



**PRODUCTIVITY COMMISSION**

**NATIONAL INQUIRY INTO ECONOMIC STRUCTURE AND  
PERFORMANCE OF THE AUSTRALIAN RETAIL INDUSTRY**

**MR P. WEICKHARDT, Presiding Commissioner**  
**MS L. SYLVAN, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT SYDNEY ON MONDAY, 12 SEPTEMBER 2011, AT 8.58 AM**

**Continued from 6/9/11 in Melbourne**

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**MR WEICKHARDT:** Good morning, ladies and gentlemen. Welcome to the public hearings of the Productivity Commission's Inquiry into the Economic Structure and Performance of the Australian Retail Industry. This set of public hearings follows the release of our draft report on this topic in early August. My name is Philip Weickhardt, I'm the presiding commissioner on this inquiry, and my fellow commissioner is Louise Sylvan. The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and to get comment and feedback on the draft report. We have already held hearings in Melbourne on 5 and 6 September and these hearings in Sydney on 12 and 13 September will complete this round of consultations. We will be then working towards completing a final report to government in early November, having considered all the evidence presented at the hearings and in submissions, as well as other informal discussions.

Participants in the inquiry will automatically receive a copy of the final report once released by government, which may be up to 25 parliamentary sitting days after completion. We like to conduct all hearings in a reasonably informal manner but I remind participants that a full transcript is being taken. For this reason, comments from the floor cannot be taken but at the end of the proceedings for the day, I will provide a brief opportunity for any persons wishing to do so to make a brief presentation.

Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. A transcript will be made available to participants and will be available from the commission's web site following the hearings. Submissions are also available on the web site.

To comply with the requirements of the Commonwealth occupational health and safety legislation and with normal commonsense, I advise you that in the event of an emergency I'm told an alarm will ring in this room. The exits are marked with green signs here and here and the evacuation point is across the road, to the right and in a park across the road, I'm told.

Our first participants in the hearing today are eBay. If you could please, for the transcript, give your names and the capacities in which you're appearing.

**MR FEILER (E):** Daniel Feiler, head of communications for Asia Pacific.

**MS BROADHURST (E):** Diana Broadhurst, senior legal counsel.

**MR WEICKHARDT:** Thank you. Assume that we've read your submissions. Thank you for them. But please, if you would like to give a brief introduction that you want to talk about.

**MR FEILER (E):** I thank you for the opportunity to speak today. We would like to commend the Productivity Commission on its draft report. The report acknowledges that the nature of retail is changing and retail also needs to change with it. The change is being driven by consumers, with the shift in consumers to shopping online. I've been at eBay for seven years and in that time I've seen visits to eBay from Australia grow to over six million visiting eBay in any given month. That's a huge number of consumers who are now just on one web site, eBay, looking to make purchases.

So in acknowledgment of that shift, that has created huge opportunity for businesses. We've seen Australian entrepreneurs and businesses join eBay and build multimillion dollar businesses selling to consumers. These are Australian businesses that pay GST and that opportunity will continue to prevail or to be provided to anybody wishing to partake in online retail. eBay believes that the commission's final report would benefit from an additional study into three areas affecting consumers. The first area is the cost of reducing the low value threshold. Secondly, the impact of restrictive distribution practices on the consumer and finally, the importance of reducing shipping costs and improving Australia's shipping infrastructure.

On the low value threshold the draft report looks at some of the costs of administration and implementation. One of the things that it doesn't look at is the cost to the consumer and we believe that needs to be factored in and it should not be more than or substantially more than the GST or duty that they would be paying. According to our research, if the low value threshold was lowered to, say, \$500 and a consumer wanted to purchase an item for around \$500, they could be paying up to 40 per cent of the purchase price to bring it into Australia. We have in our supplementary submission outlined a particular incident where on a laptop a consumer could be paying 40 per cent through a combination of additional costs. So we would urge that in the final report the cost to the consumer be factored into any further discussion on lower the threshold.

Restrictive practices: Australian consumers have told us in a number of different surveys that they prefer to buy from Australian retailers and one of the biggest issues that they have is finding the items or the range that they're looking for from an Australian supplier. That's hardly surprising that we have a substantial amount of evidence from both our own sellers on eBay, as well as anecdotal evidence that certain products are being restricted from being provided online. This is occurring principally in two ways: (1) when a supplier restricts the ability of a seller to sell online. For example, if someone owns a small shop, let's say, for example, fashion and apparel where they use as an additional channel for sales and they're told by certain brands or suppliers that while the products can be sold in the bricks and mortar store, cannot be sold in their online store.

The other way in which this works and that we hear about from time to time is retailers to the suppliers where, for example, a supplier wants to open up their own channel direct to the consumer online and they're told by large retailers who stock that particular product that if they don't desist from selling it online they will remove those products out of the store. These restrictive practice efforts by various retailers and suppliers are keeping the supply online very small and is another contributing fact to why consumers are going offshore.

On eBay we have thousands of categories, a huge range, we see them searching from products that still, even with the huge range that is available on eBay, is not necessarily available on the site and undoubtedly that means they leave eBay and go onto other web sites where they can find it offshore. Finally, shipping. Shipping is a key e-commerce enabler and while much has been made in the report of the need for retailers to embrace more multichannel and online strategies and we definitely support that and the draft report does note that further investment in the Australian postage/shipping infrastructure is necessary to give consumers greater confidence but also to make Australia more competitive from an international point of view when it comes to shipping. They are really the only remarks that we had for this morning and once again we thank you for the opportunity to be here today.

**MS BROADHURST (E):** Might I just elaborate on one point. Our initial submission also contained a fairly extensive study demonstrating that if businesses do reform their business models and move to lower cost models like online, it not enables them to save costs and access the overwhelming consumer demand for online, but there isn't evidence to support that this will lead to job losses. It will lead to changes in the nature of skills needed potentially to support those businesses but the arguments that suggest that online will lead to job losses are not supported by the evidence from our studies and I just wanted to reinforce that point because I think that is quite important.

**MR WEICKHARDT:** Thank you.

**MS SYLVAN:** I wouldn't mind starting with the economic issues that you raise and particularly the issue Diana has just raised. The job losses in your model, there are short-term job losses, there are long-term net positive outcomes from what I can see. But the issue at the moment for retailers under pressure is the short term, so I just thought I'd pick that up and the short term matters if you're in business and going out of business, the long term doesn't matter so much. But I did wonder on the G modelling Allens did for you whether you'd had another look at that in terms of the numbers that we've now got in our report which both the Treasury numbers and our assessment of the losses and also you modelled 250, as I recall, whether you had done some other modelling in relation to that, particularly now that we have a better idea – still not expertly definitive but a much better idea of where the parcels lie in terms of their distribution under \$1000.

**MR FEILER (E):** We haven't gone back to look at that modelling.

**MS SYLVAN:** The managed model is very sensitive to the assumptions you put in.

**MR FEILER (E):** Yes.

**MS SYLVAN:** You've got some interesting things that I wasn't expecting like reductions in public service employment which I would have thought would have probably gone up under the conditions. But if you're planning on doing it, it might be interesting to look at.

**MR WEICKHARDT:** Can we just talk a bit more about the productivity issue. I think that most commentators would agree that e-commerce represents an opportunity to improve efficiency and productivity, indeed by the efficiency gains and productivity gains it's able to, in many cases, offer the consumer a better deal and sometimes cuts out intermediaries and provides some benefits. Of course, it would be wrong to say that growth in an e-commerce network wouldn't add employment in certain sectors, IT employment and transport and things like that.

However, I think it's a bit specious to say you can lower costs and improve efficiency without having a net employment effect. It's the net employment effect in the retail sector – it doesn't mean across Australia there will be a net decline in employment at all, in fact Australia has a fairly fully employed economy at the moment and indeed, there are some sectors of the economy that are struggling to employ people. So I'm talking about the retail sector specifically and its enabling services like transport. I find it difficult to believe that you can improve efficiency, lower costs and improve productivity and not have an employment effect. I mean, I'm not saying that an employment effect, you know, lowering numbers of employment in the retail industry is a bad thing. But I just find the claim that, "Look, you can improve productivity, you can improve efficiency and, by the way, you will improve numbers of people employed in the sector," doesn't actually pass the laugh test.

**MR FEILER (E):** I think you need people with different types of skills in the retail sector and I think people with more IT, logistics and all sorts of other skills will be needed. When we look at international experience, there's some very large retailers in the US who have a traditional bricks and mortar business but are completely re-architecting that model to embrace a more multichannel business. Best Buy is a good example of that. Best Buy is a large electronics retailer in the US who are completely changing the way stores are fitted out, where they're encouraging the consumer to come into the store and purchase online in the store and ask for that product that they're purchasing to be delivered to the home at a time which is convenient for them.

Now, if you're talking about plasma screens and fridges and dishwashers and large items, that makes a lot of sense. What that means for Best Buy is completely looking at the way the stores are designed, creating central warehousing and hubs. So it requires different types of job skills to do that. Where that all nets from a job point of view, is always going to be, to some degree, a matter of speculation but I think there is going to be a shift in the nature of jobs needed.

**MR WEICKHARDT:** That's not disputed and it's not disputed that people might, given this extra medium, buy more stuff although there's probably a limit to the number of plasma screens and fridges you want in your home. But there's no doubt if you're given the opportunity you may find things you didn't know you needed and buy them. But net-net, as I say, I think, without cranking this into a GE model, it's hard to believe that you can lower costs and improve efficiency by an online medium and net-net add jobs. Now, the McKinsey study that you cite talk about the Internet's power across the whole economy.

**MR FEILER (E):** That's right.

**MR WEICKHARDT:** That's a somewhat different exercise and we don't dispute that analysis, nor do I dispute that driving efficiency in sectors that gives consumers a better deal and improves net-net the productivity of the sectors is a bad thing either. But, as I say, I think to say, "Oh, by the way you can have it all and, by the way, you can have increased employment," is probably a bit of a stretch.

**MS SYLVAN:** Just in relation to the McKinsey study, their work was in relation to SMEs, I think. Do you know of anything which is in relation to the bigger end of town? The McKinsey study I think was for every job destroyed two point something or other was created globally. I had two questions about that one. Do we know what it looks like in Australia which is small and possibly McKinsey don't have enough there but also, do we know what it is at the bigger end of town rather than SMEs which are different in terms of the modelling?

**MR FEILER (E):** Unfortunately, that kind of research hasn't been done. I know from a very eBay point of view when you talk about SMEs when we look at the typical eBay seller today, that is predominantly SMEs and eBay has enabled a whole bunch of people to have businesses and lifestyles that without the Internet they just simply wouldn't have had previous to that. Because I would say the majority of our business sellers started out by just listing a few second-hand items from around the home and before they knew it, they were converting their garage into a small business and then they were buying a small warehouse or leasing a small warehouse in the western suburbs somewhere and then six months later they were out of space. This is the kind of stories that you hear from our larger sellers all the time.

Paul Greenberg from Deals Direct is a good example. Deals Direct started off on eBay in a business called Auction Brokers and they started their own Deals Direct, their own web site at the end of 2004 from being a purely eBay business. They continue to sell on eBay, they have their own web site and they're one of the largest pure play online retailers today and it simply started from a very, very small work-from-home situation. That is still very typical for our sellers today. What we are seeing on eBay is increasing numbers of retailers and manufacturers partner with eBay to sell direct to the consumer. Logitech is one such manufacturer who is using eBay as a direct-to-consumer channel; ABC Shop and the list goes on and we're certainly in talks with an increasing number of large, well-known brands and retailers. So we're encouraged that there is going to be increased opportunity for large business as well.

**MS SYLVAN:** I'd like to come to the competition issues that you raised, the restrictive trade practices. Can you tell me how you see yourselves. Do you see yourselves as a shopping centre basically? So, you know, no particular responsibility in a sense in relation to product safety or competition issues and so on. Is that the model that you use or is it a closer model to your retailers? You use the term "in partnership" I think which suggests something a little bit different. So I'd just be interested in how you position - - -

**MR FEILER (E):** We are a marketplace. We provide a service for all kinds of sellers, be they consumers who just want to sell some stuff from around the home, all the way through to large businesses and our principal role is to bring the buyers together with the sellers. So, if you like, we are very much like an online shopping mall. While ultimately when you talk about product consumer standards or consumer issues, ultimately the responsibility for a business seller lies in their hands on refunds, that sort of thing. We do certainly work very, very closely with a large number of government organisations and law enforcement to ensure consumers have reasonable forms of recourse. So, for example, we recommend that people use PayPal, eBay's online payment method, which on eBay offers consumers up to \$20,000 buyer protection if the item doesn't arrive or it's significantly not as described.

On a product standards point of view, we would argue that eBay's ability to respond to, say for example, a product safety recall is probably much more advanced than what can happen in the physical retail world. For example, a few years ago – I can't remember the name of the product – Beanie Dolls, these dolls that were filled with these beads or something and apparently there was a liquid in the bead that had a hallucinogenic effect if it was swallowed in large quantities. I think it was the New South Wales Office of Fair Trading that put the recall out first and we heard from them within an hour that they were doing the recall and within two hours, every single listing for this particular product was removed from the web site globally. Secondly, we wrote I think to the New South Wales Office of Fair Trading and said



if they wish, we could quite clearly pull the details of every single seller and every single buyer who had traded in these products and we sent communications to each of those groups about the dangers of this particular product. That all happened within half a day. So a traditional recall in retail, I don't have any specific statistics, but I would imagine it's just not possible to do it that quickly in bricks and mortar compared to online.

**MS SYLVAN:** Can I ask about your processes when someone writes to you – more likely than not, it would be a competitor probably, so that's an issue – but if they write to you to say that they think they have a product safety issue with another site – for instance, it doesn't meet an Australian standard or whatever – what is the internal and possibly external process in relation to both the seller and to the regulator?

**MR FEILER (E):** Generally we need advice from the regulator but once we have that advice, we will remove the product.

**MS SYLVAN:** But what do you on the complaint?

**MR FEILER (E):** On the complaint?

**MS SYLVAN:** If you receive a complaint – because a lot of people write to you - - -

**MR FEILER (E):** Yes.

**MS SYLVAN:** - - - because you're a very visible presence within the eBay - - -

**MR FEILER (E):** I think in general we'll look at the particular product and conduct a bit of research but we do have a pretty good relationship with the various relevant government bodies and if we believe it needs to be escalated to them to get their advice, we'll do as much.

**MS BROADHURST (E):** We're also able to connect the complainant and the seller. Sometimes we require there to actually be involvement of the regulator just from a privacy perspective before we can actually hand over the seller's details because once there's some type of investigation, we can obviously provide that type of information. But it is our view that sometimes this issue should be resolved between buyers and sellers. Sometimes it's actually a distribution issue rather than a product safety issue and we've seen that before, where there are actually more or less identical products available in different markets but a local seller will be using the fact that another seller is selling one from another market to suggest that it's noncompliant and sometimes those complaints are without merit.

There are other proactive things that we do. We have many help pages

outlining to sellers the various safety standards that exist. We have prohibited items which far exceed what are legal in Australia. We prohibit many items just on the basis of product safety issues and they're not available on the site for those reasons. We have an extensive trust and safety program which acts on both a proactive and a report based basis, and also what we call interstitials that appear in transaction flow in categories like baby products where obviously there are significant safety standards that apply, so that both buyers and sellers when they list and are purchasing items are reminded that products need to comply with safety standards.

**MS SYLVAN:** We had a person at the Melbourne hearings that had surgical stainless steel body-piercing parts, that was their business on eBay, and there's surgical stainless steel being advertised without nickel which I understand is not possible, by definition.

**MR WEICKHARDT:** It's an oxymoron.

**MS SYLVAN:** But the sites were advertising "without nickel" because some people are allergic, I gather, or whatever, but it can't possibly be without nickel. You might have a look at the transcript. They sent us the letter that they got back from eBay which I thought sounded like, "It's not our problem," but it would be worth – you said it would through the normal processes, but that was the last they heard. So I'm just wondering about the proactivity, if you like, and I don't want to give you a single instance that we've been given but - - -

**MR FEILER (E):** Sure. We can look at that.

**MS SYLVAN:** Yes. They also had an example of batteries sold on a tongue bar piercing thing which were highly corroded which would have lithium and all sorts of things in them, I think. It seemed like a fairly serious product safety issue to us.

**MR FEILER (E):** We take these matters seriously. There are, at any one given time, over 100 million listings on eBay globally at any one time, so undoubtedly while we believe we've got among the most sophisticated systems online, there are going to be odd items that get through our systems which often is a learning experience for us to help us improve our systems.

I would just say, which I think is very relevant for the Productivity Commission because a lot of this has been discussion about items purchased from overseas, on this, we do work very, very closely with Customs; have received numerous commendations from Customs on the way we partner with them and in fact we've had a very longstanding relationship which is really stopping any kind of prohibited item getting through. We're very proud of that fact.

**MS SYLVAN:** Is there a difference on your web site to whether a person has a .au,

because you can get a .au, can't you, if you want to be an eBay seller, whether you're in Australia or not? Is that right?

**MR FEILER (E):** We look at the sellers – and this is a very eBay internal point of view – from where they're located as to determine which market – and we're located in nearly 40 markets around the globe – but which market that seller is from. So if you're an Australia seller who lists on eBay.com.au but then you also choose to sell a product that you think Americans are going to be interested in, you list on .com, the US web site, you'd still be recognised from the seller point of view as an Australian seller, even if you listed on the .com web site. Does that answer your question?

**MS SYLVAN:** Yes. I was thinking of it from the consumer point of view. A lot of consumers look for the .au as their shorthand for protection.

**MR FEILER (E):** No, we clearly have the seller identified by location, where they are, and so the consumer, if they're looking to purchase only from an Australian seller, they should look for the seller location.

**MS SYLVAN:** They can easily see it's a Hong Kong seller or whatever.

**MR FEILER (E):** That's exactly correct.

**MS BROADHURST (E):** In the inflow transaction process where buyers are buying from overseas sellers whose products are displayed on the site, there's also an additional warning message which comes up with tips for buyers who are buying internationally to alert them to the fact that they've selected an international listing. Amongst those tips is a link to the Product Safety Standards Information page and other information about Australian warranties and other things they need to consider in purchasing internationally, so we have taken proactive steps to ensure that Australians know and think about issues associated with buying internationally.

**MR WEICKHARDT:** On that score, a member in our team I think who believed they were dealing with an Australian supplier but the product eventually arrived from a Chinese site or a Chinese location, that was the origination of the product, if you were made aware of that, would you do anything about that particular seller?

**MR FEILER (E):** This is where it can get a little bit confusing. So I think, firstly, nearly everything manufactured in Asia is ultimately - I read some statistic one in two items on product shelves in the US were made in China today, so I imagine it's at least that, if not more, here in Australia.

**MR WEICKHARDT:** Sure.

**MR FEILER (E):** We do certainly have a large number of sellers who are based

overseas and who do look at Australia as an opportunity to sell to. Some of these sellers, because they're doing such large volumes, will establish a warehouse in Sydney or some place like that and therefore use that as a sort of distribution hub. So that's where it can get a bit grey, if they actually do have premises and they do have some sort of system here, but they're just shipping in bulk, say, for example, from China and they just use a local base as a redistribution centre. So it just depends on the specific circumstances.

**MS SYLVAN:** That's kind of the issue that we're trying to get at. When you're a consumer on your site – I mean, whether they do their fulfilment from anywhere in the world doesn't really matter – the question is: is the consumer protected in relation to that seller and can they tell? If they want to buy – and this is not a recommendation from us, they can buy anywhere in the world they want to, that's the whole point of the Internet – but they were quite differentially protected in terms of the reach of the regulators to overseas locations. The question is whether they can see - - -

**MR FEILER (E):** If the seller is clearly identified – in this instance, where, say, for example, the foreign seller that has locations here is clearly identified as an Australian seller, then I imagine the Australian standards would apply, right?

**MS SYLVAN:** Yes.

**MR WEICKHARDT:** I'm not a lawyer and I don't want to pretend that I understand this fully but I suspect if you've got an agent here in Australia who takes an order and simply redirects it to a Chinese supplier and the Chinese supplier then supplies you directly, I'm not sure where, if you like, legally you stand in terms of whether you've dealt with an Australian supplier or whether you've dealt with a Chinese supplier.

**MS BROADHURST (E):** Certainly under the buyer protection programs we have in place, that buyer would in those circumstances have redress against the seller. Whether or not they're an agent or otherwise, they would have redress under those policies against that seller.

**MS SYLVAN:** They would be dealing with the equivalent. Whatever the consumer chooses to do is up to them in a sense, from our point of view, but just so there's clarity about - - -

**MS BROADHURST (E):** Sellers are required to state truthfully their location and their item location. Some additional information that they will be required to provide from 15 September is also shipping time estimates, so if sellers are shipping items from overseas, they will need to indicate that by way of the increased shipping time that that might take.

**MR WEICKHARDT:** Some examples of course, I think even on your site, you quote examples where stuff comes from offshore faster than it comes domestically.

**MS BROADHURST (E):** Yes.

**MR WEICKHARDT:** Anyway, can I move on to the other point that you raised about restricted practices. I do this with some trepidation sitting next to an ex-deputy chair of the ACCC who will kick me if I get this wrong, but you cited two examples; one of them I think is probably clearly illegal and the other I suspect is not illegal. The supplier who says to a retailer, "You can't sell this product online and if you do, I'll withdraw supply," is – whether they say it subtly or whether they say it directly – saying – probably saying, "You can't sell this online at a discount," and therefore there is an attempt to influence the seller's final selling price. That clearly is illegal. I can't imagine a supplier would be very fussed if the retailer put the product on their web site at double the normal retail price – and I suspect it's a, "Good on you, I hope you sell some" – but there would normally be an inference, "If you discount this product, I don't want you to trashing the price of my product because my other retailers will be upset."

The other example where a supplier decides to sell directly and the retailer says, "In that case, I don't want to sell your product," that's just a commercial choice by that retailer. A retailer is not forced to sell product and if a retailer says, "Well, I don't choose to compete directly with a supplier who is going directly," I think that's their choice. Am I right?

**MS SYLVAN:** Yes, probably.

**MR FEILER (E):** I would just say the irony of the latter is that we have seen over the past 12 months some large retailers complaining about offshore – in fact maybe the whole Productivity Commission's – the genesis of this particular report started in some of those complaints. It's exactly those kind of arrangements that are inhibiting a wider range of product from Australian based businesses online which is arguably, we would believe, driving consumers offshore to where that product is available.

**MS SYLVAN:** I'm trying to think whether the exclusionary contracts in Australia – you know, "This is the distributor, you must buy from this distributor, here is our distributor in Australia," et cetera, are unusual here. I wouldn't have thought that they were different much than any other place in the world. Do you think they are?

**MS BROADHURST (E):** We've seen similar issues in other jurisdictions definitely.

**MS SYLVAN:** Okay. The thing that stopped us and the reason we've referred your

survey to the ACCC was it looked like a resale price maintenance.

**MS BROADHURST (E):** Many of the examples that have come to us have indicated that price discounting is an additional issue.

**MS SYLVAN:** Is this occurring in a particular part of the market?

**MR FEILER (E):** We've seen it across a bunch of different categories, from jewellery to sporting goods to fashion to electronics and so forth. Look, a lot of this is kind of said in hushed tones by sellers when we meet them at various conferences. As I mentioned earlier, the vast majority of our sellers today still on the business side are small enterprises and they probably are too scared to speak up about it.

