours of PE and sport each week.

### Sporting Schools

The Sporting Schools initiative was funded for \$100 million over three years (2014-15 to 2016-17). That funding is due to run out at the end of this financial year and ASGA strongly urges to Federal Government to renew the Sporting Schools funding for another three years.

Sporting Schools is helping 6,000 schools increase 860,000 children’s participation in sport, and to connect those children with community sport.

The Australian Sports Commission (ASC) has partnered with more than 30 national sporting organisations (NSOs) to deliver sport before, during and after school hours, via their network of aligned organisations, coaches and teachers.

The Sporting Schools initiative is vital for improving physical activity participation by primary school-aged children and we strongly urge the Federal Government to renew its funding for the next three years.

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## **RECOMMENDATIONS – Active Children**

1. That the Federal Government work with State Governments to require all primary schools to have dedicated and qualified PE teachers.
  2. That the Federal Government work with State Governments to require all primary schools to offer at least 150 hours of physical activity per week to all students.
  3. That the Government renew its funding for the Sporting Schools initiative for the next three years.
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<sup>20</sup> [Designed to Move: Active Schools. Page 11.](#)

<sup>21</sup> Hardy, L, King, L, Espinel, P, Okely, A, and Bauman, A, *Methods of the NSW schools physical activity and nutrition survey 2010* (SPANS 2010). Journal of Science and Medicine in Sport, 2011 14(5): p. 390-396. <http://dx.doi.org/10.1016/j.jsams.2011.03.003>

<sup>22</sup> Australian Institute of Family Studies, *Growing Up in Australia, Longitudinal Study of Australian Children* (LSAC), 2014: Melbourne.

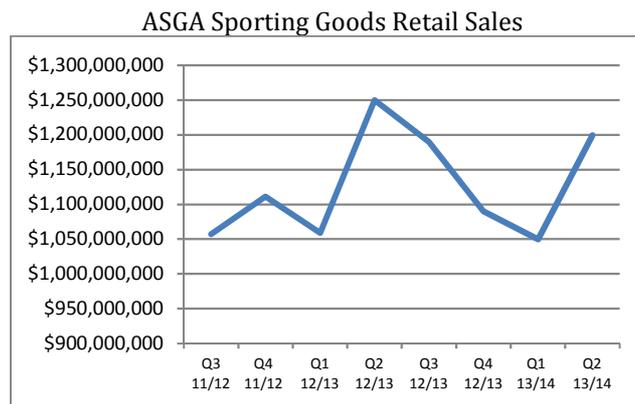
## Business and Regulatory Issues

ASGA contends Australian sporting and active lifestyle goods retailers and their supply chain are facing considerable costs of doing business, as well as facing a difficult economic environment.

Despite the worryingly high savings ratio (up from five per cent in 2008 to eight per cent now), the state of the retail sector has certainly improved in recent years, but only slowly and cautiously. One small and independent sporting goods retailer noted that:

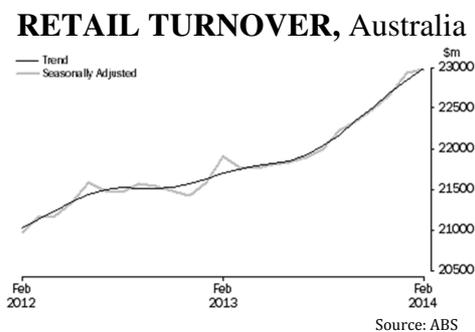
“After a massive downturn in sales following the GFC, we are seeing a slight but cautious improvement in the last year or so.”

ASGA’s own research shows retail trade in sporting footwear, apparel and equipment rose from \$1.05b in Q3 2011/12 to \$1.19b in Q2 2013/14.<sup>23</sup>



Source: ASGA

This tracks with the more general figures from the Australian Bureau of Statistics, which shows an increase in general retail trade of \$21b in February 2012 increasing to \$23b in February 2014.<sup>24</sup>



Source: ABS

However, despite the positive news, retailers remain concerned about tough trading conditions.

Consumer sentiment, while trending upwards, remains well down on pre-GFC levels. Unemployment is getting slowly worse and retailers are concerned interest rates, at historic lows currently, are likely to start moving higher in the near future.

