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The Productivity Commission

The Productivity Commission, an independent agency, is the Australian Government's principal review and advisory body on microeconomic policy and regulation. It conducts public inquiries and research into a broad range of economic and social issues affecting the welfare of Australians.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by consideration for the wellbeing of the community as a whole.

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The Honourable Wayne Swan MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer,

In accordance with Section 11 of the *Productivity Commission Act 1998*, I have pleasure in submitting to you the Commission's report on *The Market for Retail Tenancy Leases in Australia*.

Yours sincerely

Neil Byron
Presiding Commissioner

Terms of reference

I, PETER COSTELLO, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request the Productivity Commission to undertake an inquiry into the market for retail tenancy leases in Australia. The Commission is to hold hearings for the purpose of the inquiry and is to report within six months of receipt of this terms of reference.

In undertaking the inquiry, the Commission is to examine:

1. the structure and functioning of the retail tenancy market in Australia, including the role of retail tenancies as a source of income for landlords, investors and tenants and the relationships with the broader market for commercial tenancies;
2. any competition, regulatory and access constraints on the economically efficient operation of the market;
3. the extent of any information asymmetry between landlords and retail tenants and the impacts on business operation;
4. scope for reform of retail tenancy regulation to improve economic performance, including:
 - differences in retail tenancy regulation between States and Territories, and the scope for nationally agreed regulations and approaches; and
 - the extent and adequacy of dispute resolution systems for landlords and retail tenants, including differences in dispute resolution frameworks between the States and Territories;
5. the appropriateness and transparency of the key factors that are taken into account in determining retail tenancy rents;
6. the appropriateness and transparency of provisions in retail leases to determine rights when the lease ends; and
7. any measures to improve overall transparency and competitiveness of the market for retail tenancy leases.

The Commission is requested to:

- make recommendations for improving the operation of the retail tenancy market; and
- identify, and where practicable quantify, the likely benefits and costs of its recommendations for retail tenants, landlords, investors and the community generally.

In undertaking the review, the Commission is to advertise nationally, invite submissions, hold public hearings and consult with key interest groups and affected parties, including retail tenants and property advocates.

The Commission is to produce both a draft and a final report. The Government will consider the Commission's recommendations, and the Government's response will be announced as soon as possible after the receipt of the Commission's final report.

PETER COSTELLO

[received 21 June 2007]

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Abbreviations and explanations

Abbreviations

ABN	Australian Business Number
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ADT	Administrative Decisions Tribunal
ANF	Australian Newsagents' Federation
ANRA	Australian National Retailers Association
API	Australian Property Institute
ARA	Australian Retailers Association
ATO	Australian Taxation Office
BFSO	Banking and Financial Services Ombudsman
BGRA	Bulky Goods Retailers Association
BOMA	Building Owners and Managers Association
CBD	Central Business District
CEPR	Centre for Economic Policy Research
CFSPM	Colonial First State Property Management
COAG	Council of Australian Governments
COSBOA	Council of Small Business of Australia
CPI	Consumer Price Index
DEH	Department of Environment and Heritage
DFOs	Direct Factory Outlets
DUAP	Department of Urban Affairs and Planning
FAC	Franchise Advisory Centre
GLA	gross lettable area
GPT	The GPT Group
GST	Goods and Services Tax
LIS	Leasing Information Services

LIV	Law Institute of Victoria
NARGA	National Association of Retail Grocers of Australia
NRA	National Retail Association
NSW	New South Wales
NT	Northern Territory
OECD	Organisation for Economic Co-operation and Development
PC	Productivity Commission
PCA	Property Council of Australia
QIC	Queensland Investment Corporation
Qld	Queensland
REIA	Real Estate Institute of Australia
RICS	Royal Institution of Chartered Surveyors
RTAWA	Retail Traders' Association of Western Australia
SA	South Australia
SAT	State Administrative Tribunal
SBDC	Small Business Development Corporation
SCCA	Shopping Centre Council of Australia
SCISR	Standing Committee on Industry, Science and Resources
SRASA	State Retailers' Association of SA, Inc
SSRA	Southern Sydney Retailers Association
States	States and Territories
Tas	Tasmania
TPA	<i>Trade Practices Act 1974</i>
VCAT	Victorian Civil and Administrative Tribunal
Vic	Victoria
WA	Western Australia
WARA	Western Australia Retailers' Association

Explanations

Billion	The convention used for a billion is a thousand million (10^9).
Findings	<i>Findings in the body of the report are paragraphs highlighted using italics, as this is.</i>
Recommendations	<i>Recommendations in the body of the report are highlighted using bold italics, as this is.</i>