**MS SYLVAN:** Their reluctance to speak up is they feel that the provider, whoever it is, whether it's an agent in Australia or a local manufacturer, whatever, will simply say, "We don't want you as a seller," for reasons that I'm sure you could find in a contract.

**MS BROADHURST (E):** Or disrupt their business on eBay; for example, making reports through VeRO which is our program that exists for protecting intellectual property, alleging that their sale is somehow in breach of their intellectual property.

**MR FEILER (E):** We see that a lot.

**MR WEICKHARDT:** Okay. Can I move to the first item you raised and that is the cost to consumers of reducing the LVT. Your example that you give in your submission and you alluded to briefly in your presentation highlights the issue that caused us to say in principle the LVT should be lowered, but not now; that is, the current system has high costs. What we were advocating is not that the LVT be lowered with those high costs but that the system be redesigned such that the costs were driven as low as possible which would allow the LVT to be driven as low as possible to provide tax neutrality but without imposing on consumers the high costs that you have alluded to. So we understand the point you raise.

**MR FEILER (E):** Okay.

**MR WEICKHARDT:** Of course the challenge is significant when you get down to an LVT at the sort of level that the Canadians have, for example, and if we use \$20 as an example, you can look at the cost in relationship to the cost of the item and in relationship to the cost of the revenue collected from a number of different perspectives. You can look at the averages and then you can look at the specific item. On the specific item basis it becomes quite tough. If you import something that's worth \$21 and you've got a threshold of 20, then there's roughly 2.10 of GST to be collected. If you say, well, your costs of processing have to be as low as the

revenue collected – and I assume it's duty-free – that suggests a processing charge of no more than \$2 which is a standard we're not sure is met anywhere around the world.

Nonetheless, the Canadian costs which we're told are around \$8 per item would mean that across the great sweep of things from \$1000 down to \$20, the revenue collected would far exceed the costs of collection. So these are some of the challenges that we've suggested the task force would need to examine before a decision was made as to what level the LVT should be reduced to. It's quite a complex issue and there are a number of different perspectives that would need to be attended to.

**MR FEILER (E):** I think Australia is a very different example to Canada just geographically. Australia is unique probably globally on that front. From an eBay perspective, global cross-border trade comprises 20 per cent of the value of all sales on eBay. As of last year, 2010, it was 20 per cent. If you look at Canada, for example, that is one of our large – one of the markets where there is a significant amount of cross-border trade happening but it's principally between Canadians and people in the US unsurprisingly. I assume that the costs of getting a parcel from New York to Vancouver is probably considerably less than from New York to Sydney.

**MR WEICKHARDT:** Probably, but what we're talking about is the processing costs and that relates to the processes at the border.

**MR FEILER (E):** Yes. Once again, I think from our point of view – and we're pleased that you acknowledge that the trick is getting it right from the consumer perspective. Just as far as how this issue has gone about in public discourse, we feel that the effort on behalf of the retailers should just simply be more focused to getting online than worrying about this and the benefits of being an Australian retailer with an Australian brand with a network of your own stores which is a huge advantage to a lot of pure play e-commerce web sites because it gives the consumer an incredible amount of trust, especially if you can set it up in some way that you buy online and if there's a problem you bring it into the store and we'll exchange it there and then for you or whatever. There is a whole range of advantages for a retailer in an online, multichannel model. We would feel that their effort is better placed getting online than worrying about the low value threshold.

**MR WEICKHARDT:** We have time for one last question.

**MS SYLVAN:** There is a bit of an implication in the material that you sent us that current high level of the low value threshold is, sort of, enabling in a sense of people shopping overseas and presumably online offerings from overseas et cetera. But as I look at those countries that have low low value threshold – the UK and Canada are

examples - it doesn't look to me like e-commerce isn't thriving. In fact they've gone ahead far faster than we have, as far as I can see. So it doesn't seem to be the prime problem, if I can put it that way.

**MR FEILER (E):** Yes.

**MS SYLVAN:** It looks to me like the low value threshold is not going to prevent people from buying overseas, particularly since it's not just price, it has an awful lot to do with choice, availability issues et cetera, price being a factor for consumers.

**MR FEILER (E):** I couldn't agree more with that. You look at the US and the UK where they're a good few years ahead of where Australia is and principally because all kinds of players have invested heavily in online, pure-play online, traditional retailers et cetera. I think it's interesting now that with the Australian dollar, where it currently is and being very strong, has brought a lot of attention onto this particular matter but what's not being talked about is all the Australians who are taking advantage of the strong Australian dollar, travelling overseas with empty suitcases and filling them up. In years gone by when the Australian dollar was a lot weaker, we had a lot more Americans and Englishmen and other people from all round the world coming to Australia with empty suitcases. So I think that is also one of the impacts that is definitely affecting Australian retail as well.

**MR WEICKHARDT:** I will ask one last question at the risk of running over time. You raised post and, of course, everyone would like post items to come to them faster and to cost less but Australia Post would put back and they've put to us in a submission that, "The parcel market in Australia is deregulated. If people think they're doing such a shonky job, then come on in." You mentioned Australia is a big country, it's different. The question is, if you think that Australia Post aren't up to the mark, aren't offering customers what they need, why don't competitors come in and offer a better service?

**MR FEILER (E):** We're starting to see a bit of that in that we have evidence from some of our larger sellers that are establishing logistic solutions outside of Australia to ship primarily into Australia to reduce costs. That said, we are strong believers that Australia Post is able to improve its infrastructure and we're partnering with them to do as much. Last year we trialed a satchel in partnership with Australia Post, eBay and Australia Post, which is a fully tracked parcel in two sizes, a flat cost to send anywhere to Australia for the one price of the parcel. We piloted that at the end of last and we launched it earlier this year. It had an incredible response. eBay sellers have really loved it and Australia Post really like it as well and we're looking to further that partnership with more product.

But we believe there is still a lot more than can be done and we will continue to partner with Australia Post and other suppliers to use the benefit of our global



experience to try and improve the domestic situation.

**MR WEICKHARDT:** Good. Thank you very much indeed for coming along. Thank you for your participation and submissions.

**MR FEILER (E):** Thank you.

**MR WEICKHARDT:** Our next participant is the Shopping Centre Council of Australia. If you could just give your names and the capacity in which you're appearing, for the transcript, please.

**MR COCKBURN (SCCA):** Milton Cockburn, I'm executive director of the Shopping Centre Council and with me is Angus Nardi, the deputy director.

**MR WEICKHARDT:** Thank you for your submissions. If you want to give us a brief outline of the items you want to outline today.

**MR COCKBURN (SCCA):** Yes, just very briefly, commissioners. Firstly, thank you very much for allowing us to appear today. I've got no intention of going through our submission on the draft report in detail. I just make the point that we have, as you will have noted, supported all but one of the commission's draft recommendations. I suppose the most numerous ones are the planning and zoning recommendations. We're very grateful about the fact that the commission has, within the context of maintenance of the activity centres' policies, which is generally the basis for the strategic planning policies of all governments around Australia, within the context of the activity centres' policy, has made some very sensible recommendations about how you can both expand the amount of space available within the activity centres and also how you can ensure there is much greater flexibility in terms of zoning within the activity centres. As I said, we support all of those recommendations which essentially build upon the recommendations which the Productivity Commission itself made in its benchmarking inquiry into planning earlier this year.

We have, however, suggested that in relation to some of those draft recommendations that the specific reference to new retail formats be deleted in the final recommendations so that those recommendations actually apply to all retailers, not just new format retailers, recognising that in fact these are restraints on all retailers, not just the so-called new formats. We're happy to talk to these later. You'll note we have proposed several additional draft recommendations or recommendations which we believe would actually support and strengthen the operation of the activity centres' policies.

In relation to trading hours, we strongly support the commission's recommendations about complete deregulation of trading hours. I suppose up until now we have generally argued for what we call effective deregulation, that's the Victorian and Tasmania model which essentially has removed all regulation of trading hours except for Christmas Day, Good Friday and the morning of Anzac Day. But we realise realistically there is probably no justification in this day and age for governments retaining any regulation of trading hours given what happens in the two territories. Whenever you maintain any regulation, even minimal regulation, then

obviously you have to devote some public resources to enforcement and administration. So we actually think there is probably no justification now.

We would make the point though and you would have noticed, commissioners, that your draft recommendation was portrayed in the press as an open-all-hours policy with the implication being that there would be some element of compulsion there about retailers trading on these times and for anyone who has lived any length of time in Canberra, you'll know that in fact that's not what deregulated trading hours means and certainly within retail tenancy legislation there are actually protections against retailers being forced to trade outside what is called core trading hours. So I would respectfully suggest that in the final report it be stressed that in fact this is simply giving the retailer the opportunity to trade when they think they can make a buck rather than forcing them to trade.

On retail tenancy regulation we agree with the commission, given that this was a matter that was thoroughly looked at by the Productivity Commission itself only three years ago and given that no new issues have been raised that that's not something that the commission should be revisiting in this present inquiry. We do agree that the work of the working group should continue. But we have made one suggestion: before the working group actually takes that on we think there should be a meeting of the major stakeholders in the retail tenancy industry, simply to find out whether in fact there is broad support for continuing down this path. The reason I say that is the problem with the major recommendation of the commission, which hasn't been touched, was the recommendation that a voluntary code of conduct be negotiated in relation to shopping centres between the participants. Once that voluntary code of conduct was negotiated and was in operation, enforceable under the Competition and Consumer Act, then that would then lead to a progressive deregulation of shopping centres from retail tenancy legislation.

Once it became clear that in fact the previous Productivity Commission was recommending that as an either/or approach, not a plus approach, then there was public comments from a number of the retail associations saying they weren't interested in going down that path. So we think it would be silly if the working group embarked upon that as being a major project if in fact there was no retailer support for it. So we think there should be perhaps a meeting with stakeholders before state governments proceed down that path or head down that path.

Then just back to the low value threshold which is the only area where we have disagreed with the Productivity Commission. Sorry, just before I go onto that, back to retail tenancy regulation for a moment. We think actually it should be perhaps made clear indeed by way of a recommendation by the commission that if in fact all of the recommendations in relation to planning and zoning are adopted by governments, then that would then lead to a progressive deregulation, if you like, on the retail tenancy side. Because the commission has essentially said, "Look, one of

the reasons why we have this massive amount of regulation of retail tenancy in Australia is probably because we have a much tougher planning and zoning system than in most other countries," so if that planning and zoning system is in fact made much more liberal, then the justification for such a highly regulated retail tenancy industry falls away.

As I said, on the low value threshold, that's the only area where we disagree with the commission. It's not so much disagreement, we just would like the commission in its final report perhaps to give greater consideration to why it is that these other countries do operate with a much lower de minimis threshold than Australia and because they do operate on that basis and they do include a number of our trading partners, the maintenance of the \$1000 threshold, of course, does put us in the situation of reverse protectionism in the sense that it's essentially becoming a negative tariff rather than a positive measure, although I'm not suggesting there should be a positive measure.

We've also made the point that we think the commission's own cost benefit analysis which the commission does admit is a very simplistic one understandably, for understandable reasons, we think that is deficient in one sense in that on one side of the balance sheet it's taking into account the direct costs of reducing the threshold and I'm talking here of the reduction to \$100. The analysis the commission made, it came up with the figure of in excess of a billion dollars of the costs that would be involved there and that was the cost to Customs, Australia Post, the carriers and then a figure of around about 600 million being the cost of business and consumers and that's where the figure of about 1176 million came from. But on the benefit side, the only benefit that was really listed was the additional GST and Customs revenue of about 472 million.

Now, we believe that if in fact you are going to list the costs on one side of the ledger, then on the benefits side you must also list the reduction in the costs of the present tax non-neutrality. The commission does itself point out just what those costs are, distortion in resource allocation, losses in efficiency and such like. Those costs would in fact be reduced if you actually do reduce the threshold to \$100. So the point we make there is, if you are going to persevere with this cost benefit analysis, then we think the ledger should be evened up so that we are actually comparing apples with apples and bananas with bananas. That is all I wanted to say by way of introduction, so we're happy to take questions.

**MS SYLVAN:** I'd like to start with the planning issues and maybe come to the LVT a little bit later. In a sense, I'm not sure we're quite as supportive of activity centres as you suggest. In the recommendations to free up land, which is the key constraint here, so somebody can leave a mall and head across the street, which is not the same kind of offering, or head across the street to another mall, if that's the way it works out, or where they are taking into account some of the externality issues of

transport and so on where there are bids to locate what you would call out of centre, in a sense our recommendation was really to say that should be a lot more open in terms of the definitions that exist so that hard industrial – really is hard industrial, because a lot of industrial now isn't what it used to be.

I mean, the reason those zones exist is there used to be tanneries et cetera, and they were trying to get those away from shopping areas and from residential areas. Increasingly that can be isolated. It's relatively small. I don't mean in size of operation but relatively small in the construct of the whole retail/residential setting. In a sense I think our recommendations are a lot broader than you've taken it. You wouldn't have to have bulky good zones, in a sense, because it would be quite easy to set up an industrial zone because an industrial zone can have retail in it.

**MR COCKBURN (SCCA):** Yes, but I don't think you go as far as to say that shopping centres are going to be allowed to be set up in industrial zones though, do you?

**MS SYLVAN:** In a sense we leave that open, actually.

**MR COCKBURN (SCCA):** Just to take it at the outset, you do make the very strong point, which we agree with, is the best competition comes when the situation you alluded to operates, that a tenant inside a shopping centre who says, "Look, I think the rents inside the shopping centre to me are too high. I'd prefer to trade that off with lower foot traffic and therefore a lower rent," and that person could quite easily move from the shopping centre outside to the high street, then that's obviously a very good competitive outcome. But at the moment that would really come in an activity centre. There have been examples of it, by the way. I mean, if you go to Chatswood here in Sydney you'll find two major, what we call, regional shopping centres virtually operating side by side, both with different owners, both with different managers, and a very healthy high street in between.

In fact another shopping centre – what we call a subregional shopping centre – is now being developed over the railway, so you'll have three major shopping centres in that area. That is the sort of benefit the commission was talking about, of having competitors all surrounding each other. We see that as essentially the essence of activity centres' policies. Once you start to make it much easier for people to be locating in out of centre locations, and therefore retailing is going to become much more dispersed, then that benefit would to a large extent diminish, and certainly the benefit to a consumer of being able to go very easily from this shop to that shop, to that shop, becomes much more difficult to the consumer. In a competitive sense I think outside the activity centres that advantage would diminish.

**MS SYLVAN:** Potentially, I guess our question would be are business men not smart enough to figure that out? If they want to compete from a different location

and they think they have got a destination that's new to offer – I guess that's why we use the word "new" in a sense, because it's some of the really big footprint things that are unable to get into current activity centres – we wonder – not ignoring the externality issues because I think they are important, but just leaving them to the side for the moment – why shouldn't we let the market respond much more capably without the level of restrictions that currently exist, and thus the limitation of availability of land in relation to retail planning?

**MR WEICKHARDT:** Indeed, if I can just sort of piggyback on that, whilst we do make the point about location matters, and in some sectors of the market it clearly does matter. But there are other sectors of the market where it clearly doesn't matter. If location was that critical nobody would be complaining about offshore retailers selling product, even located inside our country that are competing in some sectors. Clearly if you see retailers move more to a bricks and clicks type of environment, location doesn't matter there either. Indeed, if somebody decides they want to buy something from a particular bulky goods warehouse and want to pick it up, then they have probably already made the commitment on the Internet.

So in some areas location doesn't matter at all, or proximity of location doesn't matter at all, and in some cases it does. As Louise was saying, our concern is that the market is allowed to decide, that retailers are allowed to decide, rather than being told, "You must be crammed into this particular small spot," which by necessity means that demand goes up, supply is low and costs are high, and there is no doubt that rental costs in Australia are high.

**MR COCKBURN (SCCA):** Yes, but you're now actually raising a much broader issue. You're now actually querying whether we should have planning schemes at all, because if you are going to say that certainly the retailers should be able to locate effectively wherever they like, then there's no justification for saying the shopping centres can't do the same. Now, if what you're saying is that all retailers, including shopping centres, should be able to locate wherever they like, then we'd have no disagreement with this at all.

**MS SYLVAN:** We wouldn't exclude shopping centres.

**MR COCKBURN (SCCA):** Yes, but what's happening at the moment is we've got quite a selective planning scheme where they say, "You are the shopping centre, you've got to remain in the activity centre. You've got to be the core, if you like, of the activity centre but you, Mr New Retailer, you can actually go over here, buy cheaper land if you like, you can go there." So as I said, provided you make it very clear that we're not the only ones being forced into the activity centres then we wouldn't disagree with that at all.

**MS SYLVAN:** Okay. That levels the playing field from that point of view.

**MR COCKBURN (SCCA):** Yes, a level playing field. But, of course, what you're now recommending is having very significant consequences for the planning system itself.

**MS SYLVAN:** It would, but can I just ask about the key externality which is the transport issues. Do you have any sense – I mean, that's one of the reasons the activity centre hierarchy exists the way it is in such a rigid form. Given that we don't come from a planning area – and in places where perhaps they have been allowed, shopping centre locations in areas that wouldn't be designated shopping centre locations – how do the shopping centres handle those transport issues? Planners are very concerned about public transport and so on and so forth, and that might be quite valid. So I'm interested if there's any experience here of that being dealt with adequately when it wasn't an activity centre location.

**MR COCKBURN (SCCA):** You mean on an outside - - -

**MS SYLVAN:** What you would call out of centre, yes.

**MR COCKBURN (SCCA):** I think there's a classic example, for example, at the moment in your home city of Canberra. What's happening out at the airport at Canberra is a classic example of that where under none of the planning schemes – under none of the strategic planning schemes, the territory plan or whatever – was it ever envisaged that there would be major office accommodation or major retail being located around the airport, largely through an anomaly which goes back to the way in which the airports were sold in Australia or sold on long-term leases. Essentially a de facto commercial planning approval system operated there. So you've now got, for example, at Canberra Airport, what's now called Majura Park. As I said it's now essentially both a retail and office activity centre which was never envisaged.

Now, that has led to quite dramatic infrastructure that had to be suddenly provided for that area, and in a climate of scarce public resources when you allocate infrastructure to an area that you never had previously envisaged that it would be, then that presumably is coming from an area where it was previously envisaged that it would be. So there will be very significant consequences in terms of the provision of public infrastructure as a result of, if you like, uncontrolled creation of activity centres. We're not for one minute suggesting that there should never be new activity centres, and in fact one of the criticisms we would make of the activity centres' policy is that by and large we don't think state governments and local governments have been sufficiently proactive in creating genuine, new activity centres, and we don't think they have been sufficiently proactive in expanding and up-zoning existing activity centres. So in fact we are continually creating new retail space. That's just one area. I might throw it over to Angus as well.

**MR NARDI (SCCA):** I suppose a key point to make as well though is, if there's liberalisation out of centre it's open to all. Not only that, that it's a fair and level playing field. We've given an example about – in places like Queensland if you called one thing a shopping centre, you then called another, say, a bulky goods outlet, you pay higher charges if you're a shopping centre. We gave the example, your 10,000 square metres of one, versus 10,000 square metres of the other, even though the goods that are sold are largely the same, the footprint is largely the same. One is paying \$400,000 more.

Even if the location aspects were balanced there is still a lot of imbalance that's there. We've also made the point that even within activity centres the claim can almost be made that the only people experiencing problems are those trying to get out of centre, whereas we've got members that are in centres where governments want them to be. I was in Perth last week talking to a member who's having major issues expanding a centre within an activity centre. That's not because of the centre's policy per se, it's because of the zoning requirements and all of these additional requirements that are being imposed on them.

If it's looking at being applied equally, well, we have no reason to object. But the main point on that is that the very foundation of some of the claims we find hard to take seriously because you just mentioned before, commissioner, about the larger floor plates for certain retailers. They're no bigger than any of our members' floor plates than a traditional shopping centre. In fact the shopping centres in centres are actually larger than these so-called large formats that want to go out of centre. You go to Bondi Junction here in the city, the floor plates are much larger. So I suppose we just wanted to also challenge some of the claims, whether they're larger floor plates, more carparks, bulky goods being sold. In a lot of cases, when you actually look at it, they're no different, they're another version of a retail outlet just under a different name.

**MR COCKBURN (SCCA):** There is no disagreement between us in terms of the end result. The end result is to make sure that we have plentiful retail space, sufficient retail space. We think that can be done without actually throwing the activity centres' policy out. We think through careful attention to activity centres' policy, as I said, to continual expansion of the centres themselves, creation of genuine new centres, through more flexible zoning within centres – all of the issues which we think you've addressed in your draft recommendations – we think that can be done without necessarily throwing the activity centres' policy out; in other words, throwing the baby out with the bathwater. It's interesting that all of the work that's being done at the COAG level at the present time, through its cities policies and suchlike, and in terms of infrastructure planning et cetera, at the core of it is the activity centres' policies.

Realistically, this was the reason why governments in the first place adopted



activity centres' policies. It wasn't in order to benefit retail or any other form of commercial activity. It was essentially to say, "We want the orderly planning of our cities. We want the orderly provision of infrastructure, and one of the ways we can do that is through a hierarchy of activity centres within the metropolitan boundaries which will permit the establishment of railways and roadways which will maximise that use". So we don't actually think it's necessary to throw the activity centres' policy out in order to achieve the objective, which is the creation of more retail space.

**MR WEICKHARDT:** It then does come down to the – the acid is on this issue of the size of the activity centre, its breadth and its flexibility to accommodate all sorts of different models inside it and not be prescriptive.

**MS SYLVAN:** As you'd be aware, some of the prescriptions in those activity centres is down to the level of, "What kind of store?" in some of the small villages.

**MR COCKBURN (SCCA):** Yes.

**MR NARDI (SCCA):** We don't disagree. We made the point in our first submission is that a lot of the problems are the centres' policies per se. It's actually, say, a local council failing to rezone or up-zone that particular centre for whatever reason, and in particular enable a diverse range of retail uses within that area. It's not actually the centres' policies that say, "We don't want this particular retail use here," it's quite often then at the zoning level or the development standards levels, in terms of heights or floor space ratios that are actually where the restrictions lie, and that point has been made by some of the other groups that have made submissions as well.

**MR WEICKHARDT:** As well as clear evidence from a number of submissions – and indeed our next participant will talk about some of the difficulties they've had in establishing the number of stores they would like to have – we've had feedback from consumers which I can totally empathise with. Some consumers don't actually like going to mega, mega centres. Therefore, the ability which may not be liked by some in their perfect town planning exercises of dispersion of retail centres, is actually enjoyed by some consumers who don't want to go to the giant centres where, quite frankly, it might be some people's idea of fun, but it's my idea of a nightmare.

**MR COCKBURN (SCCA):** If you have a good activity centre – and as I said I think Chatswood is an example of it here in Sydney – then the person who doesn't want to go to the mega centre, doesn't have to go to the mega centre. As I said, there's a very thriving high street. There are two large shopping centres, if that's your kick. There are smaller shopping centres, if that's your bag. There's a retail outlet centre operating within the activity centre itself as well. The thing about activity centres is if they're working properly they will create diversity and they will cater, if

you like, to all tastes. I think that's one of the great benefits of it.

If I can just anticipate, you referred to Aldi, and I've just recently had the great advantage of having some close discussions with some senior Aldi officials. I made the point to them, which I'll make to you now, we actually think that Aldi has not experienced the sort of difficulties in finding sites in Australia that is generally perceived to be the case. We've done some work which shows the rate of store opening by Aldi in Australia, which is around about 25 stores a year, is a faster rate of store opening than they have achieved in any other country in the world, with the exception of the United States.