This submission will look at five areas we believe the Federal Government can make a real difference in 2017-18, that will improve trading conditions for sporting and active lifestyle goods retailers and brands. The five areas are:

- Government taxes
- Counterfeiting
- Employment

<sup>23</sup> ASGA Market Intelligence Sporting Goods Retail Survey – Oct-Dec 2013 Quarterly Results

<sup>24</sup><http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/8501.0Main%20Features2Feb%202014?opendocument&tabname=Summary&prodno=8501.0&issue=Feb%202014&num=&view=>

- Retail tenancy
- Transport.

### *Government taxes*

While there are a large number of taxes and regulatory burdens on sporting and active lifestyle brands and retailers, this submission will concentrate on two: the low value threshold and the fringe benefit tax.

### Low Value Threshold

ASGA notes the Government has committed to scrapping the low value threshold and introducing a vendor registration model for overseas retailers to charge Australian consumers GST at the point of purchase. We strongly support this model and agree that:

“...the fact that neither the supply nor the importation of such low value goods is subject to GST represents a significant risk to the integrity of the GST system. It also places Australian based suppliers at a growing competitive disadvantage.”<sup>25</sup>

ASGA has been at the forefront of working with the Federal and state governments to reduce the low value threshold and provide a level playing field for Australian retailers. We were very pleased when the Federal Treasurer, the Hon. Joe Hockey MP, announced the change following the Council on Federal Financial Relations Tax Reform Workshop. [In a statement](#) he said:

*At the meeting the Commonwealth Treasurer put forward a proposal that relies on a vendor registration model as a method of collecting the GST for the states and territories. As goods would not be stopped at the border, administering a vendor registration model would have a relatively low cost.*

*The Commonwealth also recommended that the existing threshold for the GST liability be reduced to zero, in line with the GST collection for other products and services. The states and territories have unanimously agreed to this in principle.*<sup>26</sup>

The vendor registration model has significant advantages over other possible schemes. We continue to be involved with the consultation process about the LVT legislation<sup>27</sup> but there remain a number of concerns about how the changes will be implemented and enforced.

It is unclear how overseas retailers will register for GST, under what circumstances they will be required to do so (apart from meeting the \$75,000 turnover threshold) and what, if any, measures the Australian Government can take to encourage or force those companies to register. For example, what penalties are in place for a company that doesn't register? How will that be enforced?

Previous discussions between ASGA and Treasury have indicated enforcement will rely on tax treaties with other countries, whereby the relevant authority within another country will enforce the new laws on retailers domiciled in their country, on behalf of the Australian Government.

ASGA supports the Australian Government enforcing this amendment through tax treaties, where practical and applicable. However, there needs to be a method of enforcing the amendment that doesn't rely on a third party to do so on our behalf (or where no such tax treaty is in place).

ASGA acknowledges previous research and modelling that shows collecting the GST at the border is undesirable, given the administrative costs of doing so. However, that modelling was predicated on all low value goods being stopped at the border, assessed for GST and then held until the GST is paid by the consumer.

A mix of both the vendor registration model and a border-control model may be effective in enforcing the legislation. Where an overseas retailer does register for GST, they would then go on a list that is given to Customs and Australia Post. Goods from those suppliers would be earmarked as having paid GST and so would not be stopped at the border.

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<sup>25</sup> *Treasury Laws Amendment (2017 Measures no. 1) Bill 2017* Exposure Draft Explanatory Material (p. 5, s. 1.14)

<sup>26</sup> <http://jbh.ministers.treasury.gov.au/media-release/075-2015/>

<sup>27</sup> <http://www.asga.com.au/wp-content/uploads/2016/11/ASGA-Submission-to-Treasury-Consultation-re-applying-GST-to-low-value-goods-imported-by-consumers.pdf>

However, an overseas retailer that has not registered for GST (and who therefore hasn't charged GST at the point-of-transaction) doesn't go on that list. Therefore, their goods will be stopped at the border and Customs (or Australia Post) will require the consumer to pay the GST when they pick up those low value goods.

Assuming most overseas retailers (and the largest overseas retailers) abide by the legislation, the 'overflow' of low value goods that have not had GST charged on them should be relatively low, and will therefore not pose an unacceptable administrative burden on Customs.

