

9 April 2020

The Honorable Robert E. Lighthizer
United States Trade Representative
Office of the United States Trade Representative 600 17th Street NW
Washington, DC 20508

Dear Ambassador Lighthizer:

Subject: AIC Submission on India's Finance Bill 2020 and Underlying Provisions on Equalisation Levy

The Asia Internet Coalition (“AIC”) is an industry association that represents leading global internet companies on matters of public policy. We are writing on behalf of our members to respectfully request your on-going engagement with the Government of India to raise concerns over passage of equalisation levy, which stands to directly and significantly impact a wide range of companies. To further its mission of fostering innovation, promoting economic growth, and empowering people through the free and open internet, AIC would like to take this opportunity to raise our concerns regarding the recently enacted Finance Bill 2020 which expands the scope of the equalisation levy, which stands to directly and significantly impact a wide range of SMEs, start-ups and end-consumers in India.

In the backdrop of digitalization and growth of digital services across the world, the role of internet companies has become more and more significant. In light of this, it is concerning that the expanded equalisation levy was incorporated into the Finance Bill, 2020 without any public consultation or Parliamentary debate and brought into effect only one week later, starting on April 1, 2020.

The levy appears to be a tariff applied to foreign ecommerce businesses who conduct business in India and isn't in line with existing international tax norms. The levy will deter foreign companies from investing in India and providing goods and services to the Indian public who can benefit from their innovations. Additionally, the levy is applicable to all companies with a turnover of INR 2 crore, which is a very low exemption threshold.

This unilateral, revenue-based tax has been imposed at a time when the OECD countries and members of the Inclusive Framework under the BEPS Action Plan I continue working to arrive at a consensus solution on how to tax the digitalization of the economy in 2020. The levy contradicts the Government of India's commitment to reach a multilateral solution in ongoing negotiations at the OECD and risks impacting India's international trade relationships.

We would further add that requiring registration, tax payments and tax filings on non-residents is a marked departure from customary practices and imposes an undue cost and burden on non-resident businesses that have no way to easily comply. In addition, businesses must comply with the new law in an extremely brief period of time between April 1 and before the first payments are due in early July. Compliance under this short timeline and particularly in light

of the additional operational challenges created by COVID-19, will make implementation for many companies exceedingly difficult, and may lead to unintentional defaults. This in turn may disrupt global supply chains at a time when many businesses are relying on non-resident online sales platforms to facilitate their sales.

In this regard, we strongly recommend that the government desist from imposing this levy at present and request for wider stakeholder consultation on the matter.

We are grateful to be able to present our concerns on the matter, and would also like to reiterate our continuous support and assistance to the Indian government in its efforts to align its digital tax regime with the outcome of the OECD-BEPS deliberations. We stand ready to support your efforts.

Should you have any questions or need clarification, please do not hesitate to contact me directly at Secretariat@aicasia.org or +65 8739 1490. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Paine".

Jeff Paine
Managing Director
Asia Internet Coalition (AIC)
www.aicasia.org