When you consider they have only really tried to open in half of Australia – they haven't yet expanded into South Australia, and they haven't expanded into Western Australia – if they had been opening in those states at the same time, I've got absolutely no doubt that their rate of store opening in Australia would be much faster than any other country in the world. This is operating under what is supposedly a very, very rigid planning system operating throughout Australia. We also made the point in our first submission that we examined three activity centres – one in Sydney, Melbourne and Brisbane – and pointed out that in those activity centres, over the space of 10 years – an additional supermarket had opened within those activity centres on average every two years; many of those, of course, being Aldi centres.

I think the mere fact that Aldi has said publicly, or suggested publicly, that it has had difficulty opening, doesn't necessarily mean that that's been the case in reality. Certainly they had difficulties in getting into shopping centres. One of the great advantages of Aldi arriving in Australia is the issue of restrictive covenants in shopping centres that was brought out into the sunlight. It's now been resolved. We're now about three years into the grandfathering of those covenants. Within two years that will actually be a thing of the past as well.

**MR WEICKHARDT:** Nonetheless, I understand in Brisbane, they are currently going through an appeal process for a new centre they want to open up where I think one of your members is appealing over issues of traffic density - - -

**MS SYLVAN:** And other planning issues.

**MR WEICKHARDT:** - - - which is, some might say, public spirited of them, and some might say is a representation of self-interest.

**MR COCKBURN (SCCA):** Yes, but if there are no valid planning objections, then that appeal won't get very far. If there are valid planning considerations, then that appeal might - - -

**MR NARDI (SCCA):** I could also make the point that we have a number of

members also trying to expand in Brisbane. That list of projects has been made publicly available through previous submissions of ours. It's about a billion-dollar development pipeline and they're experiencing significant problems in expanding. A lot of those are for existing centres, so there's an existing footprint. They're trying to expand the retail offer and they're having a lot of difficulties. Not only that, they also get significant objections from other parties also. So I suppose just to again make the point, it's not just the experience of so-called new formats, it's kind of experienced at a broader level also.

**MR WEICKHARDT:** Can I just raise the issue around the low value threshold. You made a number of points in your submission, one of which was the fact that you feel we should wait until there's some international agreement on standardised de minimis thresholds; I think that's a bit like waiting for the United Nations to be unanimous about something. Indeed, when we've looked around for examples of what underlying policy has driven different countries to set their LVTs at different levels, we've been singularly unable to identify what motivation has arrived at the LVTs. In some cases there seems to be a fairly explicit protectionist sentiment that has driven some countries. In other countries it's just been custom and practice in history. We take your point that the way that we expressed cost-effectiveness in our draft report might be seen as simplistic. I'm not an economist so I won't attempt to try to - - -

**MR COCKBURN (SCCA):** I was using your words. I didn't regard it as being simplistic, as I think on such a complex exercise it is only that sort of – sorry, "simplistic" wasn't the word you used. I think "very simplified" was the - - -

**MR WEICKHARDT:** I think most economists would say the way we expressed it was simplistic because in the costs, there are all sorts of costs that need to be taken into account. Some of them the retail sector or parts of the retail sector would want us to take into account aren't actually costs. My economist friends would say they're transfers. The fact that consumers can buy at much better prices and the government doesn't collect some revenue, it's just a transfer between the consumer and the taxpayer. But there are distortions and there are factors like delays to consumers and those things do need to be taken into account. We certainly are continuing to think about those and how they might be better articulated in terms of the way this whole thing is assessed.

**MR COCKBURN (SCCA):** If the commission was not of a mind to reduce the threshold immediately, then I think the way you've gone about, the recommendation you've made – in other words, to have the whole issue looked at by an independent expert body with advice obviously coming from Australia Post and the Customs and Border Protection Service – then we would certainly support that. I suppose the slight reservation I have, commissioner, is that the way you expressed it when you were discussing it with the eBay representatives was your belief that if those issues,

the issues to do with efficiency of processing can be sorted out, then you could move to a situation of a lower LVT. I wonder however whether they will ever be sorted out without actually the pressure coming from a lower LVT, so that's the dilemma I think we would face.

**MR WEICKHARDT:** That point has been expressed to us in some ways and there's obviously a nice balance between trying to get carrots and sticks to be applied here. We agree with the principle of tax neutrality but we do not agree with the principle of protectionism. If a change were made that simply caused the whole system to clog up - - -

**MR COCKBURN (SCCA):** I'm not sure I could agree with the use of the word "protectionism".

**MR WEICKHARDT:** Some people that have used that are very reminiscent of those sentiments.

**MR COCKBURN (SCCA):** Yes, sure. All I'd say in the international context where everyone else with which we like to compare ourselves is operating at a very low de minimis threshold, I don't think that you could argue that the expression of a desire that Australia also has a lower de minimis threshold could be characterised as protectionism.

**MR WEICKHARDT:** If the rest of the world had thresholds of \$2000 and we didn't, I still think the issues of distortion to the local economy would be relevant and the principles of tax neutrality would be relevant.

**MR COCKBURN (SCCA):** Sure.

**MR WEICKHARDT:** So to that extent, I think other people's thresholds are interesting but aren't the driver here.

**MS SYLVAN:** The point that you raise that other places can do it with a lower de minimis but what's wrong with Australia, the answer in a sense is that they grew up with this very low threshold, so their whole processes are not the same as ours. Some people have said to us that we had a go at Australia Post and Customs in relation to these recommendations and about their gross inefficiency and so on. That isn't what we were saying at all. What we were saying is that if they had a \$1000 threshold, why would they have evolved a system to deal with a \$20 threshold? They obviously wouldn't. It would be ridiculous for them to have done so.

**MR COCKBURN (SCCA):** Sure, yes.

**MS SYLVAN:** But other countries like Canada have had that \$20 for the past 30,

40 years, so their whole system is now completely different than ours.

**MR COCKBURN (SCCA):** Which of course means that if overnight the Australian government was to say from 1 January next year, the de minimis threshold in Australia is going to be \$30, then that adjustment, if you like, that structural adjustment would be forced upon customs, Australia Post and the business community, wouldn't it.

**MS SYLVAN:** It would not only be forced upon them, the system would probably stop, at the moment. One of our concerns as well with not doing this in a precipitate way was that there are a lot of business users of the whole system, not just consumers.

**MR COCKBURN (SCCA):** We hope we haven't given the impression in anything that we've written that we believe this is the only issue addressing the Australian retail industry, we don't, and we think the commission itself has said if you want to compare the efficiency of the retail industry in Australia, if you want to compare prices in Australia compared to prices overseas, there are a number of issues that are impacting upon that and this is just but one of them and we certainly agree with that. We think it's a big one, but we certainly agree it is just one.

**MS SYLVAN:** I take your point on the framing and a number of people have said that we ought look at that. How did you arrive at the \$100 as your recommendation?

**MR COCKBURN (SCCA):** No, we looked at your own work and that's the one that's been most commonly picked up in commentary on your draft report as being – and I think several ministers, at least Minister Shorten has come out and said it makes absolutely no sense for it to be costing a billion dollars in order to collect revenue of only around about 500 million. So that's why I addressed that in my opening statement, it was the \$100 example that you used in the draft report.

We certainly agree with the commission that a token reduction in the LVT makes absolutely no sense at all. So if you're going to reduce the LVT, then we think it would have to be a dramatic reduction. Our view is that the LVT of 100 still puts you above most of the other countries in the world; I think New Zealand would have a higher de minimis than that, but certainly it would still mean that we're probably three times the level of Canada and the UK.

**MR WEICKHARDT:** Can I turn to your latest submission and your comment on our draft recommendation 10.2 where you say that you believe that a review of the Fair Work Act should commence immediately. I guess I express some instinctive concern with that, as you will have already seen and no doubt you'll read carefully the transcript of the sessions we had in Melbourne with the ACTU and the SDA. This whole issue is highly sensitive, it's highly political, and to get the best outcome

from these sorts of reviews, they need to be planned, in our view, very carefully to get the right balance, the right input and the right terms of reference to take into account all the factors, and there are perspectives here from employers' point of view, employees' point of view, from unions' point of view and other stakeholders. So I guess I'm sort of interested in your perspective as to whether or not, if I could characterise this so crudely, you want it done immediately but you run the risk possibly, if it's done immediately, it's not done well, versus it being done on the time line that's been originally foreshadowed and done properly.

**MR COCKBURN (SCCA):** Yes, I think from memory the government's pledge when it said that the Fair Work Act would be reviewed – and I think from memory the pledge for a review was because of the speed with which the act was introduced and therefore the normal regulatory impact processes I think were suspended - - -

**MR WEICKHARDT:** An exemption was granted.

**MR COCKBURN (SCCA):** An exemption was granted, that's right. I think the pledge was that the review would commence before 2012, or by 2012, so we're probably arguing here now over a couple of months. I'm certainly not suggesting, by the way, that it should be a quick and dirty review by any means. I was rather alarmed when I saw some media a week or so ago which suggested that the government might be planning – by the way, I don't think this was confirmed by the government which is encouraging – but it suggested that all they really had in mind was a bit of a desktop review operating within the government. I think that would be wrong and that's the reason why we believe the Productivity Commission itself should be the appropriate body to do it. After all, what is the concern being expressed at the present time about Fair Work Australia? The concern is the impact that it is having upon labour productivity. Therefore we believe the appropriate body to be examining, the claims and counterclaims that are being made, would be the Productivity Commission itself.

**MR WEICKHARDT:** Thank you for your implied compliment. We, I think as a commission, would stress that we're not angling for that role necessarily. What we're concerned about is that this is a very important piece of legislation for all Australians and whoever does this review should be given the right terms of reference and be given the right ability to independently and thoroughly balance all the competing issues here.

**MR COCKBURN (SCCA):** Yes.

**MR WEICKHARDT:** Whether it's the Productivity Commission or another body, it simply needs to be given the authority to look at this in an objective and fair way.

**MR COCKBURN (SCCA):** Yes.

**MR WEICKHARDT:** All right. Thank you very much indeed for appearing. Thanks for your submissions.

**MR COCKBURN (SCCA):** Thank you.

**MR WEICKHARDT:** We will now adjourn until 11 o'clock when Aldi are our next participant.

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**MR WEICKHARDT:** We're going to resume the hearings now and our next participant are Aldi. If you, for the transcript, can give your names and the capacity in which you're appearing, please.

**MR STARR (A):** Good morning, commissioners. My name is Andrew Starr and I represent Aldi stores. My formal position is managing director of Aldi stores for the Derrimut region in Victoria and I'm appearing today on behalf of Aldi stores' broader Australian operations.

**MR O'CONNOR (A):** My name's Damien O'Connor from Government Relations Australia. We advise Aldi.

**MR WEICKHARDT:** So you're a consultant to Aldi?

**MR O'CONNOR (A):** Correct.

**MR WEICKHARDT:** We received an original submission from you and we received this morning another submission from you which, forgive us, we have probably not read as thoroughly as we normally would like to have. If you can give us a synopsis of the issues you want to cover today and then we can move into a discussion.

**MR STARR (A):** Thank you. In our original and supplementary submissions to the commission Aldi has focused on the six draft recommendations around planning and zoning. This is because our primary concern and one that is most impacting our forward plans for developing our business in Australia centres on a lack of appropriately zoned for retail development in activity centres in metropolitan areas in which we operate. While Aldi understands that this inquiry also relates to other matters of relevance to the Australian retail sector, we are confining our comments to the planning and zoning area and seeking concrete mechanisms for action on the commission's final recommendations in this respect.

Aldi commenced its operations in Australia in 2001 and in the last 10 years we have opened 265 stores in Australia in New South Wales, Victoria, Queensland and the ACT. We also have five distribution centres, two of which are in New South Wales, two in Victoria and one in south-eastern Queensland. While this may seem a lot of stores, it represents only partial progress for us in capital cities as we see further opportunities in centres such as Newcastle, Gold Coast and Geelong. Whilst we have no fixed targets in terms of store numbers for the Australian network, we certainly acknowledge and recognise an opportunity for more than 500 stores to be completed across the eastern seaboard in the medium to long term, which is double our existing penetration.



Excluding land costs, each Aldi store represents an investment of \$4 million and employs 20 people on average and each distribution centre involves an investment of approximately 80 million, employing up to 500 people when fully developed and they optimally service 80 to 100 stores. The pace and geographic spread of our store development, therefore, is linked to the timing of new distribution centres. Over the past decade Australian consumers have become very familiar with Aldi as offering high-quality groceries at everyday low prices and Aldi is able to offer low prices because of a tried and tested business model that is in several ways quite distinct from the major supermarket chains.

We note favourable commentary from Choice and the ACCC relating to the growing role Aldi is playing in providing choice and lower prices to consumers and the effect of the local Aldi store on pricing behaviour of other operators. Indeed, the ACCC found that even if someone doesn't always shop at an Aldi store, they will still want an Aldi store in their area as the major retail chains reduce their prices to meet the increased competition.

Commissioners, Aldi welcomes the commission's draft recommendations in the planning and zoning area. Essentially these recommendations will assist Aldi, other non-incumbent supermarket operators and indeed, the incumbents themselves. It will allow them to compete vigorously in the market. These recommendations, if followed through, can help deliver outcomes in the longer term at local government level with leadership and support from state governments.

A key issue I'd like to address today which we have noted in our subsequent submission is our proposal for a sequential test which we see as a highly practical and effective means of addressing the critical issue of the lack of available land in centres. The sequential test has been used informally in New South Wales and Victoria and is known to planners in those jurisdictions. What the sequential test does is keep the door open to development in edge and out of centre locations where existing zoning may not permit a retail store to be developed. It provides a means of quickly identifying if there is no suitable land in a centre and then mandates a move to edge of centre and then out of centre options. A similar approach has helped Aldi in some instances where such development would otherwise not have been considered.

The sequential test keeps an application in the system and permits a cost benefit analysis of alternative sites to be undertaken, notwithstanding existing zoning restrictions. While Aldi has seen the benefit of this test, it is not a yet formal planning process in any Australian jurisdiction. Arguably, however, the impact assessable approach under the Queensland Sustainable Planning Act comes close to this approach. To be effective it would be vital for the sequential test approach to be embodied in a state government planning instrument, thereby becoming a requirement for local government when looking at proposed retail development. We

would also like to see appeal rights for proponents as a means for encouraging bona fide application of the test at first instance. I think that broadly summarises the subsequent submission and I'm happy to answer any questions that you have.

**MS SYLVAN:** I would like to make sure I absolutely understand the sequential test that you're proposing and how it would operate. In a sense I guess I'd probably argue that our recommendations go even further than the sequential test that you're proposing, and I'll come back to the detail of that in a moment. In a sense I think you correctly identified that land offered at competitive prices because there insufficient amount of it is the problem that we have in Australia with retail and expansion of retail or new entrants with new formats. In a sense our proposal to free up that zoning basically, to free up the nature of what is available for land for retail and enable the market to offer land for its highest value uses goes a bit further than a sequential development that implies that the activity centre hierarchy remains in place almost as is and that hierarchy, as you know, is then added to by the councils in terms of all their restrictions on top of that.

So is your proposal in relation to sequential development, is it really, "This is the system we've got, we probably will continue to have it. Here's a way to deal with edge of centre/out of centre stuff that is faster, more businesslike," et cetera. Is that the rationale for moving towards that from your point of view?

**MR STARR (A):** I think the preferable option, as we've identified and commented under draft recommendation 7.1 in the second submission is that regular and public retail floor space supply and demand assessments be required by states and territories to be undertaken as a means of focusing state and local planning authorities on strategic long-term objectives. That is absolutely a preferable option that will provide more opportunities in the first instance. The need for a sequential test is when that first process fails or takes a significantly longer time to implement, in which case a sequential test provides an opportunity for a merit based assessment without holding it up for the first process to occur.

**MS SYLVAN:** Would it be possible, do you think, under the current planning systems for a different approach to the broad zoning to be more market led? So rather than saying, "We need another centre here, we need to do this," and so on as a government whether there is an opportunity somewhere here for the market to say, "We need," in the sense that, "This is the location we would like for obvious reasons," and, as I said earlier when we were talking with the shopping centre, it's not to preclude the externality issues which primarily include transport in this case and accessibility because I think that needs to be determined, but in a sense the heart of the recommendations that we were trying to get at was to enable government to pull back a little bit and let the market speak a little bit more in this area where it simply has almost no opportunity to.

**MR STARR (A):** I think that's at the heart of the sequential test. If we can demonstrate a business or a commercial need for a certain site that doesn't fit with the existing planning controls that – if it's assessed on its merits and we can demonstrate that it's consistent with the other objectives of the centre and the local planning authorities – that in fact they could see some support for an alternative site that is perhaps at the edge of, or outside of, an existing activity centre. Currently there is no formal way for that to be implemented which comes to the crux of our issue that it's currently done on an informal basis. While some local government authorities are quite supportive of that, there are many that aren't and that lack of certainty for developers is an issue for Aldi and others who are entering into the market and that great uncertainty is restricting further development where there is great demand for it.

**MS SYLVAN:** In the sequential test – because I was trying to read this so quickly, I'm not quite sure what would be looked at or not – one of the things in the example that you give from Marrickville and Hurstville Councils one of the requirements is to demonstrate that the proposal will maintain the economic strength of an existing centre.

**MR STARR (A):** Yes.

**MS SYLVAN:** If you want new entrants into an area to actually compete with an existing centre, leaving aside a different business in an existing centre, but if there's a new centre there's an existing centre, it seems to me that inevitably a new centre will challenge an existing centre and may have an economic impact and, in a sense, that's exactly what you want. I mean, you essentially want the flow and the change of economic agents in those centres and so on. So in that test that it will maintain the existing strength of – it only seems to undermine the whole point.

**MR STARR (A):** One of the things I would argue there is that an existing centre is distinct from an individual operator and it's our experience that we've often been compared to or we've had to justify our impact on individual businesses and there has been movement in planning best evidenced by the New South Wales planning amendments with the SEPP which we have attached to this submission relating to competition and the fact that for future applications that should be excluded. We do, however, respect and acknowledge that a new entrant coming in on the edge or just slightly outside of an existing centre should have to provide some basis for its impact on the overall centre that's there and that, if it remains viable, it only strengthens the case to support the new use on the fringe or on the outside of it. Individual applications, however, should be excluded.

We've got many of those where we have been pushing for that on an informal basis. There are some examples down in Geelong in Victoria that I could reference where Aldi could not get a site that was in an existing activity centre and by

elevating the issue to the state government they support the rezoning of four sites which we've also referenced in previous discussions, I think, to you and those sites sit in and around existing activity centres and it was clearly felt by the Planning Minister at the time – and by the other supporting parts of the application – that the net community benefit generated from new employment and extra competition was far greater than the impact to the centre or to any individual users.

**MS SYLVAN:** So in a sense you're coming with a potential dead centre issue - - -

**MR STARR (A):** Yes.

**MS SYLVAN:** - - - which I think is of concern to everyone. I would just hate to see that used as a means of – and I think it has been. So the practice in a sense – and obviously individual businesses should never be considered. But it seems to me that there are two things operating and this kind of puts it within the current framework of saying that it's kind of up to the business that wants to compete, who wants to enter with a new centre, new store on the edge or whatever to kind of show that the effect will not be so marked on the centre as to cause harm. I guess where you put that level is really quite critical and part of the problem it seems to be is it's a catch-22 operating in the planning system which is that there are so many restrictions on what can happen in the centre to begin with, so there is not the flexibility for the market to respond, that in a sense literally are reinforcing the prescriptiveness of the nature of this system when in fact what it needs to get is a bit of freeing up.

**MR STARR (A):** I'd just like to respond to that by saying with respect to dead centres, if there was land available that was correctly zoned, it's our experience – and I can reference some examples – that we would seek to acquire and restimulate that centre. The best one I can think of is on Woodville Road in Villawood which was one of our first stores and it was a completely dead centre about, I think, seven or eight kilometres to the south of Parramatta and it had declined before our entrance in 2001. It was one of the first stores we opened. The centre was basically down to a newsagent. If you go back there 10 years later, Aldi was the catalyst to taking the major part of that centre and re-establishing it and it's now a fully tenanted and vibrant community centre which is a success story.

On the other side of the coin, if you have a very successful centre that's expanded to the point that everybody wants to be there and there's insufficient supply and there's further demand that's unsatisfied, that's where we need to consider these either in expansion of the town centre or activity centre to include further opportunities or a sequential style test that allow entrants such as Aldi or others the opportunity to present the case why they should be allowed to trade either at the edge of or slightly outside of the existing centre. It's in our interests, of course, to be connected to that centre if we can.

**MS SYLVAN:** Just because of foot traffic and - - -

**MR STARR (A):** Yes, and convenience and the fact that people shop with Aldi and also support other businesses around us. So there is certainly some evidence to suggest that that benefits us and the local shops around us.

**MS SYLVAN:** You indicate in your submission that the primary reason for your inability to expand as fast as you want to is the planning system.

**MR STARR (A):** Yes.

**MS SYLVAN:** We heard in an earlier submission in oral evidence from the Shopping Centre Council that in fact your expansion in Australia has been one of the fastest of all the Aldi rollouts in the world so I wonder if you would comment on that.

**MR STARR (A):** Sure. Just to recap, we do have 265 stores with five distribution centres and we've achieved that development over 10 years. Our investment in Australia as a new entrant 10 years ago was on the basis of wanting to establish a critical mass very quickly and in terms of the resources - - -

**MS SYLVAN:** You need a set of stores to accompany a distribution centre presumably to get the economy of scale.

**MR STARR (A):** That's right. To make that work and to get a critical mass for advantages in buying and supply relationships, it's critical and necessary to establish a critical mass. In that regard we threw huge resources – that is significantly more than we've ever done anywhere else in the Aldi world – to acquiring that critical mass quickly and aggressively. In my former role before my current role I was one of the property directors, and we have a team now of 13 people doing that job nationally. It has hovered between 12 and 15 over the last 10 years.

That's supported by a company looking for very good quality sites within shopping centres and freehold sites where we build free-standing stores. It has led to us, I suppose, aggressively acquiring sites at a rate that is not sustainable. That sort of growth has happened through really throwing everything we've got at it so that the point from the Shopping Centre Council on one side could be seen in one light, but in the other it's also been a period of a new entrant coming into the market; 10 years of very high activity and a very strong commercial appetite to go and acquire sites. I think you could argue that we've paid a premium, certainly in freehold sites and in some leasehold cases, to acquire those sites, which we would argue is not commercially sustainable from here on.

Additionally, we would say that in all of the jurisdictions we've operated in

now that we've acquired all of the easier sites. Now we're dealing with sites that require multiple acquisition and consolidation where you may deal with up to five or more parties. You're dealing with long-term leases and existing buildings, and perhaps remediation issues or sites that no-one else wishes to develop because they're so difficult and expensive, and the opportunity to acquire those and consolidate them is not really commercially viable in the short to medium term. Therefore, we're stuck with the same issue that in the next period of development for us, as we progress beyond 265 that we face an uphill battle in existing activity centres where, to a large extent, many of the sites are fully developed.

I can reference some examples in Victoria. There's the City of Boroondara where we see an opportunity for up to four stores, and we have none. I know in Sydney we've tried for many years to get into the Ku-ring-gai Council area and it has been extremely challenging and we still don't have any stores. There are many other areas which I could come back to you on if you needed further information.

