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## Customs, Trade and Transport Law e-alert

# Interim report by the Productivity Commission: no immediate change in the low value threshold

As readers would be aware, the Productivity Commission ("**Commission**") has been undertaking a review into the "Economic structure and performance of the Australian retail industry". The review was initiated by wide-ranging complaints by the Australian retail industry as to difficulties it was experiencing. Some of those difficulties were alleged to be the high level of regulation in the operation of the retail industry and constraints on workplace flexibility. However, for the Customs, Trade and Transport industry, one issue of particular interest was the allegation that the current low value threshold ("**LVT**") for exemptions from GST and duty on imports of \$1,000 was unfair and significantly affecting the business of the retail industry.

Yesterday (4 August 2011) the Productivity Commission released its interim report ("**Report**") into the economic structure and performance of the Australian retail industry.

For the Customs, Trade and Transport industry, the main issue relates of the future of the LVT. The Commission appears to conditionally recommend that the LVT be reduced. In principle, the Commission says that the current LVT is only a minor part of the competition story. However, given that the GST is a broad-based consumption tax, the Commission recommends that the LVT **should** be reduced to a low level to ensure "tax neutrality" in the future. However, the Commission points out that the processes for collecting taxes and duties at the border are not effective and that as the LVT is reduced the complexity and cost of recovering those amounts increases so that at very low LVT the cost of collection would exceed tax revenue by 3 to 1. The Commission points out that such a cost impost on both importing businesses and consumers is unacceptable even without considering additional costs such as delay. Accordingly, the Commission recommends that the processing systems for incoming parcels to Australia needs to improve (as has done in other countries) and only then should the Federal Government investigate a way to reduce the LVT in a cost-effective way.

Clearly, this poses a challenge for the Federal Government and its border agencies whose current inclination is to have a comprehensive risk-based process to analyse imports of parcels especially those carried by express carriers. Many international authorities have also identified the revenue environmental and security risks arising out of packages arriving through small packages in express carriers or by the post. Accordingly, it will be interesting to identify how the border agencies can streamline and reduce the cost of reviewing incoming parcels at the border for security, quarantine and revenue concerns in a way which would support a reduction in the LVT.

At the same time, any reduction in the LVT might create risks for the Federal Government in international negotiations. Many of our Free Trade Agreements with trading partners provide that there should be no increases in taxation on goods from those countries. A reduction in the LVT could be construed as the imposition of another tax on imports from those trading partners contrary to the spirit or the terms of those FTAs.

The Report by the Commission is only an interim report and it will be instructive to see the full response from the Federal Government and its various border agencies as well as from the retail industry. The initial response last evening from the Federal Government was that there would be no immediate reduction in the LVT and that any future reduction would only follow a review and subsequent introduction of reforms to make the collection of revenue tax-effective while protecting normal review by border agencies for security and public safety.

### Contact us

Andrew Hudson, Melbourne +61 3 8602 9231  
[ahudson@hunthunt.com.au](mailto:ahudson@hunthunt.com.au)