



# Inquiry into purchasing online: Supporting modern consumerism

## Summary of Recommendations

The report of the Commerce Committee makes the following recommendations to the Government

- that the threshold for imposing Goods and Services Tax (GST) on online purchases is based on the value of the goods
- that a public advertising campaign, via the television and the internet, is set up to raise awareness of online security, consumer laws, and risk minimisation
- that a clear definition of trader is established, which encompasses companies and people selling professional goods frequently and for a profit, but not individuals selling second-hand or used goods on an infrequent basis
- that investment is put into encouraging small to medium sized New Zealand enterprises to have an effective and secure online presence

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## Introduction

This report summarises the issues we considered in our inquiry into online purchasing: supporting modern consumerism.

We are aware that online shopping is significantly changing the retail landscape and the way consumers purchase goods and services. In 2012 New Zealanders spent approximately \$3.19 billion on online shopping; this accounts for around 5.9 percent of all retail sales. Online spending is expected to grow to \$5.37 billion by 2016.

We heard that the drivers of online shopping are competitive prices, convenience, and the range of choice available compared to traditional retail stores. Further, improved search engine functionality, price comparison sites, smart phone applications, and barcode scanning, assist consumers in purchasing products or services at the lowest price available.

We note that New Zealand Post has introduced two new services, which make it easier to shop from overseas. You Shop delivers products to a United States address before shipping to New Zealand, thus allowing consumers to purchase from sites which do not ship to New Zealand or which have expensive postage rates. Loaded Everyday, is a prepaid Visa debit card that can be used for online and international shopping. The card is available to anyone ten years of age and over and provides security as it is not linked to the user's bank account.

### **Consumer Law Reform Bill**

We support the Consumer Law Reform Bill which is currently before the House; the bill seeks to ensure that all trader to consumer transactions are subject to the Consumer Guarantees Act, including auctions. The bill also seeks to implement a guarantee of "acceptable quality", making the retailer responsible for responding to any issues the consumer has raised. This will include not receiving the goods in a reasonable time or if the goods arrive damaged. The retailer will also be responsible for liaising with the courier company on behalf of the consumer. We do not consider that the retailer should hold the sole responsibility for the goods, and would like to see a clear definition in the bill explaining when the liability extends to the courier company.

### **Summary of submissions**

We heard submissions from three organisations, each with a particular knowledge or interest relating to online purchasing.

#### **Commerce Commission**

We heard from the Commerce Commission that the Fair Trading Act 1986 needs to be updated to better support modern consumerism, taking into account the online environment. The commission supports the proposed changes to New Zealand's consumer law in the Consumer Law Reform Bill, which seeks to enhance consumers' rights.

The commission explained that overseas traders pose unique difficulties for government enforcement agencies, as it is often difficult to identify traders and bring them to justice in New Zealand. We agree with the commission that it is important for consumers to be able to easily identify if a business is based in New Zealand or overseas, and their rights when purchasing from overseas traders. The commission is currently working with a number of overseas agencies to identify and stop unlawful behaviour. We support the on-going work in this area and recognise the importance of international cooperation in international trade matters.

#### **New Zealand Retailers Association**

The New Zealand Retailers Association told us that online offshore turnover is most likely understated, due to the exclusion of downloads, including music, software books, and DVDs. The association estimated that if downloads are included the value of offshore transactions could increase to around \$2 billion and in excess of \$4 billion in total. The association argued for a regulatory environment that is simple to navigate and clear rules around rights and responsibilities, such as those proposed in the Consumer Law Reform Bill.

The association also advocated development of appropriate legislation, which would make banks issuing credit cards and organisations such as PayPal, responsible for collecting tax on behalf of the Government. We are not persuaded by this argument as we consider that

it would unfairly disadvantage consumers who pay by credit card and consistent regulation would be extremely difficult. At present we do not consider this to be a viable option, due to a lack of Government ability to enforce the legislation overseas, with companies such as PayPal.

### **Trade Me**

Trade Me informed us that over half of the adult population in New Zealand is purchasing items online, compared with only ten percent in 2001. Trade Me believes the Government should provide a clear and consistent legal framework and welcomes bringing online auctions under the Consumer Guarantees Act to protect consumers. Trade Me supports the current bill as it enhances the protection of consumer rights when purchasing online, via auctions. Trade Me considers that the current tax threshold is about right given the practicalities around recouping these amounts. However, Trade Me argued that it would be simpler if the threshold is based only on the value of the goods, not on tariffs.

In 1999 the Law Commission recommended a consistent law clarifying the responsibilities that website operators should be obliged to follow when users post content on their website. Trade Me told us that, while similar laws have been passed in the United States and the European Union, New Zealand law is less clear and inconsistent and suggested it was time for this to be updated. We would like to see consideration given to developing a framework constituting appropriate consumer feedback and guidelines for when the website administrator needs to regulate content.

The following are the issues arising from our consideration where we wish to make recommendations to the House.