**MS SYLVAN:** One of the criticisms from the planners, as you know, from my study of the planning system, the benchmarking that we did, last year, one of the comments from planners is that there have been some new entrants that are unwilling to alter their model and they don't feel that they should alter their rules for new entrants. I'd appreciate a comment on that, but if I'm not mistaken you have altered your model in shopping centres, if I'm right.

**MR STARR (A):** When we first established stores we were intent on building free-standing stores of up to 1500 square metres, supported by 80 to 100 car spaces, and they still represent the majority of our store network, about 55 to 60 per cent on average. We do have the ability to trade within shopping centres and approximately 40 per cent of our stores are in existing shopping centres. If space is available there we are also comfortable and happy to take long-term leases and to establish a long-term relationship with the shopping centre. In fact, within the shopping centre owners that the Shopping Centre Council represent, we're, I think, very well represented in their centres. We pay market rents and are clearly a reasonable player in that field as well. I think we have adapted it to the Australian market. In other parts of the Aldi world that's less common and the strength of shopping centres are less so (perhaps in Europe, particularly in Germany) and as a result there's more free-standing stores.

That presence [*in shopping centres*] would demonstrate some flexibility in Australia – that we have adapted to the local conditions. We see the future being a mix of both.

**MS SYLVAN:** Just one last question from me – and I don't want to cross into your commercially confidential decision-making – would planning concerns be your prime reason for not entering the other markets in Australia, because you're not

national at this point? There's South Australia and Western Australia which are two reasonable sized markets.

**MR STARR (A):** There's obviously the tyranny of distance with Western Australia, but planning issues are a significant contributor to the reasons that we wouldn't go there.

**MS SYLVAN:** Is that true for South Australia as well?

**MR STARR (A):** Yes, it is.

**MR WEICKHARDT:** I'm interested in your comment – going back to our previous participant, the Shopping Centre Council, who said they have no problem with the idea of a level playing field. Of course everyone's idea of a level playing field is somewhat viewed through their own eyes. Our recommendation about activity centres being broadened and made less restrictive was because there was significant evidence brought to the inquiry in the first round of consultations that there were significant shortages of available spaces and indeed the rents and occupancy rates in shopping centres suggest that. You've got 99.5 per cent occupancy. It suggests that the market is pretty tight and I guess that also affects the retail tenancy debate where a lot of smaller retailers in particular feel that they're negotiating with a significant imbalance of power or a significant imbalance of choices.

The Shopping Centre Council, understandably, expressed concern that the rules at the moment can be quite different for a retailer that comes along and says, "My model is slightly different. I don't fit in an activity centre," which may be completely true, and there may be no space there, but they then acquire land much more cheaply than they might have if they were in the activity centre. So the playing field isn't level then. If, on the other hand, councils or state governments immediately, significantly expanded the amount of space available in activity centres, one might guess that as that supply went up, the cost of land would go down everywhere. So the existing incumbents might not be very happy about that. I guess Aldi is one of those, in at least 264 stores.

How do you suggest this sort of transition to free up the options available to the new and existing players might be done in a manner that's fair to consumers, might be done in a manner that's fair to the incumbents, as well as the new entrants?

**MR STARR (A):** Can I just invite you to go back to page 2 of our second submission, under the comments relating to draft recommendation 7.1, and I bolded two suggestions and I'll just read that out:

In order to address this issue, Aldi proposes that two specific actions be

implemented by state governments with COAG oversight to progress as follows: regular and public retail floor space supply and demand assessments be required by state territories, be undertaken as a means of focusing state and local planning authorities on strategic long-term objectives. The nature of the suggested reform means that it is only likely to have a longer-term impact on retail land supply.

Then the second one we should talk about being the sequential test. In our experience, if there was land available – and in the example the Shopping Centre Council just referenced that there's land that's suitable and available for an entrant like Aldi within an existing activity centre and an existing shopping centre – it's usually the case that we will negotiate fairly and on a level playing field to acquire that if there's no other option available.

But it's quite frequently the case that they're fully tenanted and the activity centre is fully tenanted and developed and there's no spare capacity in the existing activity centre or shopping centre and they're fully developed. As a result we are effectively locked out of the market. We've also provided, I think, many case studies that have been referenced over the past few years where that's occurred. One such example in New South Wales is in the Wyong Council area with the Charmhaven shopping centre which has been noted in the Big Guns shopping centre report as being over-trading for a long time, yet there's no relief in terms of further expansion possible for that activity centre and, as a result, we're locked out and we've since just opened a store in a lesser location, 10 years later, at Toukley– which is not identical and not quite in that centre but in a far less developed centre – which is a big compromise for us.

But that's just a good example where there's still a demand, and for 10 years we've been trying to get there but there's been a very slow response despite clear evidence of there needing to be more retail space. Our concern is that local governments may be quite slow in responding to it unless it's with COAG oversight.

**MS SYLVAN:** Can I just check, you're locked out and this is because the centre is full and there's demand in the surrounding residential areas - - -

**MR STARR (A):** Yes.

**MS SYLVAN:** - - - as opposed to you are locked out because you want 1500 square metres and the council is not permitting that size of grocery shop within the centre because they have to be over that or significantly over that and the definitions that exist and all of the prescriptive rules.

**MR STARR (A):** Sure. You might recall, just to segue into something the ACCC dealt with in their inquiry was restrictive covenants in leases.



**MS SYLVAN:** Which is the shopping centre itself within the market?

**MR STARR (A):** That's right.

**MS SYLVAN:** I'm thinking of the council rules.

**MR STARR (A):** That's been dealt with, so there's no reason within the shopping centre for us not to be accommodated. If they've got the space they could accommodate us. It's simply that there's no physical space and there's no correctly zoned land, or they don't wish to rezone or acknowledge, even if we point out sites that they could support the rezoning of.

**MR WEICKHARDT:** In this proposed review of retail space, how prescient do you believe governments are likely to be and how do you see them appropriately balancing the competing demands of the current incumbents to whom the tightness of the market is an advantage – and you can cite all sorts of infrastructure, traffic congestion and other disadvantages of freeing the market up, as well as the fact that their assets might drop in value. How do you see the state governments appropriately trading those issues off against new entrants who might say, "If all sorts of conditions applied we might invest," with no certainty that that would occur. I can see lots of positions being taken here and a fairly significant difficulty of the state government finding the right line there.

**MR STARR (A):** We acknowledge that there are competing interests in these arguments, of course. The concept of a net community benefit test which considers what would be the net community benefit of a new entrant coming in, in forms of, on the positive side for a new employment generation, added competition to the market and perhaps stimulating some economic development as well around it by adding construction jobs or money into the market. Weighing those up against the impact to an existing centre, but not directly assessing the impact on an individual user – that's really the crux of our sequential test which we think could be managed by the local government, and we are very supportive of the local government process. But they need, I think, state government leadership to say that these actions need to be looked at when you're considering merit and that there needs to be a clear direction and framework for how that works, so that framework protects the existing process and doesn't tread on the toes of local government, yet also has appropriate appeal rights so that after an applicant goes through and complies with the local government process and feels that they haven't got a satisfactory outcome, that they have an opportunity to appeal it.

We feel that strikes the balance of protecting the local government interest, but also providing applicants the opportunity to present merit based assessments where the current policies don't support a new entrant. That's really the crux of our issue.

We are not seeking radical reforms, these are really sequential, step by step processes to say that when you can't go into the middle of the centre, perhaps you can go on an existing site that's not correctly zoned which comes back, I think, to your point before where you said that you wanted a more broader approach to an activity centre. That's really what we're saying. If there are sites within an existing activity centre that are incorrectly zoned, it should be relatively easy for the council to look around and say, "We can support that because it's very consistent with our overall planning objective." For the ones on the edge of centre and out of centre we say, "Well, they're more difficult to assess," in which case it's appropriate to look at net community benefit on the basis of employment, competition et cetera, versus some considerations of the existing and ongoing operation of that activity centre.

**MR WEICKHARDT:** Yes. I mean, I guess the planning zone has always been complicated and there are lots of competing interests here. There are many people who scratch their heads about why domestic housing prices are high and typically that comes back to land price. Many people – in fact I think most recently the governor of the Reserve Bank said, "It's a bit bizarre that we have this situation in a country that's got more land than you can possibly see the population using and yet we've got very high land values in urban centres."

I guess I'm just wondering, given that difficulty of state governments continuing to make land available for domestic housing, whether or not the process that you're envisaging here would work effectively when they're looking at retail space.

**MR STARR (A):** I think we discussed it the last time we caught up, and we discussed new development on the fringe of existing metropolitan areas. We've also noted that that's problematic for us because there tends to be a very prescriptive approach there too – we're going to have one supermarket in town and they don't allow for future growth and they surround that future activity centre with residential housing with no consideration for future growth. That approach only leads to one conclusion which is you need another centre somewhere else down the road. That contradicts the broad planning outcomes which is they want to preserve the opportunities of an existing centre, hence the new entrants competing for very limited resources there. It makes it extremely difficult unless those urban growth corridors are sufficiently planned to allow for future growth. We've written to various state governments who are considering land rezonings and land releases to that effect.

**MR WEICKHARDT:** Can I change the top for the moment from the issue of planning and zoning - - -

**MS SYLVAN:** Just to finalise our planning and zoning, in your original submission you suggested there should be an objector pays model in relation to appeals.

**MR STARR (A):** Yes.

**MS SYLVAN:** A couple of questions about that. The first one was were you envisaging community objectives as being in that position or was this possibly competitive businesses?

**MR STARR (A):** We think it's predominantly business but we referenced both. It is the case in Victoria at the moment that you can appeal with very little grounds – anybody can appeal to VCAT.

**MS SYLVAN:** It's very open.

**MR STARR (A):** It's very open. We support everybody's right to appeal, but much like the protection for the local government process in planning, to stop vexatious claims we're simply suggesting that somebody needs to perhaps satisfy some simple test to screen out vexatious claims, because they have the effect of significantly retarding the process and delaying an otherwise reasonable case, and I think we've referenced some examples to that effect. That's been our experience most specifically in Victoria.

**MS SYLVAN:** In terms of an appeal by a competitor, if you look at the planning laws and the specificity and the extent of them, it seemed to us – again not being from a planning system – that it would not be difficult for an objector, who also happens to be a competitor, to lodge an appeal on planning grounds, which is why we put it to a court test as to whether this was really not a planning appeal for the courts to decide whether that was really an anticompetitive, vexatious approach from a competitor.

**MR STARR (A):** In the past we've certainly experienced in all jurisdictions some objections from competitors on the grounds that we would be affecting their business and I think the SEPP that's just come, in New South Wales in draft, will deal with that issue. In Victoria I think some amendments or reforms to VCAT to tighten that up and make sure that claims are really proper and reasonable claims and not just there to frustrate a developer on behalf of competition is very important. That's really the crux of our issue.

**MR WEICKHARDT:** That said, when we were talking internally about this whole concept, it appeared to us that maybe large and well-resourced incumbents would be more than happy to pay the cost, the up-front cost or the retrospective cost, because as the lawyers sometimes say in contracts, time is of the essence here. So if by appealing you can delay or frustrate a competitor using a legal challenge which might eventually not be held to be meritorious, the cost to a large and well-resourced competitor might well be seen to be a sensible commercial investment.

**MR STARR (A):** It could be. You can't stop that, and if they feel that it's necessary, that's their call and decision, but it may have the effect that if you just add one extra layer of screening, that it would filter and screen the ones that are vexatious or screen most of them - - -

**MS SYLVAN:** You prefer this to the Western Australia procedure which is to prohibit a third party claim?

**MR STARR (A):** I think we support the right of anybody to make a claim that's reasonable but it should have a reasonable test of some description and the Western Australian one I'm not familiar with – but we don't support locking them out completely. We really are comfortable with people's right to object, but on reasonable grounds.

**MR WEICKHARDT:** I'm interested, just to change tack for a moment and this is not something that you've spoken about in your submissions, but during the course of this inquiry, discussion has frequently arisen about the reasons why Australian consumers are paying more for products in Australia than they do overseas. In many cases we've heard that there are brand owners who have regional pricing strategies that assume or have over time tested the fact that Australians are willing to pay or are forced to pay more than they might do if they were located somewhere else in the world.

The Internet in certain product lines has now made a parallel importing option feasible for individuals but food is one area where that commonly is not particularly practical. You yourself as Aldi, according to records that are visible to the public and the ACCC web site, have your own, I guess, engagement with Nestle over parallel importing of one of their products and the sale of that product. I guess I'd be interested to know whether you've had any other issues that have frustrated or prevented you being able to source in Australia competitive suppliers of product that you would in other countries be able to offer consumers, but where a brand owner has, through their own regional pricing strategy, prevented that here in Australia.

**MR STARR (A):** That's a whole other topic for us. We've got a whole department that looks after buying which I'm not responsible for. But I think for the purposes of this inquiry and our interest in talking about it today, we really think that planning and zoning are the most important issues that are stopping our growth and retarding our growth in Australia. Whilst you referenced some examples from the past, we really don't have a position on them for today.

**MR WEICKHARDT:** I guess the other question I had was around the evolution of your business model to take account of an e-commerce opportunity. In the UK in particular we've seen even the grocery market evolve into a sort of bricks and clicks

model or a multichannelling model. That's in its early days in Australia. I'd be interested whether Aldi have a position on whether or not you see the use of e-commerce ordering and being able to access your products directly from the Internet, together with instore shopping is a business model that you'd want to pursue.

**MR STARR (A):** At the moment we have a long tradition of more than 50 years as a bricks and mortar retailer and recently we've sought liquor licensing approval in New South Wales which gives us the provision for future online retailing but we don't have any immediate plans for online retailing for any of the products that we do, but perhaps one day. It's enticing to look at it in the future but we don't have any immediate plans.

**MS SYLVAN:** I notice however that you do belong to the comparative site that enables people to compare catalogues that come out each week.

**MR STARR (A):** Sure.

**MS SYLVAN:** So before they go shopping, a customer can actually – I've forgotten the name of the web site, which enables people to look at all of the catalogues on line.

**MR STARR (A):** You're thinking about Lasoo?

**MS SYLVAN:** I think that's right, yes. So what was the rationale, because they do this with permission, I understand, and support.

**MR STARR (A):** Sure. The catalogues are clearly a very useful and frequent part of our marketing material and we recognise and acknowledge that an online presence for advertising is convenient for people. They like the catalogues. Our customer feedback tells us that they enjoy reading them and receiving them. We just see it as a way of widening the net. But the catalogues for instore shopping are clearly a model that we've used extensively.

**MS SYLVAN:** Yes, there's no e-commerce facility attached.

**MR STARR (A):** No, that's right.

**MR WEICKHARDT:** Clearly your business model is your business literally and it's been a pretty successful business model, so who am I to judge, but it seems curious, in an entry into a country where you're being actually frustrated by physical presence that you wouldn't choose to offer people in regions – you mentioned one suburb that I happen to live in that has no Aldi store in it – why wouldn't you want to offer the consumers in those locations where you don't have a physical presence the

opportunity to actually engage with you via an e-commerce route?

**MR STARR (A):** Maybe we will one day but we don't have any immediate plans to. As I mentioned before, we have a long and established history of being a destination retailer. We're a discount grocer with the opportunity for special buys, so people come in and they like to touch them and feel them. We sell unique brands which are only available in Aldi stores. People frequently tell us that they like to come into the store and see them, and that's the model that's worked for us but we have adapted to all sorts of external factors over time in that 50 years, there's no doubt that we will do so in the future, but the immediate interest in online – we don't have a position on that for today. I can't give you any more information.

**MR WEICKHARDT:** All right. Thank you very much indeed for your input. It's been useful. I'm sorry we haven't had a chance to read your latest submission more carefully but we will do that and thank you for coming along today.

**MR STARR (A):** Thank you. Thanks for your time.

**MR WEICKHARDT:** Our next participant is ParcelPoint. If you could give your name and the capacity in which you're appearing, please.

**MR LEE (P):** Thank you, commissioner. My name is Phil Lee. I'm the director of a small business operating a relatively new service called ParcelPoint.

**MR WEICKHARDT:** We received a brief submission from you outlining your commentary, but if you would just like to run through the main points and then we can have a discussion.

**MR LEE (P):** I would like to thank the commission for the opportunity to present today. My short presentation is in response to part 4 of the draft report, that is, "Trends and issues related to online retailing." Specifically it's around the issue of unsuccessful parcel delivery which is where parcels are unable to be delivered because no-one is available to receive the parcel at the attended address. It's a growing problem due to the increasing popularity of online shopping combined with other shifts in working and living patterns, for example, people working longer hours and also an increase in households with working singles or working couples.

While I'm only currently a small operator and I don't have extensive research budgets, from discussions with some couriers, I estimate that approximately 10 to 15 per cent of parcel deliveries are unsuccessful on their first attempt. Apart from being a very frustrating experience for consumers, I believe each unsuccessful delivery attempt has negative impacts on the overall economy, including lost productivity as consumers need to disrupt their normal work schedule in order to receive their parcel successfully and also additional labour, transport and environmental costs associated with each redelivery.

To give the commissioners a brief overview, typically unsuccessful attempts by Australia Post or its related companies are taken back to a local post office near the delivery address, whereas express courier companies return parcels back to their central depots, attempting redelivery on subsequent days. If express courier companies were to leave it at the post office, there would be costs associated with this imposed by Australia Post. I believe the above impacts are financially avoidable and would request the government encourage innovative solutions to this problem through the provision of grants, subsidies and other powers it has available to offer.

**MR WEICKHARDT:** Thank you for your input. I have to say I totally empathise with the problem that you identify. From personal experience there's nothing that makes my heart sink further than finding one of those little cards that suggests that tantalisingly something is close but not very close, particularly if it's, in a Victorian case, gone back to a depot in Tullamarine. You are suggesting that you have a concept where these consumers could have their parcels sent to their nearest agent,

such as a convenience store or a newsagent and indeed, a letter to the editor of the Financial Review last week suggested that some individual had some product sent to their local convenience store and picked it up there. What are the costs and charges associated with this model? Are convenience stores offering this as an option and where do ParcelPoint come into all this?

**MR LEE (P):** Sure. To your latter question first, a lot of it came from personal experience. I was shopping on line relatively frequently and had this problem because I wasn't available during the day. So from that I thought there had to be an easier way than to either have to trek to the central depot or try to arrange a very specific time to be at home. So I have been working with a number of convenience stores, at the moment just trialing within Sydney. In terms of your former question on the costs, it's a per parcel cost where at the moment consumers register on the ParcelPoint web site and are advised of the fee. Typically it's a time based fee for the amount of time it's held at the convenience store, for example. I'm looking also to expand into other business models but I won't go into that today.

**MR WEICKHARDT:** So you're the intermediary. A consumer goes to your web site and you tell them then which convenience store they might be able to use and the charge.

**MR LEE (P):** That's correct, yes. So convenience stores, newsagents et cetera.

**MR WEICKHARDT:** Do you do the deal with the convenience store and the consumer pays you your business or does the consumer pay the convenience store directly for the privilege of having their parcel?

**MR LEE (P):** The consumer pays the convenience store directly from which they retain a commission.

**MR WEICKHARDT:** You get a commission from the convenience store, do you?

**MR LEE (P):** Correct. That covers various operating costs.

**MR WEICKHARDT:** It all sounds terrific. I give big, big ticks to this. A good entrepreneurial idea. It seems to be attending to a need in the marketplace and I wish you all the very best luck. I scratch my head where you say you want some government help. Why on earth should the government get involved in this? It sounds like all they'd do is frustrate a good entrepreneur getting into finding a business opportunity and exploiting it.

**MR LEE (P):** Sure, absolutely. I think one of the major things that's an obstacle for my business at the moment is some costs specifically relating to insurance. So to step back a little, Australia Post and various other courier companies have insurance



agreements with large underwriting agencies. In particular Australia Post, for example, has a customised insurance agreement. Now, getting something similar set up for a small operation like myself is quite cost prohibitive and that's why I'm essentially requesting extra assistance so that innovative solutions – it may be something similar to myself, it may be other solutions to the same problem – but I think there is going to be this underlying problem of insurance which is a very high financial hurdle to overcome.

**MR WEICKHARDT:** What's the potential risk that you're attempting to insure against? Are you suggesting that you would be held liable if the convenience store loses or damages the parcel, that you'd be liable?

**MR LEE (P):** Correct, or that there is liability there and that liability needs to be borne by either of a combination of the convenience store – or the ParcelPoint agent – and/or the operator, being myself.

**MR WEICKHARDT:** Given the fact that this is a new business model, are you suggesting that the insurance companies are finding it difficult to price that risk and offer you a premium that reflects the risk?

**MR LEE (P):** That's correct. I've spoken with a couple of insurance brokers and because of the relatively new nature of the business model and the business itself as opposed to existing large courier companies or Australia Post, the premiums are very significant and in fact some are unable to provide the insurance altogether.

**MR WEICKHARDT:** Are there any international equivalents of this model?

**MR LEE (P):** There are. I've seen successful ones operating, for example, in the UK. There is a particular operation which is actually being run by a courier company themselves, so they already have a significant distribution network in combination with other services such as bill payment services and I believe that's how they are overcoming that challenge.

**MR WEICKHARDT:** Okay. I don't want to descend into an amateur business analyst here but you are sure that there is a liability to you as opposed to the convenience store here, are you? I mean, if they're charging the consumer directly and the consumer has, if you like, simply via you, entered into an agreement that the convenience will accept the parcel, I guess I instinctively would wonder why you couldn't simply make it clear in your contract that the liability and any liability for the parcel loss is the convenience store's, not yours.

**MR LEE (P):** Sure, and that is something I've been able to come to an agreement with certain independent convenience stores. One of the limitations of growing the network is trying to get access to some of the larger chains and some have concerns

around taking on either all liability or at least partial liability.

**MR WEICKHARDT:** All right. Louise?

**MS SYLVAN:** I'm interested in your model because one of the biggest elements in changing this system quickly is that if you go from the current number of parcels that need storing to something like 40 million or whatever, you have a major problem. I recall in our discussions with other countries that the models do operate differently and you might or might not be familiar with them. But I seem to recall that Canadian Post told us they simply pretty well deliver everything as far as I recall, there wasn't much returned. So obviously the determination of what gets returned is either at the request of the consumer or at the request of the sender who says, "It needs a signature," and so on and that's what causes presumably the parcel not to be delivered.

**MR LEE (P):** Correct. That in combination with the fact that, particularly, say, for example, the apartment buildings there is nowhere safe to leave the parcels so it ends up getting returned back to either the depot or the local post office.

**MR WEICKHARDT:** Yes. Certainly the impression we've gained is that in the United States where, I guess, catalogue selling and things of that sort have been in place for a long time, even before e-commerce, that the courier companies are much more prepared to accept the risk of leaving the parcel at a home, even without a signature or even without a formal agreement and presumably they take it on the chin if the goods are lost, stolen or damaged. Whereas in Australia there seems to be still a pretty cautious approach by the courier companies, particularly the express courier companies, as you say, unless they get a signature on a card saying you can leave it without a signature, it doesn't seem to happen very often, they just take it back to the depot.

**MR LEE (P):** Correct.

**MS SYLVAN:** Take it back to the depot and then you can just leave the little card with the signature on it and then they will leave it but their liability has gone.

**MR LEE (P):** Correct. I think in some cases – something I didn't talk about before but was in the submission – there appears to be disincentives of actually attempting delivery in the first place. So because it's actually more cost efficient, for example, either contractors or subcontractors of those organisations to not actually attempt a delivery but either return it to the post office or return it back to the depot and therefore it becomes someone else's issue effectively.