It has been noted in other consultations about the Low Value Threshold that a relatively small number of overseas online retailers (accounts range from 20 to 50) account for a large percentage of the total consumer imports into Australia. While that is true for the economy overall, it is the case that in specific industries the largest overseas competitor is not counted in that 'top 50'.

Depending on how companies will be prioritised to register, it may be worth having specific Australian industries (i.e. sporting and active lifestyle goods) identify specific overseas online suppliers to ensure the widest possible take-up of registration.

### Fringe Benefits Tax

ASGA supports [FITnotFBT](#), the campaign by Fitness Australia to extend the FBT exemption to small businesses that want to subsidise off-site fitness services for their employees.

At the moment, an employer who can provide fitness training services on their business premises qualifies for a Fringe Benefits Tax (FBT) exemption. However, if a small business, which doesn't have the space on-site, wants to provide precisely the same service in the local gym or park they can't access an FBT exemption.

Small and medium businesses account for 99 per cent<sup>28</sup> of business and 70 per cent of the jobs in Australia. The vast majority will never be able to provide on-site fitness facilities.

Deloitte estimates the short-term cost to the Federal budget of extending the FBT exemption to SMEs would be less than \$70 million per annum but some of this would be immediately recouped by increased income tax from fitness centres and fitness instructors that would flow from the move.<sup>29</sup>

As explained in the above 'Sport and Physical Activity Participation' section of this submission, Australia is facing an inactivity crisis. Extending the FBT exemption to small and medium enterprises that want to encourage their staff to access external fitness providers is a simple and inexpensive way of encouraging more Australians to participate in a healthy and physically active lifestyle.

It also provides the same exemptions to small and medium enterprises that are currently available to larger companies that have the resources to offer such services in-house.

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## **RECOMMENDATIONS – Government Taxes**

1. That the Federal Government ensures large overseas online retailers are registered for GST and collect the GST at the point of purchase
2. That Customs be given the powers and resources to stop goods at the border that have not paid GST at the point-of-purchase, so the consumer can pay the GST at that point
3. That the ATO set up a mechanism whereby Australian businesses can identify overseas competitors that should be registered to charge GST to Australian consumers
4. That the Government extend the FBT exemption so small and medium enterprises can offer an FBT-exempt subsidy to their employees to access off-site fitness services.

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<sup>28</sup> Media Release, The Hon Bruce Billson MP, Minister for Small Business "Small business key to G20's growth target", 17 July 2014.

<sup>29</sup> <http://fitness.org.au/articles/fitnotfbt-toolkit-for-businesses/579>

## Counterfeiting

Counterfeiting is an ever-increasing problem for Australian retailers and particularly for Australian sporting goods retailers.

According to a 2013 Choice article:

“The value of counterfeit products intercepted in Australia reached an all-time high last year, with the Australian Customs and Border Protection Service seizing more than 700,000 counterfeit products with a total estimated value of \$48.5m (based on the equivalent value of genuine goods). Globally, counterfeits are estimated to account for about two per cent of world trade, amounting to \$272bn, according to the Organisation for Economic Cooperation and Development. Meanwhile, the International Chamber of Commerce has higher estimates, saying the global counterfeit trade accounts for five to seven per cent of world trade and is worth around \$600bn.”<sup>30</sup>

Of course, that only accounts for Customs’ seizures – clearly there are significant amounts of counterfeit goods that still make it into the country. And that doesn’t even begin to look at the number of one-off counterfeit items that are purchased online from overseas-based websites by individuals convinced they are getting a good deal, when in fact they are simply being ripped-off by clever counterfeiters.

According to international research by Mark Monitor (part of Thomson Reuters) “one in five bargain hunters in the U.S. and Europe mistakenly shopped on e-commerce sites selling counterfeit goods while looking for deals online. Deal seekers outnumbered consumers seeking fakes at the rate of 20 to 1.”<sup>31</sup>

We can assume these statistics apply fairly equally to Australian consumers.

While the recent *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* legislative changes are welcome, Australian law has not kept up with the influx of counterfeit goods or the new and sophisticated ways counterfeiters are marketing their goods to Australian consumers.

