The Asia Internet Coalition (AIC) Informs CoPF: Consumer Jurisdiction, Not Business Location, Drives International Adoption of VAT for Software & Digital Service Providers

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The Asia Internet Coalition (AIC), which represents key players in the internet industry and promotes the understanding and resolution of internet policy issues in the Asia-Pacific region, disclosed that the international standard for adopting VAT on software and digital service providers is based on the jurisdiction of the consumer, not the jurisdiction under which a particular business operates.

The afore stated matters were discussed when the Committee on Public Finance (COPF) took into consideration the impact of the implementation of provisions of the Value Added Tax (Amendment) Bill on domestic software and digital operators.

As an extension to a concern raised at the previous CoPF held, domestic and international software & digital service providers such as PickMe, Uber, AIC (representing Meta, Google, X, Booking.com, Amazon, etc) and Daraz were called before the Committee on Public Finance held recently (Dec. 07) Chaired by Member of Parliament Hon. (Dr.) Harsha de Silva.

It was disclosed that all such software and digital service providers are exempted from the application of VAT at present and with the Value Added Tax (Amendment) Bill coming into effect from the 1st of January 2024, all such exemptions will be removed and the applicability of such provisions will put on-shore service providers at a disadvantage as opposed to businesses that operate offshore.

The Committee was of the view that such a policy decision would discourage businesses from operating on-shore and thereby cause such businesses to move off-shore impacting government revenue and deterring new start-ups and digital service providers. Accordingly, the Committee directed the officials of the Ministry of Finance to look into the growing concern with the assistance of The Asia Internet Coalition (AIC) and to report to the Committee on a way forward on or before the 31st of December 2023.

Moreover, the Committee also took into consideration five Orders and a Resolution. Accordingly, the Resolution under Section 10 of the Customs Ordinance published in the Gazette Extra Ordinary No. 2347/06, and five Orders under the Special Commodity Levy Act, No. 48 of 2007 published under the Gazette Extra Ordinary Nos. 2345/64, 2346/16, 2348/44 and 2353/77 were taken up for discussion and approved by the Committee on Public Finance.

The Committee was of the view that the Ministry of Finance must have an in-depth analysis carried out with the assistance of all relevant institutions before making policy decisions related to the increase and decrease of taxes that impact vital essentials such as wheat and green gram.

Furthermore, the Committee also took into consideration the Regulations under the Colombo Port City Economic Commissions Act, No. 11 of 2021 pertaining to the Down – Town Duty Free intended to be established at the Port City Colombo.

Accordingly, the downtown duty-Free mall targets 70% of tourist consumers mainly from China and

India, and will consist of premium luxury brands with 25 product categories including global brands.

Upon careful consideration by the Committee on Public Finance, it was observed that certain provisions stating which items can be imported under the Regulation are in the form of rules that are not legally binding. Therefore, the Committee believes that the Regulation needs to be revisited to avoid any gaps that may arise and prevent people from exploiting it. Accordingly, the members of the Colombo Port City Commission were instructed to rectify the discussed issues and present the revised version to the Committee.

State Minister Hon. (Dr.) (Mrs.) Seetha Arambepola and Members of Parliament Hon. Chandima Weerakkody, Hon. Mahindananda Aluthgamage, Hon. Wajira Abeywardana, Hon. Nimal Lanza, Hon. Premnath C. Dolawatte, Hon. Madhura Withanage were present at the Committee meeting held.