**MR WEICKHARDT:** Good luck in your business venture and sometimes be careful what you wish for. When governments come to help sometimes they can

screw things up as much as they can help. I hope you can solve the problem anyway.

**MR LEE (P):** Thank you for your time.

**MR WEICKHARDT:** Thanks for coming along. We're going to adjourn now and we'll resume after lunch at 2 o'clock.

(Luncheon adjournment)

**MR WEICKHARDT:** We will resume the hearings now. Our next participant are the Snow Sports Industries Australia and Fair Imports Alliance. If you could just give your name and the capacity in which you're appearing for either or both of those organisations, that would be helpful. Thank you.

**MR HENRY (SSIA):** My name is Eric Henry. I'm the CEO of the Snow Sports Industries of Australia. That organisation is a member of the Australian Sporting Goods Association which in turn is part of the Fair Import Alliance. So I'm here representing those three bodies, if you like, but principally my own organisation. the Snow Sports Industries.

**MR WEICKHARDT:** Thank you. We have received a number of submissions from you, I think, in various capacities. So if you'd like to tell us what you want to talk about.

**MR HENRY (SSIA):** I don't want to waste your time by covering ground that's already been covered by my colleague Brad Kitschke from the Fair Imports Alliance. I'm perfectly sure that you're familiar with all of that so I won't go there. What I wanted to do was to specifically talk about the snow sports industry and the issues that it has. Firstly, I should give you some indication of size of the industry. In the 2006 report the economic value of the alpine resorts in Australia at that time the judgment was about 902 million was the turnover of the alpine resorts. On top of that clearly you've got the importing and the retailing outside of the resort. So we just the industry to be somewhere between one and two billion currently, although it is most certainly shrinking in recent times.

There are a number of things that affect our retailers and it's all happened very fast. The taxation policy is a profound disadvantage for our folks to the extent that they're disadvantaged against a foreign retailer online by somewhere between 15 and 20 per cent at a minimum. The globalisation and online shopping drivers which have developed over the last couple of years are considerable but there are other drivers as well such as the shipping and transport costs which are increasing, retail tenancies, WorkCover, employment frameworks, supply chain issues and so on. So what is happening is that across the board in Australia retailers are having to redefine what they do for consumers and how they do it. The biggest issue for us in the snow sports industry is the Internet.

To give you a couple of examples, and I've brought a thing from the Sydney Morning Herald of 30 August for you. Can I just pass those over to you. So this was written only on the 30th of last month but what's interesting is to pick up on the graphic where it talks about a pair of skis as the last item. The pair of skis that you can buy at an Australian retailer for \$849, you can buy only for \$599. The rest you can read at your leisure. But essentially our retailers and indeed the wholesalers who

are supplying the retailers, can't compete with those numbers. I will give you another example, if I may, that's got nothing to do with that and I happen to be in the US last January at the trade show in Denver in Colorado. Whilst I was there I bought myself a pair of jeans, I quite like Wrangler jeans and they fit me quite well. So I paid \$30 for a pair of jeans and I thought when I got home, "These are nice, I'll go and buy another pair." So I went to the various malls around the place, the average price was \$130 and the cheapest I could find them was \$107.

So I went on the Internet, put in the model number and the make and by complete coincidence it took me straight to the place where I had bought the jeans in Colorado – \$30. So I ordered another pair, ordered a belt which cost \$32 and paid the shipping and so forth as well. All up it came to \$92 and arrived four days later. That essentially is the situation. So the Internet is a source of information, it's a source of bargains. It is good for people who are short on time but the consumer typically doesn't know whether they're shopping with somebody from Australia or from somebody overseas and it could be North America and it's particularly North America that is the issue for our industry. So they just don't know if it's on or offshore.

There is a downside situation, of course, as well and that is that ski equipment, snowboard equipment often arrives without the bindings being mounted to the board or to the skis and sometimes with bits and pieces missing. Of course, they take them off to a retailer for the mounting and fitting to be done and are surprised when they're turned away or asked to pay more. You will have no doubt heard in the press that over the last two or three years the industry has suffered by people coming into the shop to try on a pair of boots and they'll sit in there for maybe an hour, hour and a half, two hours, use the member of staff's time and then up and leave and go and buy the boots online, knowing exactly what size and model they want by this stage, of course. So the retailers, not surprisingly, have started to put a price on the time of a boot fitter and that can be either, say, 50 bucks an hour or a hundred bucks an hour, whatever, and if the individual buys a pair of boots in the shop, then they refund the money. But if not, then they pay for the boot fitter's time.

So they are the issues in short. As far as the situation with the government is concerned, we're also clear that there is a great deal of tax being lost because virtually every item in our industry is less \$1000. So a pair of skis, a snowboard, a very up-market ski suit, all of these will typically be under \$1000 and therefore they will be coming in with no tax paid at all. That obviously is a problem and what can you do about that? That brings me, I guess, to the recommendations and I'm back here to the Fair Imports Alliance and if I might, just to refresh your memory, of the key points: removal of the low importation threshold because it actually kills our industry at every sale; the tax neutrality can be achieved by removing the GST and duties from all domestic retail if the transactional value is less than \$1000. I don't have much optimism about that happening but it's an option. Perhaps transition

funding for domestic retailers to better engage in the digital economy because there is no doubt that Australian retailers are way behind the drag curve and whilst there is a great deal of work being done by the likes of the Australian Retailers Association and the Australian Sporting Goods Association, our people are way behind.

Tariff reductions would be very helpful. Again, I'm not terribly optimistic about that. A dedicated minister in the government with responsibility for the retail sector and perhaps the creation of retail advisory structures because at the moment there is none of that. Finally, perhaps the rebranding of domestic e-tailers, that is to say those that trade online as being Australian.

**MR WEICKHARDT:** Apologies.

**MR HENRY (SSIA):** Two points to finish then from my side, and I'm happy to answer any questions, as far as the draft recommendations from your report and so forth is concerned, we're pretty well in principle happy with all of the recommendations. However, the threshold for goods coming in realistically is never going to be \$20 because it's going to cost more than that to deal with it. So we feel a more realistic figure might be somewhere between, say, two and five hundred dollars – probably kicking around the 350, 400 dollar mark. That probably won't be terribly popular with our colleagues in other retail sectors, but that would make a huge difference in the snow industry.

As far as gathering data is concerned, we thought that the Census, which took place only a few weeks ago, was rather a missed opportunity because we could have gathered some data then that would have been across the country, but there we are. Workplace regulation needs to be loosened up. Retail trading hours need to be loosened up. You've mentioned all of these. These are terribly important. I think I'll leave it at that.

I just wanted to finish off with something I came across when I was seeking some ideas, and this was from somebody who was responding to your first report. It said this:

We have made three large-ish purchases in our home this year – new fridge, two-year-old's new bed, 3.5 seater couch – all purchased online from Australian companies in perfect quality and delivered on time. We obviously made phone calls to the stores as well and played them against each other on price. We buy a lot of our clothes online from the US and get it delivered through a forwarding company with at least 60 per cent discount, all online. We also fly to Shanghai once a year for clothing and electronics shopping. Warehouses full of clothing and gadgets everywhere and have a wonderful six-day break. It works out cheaper than buying in Australia. Most of our wage goes to child-care and our

mortgage with a bit left over. We want to stretch the little bit left over as much as possible. Not our fault if Australia has become a quarry for Asia. To Harvey Norman et cetera, adapt or die, it's a world economy now.

**MR WEICKHARDT:** Thank you for those experiences and also your comment and input. Just let me make a comment before we start asking you questions and that is we make no presumption as to whether or not the LVT could be as low as \$20 or whether it should be \$10 or whether it should be \$100. What we do know is from a point of view of tax neutrality it's desirable it should be as low as possible. Given the fact that there are other countries that appear to be able to collect tax, once they have established the system in a thoughtful way and evolved it, at levels down at that sort of level, I think the challenge on Australia should be that it should think about seriously aiming for those sort of numbers.

Now, what it ends up being, I think time will tell. But in some matters you'd think that if you're starting with a clean sheet of paper today, with the benefit of technology and the benefit of picking other people's brains, you ought to be able to do at least as well as they, if not better. We don't want to presume what the level could be at this stage.

**MR HENRY (SSIA):** I think if I may respond to that. The big issue from our industry is how long it's going to take, because if it takes 18 months, two years, there may not be an industry left. I can tell you that our trade show which we run in October every year, this year the amount of space sold is down by 10 per cent and our number of exhibitors is down by 18 per cent. That's in 12 months and that hasn't changed much over the last nine years, except for this year. So there's a very distinct change taking place.

**MR WEICKHARDT:** What we think we know now is roughly what the overall penetration of the offshore online market is in Australia. We don't know that by sector. Do you have any sense of what percentage of the market you service is now serviced offshore online?

**MR HENRY (SSIA):** If I did it would be a guess because we don't have the data.

**MR WEICKHARDT:** You'd be in good company.

**MR HENRY (SSIA):** But we're in the process of gathering data, and I can leave you with a document which is the US annual state of the nation, as far as the industry is concerned, which will give you an indication of what the numbers are over there. I'll happily leave you that and provide anything else that you'd like in that way. We are, as I say, gathering data now as to how much Internet there is. There's a major survey going on at the moment which was only done five years ago, and it's this

economic significance of the industry basically and that's again happening right now, and we've had quite a lot of input to that to try to drill down and get the actual numbers on the onshore-offshore and overall guesstimate of what the penetration is.

**MR WEICKHARDT:** What is the level in the US?

**MR HENRY (SSIA):** I'd have to dig for it, if you'd give me a second. This is an industry that's gone up from three to 3.3 billion in one year.

**MR WEICKHARDT:** If you can't find it quickly, don't worry.

**MR HENRY (SSIA):** I'll flip on while you're asking me questions.

**MS SYLVAN:** I just wondered whether any of your members in Australia are experienced online retailers, and I'm going to come to a couple of questions so I'll do them quickly for you. There's a lot of evidence from the surveys that are being done that Australian consumers like to buy from Australian retailers for a number of reasons, I might say, and we're told that they know they're protected in relation to faults and so on, and they have trouble with an overseas supplier. They like to have a place, if necessary, to go back to and somehow even if it's not a bricks and mortar, location matters to them that they can at least know is closer than whatever – some shop in America and so on. It's the issue of really almost natural protections for an Australian industry.

I was wondering if your online experience – if your members have any online experience – would speak to those issues and also in relation to prices, whether an online national provider in your industry, given volume, is able to negotiate prices that in fact are competitive, given their business model, with some of the overseas US, Canadian, whoever is big in the provision.

**MR HENRY (SSIA):** The answer is yes, but it's not a huge number of retailers. I can think of two or three that have done very well. They have done a lot of research, they've travelled overseas. They have found out how to do it, basically. They have also reduced their prices and they've done so because they're using less staff obviously on the bricks and mortar side and they have had some success. So I'm aware of a very small number – and I'm probably talking two or three out of a couple of hundred that are doing quite well with online sales in Australia.

I'm also aware of some purely online retailers in this country who are getting an incredibly hard time from the traditional bricks and mortar guys. The wholesalers are being pressured by the traditional retailers to not supply those that are purely online. The wholesalers are dealing with that in their own way. But we have to – I say "we" as an association – be quite careful about the people that are allowed (a) to exhibit and (b) to attend the trade show which obviously is a closed event. It's not



open to the public.

I chatted with one of the successful retailers only about a week ago and he was telling me that in his view that if you're within 20 per cent of the price of an item that you can get overseas – and particularly in the US – then you can probably achieve that as a retailer in this country. But once it gets past 20 per cent you've lost the customer.

**MS SYLVAN:** That makes a lot of sense. You're not going to buy your \$30 jeans in Australia - - -

**MR HENRY (SSIA):** You know, what you're saying about the staff and somewhere to take it back to, and the warranty and so on and so forth, but 20 per cent he thought was the magic figure. But in order to get near that 20 per cent he had to make a lot less profit than he has done in the last 10 years, say.

**MS SYLVAN:** If I can ask about that. We've seen a lot of change in manufacturing, for instance, in Australia to the point where a lot of things are not manufactured in Australia, other people have an advantage. We don't produce microwaves, this, that and the other any more. We do other things. I'm wondering if what we're seeing here – leaving aside the low value threshold for a moment where there's a question mark whether the natural protection actually deals with that. I'm wondering if we've got for the first time a trade exposed sector in retail which we really haven't had before in any significant way because this sector has been largely protected, and whether the new models that emerge, it seems to me, might go in a couple of directions.

We've heard two things from retailers: one particular submission from a shoe retailer, whom you would have thought in fact was in some considerable distress, given the overseas ability to provide at lower price and much more extensive ranges, in fact say they have no problem competing in the market because their service is excellent and they have upgraded their service. They hold a lot more stock and so on. Then the story that we're hearing from you that a lot of the retailers might be in trouble. I'm wondering if all we're seeing really is just a structural change. It's global in its orientation – you sort of allude to that – and that in fact that's life. You've got a different model that's going to need to emerge in terms of retailers in your sector. The good ones will survive; some won't, and they will go on and do something else.

Really, in some ways, the low value threshold, which is getting an awful lot of attention from retailers in a variety of sectors, is almost an issue which is not that big and is not really what's affecting them, that we've actually got something quite different happening about consumer expectations, about how products are delivered and so on. Even if the low value threshold was at zero, some of those price

differentials are not easily – you know, they're not going to be overcome. Where they can compete on price then the good ones will and we should let that happen as a nation.

**MR WEICKHARDT:** Your \$30 jeans would still have been an irresistible buy, even with 10 per cent GST and some duty.

**MS SYLVAN:** In other words, the economies of scale of a global business - - -

**MR HENRY (SSIA):** Yes, I understand that.

**MS SYLVAN:** - - - operating to the world are very different than a lot of little local retailers everywhere in the world, not just Australia.

**MR HENRY (SSIA):** Well, we represent 1 per cent of the snow sports world-wide industry, and that's New Zealand and Australia together. So it's very small. But as I was saying earlier on before we started, the outstanding thing is that in this country you can buy 95 per cent of the brands of hardware that exist in the world and that constantly surprises me. So I have some sympathy with your proposition. On the other hand we, as an industry, still have several companies that design their clothing in this country and have it made offshore but they're essentially Australian brands. Rojo, for example, Quiksilver, Ripcurl – you know, lots of well known surf, snow brands – are hanging in there, but there's a whole issue of counterfeit goods that comes into it as well. It's not quite so easy with hardware but they're certainly out there. I think your proposition is, if I read it correctly, that it's not just poor retailing, it's a globalisation that you've just got to suck it up and move on with.

**MS SYLVAN:** I'm wondering if in fact all of this attention on the low value threshold – and possibly the Australian dollar is a contributory factor here as well just at the moment. I think Commissioner Weickhardt used the term, "it's a bit of a distraction" when there's a mass of global structural change going on in retail. Parts of retail are trade exposed. We estimate some 40-odd per cent are trade exposed in a way that they never have been before, and people are just going to have to think about their retail model in a new global - - -

**MR HENRY (SSIA):** I think there has to be change. I mean, I don't think anybody would deny that there's need for change. I think traditional retailers – regardless of their business, what sector they're in – are going to have to look at other ways to deliver. But by the same token, a lot of these people just feel that the playing field isn't even. I think that's the best way I can put it to you, if they didn't have to be 20 per cent disadvantaged before they even do anything.

**MS SYLVAN:** If there's 20 per cent natural protection – we've had this estimate from other people, a 20 per cent disadvantage from the low value threshold – you're

more or less in the same ballpark. There does seem to be a natural protection present in this economy.

**MR WEICKHARDT:** We're not for a moment disagreeing that there should be something done with the LVT.

**MR HENRY (SSIA):** No, no.

**MR WEICKHARDT:** What we have been concerned about is that some retailers seem to give the impression that if the low value threshold were lowered they would be home free.

**MR HENRY (SSIA):** I don't think so, no.

**MR WEICKHARDT:** I don't think that's going to make the difference between a \$200 pair of jeans and a \$30 pair of jeans. One of the other issues in this whole area that you alluded to that intrigues us is, you said on the ski example, your wholesaler couldn't actually get near the prices that they're available for online. Now, when the Internet first came in, people talk about disintermediation, and I think with all due respect to wholesalers this is exactly the sort of thing they were talking about, that in the future if a consumer can deal directly with somebody in America, so can a retailer deal directly with a manufacturer somewhere – whether they're in Austria or whether they're in the United States. Is it time to look at a model where the wholesaler isn't there at all - - -

**MR HENRY (SSIA):** Isn't part of the equation.

**MR WEICKHARDT:** - - - and where you're dealing directly with the manufacturer.

**MR HENRY (SSIA):** Well, it's interesting because I can think of several companies that have got rid of the wholesaler. Amer Sports, which is a Finnish company that now owns Salomon and Atomic – two of the major ski manufacturers – no longer has a wholesaler, it simply has a subsidiary in Australia. That has its own wholesaler. But they can't seem to get the process down either. Maybe they're more profitable, I'm not privy to their numbers.

**MR WEICKHARDT:** Maybe. And maybe anybody present here in Australia is an added cost base that's just not needed. Commissioner Sylvan was talking about the issue of the natural protection. I would have thought that on skis there would be a pretty high freight component on importing one pair of skis. If you order directly for the manufacturer a container-load of skis, together with, I don't know, 20 of your mates in the retail industry, and bypass the wholesaler, surely you would get a much better deal landed in Australia than any person could buy online for.

**MR HENRY (SSIA):** Well, I think it would be about the same price because you're going to have to pay your 5 per cent duty and your 10 per cent GST, you're going to be roughly where the figure is, I mean the 15, 20 per cent.

**MR WEICKHARDT:** Even with the shopping costs of one pair of skis, versus a container-load of skis?

**MR HENRY (SSIA):** Well, I can tell you. I mean, I was talking a few days ago to one of our wholesaler, and he was sitting at his desk and he said, "Eric, I've got out of the bicycle industry." He's been importing bicycles for 10 years. He said, "Right in front of me I have a box that's just arrived from the UK, it's an expensive bicycle and the cost was \$700 and because I spent more than 500 it's being delivered free of charge and it's sitting right in front of my desk. I can't bring it into the country for that price." So I don't know what you do about it.

But let me just spin off on a slight tangent, if I may, and it's this: Australian ski resorts are now charging \$110 for a day ticket. That's in the top 10 most expensive lift passes in the world. The reason for it is staff costs.

**MR WEICKHARDT:** The second reason is that they can.

**MR HENRY (SSIA):** They can, for sure, yes, and so can the national parks. I mean, they're running the whole of the New South Wales national park entry into the winter resorts, but that's a different - - -

**MR WEICKHARDT:** There's not too much competition amongst ski resorts in Australia.

**MR HENRY (SSIA):** That's right. Interestingly though, and we have done some data on this, we know that circa 20 per cent of Australian snow sports enthusiasts no longer do it in Australia and 30 per cent all up do both, ski in Australia and ski elsewhere or snowboard, which is quite interesting. You asked for the figures earlier on for the Internet in the States. Unfortunately we can only give a percentage but you can see it's roughly 20 per cent.

**MR WEICKHARDT:** By eyeball, 20, 25, yes.

**MR HENRY (SSIA):** Yes.

**MR WEICKHARDT:** Which suggests going back to Commissioner Sylvan's point before: this is not necessarily only occurring in Australia.

**MR HENRY (SSIA):** No.

**MR WEICKHARDT:** These changes are occurring around the world and they're occurring around the world because there is some inherent efficiency gain that suits consumers and drives them in that direction. But that comes back to the point you were raising about changed business models. I would have thought – and some people have disagreed with us in our hearings so far – in your situation, when some person who has imported some skis finds the bindings weren't fitted that when they walk into one of your stores or one of your member's stores, you should be rubbing your hands with glee because they're not going to ship the skis back to Europe to get the bindings fitted. I would have thought you could start earning money out of service.

**MR HENRY (SSIA):** If you're a good retailer, certainly, yes.

**MS SYLVAN:** Is this occurring with any of your members - - -

**MR HENRY (SSIA):** Yes.

**MS SYLVAN:** - - - given they know people are going to import because they can get it cheaper, so the model is different?

**MR HENRY (SSIA):** I'm not sure they're expecting people to come in off the streets with missing parts, bindings, but it's inevitably going to be a small part. It would be really quite difficult. If the specialist ski stores all close – and that might very well happen, except those that are very good at doing online business – then I don't understand how people are going to actually buy ski boots or snowboard boots because if there aren't any boot fitters and there's nowhere to go to try a pair on, what's going to happen then? It was interesting to hear that the shoe retailers were able to compete without any difficulty - - -

**MS SYLVAN:** Some probably are having difficulty. It depends on the model that they choose in this new environment.

**MR HENRY (SSIA):** Sure, yes.

**MS SYLVAN:** I was asking about your online retailers because if the efficiencies are there, as we think they might be, you wouldn't have a whole lot of small retailers, you'd have probably a few competing online retailers with some way of servicing people on the ground. It's a very different industry.

**MR HENRY (SSIA):** Yes, although there are different types of online retailers as well and our business in this country is characterised by having models six months ahead of the northern hemisphere which gives the retailers a slight edge because you're either six months ahead or six months behind; that's the nature of it. Yet

people are prepared to buy the previous year's model that's being closed out in the US or in Europe at the very time when our season is starting. That's gone on forever, but the sheer numbers is much greater than it used to be. So, yes, there's a lot of teeth sucking and self-examination about how it might be improved but every time you speak to a retailer, it's coming down to the costs of employing people and the restrictions on trade because by nature, an industry that's tied around recreational is heavily weekend focused.

**MS SYLVAN:** Can I come to your tariff point because I didn't know whether you had specific recommendations or you were recommending that the tariffs go to zero in this area or transition through to zero or what the specifics were.

**MR HENRY (SSIA):** I don't have a specific figure for you.

**MS SYLVAN:** Just reduce them.

**MR HENRY (SSIA):** Yes. Anecdotally when I speak to retailers and wholesalers, they are of the view that somewhere between 200 and 400 is probably the figure.

**MS SYLVAN:** That's for the low value threshold.

**MR HENRY (SSIA):** That's for the low value threshold. As far as tariff, 15 per cent that somebody else isn't paying is pretty hard to deal with, so it comes back to tariff all the time. If you take it away, fine, they don't have to worry about that 15 per cent, but if they do, then it comes back to the tariff and how that can be adjusted to fit, so I think they're interlinked.

**MR WEICKHARDT:** There's surely no duty on skis imported into Australia, is there?

**MR HENRY (SSIA):** Yes.

**MR WEICKHARDT:** Just the standard 5 per cent?

**MR HENRY (SSIA):** As far as I understand it, yes.

**MR WEICKHARDT:** I can't imagine when we last manufactured skis in Australia.

**MR HENRY (SSIA):** That's right. There's lots of other things that just have never been manufactured here, mostly hardware.

**MR WEICKHARDT:** But I think your comment about the fact that skiing enthusiasts will eventually want to have somewhere where they can have their ski

boots fitted is absolutely right and therefore I suspect people will continue to pay for that and indeed the US number you've shown for penetration suggests that the fact that people proclaim bricks and mortar is dead is an overdramatisation of the situation. I'm sure there will be a penetration by the online fraternity but there will be some consumers that need to and want to and will continue to be prepared to pay for that service. As you say, people who ski – and I put myself occasionally in that capacity – aren't doing so because they're wanting to save the last dollar, because you'd just stop doing it if you were in that sort of frame of mind. On the other hand, if you were given the option of buying two identical products and one is half the price of the other, then you look to that opportunity.