The purchase of counterfeit goods results in a likely loss of a sale of similar legitimate goods, creating an indirect cost for Australian retailers. This cost to retailers (not to mention the potential danger some counterfeit goods pose to consumers), could be ameliorated by the Federal Government by improving anti-counterfeiting activities as described in the recommendations below.

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### RECOMMENDATIONS – Counterfeiting

1. Improve border control measures to identify and halt the importation of counterfeits
  2. Remove of the “personal use” exemption for importation of counterfeit goods under the Trade Marks Act 1995
  3. Institute a “no counterfeits” declaration on passenger arrival cards used for entry into Australia
  4. Increase public awareness of the impact of counterfeit products
  5. Clarify the right of citizens and companies to act as “private prosecutors” in criminal cases involving counterfeit products.
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<sup>30</sup> <http://www.choice.com.au/reviews-and-tests/money/shopping-and-legal/shopping/Counterfeit-goods.aspx#ixzz30Q5EEG5b>

<sup>31</sup> <https://www.markmonitor.com/pressreleases/2012/pr121119.php>

## Employment

As noted in the Australian Workforce and Productivity Agency's recent Retail Workforce Study:

“Over the next five years retail employment is projected to grow by 8.9 per cent (i.e. 109,100 new jobs), an average of 1.7 per cent per annum. The projected 1.7 per cent rate of growth compares with growth of 1.0 per cent per annum over the past decade and 0.2 per cent per annum in the last five years.”<sup>32</sup>

The study discusses ways for the Australian workforce to meet the needs of this retail employment growth. It expects that while retail will remain a relatively low-skilled industry, the need for improved skills, especially in technology, is growing considerably.

“To build the skills required for the future there needs to be a shift in the mindset of both (retail) workers and employers combined with appropriate funding models for training and better access to business and workforce development advice. There also needs to be a better understanding of the nature of emerging and converging jobs, and the education and training pathways to them.”<sup>33</sup>

In short, governments need to assist retail employers and employees to (1) recognise the value of qualifications and training, (2) recognise how specific skills and qualifications are changing over time and (3) access such training.

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### RECOMMENDATIONS – Employment

1. That the Federal Government works with the retail sector to improve its image as an employer of choice
  2. That the Federal Government assists employers to recognise the importance of training and qualifications for the sector
  3. That the Federal Government provides significant funding for training and qualifications for the sector.
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## Retail tenancy

High rents and an opaque leasing process are part and parcel of the major challenges faced by retailers.

Broadly, ASGA is concerned with retail tenancy issues including: the power imbalance between landlords and retailers currently in favour of landlords; transparency of information available to both parties; security of tenure; the use of retail turnover to determine occupancy costs; rent and fit-out costs.

These rents are of particular concern within shopping centres. As noted by research conducted by the Shopping Centre Council of Australia (SCCA), shopping centres account for \$84 billion in retail sales each year, across 1,338 individual centres. These centres are very productive in comparison to strip shopping areas, with nearly 41 per cent of all retail sales in less than a third of available retail space across the country. The large centres attract in excess of 15 million shopper-visits per year.<sup>34</sup>

Indeed, as pointed out in the Australian Retailers Association (ARA) submission to the Productivity Commission's *Economic Structure and Performance of the Australian Retail Industry* inquiry in May 2011:

“the smaller an individual business is, the greater the disparity in the power dynamic between the retailer and the landlord. This factor is further compounded by the very real notion that large-scale shopping centres are oligopolistic in nature. The fact that companies such as Stockland, Centro, Westfield and AMP are really the only providers in the market, retailers (even one with branches across different jurisdictions) are reliant upon securing

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<sup>32</sup> *Retail Workforce Study: Adapting to new and emerging trends*. (Australian Workforce and Productivity Agency) March 2014.