### **Goods and Services Tax**

Consumers are not required to pay Goods and Services Tax (GST) on products that have a total cost, including shipping, of NZ\$399 or less. We are aware of the argument that this creates an advantage for overseas companies over traditional retail stores, and distorts consumer choice. The Government also loses potential revenue from reduced company and personal income tax, with one estimate suggesting up to \$300 million is lost in tax revenue each year.

New Zealand operates a minimum GST payable limit, where imports are only subject to GST if the combined value of the goods is more than \$399 or if other forms of taxation, such as duty have already been applied (whichever is the lowest amount). Therefore, goods are subject to GST at varying price levels depending on the classification of the goods or country of origin. New Zealand is unique in this context, compared to other countries, where the tax threshold is based on the cost of the purchase.

We support the working group which has been set up to investigate effective ways of collecting GST on online purchases and look forward to hearing its recommendations. We support the idea of collecting GST on all online purchases, but at this stage do not consider it feasible. We recommend that the House continue to follow this issue closely, as a potential solution may arise in the future.

### **Recommendation**

- that the threshold for imposing Goods and Services Tax (GST) on online purchases is based on the value of the goods, rather than the tax they attract.

## Risks for consumers

We acknowledge the risks which are inherent in online shopping, such as password harvesting fishing, also known as “phishing”, a form of identity theft where a fraudster proactively targets and tries to deceive a person into providing bank account or other personal details. We understand that security concerns are a barrier to some people shopping online and consider that more needs to be done to increase public awareness around online security.

We would not want to restrict people shopping online, even if it were possible to do so. However, we note that consumers must accept that online shopping comes with a degree of risk. We do not consider that it is the Government’s responsibility to ensure that online shopping is safe, but we believe that the Government, in partnership with the retail sector, should provide clear information and guidelines to consumers on online security, consumer law, and risk minimisation.

We acknowledge that everyone who uses the internet is at risk of experiencing some form of fraud and/or security risks and we would like to see the implementation of public advertising campaigns, with a special emphasis on those who are not experienced with online shopping.

## Recommendation

- that a public advertising campaign, via the television and the internet, is set up to raise awareness of online security, consumer laws, and risk minimisation, with a special emphasis on those who are not experienced with online shopping.

## Consumers’ rights

The Consumer Guarantees Act 1993 currently does not apply to goods sold at auction or by competitive tender. We are aware that since the emergence of online sales websites some traders have been using online auctions to avoid their responsibilities under the Consumer Guarantees Act. The law at present requires traders selling on Trade Me, using the “buy now” function, to adhere to the obligations under the Consumer Guarantees Act. However, traders using the bidding process, also known as “auction” on Trade Me, are not bound by the Act. The Consumer Reform Bill, currently before the House, seeks to address this issue.

We recognise that in an online environment it can be difficult to tell whether a seller is a trader or not. Therefore, we believe that a clear and consistent definition needs to be developed for “traders”, which would encompass companies and people selling professional goods frequently for a profit, but not individuals selling second-hand or used goods on an infrequent basis. This would provide greater protection for consumers and help to create a more even playing field and help the Government gain revenue from GST collection from traders selling online. It would also help ensure that traders are registered and paying their income tax.

## Recommendation

- that a clear definition of trader is established, which encompasses companies and people selling professional goods frequently and for a profit, but not individuals selling second-hand or used goods on an infrequent basis.

## **Encouraging small to medium New Zealand enterprises to have an effective and secure online presence and foster more niche markets**

We believe that New Zealand businesses need to focus on quality goods and services to gain a competitive edge in international markets, as we do not have the economic size to support effective competition in range and quantity. Most New Zealand business are small to medium sized and will struggle to have an effective and secure online presence without additional help from the Government.

We recognise that many traditional retail businesses find operating effectively online challenging and would benefit from investment and guidance in this area. We also understand that in the future online shopping will dramatically increase, but is able to operate effectively alongside traditional retail stores. Investment from the Government would also help new and emerging businesses succeed in the online marketplace.

### **Recommendation**

- that investment is put into encouraging small to medium sized New Zealand enterprises to have an effective and secure online presence and foster niche markets.

### **Conclusion**

We are aware that online shopping will eventually surpass traditional retail stores and the above recommendations will help to prepare consumers and businesses for the changing shopping environment. We commend this to the House.

## Appendix

### Committee procedure

The committee met on 16 and 17 July 2013 to consider the inquiry. We received four submissions, and heard evidence from the Commerce Commission, the New Zealand Retailers Association, and Trade Me.

### Committee members

Olivia Adam (Chairperson)  
Gul Agha Alizadah  
Faaiu Anae-Tunai  
Seamus Barnett  
Cameron Haworth  
Prabhjit Johal  
Malinna Liang  
Lafoai Luaitalo  
Mark Robilliard  
Tim Shiels  
Samuel Smith  
Oliver Wilding