I guess we're seeing these changes occurring in multiple industries. You talk about the bike industry that's particularly exposed. We had a submission from somebody in the auto after-market sector and they said in the United States now, the non-branded auto after-parts market is 60 per cent online.

**MR HENRY (SSIA):** Yes.

**MR WEICKHARDT:** So there are certain sectors that are I think particularly affected and probably where the efficiencies and the costs are such that the online space offers big savings from having a multiplicity of small outlets handling lots of stock and things of that sort.

**MS SYLVAN:** On the low value threshold, if we can come to that, you commented that it might be significantly higher than that once the task force's task is done, as to where it might go or that we might think about moving it to between four and five hundred dollars. The tax collections at that level are very, very low. That was one of the reasons we didn't recommend a small move; if that had been easy, that would have been an obvious thing to do. But because of the curve and so much of the goods entering are actually under \$100, going to something like \$500 as a threshold has an even worse cost-benefit equation.

**MR HENRY (SSIA):** I understand.

**MS SYLVAN:** Though I don't know where a task force would end up; that's probably not likely.

**MR HENRY (SSIA):** But I think the point that you put earlier about the technology is out there to do it right, and maybe you start with a clean sheet of paper and do it right from the bottom up.

**MS SYLVAN:** Yes.

**MR HENRY (SSIA):** I don't think any of our folks would disagree with that, it's

just that they're seeking anything that will help them along. I suggest you have a good look at that US one. This is very detailed data that we simply don't have. But what we generally find is that our market follows the US market because it's very similar in character and there's a lot of good stuff on there. I can provide more if you need it.

**MR WEICKHARDT:** Okay. Thank you for that.

**MR HENRY (SSIA):** Sorry, can I just make one point before I finish there. You were saying that you occasionally ski and you don't necessarily look for a saving of 20 bucks on a pair of skis. That's absolutely right, and it's fair to say that our industry is to some extent inflation proofed or GST proofed. Providing the share markets are relatively stable, then those of a certain age like, dare I say, you and I, are not going to be that bothered about the - - -

**MR WEICKHARDT:** That's a big proviso; this afternoon down 2.6 per cent.

**MR HENRY (SSIA):** Yes, but nonetheless that represents the top end of the market. The bottom end of the market, on the other hand, is the 20 or 21-year-old student who is a snowboarder typically and every dollar matters and he's the guy or she's the girl that comes into the retail store with the iPad and says, "Can you beat that?" That's the way retail is going. That's a change and you just have to accept it. The guys just suck it up and get on with it and that's all we can do.

**MR WEICKHARDT:** They also in my experience are very keen to see the right brand on that - - -

**MR HENRY (SSIA):** Absolutely.

**MR WEICKHARDT:** You raised an issue that others have raised and that is, having a dedicated minister. I guess I'm somewhat intrigued by the belief that having a dedicated minister would immediately make the sector, I guess, better served or better listened to by industry. I can think of industries that have dedicated ministers that are sometimes very unhappy campers. You talk to people in the live cattle trade who have a dedicated minister and they wouldn't say it's necessarily been the answer to all their prayers. What is it that you see about a dedicated minister that gives you such faith that this would be useful?

**MR HENRY (SSIA):** Okay. This is a broader spectrum than just the snow industry, this is into sporting goods and retail at large. The feeling is that the voice is not being heard. It's a huge sector which employs vast numbers of people and yet there doesn't seem to be a fixed point that you can go to for reference, for guidance, for policy to staff down from a minister, who might have it as one of several portfolios where there might be an infrastructure that you could interact with.



I'll give you an example. If you go to the Department of Trade and you want to analyse how many ski helmets are coming into this country, you can't do it. It's absolutely impossible because there is one code for helmets. So if you get a motorcycle helmet, a canoeing helmet, an ice hockey helmet, a snowboard helmet, they're all helmets, and that's the way it is. Skis these days come with bindings on or bindings off, but they're all skis as far as the import codes are concerned. We get absolutely no joy there at all because there's no point where you can actually engage with the department to actually seek change. I've done quite a lot of this and they eventually come back to you and say, "Well, just leave it for a couple of years, it'll improve." It doesn't. So there are a lot of issues that are fairly easily fixed in my opinion but the reason we have to collect our own data is because the data isn't there in the place it should be, I'm sad to say.

**MS SYLVAN:** Can I just ask what the public benefit would be in collecting that data? It would be a cost to the taxpayer.

**MR HENRY (SSIA):** Indeed, but there are very few items that are, as I understand it, produced in this country. There are some helmets that are produced but they're mostly in the bicycle market, as I understand it, but we don't know how many are imported or not, so it's very difficult to make judgments over whether there is scope for an Australian industry in production. There's certainly an Australian standard, for example, for motorcycle helmets but there isn't an Australian standard for most other helmets. Industrial safety helmets I imagine probably has, but certainly for anything like bicycles or - - -

**MR WEICKHARDT:** Bicycles, there is an Australian standard.

**MR HENRY (SSIA):** There is? Yes.

**MS SYLVAN:** A quite unique standard, different to everybody else in the world.

**MR HENRY (SSIA):** Okay, not familiar with it.

**MS SYLVAN:** The reason I'm asking is if it's a question about a business investing or not, it really is a matter for the private sector to make the investment in the data, I would have thought, not the taxpayer.

**MR HENRY (SSIA):** I understand, yes.

**MS SYLVAN:** Can I continue with this Minister for Retail?

**MR HENRY (SSIA):** Yes.

**MS SYLVAN:** Who has a Minister for Retail in the world?

**MR HENRY (SSIA):** I don't know.

**MS SYLVAN:** No, me either.

**MR HENRY (SSIA):** I suspect that these conversations are taking place elsewhere. That's all I would say on that matter. I think people are desperately trying to find solutions to problems. It may be that your earlier comment that the whole thing is just changing and you're just going to have to live with it – if that's the case, then there are going to be vast tracts of retail space in this country just shut down and they will become ghost towns if retail all goes online. I don't think that that's likely to be in anybody's interests, so I think there is scope. The minister is one thing, but it's not just a minister, it's a relatively small department where you can actually interact and do stuff and have these conversations which are really quite difficult to have unless there is a process like this going on. For most people that I represent, it's got to a pretty serious stage before we get to having hearings such as this one. The feeling is that you could be having dialogue and perhaps improvement more readily if there was a system that - - -

**MR WEICKHARDT:** I guess all these things are possible. They do have costs. When I think about the sort of recommendations we've made in this inquiry to date, things like planning, zoning and opening hours are directed towards state governments. Things like reviewing the workplace relations legislation is something that affects all industries and it wouldn't go to a Minister for Retail. Something that affects the low value threshold would probably be looked at by customs and Treasury and the ATO; when I think about it, I'm not sure in our report whether we would have a single recommendation that a Minister for Retail would see as them owning. Indeed, somebody said to us about this report, "This is really government policy lite." I think that's right. In the main, our recommendations are: let the industry compete and adjust and innovate. It will adapt. I don't for one moment believe that bricks and mortar retailers will disappear. Will they change? Yes. Will some of them be smaller? Yes. Will some of them be bigger? Yes. But I think from a government policy point of view, the best thing the government could do in the main is stop the industry having problems innovating and adapting and get out of the way.

**MR HENRY (SSIA):** Stand aside.

**MR WEICKHARDT:** Thank you very much for coming in. We appreciate your input. It's a subject that's of great interest to some of us and I think some of us will continue to, perhaps not very cost-effectively, buy products that you folks sell. Thank you very much indeed.

**MR HENRY (SSIA):** It was my pleasure. Thank you.

**MR WEICKHARDT:** Our next participant is the Australian National Retailers Association. If you could please give your names and the capacity in which you're appearing and then give us a bit of a summary of what you want to talk about.

**MS OSMOND (ANRA):** Thank you very much. My name is Margy Osmond. I'm the CEO of the Australian National Retailers Association and I'm joined this afternoon by Louise Southall who is our consulting economist. Can I start in what I'm sure is not an entirely original way by thanking you for the opportunity for us to be here this afternoon and have a little more to say in relation to our submissions. Perhaps it may be useful if I just reconfirm exactly where our industry association sits a la the wider sector. We represent the largest retailers, so all of our members have an annual turnover in excess of 100 million and are national players in the market.

I'd like really to start by thanking the commission. We were really impressed with the final outcome of the report, and the breadth of the report. I think it would be fair to say that the focus on issues like trading hours and planning was incredibly welcome from our perspective and I think is already breeding a level of change and rethinking in a number of different state instrumentalities. You may be aware, for example, in New South Wales they're now conducting a review of the planning system, I won't say entirely sparked by this exercise but certainly they have a very well developed interest now in where retail may fit into that planning process. I do think that critically the wider discussion of those kinds of issues is breeding a rethink at state level. I think that's a positive already from our perspective.

We welcome the recommendations in the report. From our perspective all 14 of the recommendations were ones that we felt were worthy of support and one of the things that we welcomed most is, while clearly there are issues and major problems perceived by the industry in relation to online, this is a review that we welcome in the first instance because it had the breadth to deal with a whole range of structural issues within the sector that we thought were important beyond simply the online issues.

You may recall from our original submission that while we did acknowledge the online issue and prosecuted the space, we felt that there were a plethora of other issues from a regulatory perspective that were adding to the burden on the retail sector, making it even more difficult for them to be competitive from a price point of view. So the overall cry, if you like, for a deregulatory approach is one that we were really very pleased to see.

There's no doubt though that the industry itself is facing a number of challenges and uniquely facing those in a particularly difficult environment at the moment; a set of unique circumstances, if you like, where not only are we faced with a particular range of economic challenges, but we have a consumer who is materially

changed in their own mind, and their behaviours, if you like, are perhaps a little aberrant. If we were having this discussion five years ago or in five years' time it might be a different conversation with different sorts of emphasis, simply because of that situation with consumers at this point in time.

Nevertheless, I think it would be fair to say that from our constituencies' perspective there's a very firm belief that you either innovate or you die, that the future of the sector is not about online or bricks and mortar, the future of the sector is multichannel, and it will be about the capacity of retailers to absorb that and respond to it. It's clear also when you look at the facts, the sector is not shrinking. It's simply not growing at the rate that we might like to see it grow at. So clearly there are some bright spots in the mechanism and there are some parts of the sector that are doing reasonably well.

I suppose from our point of view in terms of additional factors from the point where we made our original submission, the things that would be at the top of our list that we would probably like to explore a little more are the carbon price impacts and what that may look like going into the future, because that was information not available in the first round of submissions; the compliance factors that are going to accrue to the whole issue of carbon price which are substantial; the new consumer legislation and the fact that much of this consumer legislation won't apply to goods brought in online from overseas, and I think potentially bringing forward or giving some greater urgency to the recommendation for an independent review of the threshold mechanism.

We would very much like to see this as one that government in fact adopted before the report is finalised, seeing the good, clear commonsense of investigating this matter with a little more rigour. I think that's probably the summation from me.

**MR WEICKHARDT:** Thank you.

**MS SYLVAN:** We can start in a number of places. Let's start with the new consumer legislation and the protections for consumers online, or a lack of them. The survey material that we had in front of us was that by and large consumers are increasingly learning when they're shopping online but they're not necessarily shopping with their regulator beside them, as they are in Australia. Now, that's going to lead to some consumer problems for some people. In many cases, with a lot of the big overseas providers, it's not leading to problems because their internal policies are well beyond the statutory provisions that are required, and that's true for many of your members as well.

**MS OSMOND (ANRA):** Absolutely.

**MS SYLVAN:** They will refund if somebody just decides they bought it and didn't

like the colour. They don't have to do that but they do. So we've got large overseas global businesses basically saying, "If it broke, tell us exactly what happened," and if it seems reasonable to them they will simply replace the product. Other mechanisms in the market are asserting themselves. In some ways the eBay ratings is another self-regulatory mechanism in the market to help consumers make decisions and so on. The consumer stuff lands particularly down on product safety issues and standards issues, in my view.

Now, on product safety issues I'd appreciate your comment. You do make the comment on standards, and I wanted to determine exactly what you meant by your recommendation, that:

The Australian government should take steps to ensure that all goods being imported into Australia, including direct purchases by households, meet applicable Australian safety standards and labelling requirements.

My particular question there is what you're meaning there in terms of equivalence. For example, we may well have a standard, the Europeans may have a standard, the US may have a standard. They're not precisely the same but they're deemed to be effectively equivalent for the purposes of global trade. So I'm interested in what you think about those two issues.

**MS OSMOND (ANRA):** I think from our perspective this was perhaps illustrative of an additional level of activity that local retailers would have to go through as opposed to, for example, overseas online. For example, if it's electronics of some sort, as the product comes into the country now, before it goes into the store, we have to ensure all of the paper et cetera meets the new standards from the consumer law perspective, so boxes have to be opened and things have to be addressed. That's not necessarily going to happen if you're buying it from overseas, and there is no mechanism within the ACCC, for example, to be able to effect a compliance in that space.

I suppose I'm using it more as an illustrative exercise to say that this will be something local retailers will have to do because there is no compliance model for that coming in from overseas. That's something they won't have to do, or it's difficult to police.

**MS SYLVAN:** I agree. For consumers importing obviously they don't have to meet the standard. There's no legal requirement on them. Is that unreasonable? In a sense, let's take bicycle helmets where there's an absolutely unique Australian standard, which I don't understand, which apparently gives you a little bit of additional protection but we couldn't even get that answered clearly for us as to whether it did or not. So there's a European helmet, there's an American helmet, lots of people are buying those at different prices. If you look at not so much the cost

differences but an importer – there's no manufacturer in Australia, they're all imported products. The manufacturers overseas have to meet an Australian standard for our particular retailers.

The conversation we were having earlier, that I'm sure you were paying attention to, which there's a certain natural protection in here. Is that unreasonable? In a sense, let's assume there's a good reason to have the standard. We haven't investigated that. The retailers – because they're offering a local product, they're offering a touch point for consumers which a lot of people buy because that's important to them. So they have some additional costs spread over the whole range of their product. For testing, I think, it's four in every 400 need to be tested - - -

**MS OSMOND (ANRA):** I'll take your word for that.

**MS SYLVAN:** Is that unreasonable given the natural protections that accrue to them in any event? In other words, retailers in America have to comply with their standards; Europeans have to comply with their standards. So they have costs as well associated with their standards, they're not home free.

**MS OSMOND (ANRA):** I think with the importation issue though, if you're bringing the goods into the country and this does require some sort of change to the packaging to ensure it meets the new standards, and yet the good that's coming in online purchased by an individual does not, I suppose the question we've asked in conversation with the ACCC is where is the uniform protection that should exist for Australian consumers, regardless of whether they buy it in store here, or whether they bring it in from overseas. It comes back to this issue of uniformity and the issue that it will be an additional cost – it's difficult to quantify, I accept, but it becomes part of that raft of additional activities that local retailers will have to comply with.

**MS SYLVAN:** On the safety matters, as I understand it, where it's a safety issue which is a different set of standards, in fact the ACCC has reach – as long as they can reach something Australian. Whether that happens to be the shopping mall, online or whatever it is, and the problem is occurring obviously if the consumer chooses to shop on their own and not - - -

**MS OSMOND (ANRA):** Exactly. Not that I would presume to speak for the ACCC but clearly this is a compliance issue from their perspective that presents some pretty unique problems and is going to be yet another cost factor for government in this space. But, as I say, it's an illustrative issue, from our perspective, just to show that this is another burden that the locals will have to carry.

**MR WEICKHARDT:** In your original submission and in your second submission you've made the recommendation that the government – "and will recommend the immediate removal of all parallel import restrictions". Apart from books, which the

Productivity Commission has already opined on – and the government has opined on too – are you aware of any other parallel import restrictions?

**MS SOUTHALL (ANRA):** It's predominantly related to books.

**MR WEICKHARDT:** That was our view and, if you like, we've given our view and the umpire has given their view, so at this stage I'm not sure we can change that very much.

**MS SOUTHALL (ANRA):** I suppose what we're looking for is another – you're right, the Productivity Commission has already recommended this and we strongly support that and think that this review presents another opportunity to perhaps reiterate that – the benefits of removing parallel importing, explicitly reiterate it.

**MS OSMOND (ANRA):** Given the current circumstances for the marketplace and for consumers and the not inconsiderable amount of discussion that there has been about booksellers and their potential future as bricks and mortar entities, we thought it was worth repeating.

**MR WEICKHARDT:** Because it's ironic that in the main the retail sector at the time of the inquiry, I think, didn't want these import restrictions removed.

**MS OSMOND (ANRA):** Well, from the perspective of our member booksellers, they do.

**MS SYLVAN:** And they did at the time.

**MR WEICKHARDT:** Okay. The bit immediately below that recommendation in your original submission talked about supply chain costs. I want to revert to a topic that we were raising with the last participant. You talk about "major Australian retailers try to face client costs via their commitment to using reputable, reliable wholesalers". Now, I could have added the words "but costly and maybe redundant wholesalers". You go on to quote the example of one major retailer, and perfume, saying that they could perhaps source from what you term "the grey market". "Distribution channels which while legal are unofficial, unauthorised or unintended by the original manufacturer."

I guess my question would be if by using those channels the retailer could give their customer a better deal, why wouldn't the retailer employ that method. I mean, there seems to be a touching level of commitment here to a supplier that's not allowing the retailer to be competitive. If there's no restriction on parallel imports, apart from books, my question is, why don't some of these retailers say to their wholesalers, "If you can't make me competitive, I don't want to do business with you any more"?

**MS OSMOND (ANRA):** Well, I think this is probably an environment where that question is being asked much more frequently than it might have been in the past.

**MR WEICKHARDT:** Good.

**MS OSMOND (ANRA):** I think there's no doubt when you look at, for example, the American model, in many instances the relationship between the manufacturer and the retailer is a direct one, without a wholesaler intervening. Yes, it is an additional cost factor. I would hazard a guess that from the retailer's perspective the model has not been set up that way in the past, but from the anecdotal information that we hear, that is a question that is being asked more often and I think is probably going to be space for change going forward.

**MS SOUTHALL (ANRA):** One of the reasons that we included this example in our original submission is at the time there was a perception that the difference between the online and local retailers, it was local retailers that were making big profits at the expense of Australian consumers. This example was to illustrate that certainly in the past there have been different supply chain structures for the bricks and mortar retailer, compared to an online retailer, and this was part of illustrating that point. The recommendation that we made attached to this was for some assistance around perhaps helping retailers understand how they could change those supply models.

For example there are free trade agreements. These are very complex documents but they do allow direct sourcing opportunities that Australian retailers haven't really used in the past. But as we become trade exposed, I think was the term you were using earlier, these chains will be used and indeed our members are starting to move in that direction. The reason we included this example was to show the supply chain has been very different for a bricks and mortar retailer, compared to an online retailer, but we do acknowledge that that is changing and that has to change, and we're certainly not disputing that.

**MR WEICKHARDT:** I can imagine in many cases that the local wholesaler or agent or subsidiary may add sufficient value to justify being there, by providing service or some other benefit. But if they don't, as people talked about when the Internet first came out, this is a classic example of disintermediation. If an individual consumer can deal directly with a manufacturer offshore, I suspect one of your members has the capacity to do the same thing.

**MS OSMOND (ANRA):** I think, commissioner, one of the things we said in the first instance when this review was proposed, was that we welcomed it enormously because it would shine a light on a whole lot of aspects of the sector that needed both external and internal reform. So it is both logical and welcome that this becomes an



area of some focus. As I say, I think you'd find that this is a conversation that's been had often now.

**MR WEICKHARDT:** Good, because your recommendation and your original submission said:

ANRA recommends the Australian government put in place measures to assist the Australian retail industry regarding implementation of direct sourcing arrangements.

You did say "and/or FTAs".

**MS OSMOND (ANRA):** Yes.

**MR WEICKHARDT:** Well, I put the FTAs in the camp of the government, but the first bit, I would say, lies squarely at the heart of your members. That's their job, surely.

**MS OSMOND (ANRA):** I don't think we'd dispute that. I think really the emphasis in that piece was on the FTA part of the puzzle which as Louise has rightly pointed out is not easy business or core business for many of these retailers, and if they're going to understand the capacities of that system and for government to in fact understand that retail should be considered as part of that process in the future. It flows back to the very structural framework issues that, as I understand it, the review was first set up to examine.

**MR WEICKHARDT:** Okay.

**MS SYLVAN:** Can you just elaborate for me on the questions that Commissioner Weickhardt was asking. What areas in particular do you say that questions are being asked? What kind of products in particular from your membership - - -

**MS OSMOND (ANRA):** I couldn't actually answer that for you at this point in time.

**MS SYLVAN:** You don't know. We had a conversation with one of your members about cosmetics where there are price point differences of close to 75 to 80 per cent in the market at the moment who still thought they could run their business on those prices and we were a bit dismayed to hear it.

**MS OSMOND (ANRA):** From a commercial point of view it's a little difficult for me to give you specifics.

**MS SYLVAN:** That's all right.

**MR WEICKHARDT:** I wish you'd brought some hard problems along with you. You've raised the issue of the carbon price and compliance, and the retail sector's exposure to that. You might be surprised, that sounds to me like a fairly complex problem.

**MS OSMOND (ANRA):** Well, yes, I don't think there's any doubt that it's a fairly complex problem. I suppose, from our perspective, we raise it (a) because it will be that but (b) it will be yet another complicating factor in the marketplace for the retailers. At this point in time even though the carbon price papers don't actually deal with retailers as specific in the sector, and we don't attract the carbon price per se, as a sector, the pass-through costs on it and how it will impact the price of goods in store is a bit of an imponderable at this point in time.

The government used, in the period directly after the announcement, a basket of groceries to highlight what they felt would be the likely outcome in price increases and that's added about .4 per cent for a basket of groceries. We're still working with the government to get a clear picture of what the modelling actually looks like in that space in terms of where costs will be accrued. The really, I suppose, scary part of this business for the retailers is that they're the last place that consumers will see. So it doesn't really matter where the costs have been accrued along the pathway, it will be the retailers that will bear the brunt of the unhappiness in this space from a consumer perspective.

In relation to online – and I think you would realise from our submission that for us, we think there's a range of factors that create an uneven playing field – it's not simply the online issue, but those additional issues complicate the online process for local retailers and our concern is that in the absence of very clear modelling which we don't have at this point in time that the costs associated with the carbon price and their pass-through will once again be another round of costs that will need to be absorbed by local retailers that overseas retailers will not have to. Once again, that price differential will get wider and wider. So we flag it, from that point of view, that we see it as being an issue.

I think in addition to that, there will be a range of compliance issues for local retailers which simply add to the red tape burden. Now, I don't for a moment resile from the fact that there needs to be appropriate consumer protections in this space, quite clearly there does need to be, but nevertheless, it is an additional impost on the sector at a particularly difficult time. I think most commentators when they look at the sector are saying there's no sign of any real green shoots, dare I say it, of recovery, until the second half of next year at the earliest. So it's just another cost; it's another cost, whether it be a cost in man-hours in application and compliance.

**MR WEICKHARDT:** I understand, and of course I suppose the thing that really

matters is the differential advantage compared to the online space, and the online space might not be so big to any direct impost until it gets to our shore but it has to get from our shore to the final customer and there may well be imposts there. So working out relativities and differentials in this whole area will take some time. I suspect while the retailers will not welcome this, it probably isn't on the top list of the things that are impacting upon the sector at the moment.