<sup>33</sup> *Ibid.*

<sup>34</sup> <http://www.scca.org.au/HTML%20Pages/Research.htm>

sites within these premises. In addition, smaller retailers are further exposed to the inherent imbalance in the rental arrangements particularly when negotiating and continuing retail leases.”<sup>35</sup>

In addition to those areas mentioned above, ASGA is also concerned with achieving consistent legislation across the country. As noted in the 2008 PC Report *Market for Retail Tenancy Leases in Australia*:

“Until 2001-02, jurisdictions met regularly with the aim of harmonising legislation, but these meetings were discontinued. Although the broad architecture of retail tenancy legislation or codes is similar across Australia, there are significant differences in detailed provisions and application between jurisdictions, and indications are that policies and regulations across jurisdictions will diverge further.”<sup>36</sup>

However, ASGA is aware retail tenancy is a state government issue and there is little, apart from a coordination role through COAG, the federal government can accomplish in this area.

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### RECOMMENDATIONS – Retail tenancy

1. That the Federal Government works with State governments to encourage them to reform existing retail tenancy laws to provide a level playing field for tenants.
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## Transport

The cost of moving goods internally within Australia (for example, from the receiving port to the wholesale warehouse and from there to the retail outlet), is a significant cost for businesses, especially compared to many overseas jurisdictions.

One snow sport goods retailer, with operations in both Australia and Japan, said:

“Domestic transport is very expensive in Australia compared to Japan. It costs us significantly more to get a container of goods from the port in Botany to our store in Sydney than it does to get the same sized container from the port in Japan to our store in the mountains two and half hours away.”

As a large country with a small population, Australia faces relatively high transport costs compared to countries with higher population densities. These costs are only likely to increase, with Infrastructure Australia noting that:

“Between 2010 and 2030:

- truck traffic is predicted to increase by 50%
- rail freight is expected to jump 90%
- the number of containers crossing the nation's wharves will increase by 150%.

In addition, the volume of freight flown into and out of Australia has more than doubled over the last twenty years and is expected to increase by almost 110 per cent from 5.5 to 11.4 billion tonne kilometres by 2030.”<sup>37</sup>

These issues will only exacerbate the already high transport costs faced by retailers (and other sections of the economy). It is vital therefore that, in order to keep up with the projected demand, government investment in road and rail infrastructure and networks be prioritised over the coming years.

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<sup>35</sup> <http://www.retail.org.au/Portals/0/Policy/PCRetailInquiryARA%20submission%20-%20FINAL.pdf>

<sup>36</sup> [http://www.pc.gov.au/data/assets/pdf\\_file/0011/82748/02-overview.pdf](http://www.pc.gov.au/data/assets/pdf_file/0011/82748/02-overview.pdf) (Overview, p. XVIII)

<sup>37</sup> <http://www.infrastructureaustralia.gov.au/freight/>

In addition to the transport networks themselves, logistics management requires access to large warehousing space close to those transport networks. Part and parcel of transport infrastructure spending must be ensure the availability of land and planning approval for warehousing space in the right geographic areas.

Finally, the nature of logistics, like everything else, has changed with technology. While ASGA remains unconvinced that Amazon-like drones for delivery of consumer goods are the way of the future, it is vital that workers in retail, transport and logistics have the opportunity to train on and use the latest technologies to make the system as efficient as possible.

ASGA notes the publication of the National Land Freight Strategy last year and encourages the federal government to prioritise transport infrastructure that serves the needs of Australian retailers.

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### **RECOMMENDATIONS – Transport**

1. That the Federal Government prioritises transport infrastructure investment that assists retailers
  2. That the Federal Government works with State governments to encourage them to prioritise warehousing space that is appropriate
  3. That the Federal Government ensures transport and logistics is a priority area for funding for innovation, technology and training
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## **Conclusion**

The Australian sporting and active lifestyle goods sector has a vested interest in promoting a healthy and active community. As shown above, physically active Australians not only improve their own health through sport and exercise, they also improve their communities and contribute to the economy through increased spending and lower health costs.

As well as our interest in promoting physical activity as a major component of preventative health, ASGA members and the wider sector face similar issues to brands and retailers in other sectors, including taxes and regulations, counterfeiting, employment, retail tenancy and transport.

On behalf of our members, ASGA urges Treasury and the government to support the Australian sporting and active lifestyle goods industry by adopting the recommendations in this submission.

Our members thank Treasury and the Minister for the opportunity to be involved in this consultation and I would be pleased to discuss this submission further, at your convenience.

ENDS