



14 November 2019

Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

Email: digitaltrade@dfat.gov.au

RE: Submission on the Australia and Singapore Digital Economy Agreement

Dear Sir/Madam,

Visa welcomes the opportunity to provide a response to the Department of Foreign Affairs and Trade's (DFAT) consultation on the Australia and Singapore Digital Economy Agreement.

In responding and following previous engagement with DFAT officials on the agreement, we propose the establishment of a private-sector consultative mechanism under the Australia-Singapore Digital Economy Agreement that goes beyond what has been included in previous trade agreements.

In developing this proposal, we have drawn heavily on the experience of current and former trade officials familiar with a wide range of mechanisms used to ensure private-sector input into negotiations, bilateral commercial dialogues and ongoing trade agreements. Based on this experience, our proposal contains elements that we believe would be innovative and which are designed to improve on previous mechanisms.

For example, while private-sector consultative processes have been included in some existing trade agreements, they have not always produced robust levels of engagement. The process we propose is intended to establish a genuine public-private partnership centred on regular two-way feedback.

It is equally important to recognise that this proposal for a private-sector consultative mechanism is designed specifically to be part of a *digital trade* agreement. As such, the proposal contains elements important to addressing particular features of the digital economy. For example, the digital economy is uniquely characterised by rapidly changing technologies and commercial developments that pose challenges for appropriate regulation. At the same time, the global reach of the Internet and the increasing interconnectedness of firms across borders raise the risk of balkanisation by virtue of national regulations.

Such features of the digital economy make it vital that the Australian and Singaporean Governments regularly review and update this agreement to ensure a strong digital trade framework that can adapt to changing commercial and policy dynamics. To do so effectively, direct and detailed input from private-sector representatives, who are best positioned to explain the technological changes occurring in the digital economy and their implications, is needed.

To achieve this goal, we propose:

- Establishing a consultative committee with diverse representation. The consultative committee should include an agreed-upon number of members from each country with representatives of relevant industries and other stakeholders well versed in the trade and commercial implications of digital policies, such as from academia and civil society. Members should be carefully selected to ensure balanced and broad representation, with a cross-section of experts from across digital industries, other industries that use digital services, and other stakeholders.
- Holding regular meetings. The consultative committee should meet at least semi-annually to discuss changes in the digital environment and their impact on the operation of the agreement, as well as possible amendments to the agreement to ensure the disciplines remain current. Regular meetings would help ensure that committee members develop a well-functioning process for thoroughly considering the relevant issues.
- Establishing strong committee leadership. Co-chairs should be selected from each Party to organise and manage the consultative committee's work. In addition, each Party should select an Executive Secretary, who would be responsible for setting the agenda for the consultative committee meetings, informed by input from the committee, and driving the process toward constructive outcomes.
- Assigning consultative committee responsibility for drafting an annual report and recommendations. The consultative committee should be charged with producing an annual report on the operation of the agreement, including an assessment of how new technologies, new digital services, and evolving public policy interests affect its operation. The report should also include specific recommendations on how the agreement could be updated to strengthen digital trade and governance.
- Holding consultative committee meetings with Parties. The Parties to the agreement should meet at least annually with the consultative committee to review the operation of the agreement and to hold in-depth discussions on the consultative committee's report and recommendations. This engagement is intended to enable in-depth consideration of digital issues and policies and ways to ensure the agreement remains current.
- Ensuring consideration of the consultative committee report is a priority. The consultative committee report and recommendations should be a standing agenda item at the meetings of the joint committee or other mechanism under the agreement that has the authority to seek changes to the agreement. Keeping the agreement current should not be an *ad hoc* exercise, but should be considered in a regular manner based on insights that emerge from the consultative committee's

report and recommendations and the engagement between the Parties and the consultative committee.

- Ensuring a transparent process. The recommendations and the outcome of the consultative committee's discussions should be public after their consideration by the joint committee or other appropriate mechanism. Doing so will help ensure the credibility of the process.
- Considering regular updates to the agreement. To ensure a living agreement, the Parties to the agreement should decide whether to pursue negotiations to amend the agreement, taking into account the recommendations of the consultative committee and the meetings between the consultative committee and Parties. In light of the rapid rate of technological change in the digital economy, the Parties should be required to consider changes at least every two years after entry into force of the agreement.

Thank you for the opportunity for Visa to provide its perspectives on DFAT's consultation on the Australia-Singapore Digital Economy Agreement. If DFAT has any queries regarding this submission, Visa representatives are available to provide further details and clarifications as needed.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'J Potter', written in a cursive style.

Julian Potter
Group Country Manager
Australia, New Zealand & South Pacific