**MS OSMOND (ANRA):** No, but I think that it's got a bullet. It's moving up the list. But I think the most critical part of the issue to do with the carbon price is the impact that it's having on consumer behaviour which of course is not something the commission can necessarily deal with, as much as I would like you to wave a magic wand and make everybody desperate to shop. But we do know from a range of surveying we've been doing that the prospect of a carbon price is changing shopping habits and is making people less willing to spend, and particularly worrying is the fact that something like 57 per cent of a recent sample of around about a thousand people had no idea whether they were going to be entitled to compensation, so that's adding to their unwillingness to spend. I suppose it's really about this compounding environment for retail at this point in time. In a strange kind of way, if this review was being conducted in good times, perhaps we would be approaching this in a slightly different way, but for retailers in terms of consumer behaviour, these are bad times and I suppose that's one of the reasons why we feel a little greater sense of urgency in terms of things like the task force review into online and so forth.

**MS SYLVAN:** One of the things that you didn't take issue with, though some other retailers certainly have, is the recommendation that the LVT not be moved until we understand the implications of the processes within customs, Australia Post and the private sector couriers. Do I take it then that your members who are the big end of town I think are less focused in a sense on this issue than perhaps some of the smaller retailers, that the time delay doesn't seem to be an issue in your second submission?

**MS OSMOND (ANRA):** I don't know that I'd say that they're less focused, I think they appreciate that there are issues that need to be resolved before we can get to the right price; ie, we need to understand exactly how to do this and do it properly. It can't happen overnight. Ideally, I won't make any secret of it, we'd like the threshold down to \$100. If the UK can sit there with a threshold at 18 pound, why can't we do it? But we would like that to be examined and managed and come up with the right answer and get it right because online is not going to go away. It's going to become a larger and larger portion of the Australian retail community.

When I say that this is a uniquely difficult marketplace at the moment for retailers, that's why we say, yes, let's have that task force, let's get it right. Let's figure out how to make it work and bring the threshold down as low as we can but let's do it as soon as we possibly can. So our response to that, if you like, is a sense of urgency to get that piece of the puzzle in place as quickly as possible.

**MS SYLVAN:** The other thing I wanted to ask you about which arises out of another submission actually but I wondered whether you had a comment on it, in the eBay submission there was quite a bit of information, a global survey actually, on how many jobs are created in relation to online, and I think these are quite difficult issues. But you've got some members who have certainly tried online – I don't know whether they would consider this to be successful experiences, I think some of them didn't like those experiences but they're back doing some of it now – and I think the McKinsey survey was in relation to SMEs, but it seems a reasonable proposition that jobs will go somewhere. In the course of retailers it has been, they will be created elsewhere in terms of delivery of the mechanisms; IT people needed for online sites. The figures used in the McKinsey survey I think were for every job lost, there was about two-something created.

I'd just be interested as to whether you have any data at all in relation to those offsets coming from your members' real experience of putting online sites in place and what that does for the efficiency of their business.

**MS OSMOND (ANRA):** The short answer to that is no, not at the moment, but I would say the critical issue for us in terms of jobs within the sector is perhaps one that deals a little more with geography than just numbers. In terms of the jobs within the sector, the figures for the last few years look reasonably stable, and they look reasonably stable for this reason: while we've had some fairly high-profile failures within the marketplace, there has still been some level of growth, particularly within the supermarket sector. It's nowhere near where it should be – 6 per cent at least a year, it's nowhere near that – but we are still seeing a little bit of growth, so that's creating almost a misleading level of not a great deal of change to the retail numbers.

Two of the things that we're finding most concerning about this process is that the retail sector employs a disproportionate number of women and one of the things that we know happens in this space is that the jobs may not go but the jobs may change and the hours themselves may become less and less, and this has a disproportionate effect on women within the marketplace. We're doing a little work at the moment to see what this may be doing to changing parity between salaries of men and women.

The other aspect of this that we find uniquely concerning is in regional communities across Australia, nine times out of 10 the only jobs that exist in those communities for young people under 20 are retail jobs in bricks and mortar. I'm unconvinced that those jobs would suddenly become IT jobs or there would in fact be jobs for young people in that space in what is largely a fairly technical arrangement from an online point of view. We know that there's at least 100,000 jobs in regional communities that are directly related to large retail in this country. So I think it's important not just to talk numbers but to understand the on-the-ground

geographic impacts.

**MR WEICKHARDT:** Just while we're talking about jobs, in your second submission you note that you support all the recommendations in our draft report and would like to add some more, but apart from that you make, to the best of my ability, no explicit comment on the recommendation we made on workplace relations and the review of the act and the review of the award. We had submissions from the ACTU and the SDA in Melbourne; they, I have to say, do not agree with all the recommendations that we've made here. I'm intrigued that you, representing a lot of the major retailers, either think we've hit the nail 100 per cent on the head or that this issue is not very important because you've made no reference to it in your second submission.

**MS OSMOND (ANRA):** We did support your recommendation but I think it's important also to say that from the large retailer's point of view, the vast bulk of our members, their staff are on EBAs. This – while the need for practical flexibility within the system and a rest from almost endless reform within the sector – is a priority for them. It was not the issue that our members felt was most important to them going forward.

**MR WEICKHARDT:** But our draft report drew attention to something that we thought was a significant concern and that is that to consumers getting a good deal and getting a better deal was an important issue. There seems to be quite a lot of evidence that in some sectors in consumers in Australia are paying more than they're paying for a product offshore. That suggests getting costs out of the system is important if retailers are going to continue to make money. Getting costs out of the system and yet continuing to treat employees fairly, to pay them, to reward them for skills means, in our view, only one thing and that is increased productivity and the concern we had when we looked internationally was that Australian retailers do not look as if they're faring particularly well in terms of comparisons on productivity.

The question is, are your members happy they can make the productivity improvements that are necessary to both give their employees a fair wage and yet also give consumers a good deal?

**MS OSMOND (ANRA):** I think the attitude of our members was that there were a whole range of issues way beyond simply the industrial relations issue that would impact on their capacity. Having said that, particularly within, say, the grocery sector we've had food deflation in this country for the last 18 months, two years so Australian consumers are doing reasonably well from a price perspective in that space. The issue for us was more around minimum wage setting because, as I say, our members have all had long-term commitment to paying well above award wages and engaging in EBA relationships. The setting of the minimum wage tends to inform that agreement-making process and therefore our comments and our

submissions have been largely about a sense of rationality about that minimum wage setting as opposed to the larger systemic issues relating to the industrial relations system.

**MR WEICKHARDT:** Interestingly a number of employees have written to us and made submissions to us suggesting that we had recommended that their wages be reduced. In fact we did nothing of the sort. To us that's (a) probably an inequitable outcome and (b) a very unlikely outcome in our society. So the answer is, if you want a better deal, you want higher wages, you want secure employment and this doesn't mean the union characterisation of employers whipping employees or people being forced to work under conditions they don't want to work in, if they're going to give good customer service, if they are going to give value to their consumers, they've got to be motivated, happy and skilled. All that to us means higher productivity and it's closing that productivity gap that, to me, is one of the huge issues and I have to say I'm surprised that it's not featured more heavily in your submission.

I accept that it's your members' problem, it's not the government's problem to a large degree but there may be constraints and that's the thing that we're most concerned about. The sector will adjust and has to adjust to the competitive pressures around it. What we're concerned about is whether or not there are any government policies that might impede that adjustment.

**MS OSMOND (ANRA):** I think one of the issues for us in terms of employment within the sector – and I think you would know this from your examination of the overseas environment – is that for whatever reason all too often a job in retail here is the job you take until you get a real job. The level, if you like, of professionalism that many accrue to the sector is not as it should be and there is an imaging issue and a qualifications and a skills issue that relates to the sector which we do see as being incredibly important going into the future. In many instances in the UK you get a university degree to work in a retail environment because it's considered to be a dynamic, important, critical part of the economy. There is a mind-set change perhaps here in Australia that needs to be generated to deal with that particular issue and it has a role to play in productivity as well.

**MR WEICKHARDT:** I think that's right.

**MS SYLVAN:** I just have one last question. In your second submission in the compliance and general regulatory burden, a particular focus that you raise in relation to food labelling and there are couple of reviews going on and so on and you suggest that the government should look more carefully at web based technologies, for example, rather than the label. There is a fair amount of evidence that the product matters and if you put the information on the product it matters but it has to be accessible. Assuming that stance and asking people to go look some place else

doesn't work, if you're marketing something by and large you try not to do that for very good reasons because it doesn't work. So assuming you do want good, simple information on food labels rather than a whole lot of complex detail, I wasn't familiar with what your member said in relation to traffic light type of things which is the simplest labelling offering in the market. Was that supported by your members?

**MS OSMOND (ANRA):** I think it would be fair to say that that's a case that's been prosecuted by the Australian Food and Grocery Council more particularly in its representation of manufacturers. For us the bigger issue is what happens on the shelves. There is only so much you can put on a label and the comment that we made in our second round submission was not so much about sending people off to a web site to look at what the details or the outcomes might be, but increasingly the technology – and I accept that this isn't wholesale and not everybody will do this at this point in time but increasingly the trend is towards running your smartphone over a label and your smartphone gives you the information then and there about what you need to know about the good or where it's come from or what the kilojoule benefits might be or, more importantly, provides an opportunity for emphasising good practice, you know, "Have you thought about using this product to make this particularly healthy outcome meal?" Increasingly we're seeing that, particularly in the US.

From our perspective I suppose what we were saying from a regulatory point of view is that it seems to us, regardless of whether it's state or federal at the moment, the discussion is only about the labelling and not about what the technology opportunities may be in the future. So taking on board what we hope we're talking about here is the future of the sector not just the now, are legislators missing the boat by not understanding the possibilities that that technology presents into the future to in fact give even more information?

**MS SYLVAN:** Can I ask, when you say it's largely a manufacturing issue in a sense there's a corollary here that I'm making in the price discrimination area where your members stand in relation to whether they use a wholesaler and they have to pay more and so on, in a sense is it the position of retailers, like your members, that they feel they should stand in the shoes of the consumer in relation to product policy or is it something else? So when you're thinking about things like labelling, when you're thinking about, you know, "Is my loyalty to the wholesaler? Is my loyalty to the consumer in getting a far better price?" I'm quite interested that it doesn't seem to be in a sense that we stand here, our job is to be the consumer at the front end of this process, we'll get the best price, we'll get the easiest labelling. I'm just interested in the positioning.

**MS OSMOND (ANRA):** I don't think that you could find a single retailer in this country who doesn't say that from their perspective they are there to provide the best possible service to the consumer. I mean, after all that's their audience, that's who

puts the money in the till and makes the wheels go around and particularly if we're talking about food retailers, I don't think you could doubt that there's an extremely competitive market price at the moment in terms of food that makes it very clear. Those supermarkets, regardless of whether it's an independent or it's one of the perceived larger retailers, they would view themselves as advocates on behalf of their consumers. That's their bread and butter and their lifeline.

**MR WEICKHARDT:** You made a recommendation that, aside from clothing and textiles and passenger vehicles, the Australian government should immediately remove Customs duty from all consumer goods imported into Australia. Most of those goods would already be down to a tariff level of 5 per cent or, in some cases, zero. Given the fact that you and I think a number of people in the sector would also like the low value threshold fixed, is this an either or? If the low value threshold were down to a very low level, let's say the Canadian level of \$20, is this recommendation superfluous? Because without an inquiry – I know that you might say, "Well, this would allow retailers to pass on lower prices to consumers," that's true but there might be some people affected by that too who would say, "Our industry is going to be crippled by even 5 per cent being removed."

What is the driver here? Is it for a level playing field because you think the low value threshold might not be lowered or is it because even if the low value threshold were down to a very low level you'd still want to see these duties removed?

**MS OSMOND (ANRA):** I think it's the latter. I know we're dealing with recommendations on an individual basis at the moment. But for us, the way our submission was constructed and our attitude was this was a puzzle of many parts and that from our perspective we were trying to identify the impost that made it difficult and, in many instances, impossible for Australian retailers to provide goods at a competitive price. It's not just about the online. Online is incredibly important and will be even more so into the future. But, as I say, this was a puzzle of many parts from our perspective and we would still like to see those tariffs addressed and quickly. In terms of other sectors that may be impacted, retail employs 1.2 million people here in Australia and I think that's an important consideration.

**MR WEICKHARDT:** Yes, it is, provided those employees are all productive and adding as much value as they would if they were employed somewhere else in the economy. From an economy-wide perspective, the real question is, are we getting the best out of our human capital? If there are some sectors that could use those employees more productively than the retail sector and the retail sector was smaller, from an all Australian point of view, that would not necessarily be a bad thing. I know your members wouldn't necessarily celebrate but consumers might.

**MS OSMOND (ANRA):** In an environment where consumers are telling us that from a bricks and mortar perspective service is king, numbers going down I don't



believe is a happy option from the retailers' perspective.

**MR WEICKHARDT:** The consumer wants service but they also want a good deal and that's a challenging mix. I accept that. But on that issue you'd like to see the consumer get the best deal and the costs to be as low as possible, you have made some recommendations that don't suggest driving costs down to the bottom. Your suggestion the Australian government should take steps to ensure all goods being imported into Australia, including direct purchases by households, meet all Australian safety standards and labelling requirements. Now, I suspect that if you tried to implement that there would be huge costs. It would involve somebody opening every single product coming into Australia, inspecting it and checking whether or not it complied with a standard that was recognised by Australia or was better than the Australian standard or not and to a degree you would have to contrast that versus the alternative of saying, "What does it cost to educate consumers?" and we talked a lot to the bicycle helmet people about this and they were saying ironically that most of the noncomplying bike helmets imported into Australia are not people buying a \$5 bike helmet out of China, it's people buying a \$300 and a \$500 helmet that Cadel Evans might have worn on the Tour de France which looks pretty sexy but may not comply with the Australian standard.

In that case we were saying, "Surely the major role of the industry is to educate the consumer" – and in these cases they're not poor consumers – about the implications of wearing those helmets. You're not covered for insurance, for example, if you wear a noncomplying helmet. So I'm just interested in the feasibility, first of all, of this recommendation and whether or not it's actually the most cost effective way for Australia to ensure that Australian consumers don't suffer detriment.

**MS OSMOND (ANRA):** We did touch on this a little earlier. Effectively that is what is required of local retailers now under the new consumer laws that we will have to ensure these safety standards and the appropriate paperwork is on goods that are sold here in Australian stores. Our concern is that if you as a consumer buy that same good the overseas retailer is not required to do that and that the compliance associated with that from the ACCC's perspective would be really very difficult. We accept that. So it's another case of an unequal playing field, if you like, between the locals and those who are bringing in from overseas.

I take your point from an education perspective. I think that for many of the larger retailers they take their responsibilities in this space pretty seriously but it would also be fair to say in the past these kinds of education campaigns have been the province of government, not the retailers themselves. So once again that brings it back to what would a cost to government look like to run an education campaign as opposed to a more rigid compliance program. So the nature of our recommendation was simply to say, "Well, if we're going to have to do it, what are you going to do

about those products that are coming in that aren't required to do it if you're serious about product safety?"

**MS SYLVAN:** Can we take this to its logical, ridiculous conclusion, however. So if I've travelled overseas and bought a product there, you're actually suggesting that somebody would need to check that as I come into the country to make sure that it meets an Australian standard or at least doesn't violate it?

**MS OSMOND (ANRA):** Perhaps. I mean - - -

**MS SYLVAN:** And if I'm shopping online the government will shop with me, just to make sure. The cost of that would be extraordinary.

**MS OSMOND (ANRA):** Yes. We use it once again as an illustrative issue to say that if you're going to require this of local retailers, if you're going to say that, "You have to comply with this part of the puzzle," how can it therefore be less important to make sure that a customer who buys something online from overseas has the same safety benefit?

**MR WEICKHARDT:** A challenging question. One last one from me. Your last recommendation about training and apprenticeship training, given the fact that you pointed out most of your members have enterprise arrangements with their employees and indeed, most of the evidence suggest that driving productivity efficiency is most productively done within an enterprise and it's enterprise specific, it strikes me that the training and skilling responsibility in the most case should be with the employer rather than the government. So again, from a country point of view, I accept the fact that there should be some generic skills that the government ensures people have the opportunity to avail themselves of.

But in terms of the sector and the specific needs of the sector, why isn't this appropriately a sector responsibility and an individual enterprise responsibility? Because again one of the issues you touched on and others have alluded to is that there isn't a lot of commitment by people to this sector as a long-term career, there is high turnover which maybe means that people don't take training their employees all that seriously and yet in the long run if we're going to get the customer service we want and the productivity we want, upskilling employees is going to be critical. It just seems to me asking the government to do this for you doesn't put the responsibility where it should be.

**MS OSMOND (ANRA):** I'll just deal with the in-house training, if I might, and then I might hand over to Louise. I think what you will see with the vast bulk of the really big retailers is that they do take this training internally and the specifics of it in relation to their own business very seriously. They have the equivalent of their own internal university programs. But there are some baseline training principles that we

feel, because of some discussed changes in the system, government needs to rethink in terms of what it offers into the space.

**MS SOUTHALL (ANRA):** We're not for a minute suggesting that government should do this alone, we see this as a two-way partnership between government and the retailers because if we're looking at economy-wide benefits, the economy as a whole does benefit from a general upskilling in the population. There are those private benefits that accrue to the employer and there are also public benefits that accrue to the nation for having a high skill level. So that's why, from our perspective, we think it needs to – there has been a contribution from government in the past and we want to see that continuing and, as Margy alluded to, there have just been some recent changes that suggest that retail funding for apprentices is not going to be as high as it has been in the past, so we would like to see that continue. But we definitely see it as a two-way – it's both responsibility - - -

**MS OSMOND (ANRA):** It's a joint activity.

**MS SOUTHALL (ANRA):** The ANRA members in particular are – I think Coles and Woolies are some of the biggest employers of apprentices in Australia from the private sector so they definitely take that seriously.

**MS OSMOND (ANRA):** With potentially the largest expenditure on internal training. Could I raise one issue that I know you've raised with several other people who made presentations in relation to the recommendation for a minister for retail. You would have noted from our original submission that we did recommend that as well or, as an alternative, some form of embedded advisory panel, not dissimilar to what you see with the manufacturing and mining sectors. I take on board the fact that having a focus is a critical thing. Having a minister for retail perhaps who's not well resourced and not highly placed enough with government to make the sorts of changes we're interested in I take on board fully.

But I think there is still an argument for this sector to have the opportunity to have more formal and full-time negotiation with government by an embedded process whether that was, for example, attached to Treasury or whether it was attached to the finance sector, the finance ministry. But we really do think there is a need to have some permanent mechanism that allows that dialogue, particularly now in an environment where the commission's review has really focused so much attention on the importance of the retail sector. From our perspective I would have to say that one of the great outcomes of this process to date has been the fact that everybody is now talking about retail and focusing on the very important contribution it makes to the economy and to the wider community. We think that's a great outcome.

But just in terms of that permanent dialogue with government, that was our

motivation for requesting it in the first instance, not to flippantly suggest that government should expend a vast amount of money on a new bureaucracy – mind you that might be nice – but what we're looking for here is a clear and well-supported avenue of dialogue and some transparency with government. So that, for example, in future when they were considering a carbon price we might not be playing pick-up sticks afterwards trying to figure out what the modelling was, that we would have been a stronger part of the discussion process earlier on.

**MR WEICKHARDT:** I hear your faith. You probably understand from the comments I have already made that I see it difficult to believe that this is necessarily going to add a huge amount of value but we will continue to debate that internally.

**MS OSMOND (ANRA):** It can't hurt.

**MR WEICKHARDT:** You touched on it, none of these things come without cost. Governments don't have any money, they have your money and mine, and my concern is that they spend it wisely. We're going to adjourn now and we'll resume again at 4 o'clock.

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**MR WEICKHARDT:** We will resume the hearings. Our next participant is Kelvin Morton. I'm not sure, Kelvin, whether you're representing yourself or an organisation that you work for or with. Perhaps you could clarify that for the transcript.

**MR MORTON (MM):** It's kind of a bit of both really. From a professional perspective, Maxwell Miles is a global marketing operations management consulting company, so I'm keen to give a perspective with regard to the work that I performed in the United States doing that role, but also to give a personal perspective in relation to living in the United States and then moving back to Australia just under a year ago, just to give some insights into my attitude now towards shopping in Australia.

**MR WEICKHARDT:** Okay. Thank you for that. Thank you for your submission. We appreciate that. If you could give us a bit of an outline of what you'd like to say and we'll move into a discussion after that. We've got about half an hour.

**MR MORTON (MM):** Sure. In 2005 I moved to the United States and starting working as a marketing operations management consultant for some very large companies over there such as walmart.com, Safeway, Warner Bros, Walt Disney, amongst many others. What I was able to observe in the execution of that consulting work was the nature of the mind-set that these companies have when it comes to having a business which is focused very much to going online and defining a relationship with their customers and maintaining what I would describe as being quite an intimate relationship with their customers.

The comparison between that kind of work and then seeing how things are here in Australia is very, very different. In Australia it seems to me that retailers particularly are very reluctant to go online because they don't quite understand what the advantage is to going online. What is it that is going to advantage their business? How are they going to develop their business? What does it mean to them? That is something, to my mind, that is missing in Australia. I don't think they quite understand just how important it is.

I don't think that it's unrealistic to say that if the current behaviour of many of the major retailers in Australia is maintained – and when I say that, I mean with regard to their sluggishness with getting online and opening up that channel for their customers and taking advantage of all that it has to offer – I suspect that within the next 10 to 15 years, many of these very large retailers in Australia will simply fall by the wayside and they will cease to exist. It has happened during the GFC in the United States where some very big brands and very big brands in retail were not able to get online fast enough. They weren't of sufficient size and didn't have a depth of maturity within their online capability and when they needed to develop these very close relationships with their customers and take advantage of them in order to simply ride out the GFC, they were not positioned to do that.

I think that with the focus now of these large retail companies in the United States who are still struggling and are still facing some of the fallout of the GFC and are investing in moving more and more of their marketing budgets into the international bucket. Once that firepower is brought to bear into the Australian market, I think that the kind of customer erosion that Australian retailers are experiencing now and have been experiencing is only going to get worse.

**MS SYLVAN:** Could you just explain to me, in a sense, during the GFC in America and your experience with those people who had – I take it these are people – Disney operating both online and in the bricks and mortar space simultaneously and a few of the others that you've mentioned seem to be both and not in one field or the other, they're using any channel they can – but you said that during the GFC when things turned down very significantly for retail generally that some companies were able to survive because of their online – almost loyalty was the implication from their customers, the relationship that they had. Could you just explain what you mean by that.

**MR MORTON (MM):** Certainly. When companies that have and have had a very mature online shopping capability have built up a historical data store of the interactions with the customers, they have got a very, very deep and rich view as to what a customer's behaviour is when it comes to hitting their web site and browsing around online, so much so that not only are they able to identify when – if I, for example, log into my account with one of these retailers that I've done a lot of business with over the years, they have a very good sense of what time of day it is, what mode am I in; am I in a shopping mode or am I in a buying mode. So they have got a very, very good idea as to whether I'm going to buy something or whether I'm simply seeking information about products. Based on that mode, which is again a function of all of the behaviour patterns that I've exhibited when I've been online with these retailers, they can start to in real time target me with very, very specific offerings or promotions or whatever they want to try and cross-sell or upsell me based on not only my browsing history but also my purchasing history as well.

I think probably a good example of that would be why would a company like Best Buy, for example, try and target me with 15 per cent off a 3D television when the only thing I've ever purchased from them has been ink-jet cartridges? Surely the most appropriate thing to target me with would be some sort of discount on paper, for example. Not only that, but being able to target me at a time when they know that I'm in buyer mode versus shopper mode, they know that I'm actually coming online to buy something rather than to come online and start researching something. It's that rich set of information that they have because they have developed their online shopping capability a long, long time ago and they have built up a loyalty base within their online shopping capability over that period of time, that they have a very rich and a very deep insight into the behaviours of their customers.

I think they have had so much time now to mature their online shopping capability, to iron out all of the processes, to get all of their shipping issues and fulfilment issues sorted out a long, long time ago and to start building on putting the customer at the centre of everything they do, rather than the products at the centre of everything they do. My sense over here in Australia is that the mind-set is not really there.

**MS SYLVAN:** So I take it you don't see any of the majors behaving in this way comparatively?

**MR MORTON (MM):** There's bits and pieces that I've read that has been done with regards to the Fly Buys program and potentially using some of that, but to my mind, that is only a recent initiative that looks like it's being developed. We need to remember that in the United States, they've been doing this now for many, many years. The Internet is not new, it's now entering decades in terms of how old it is. I remember buying things from Amazon back in the 90s. They have so many years of historical data and so much experience in marketing and communicating with their customers online that to only start thinking of these things now is really a long way behind where the United States are.

**MR WEICKHARDT:** Given that there's an opportunity there, you've sort of portrayed some of the huge price differences and things of that sort, and given barriers to entry are low why do you think Australians have been slow either to take the opportunities from going directly to offshore web sites, or why haven't entrepreneurs – people like you – seen this difference, jumped into the market and set up Australian sites?

**MR MORTON (MM):** Well, I think it's more of a comparison between why people in the United States have been so quick to take up online shopping, compared to Australians. I think a lot of it stems from a cultural history within the United States of catalogue shopping. I think that conversion from catalogue shopping to simply moving online and doing the same sort of thing online has been a very, very easy transition for American consumers and shoppers to make.

**MR WEICKHARDT:** Based on the numbers we've seen, the Brits are even further ahead than the Americans?

**MR MORTON (MM):** In catalogue shopping?

**MR WEICKHARDT:** No, just in terms of total online shopping. That may be partly influenced by the fact that their penetration into the grocery market is higher than anywhere else in the world. So I'm not sure if you took grocery out whether or not the British penetration would be as high as the American penetration. But

certainly overall most of the numbers we've seen suggest that, as a percentage of retail sales, Britain is probably leading the world.

**MR MORTON (MM):** Yes, based on my experience in the United Kingdom, I think probably a lot of that comes down to poor customer service within traditional bricks and mortar shops anyway. Anyone who has shopped inside a store in the UK can relate to that.

**MR WEICKHARDT:** Are You Being Served?

**MR MORTON (MM):** You've got it. So I think there's that and I think the United Kingdom is a very, very small geographical space. To actually implement systems and set logistical components up and get those moving is something you can do very quickly in the United Kingdom because they're very mature in that respect anyway, and it's just a small geographical area.

**MS SYLVAN:** In terms of comparisons with SMEs rather than big-end retailers, there seem to be quite a few interesting web sites in Australia, again probably less than the US. One of the big, I suppose, attractions of the Internet from the point of view of OECD documentation and examination is the ability for SMEs to actually reach markets they have never been able to reach. So we've got some quite innovative, new types of retailers emerging in Australia. Do you make a difference between those smaller innovative ones, and how would you compare Australia with the US in that regard?

**MR MORTON (MM):** They're comparable when you compare the SME retailers online in Australia to SME retailers in the United States. They're comparable in terms of their online offering. Where they differ substantially is when it comes to the price points. The price points in the United States are considerably lower. That's a function of a lot of different things. Obviously I think wages and salaries comes into it. I think the cost of postage as well comes into that. There are lots of different factors that just makes online retailers in the United States able to throw up a product online for a considerably reduced price.

I'm still at a loss to understand why – so if I sort of flip quickly to my personal experience of online shopping – for example, automotive parts produced by the same American company is so much cheaper for me to purchase and have shipped out to Australia from the United States, than it is to buy from a local dealer here in Australia. We're talking several hundred percentage points in terms of the price differential. It's huge. If that's price discrimination, whatever it happens to be, I still struggle to understand why.

**MR WEICKHARDT:** Well, it's interesting that somebody sent us a submission saying in the United States the auto aftermarket parts – this is not the branded but the



unbranded aftermarket parts, the generic aftermarket parts – 60 per cent is moved online in the US. It suggests to me that there are probably some significant efficiency gains by having your stock all in one central location and dispatching directly from there, rather than having multiplicities of agents and supply channels in the route to the final consumer.

**MR MORTON (MM):** I think you're right but does that explain a six, seven, eight hundred per cent differential on the price? I struggle to get that. I really struggle to get that.

**MR WEICKHARDT:** I understand your struggle.

**MS SYLVAN:** Yes. I have to say when we did that it was a snapshot of a bunch of products just to have a look at the market, not a ground survey of products. We were quite surprised by how many bricks and mortar retailers on price were actually competitive in Australia. There's some areas where there are huge discrepancies and other areas where it's much less clear. So certainly there's still some competition out there. It isn't all one way, as far as we can see.

**MR MORTON (MM):** You really have to hunt those out. It's a struggle to find them. There are lots of advantages to shopping online that you just simply don't have going into an SME bricks and mortar retailer. The biggest one that I always find is if I walk into a Myer or a David Jones or any store in a high street, anywhere in Australia, I'm not able to look around and see the user names of every single individual that has ever purchased anything from that store, along with a rating of how they found their experience at that store. Did they find the staff polite? Did they think the price was appropriate? Did they think it was presented well, and all these types of things.

Whereas when you go online all this information is generally there, whether it's Amazon, whether it's eBay. In the SME online shopping capability now you can actually get that type of functionality out of the box by a standard, temperate offering from a provider of online e-commerce capability. I don't know how they compete against that. You go into a store now and you don't know whether somebody has had a bad experience in there. You don't know whether the product is all that it's meant to be when you purchase it from there. You don't know if the people that you are going in there to engage with are going to be polite and courteous, but you certainly have access to all of that information when you go into an online store.

**MR WEICKHARDT:** In your submission you made a recommendation at the end – I guess to us – that we should conduct a review of current barriers to entry for online purchasing and importation of all non-agricultural products. Did you have anything specific in mind?

**MR MORTON (MM):** I think that came off the back of what I was saying specifically related to the automotive industry. That's something that just staggers me. Why is it that the price for a vehicle now that is wholly made in the United States is exactly the same as it was two years ago, when the Australian dollar has gone up against the US dollar, 35 to 40 per cent in that time. To my mind there's some degree of control of the marketplace that may need to be looked at or should be looked at. But I also think, just conceptually, if you are going to incentivise online retailers to move online and not kicking and screaming but more incentive to move online, I think we need to be a lot more creative about what are the limitations that are put on retailers to such a degree that they feel that they're not able to compete against these retailers from overseas.

I think we do need to look at taxes. We do need to look at duty and review all of that, because if these are things that, purchasing from overseas, they're free from doing, then we should look at incentivising retailers to move online by freeing them up from that financial burden. I don't think that punishing customers, because they're buying things from overseas, by applying a 10 per cent GST, is really the answer. That's the way that I look at it. I do think that we're simply punishing people for buying online. I think the opposite should be true. I think we should be finding more reasons to move retailers online to get into the 21st century so they are able to take advantage of all that being online has to offer. I don't think it's just a question of looking inside the Australian marketplace which my sense is what a lot of the Australian retailers – the big ones – are doing. They're looking at trying to protect their marketplace in Australia from outside competition when really they need to be looking at how can they exploit their brands more by selling into other countries, and what can we do to incentivise that kind of behaviour. What can we do to incentivise them to grow their market into other countries, rather than specifically focusing on trying to protect and eroding market here in Australia.

**MS SYLVAN:** On your recommendation vis-a-vis the low value threshold, you actually suggested that we shouldn't make any recommendation at all, it's just tough in a sense. It actually is a very unusual situation, not completely unknown globally. Some countries have no thresholds at all, so goods can come in, but most do have a lower threshold. There is an issue of not applying, in a sense, a negative barrier to your own local suppliers as against a foreign supplier. As you know, our recommendation was that it should be as level as you can get it, not at any cost. But I'm curious why you would think that that isn't a reasonable thing to do.

**MR MORTON (MM):** Sorry, just rephrase the question.

**MS SYLVAN:** You actually say GST shouldn't be applied to online purchasers which is a reverse – some people are calling it a reverse tariff. It actually puts your local supplier in a more negative position from the - - -

**MR MORTON (MM):** The same applies if the local business is also free of that as well, and when they are selling online they are also free. Any of the purchases that are made by Australian residents to an Australian web site is also GST free. I think if they're free of that burden - - -

**MR WEICKHARDT:** Why should we favour the online space, as opposed to the bricks and mortar space? I mean, the GST is supposed to be a broad based tax. It's supposed to apply everywhere at a low rate.

**MR MORTON (MM):** But I think it's an excuse that's being used by retailers for not actually embracing the Internet and embracing online selling. I think we need to take a view which is, okay, do we try and push retailers, do we try and incentivise retailers to taking advantage of the Internet and encouraging that growth because it is such a small market in Australia. Australian major retailers have been very, very slow to pick it up. Maybe we should be looking more in those terms.

**MR WEICKHARDT:** But the retailers overseas didn't need that sort of incentive, they just picked it up, didn't they?

**MR MORTON (MM):** Yes, they did.

**MR WEICKHARDT:** It seems to me that competition is the thing that drives these sort of things. Now the retail space is more exposed to that, I'm not sure anything more needs to be done. I mean, if we look at some of your examples, your Chrysler part that you bought at \$118 online, compared to the price quoted of \$800, I don't think what would have been \$11.80 GST on the part you bought was going to influence your decision one little bit, was it?

**MR MORTON (MM):** No, the 10 per cent GST wouldn't. I don't think it would influence anybody's decision, to be honest. I think the noise that's been created around how "unfair" bricks and mortar retailers have it now has just drawn more attention to the issue and in fact has probably accelerated people to go online and hunt for bargains and shop overseas anyway.

**MR WEICKHARDT:** You made the point that retailers have let their shareholders down. I think probably our view is they have let the customers down more than the shareholders. I think the shareholders have done, in the main, okay.

**MR MORTON (MM):** I think they have if you really look at how they focused on the existing Australian marketplace and sought to exploit that as much as they can. When I say they've let their shareholders down, it's much more again – coming back to what I said earlier with regards to expanding their market and growing their market. This situation that we have, the Australian dollar parity – and even stronger – against the US dollar, that hasn't been around for very long. It's only been here for

a few months. Prior to that we were disadvantaged. It wasn't as economical to go online and shop, and yet the Internet has been around for so many years and they did not seize that opportunity. They did not that look at that as a means and as a way of saying, "Right, relative to the US and Europe we can compete given the relative weakness of the Australian dollar."

I don't believe that that was seized upon as the advantage that it was, so that they could then start to expand their markets into other countries and by now having a rich data store whereby they could actually leverage those relationships and leverage that loyalty with those customers that would be in other countries. I think they have been very slow to do that. We're at a point now where they really are disadvantaged. They're disadvantaged with the cost, they're disadvantaged with the exchange rates. That has not been the case though. That is a recent phenomenon. That's why I do believe they failed their shareholders because there was that opportunity to really build, really exploit that weakness of the Australian dollar to branch out in other marketplaces and it just wasn't done.

**MS SYLVAN:** There might be in fact other shareholders, I guess, is what you're saying, because if you look at their past performance, and then retail is up against mining – only mining beats it – it has a return to shareholders and the economy. We've put the view that in fact what's been happening is that consumers have been paying, at the end of the day. It can still be profitable if you can pass the prices through - - -

**MR MORTON (MM):** I agree. I'm kind of loath to just blame the retailers because from a personal perspective, when I buy something online why is it that my local post office only delivers to my home address between 9.00 and 5.00 and is not open at the weekend. How am I supposed to take delivery and they won't drop it off? So I don't think it's just the retailers, I think end to end it needs to be looked at.

**MR WEICKHARDT:** One of the issues that we've discussed a fair bit in these hearings and also in our report is the issue of regional pricing by overseas brand owners. You in your submission mentioned the fact that you worked in the US for a considerable period of time and you worked for some big international players there. Did this issue ever come up, you know, "Those silly suckers over in Australia, we'll double the price there because they won't notice, they won't mind"?

**MR MORTON (MM):** It didn't come up within the context of online shopping. What I was able to discern – and this is a few years ago when we were bringing a lot of these systems online and they were starting to be retooled to go global – was that Australia was almost kind of excluded because the size of the market just really wasn't sizable enough to even register on their radars to some degree. Now that they have retooled, now that these, for want of a better word, proof of concept phases with regards to international orders and international shipping have been bedded down

and any of those fulfilment issues have been ironed out, they have realised that it really doesn't much to just target another market like Australia. So more and more of that international marketing dollar spent is now starting to be allocated.

When I went into these companies and started talking to them about their marketing budgets and their worldwide allocation and what they were spending it on and where they were planning to spend it, Australia really didn't even come into it for a lot of them. It just wasn't a focus. The market was just too small. Now, more and more of that spend is being dropped into the international bucket. I have seen allocations now, funding for market activities to happen inside Australia that just weren't there previously. So the focus is definitely coming and I think if I can just give some context in terms of the firepower that these US companies have, one of the companies that I worked with in the United States spends \$3.2 billion every single year just on marketing.

When you talk about a move into a bucket of money of 1, one and a half per cent, that's a lot of money. When that firepower is brought to bear into the Australian market, I don't think any of the Australian companies are really going to be ready for it. I just don't know how they're going to compete, especially if these retailers already have a relationship with customers inside Australia, and they are now starting to target them and they are now starting to bring the full force of that marketing power to bear. I think Australian retailers need to really be afraid of that because it's coming.

**MR WEICKHARDT:** Okay. Thank you very much indeed for your submission, and thank you for coming in. We appreciate hearing your story.

**MR MORTON (MM):** Thank you.

**MR WEICKHARDT:** The next participant is Choice. If you could just give your name and the capacity in which you're appearing, please.

**MR ZINN (C):** Yes, Christopher Zinn. I'm the director of campaigns and communications at Choice, also known as the Australian Consumers Association.

**MR WEICKHARDT:** Thank you very much indeed for your submission which you should assume we've read carefully. If you might outline the issues you want to talk about this afternoon, that would be good.

**MR ZINN (C):** First, without wishing to sound sycophantic we much enjoyed the comprehensive and clear nature of your submission, not least that it tended to concur with many of the things that we'd argued for as well. In summary, I think I'd like to talk about competition, diversity and concentration, and some issues in no particular order: one is consumer protection with this great, growing online space. We've got a shiny, new Australian consumer law but the ACCC's own survey shows that very retailers or even consumers in this country know about it. It would be very interesting to know what sort of applications it has to the growing offshore online market.

I would say, on my way here this afternoon I had a phone call from the ACCC asking for our input into a market investigation they're doing into Amazon's proposed takeover of the book depository, as if that would lead to a substantial lessening of competition. Obviously the regulators here are taking a fairly proactive view of these, albeit overseas, operators in terms of their movement and activity here. Also, in fact, Margy Osmond was saying that the ACCC want to do some work with the retailers and Choice in terms of development in this area. But again it's something that we feel there is a big awareness gap, certainly with consumers here, domestically. So it must be even more pronounced in terms of online and overseas.

Re the low value threshold, it's always been our belief that really this is a bit of a red herring. We've argued again that it shouldn't be changed while there are negative cost implications, and that fairly goes in line with what you've said in terms of your draft report. Differentials, anti-competitive behaviour: certainly while we don't have any direct examples or evidence to give to you, we were interested in eBay's submission along these lines, and I know you've referred those to the ACCC. In terms of the feedback that we've had from some of our members – and in fact many retailers who have got in our ear – they feel that they are tied up by exclusive arrangements in terms of goods, particularly from global brand-holders coming in here and a price that they have to pay. They can't get around that but, of course, the consumer can, and get very substantial savings. It seems – as I think it's said in your submission – that areas such as bicycles and sporting goods it's particularly pronounced in terms of the differentials there.

I thought it was interesting – and again Margy Osmond mentioned it, but we'd taken note of it – in terms of Myer saying they were prepared to stick with their suppliers of olde and yore, despite what they would charge, and that was because of the staffing support and marketing, cosmetic fit-out and whatever. It seemed a very strange attitude for a retailer to take. But obviously they feel that they may have locked in a part of the market that really isn't that price-sensitive and loves the aromas and smells, as opposed to the discount prices. But again we would look and see how exclusive – how does that lock out other people selling similar kind of products, strive competition.

Intangibles: it's interesting – and I know iTunes is barely an essential of life but it is symbolic and interesting that we do pay extra here. I might say that Which, which is the UK consumer organisation, took issue with iTunes pricing differentials between the British Isles and the European mainland and did get the EEC to move in that to in fact make sure there were some conversions of the pricing. Now, Apple, in our dealings, will always say that it's the copyright-holders here who make sure it charges more, but we'd like to see a bit more of a searchlight shone in that because we do not find that argument very persuasive; as indeed you didn't in terms of the broader issue about intangibles and downloads, why there are these massive price differentials. It was one of our recommendations that technological barriers shouldn't be put in place to stop people from accessing that in terms of banning international IP addresses et cetera. I might say that many consumers are very adept at getting around these, as it is.

Just summing up, I know that the supermarkets is perhaps a bigger thing in our horizon that it has been in your particular report, but I think it would be hard to talk about retail without looking at the expansion of Coles and Woolworths, not only in the grocery sector but also in terms of liquor and hardware, and the proportion of every retail dollar that actually goes through those particular channels. That's something that we're focused on in terms of making sure that consumer choice really is there. Having said that it presents us with an interesting conundrum. You give a very thorough historical summary of development of markets and shopping centres overseas and in Australia, and looking forward there's no doubt that the big box is very appealing to many consumers in terms of choice, in terms of price.

There's currently a bit of an argument in Byron Bay, which is always a bit of a crucible for these things, in terms of them trying to keep the Dan Murphy's liquor store out of town. But from our own experience I know that the liquor stores in town do not have the range or the price that otherwise you would get. So it's interesting when you find consumers argue about something which demonstrably might be in their favour, at least from a rationalist approach. I don't know if you've seen it but there's some work that's happened in the UK, and as the nation of shopkeepers – as Napoleon had them – perhaps they might give us some guidance in this area. But the new economic foundation actually came up with an interesting body of work about

clone towns, and this is the idea that in fact chains, franchises actually squeeze out the independents in the high street.

While our urban geography is a bit different in Australia than there, I would be particularly interested in seeing some analysis done here because, really, if you're going to Bathurst or Bunbury or some of the city suburbs, you tend to see a preponderance of the same sort of names. While we argue a lot about diversity in terms of the environmental, ecological world, I'd be very interested to see it in terms of the retail world. We don't really have a baseline to know quite what shrinkage there's been of independents and local diversity, but I would suggest that it has perhaps been in line with some of the figures that you'd see there.

Just almost finally, the UK government, David Cameron – I don't know if you know but you probably do – has appointed a shopping Tzar, as she is known in the popular press – Mary Portas – and she has got to do an independent review of high street. So in terms of looking at the whole retail environment as you've done, she's just looking in terms of the high street and the revitalisation of the high street in terms of the shops and what goes on. I'm sure it might be on your horizon anyway. But that's something due to come out soon, and again might have some resonance here.

Minister for retail – I know the retailers were asking for. Well, we'd like a minister for consumers. We used to have one, once upon a time, and now we've got a parliamentary secretary who is terrific and very thorough in their way, but we still think a minister for consumer affairs would be at the top of our shopping list. That concludes my introductory remarks.

**MS SYLVAN:** There's a bundle of issues there and we may as well start. I'm going to work my way backwards from where you started. On the planning and zoning issues where clearly the nature of the planning systems reduces supply of retail land – and that's part of the issue, both in this report and the previous benchmarking report that we looked at. One of the things that happened in the UK was that the government moved in, as I understand it, to try to protect some of the smaller entities, for whatever good or bad reasons they had at the time. The reaction to that, as you might predict, because firms are not static, from the larger firms who were about to be excluded was to change their format so that they fitted so they are very substantially in the high street and competing very effectively. So that government can actually make the market work for a particular sector often doesn't work at all I think and probably wants to be handled with a lot of care. You often don't get a result. I'm not quite sure what the UK government had hoped for or the London borough if that was the mechanism.

You didn't actually say what you thought of our planning recommendations. They mightn't be of huge concern to you but in fact we'd suggest that it ought to be



easier for the big boxes to get in because consumers like to shop at those. They can shop elsewhere if they want, but to actually eliminate them from the market or to make the Aldi entrant more difficult than it needs to be, who's going to compete successfully with a different format of store, that that should be enabled by a planning system and not restricted by the planning system – other considerations which are transport et cetera et cetera, public amenity and so on are considered. Your comment, I think, was the other way, if I'm not mistaken.

**MR ZINN (C):** I was perhaps trying to have a bob both ways. We know from our work with the supermarkets, particularly in terms of Aldi trying to find fields to expand and that really has been their number 1 issue. The ACCC has moved in terms of some tenancies in shopping centres but there's no doubt that planning is still a considerable issue. I know that you've argued in terms of here that the adverse impact shouldn't be used as an argument to keep out competition and new entrants and I think we would argue that.

Just in terms of the big boxes, yes, consumers obviously want these, obviously want supermarkets, obviously use them. I would just say though – and the milk report is about to come out from the Senate Economics Committee this week and again we were interested in this very interesting argument of saying that cheapest is great and that's good but sometimes it can have an impact on the producers and other retailers and competition more generally. It's very hard to be prescriptive about this but I suppose that's why we need regulators and learned bodies. I know that another regulator isn't necessarily something you want but we have actually called for a supermarket ombudsman. It doesn't really relate to the planning area but in terms of some of the market conduct and competition issues could make sure that they are really – we feel that there would be more balance in that sector.

**MS SYLVAN:** I guess we would tend to say that maybe the government shouldn't intervene with more regulation, they should intervene to enable competition and let consumers make the decision about what survives in the markets because it's very hard to do regulation all through the system effectively and succeed and there are lots of examples of us not succeeding and many governments failing to succeed, so I think that was my main point. Being a consumer association in a sense we kind of think consumers know what they want and if they've got some multiple offerings they can probably – and people will fail, that's the nature of competition.

**MR ZINN (C):** Yes, and consumer choice has to be paramount, although again in terms of talking for the diversity, consumer choice might actually drive out diversity, then I think one is faced with some hard decisions.

**MS SYLVAN:** Yes, I would agree with you that competition doesn't necessarily lead to more players. You could in fact have a monopolist because they were just the best offering in the market so all the consumers went to them.

**MR ZINN (C):** They would and then the monopolist might well have used their position - - -

**MS SYLVAN:** Then you might have a problem in your market. I take your point. There has been a lot of media at the moment – you talked about the liquor market and its concentration and so on. There is a proposition, I gather, that is coming to us to allow liquor to be sold much more widely in Australia from many more locations. Have you had a chance to think about that as an organisation?

**MR ZINN (C):** We have thought about that. We probably see that more as a public health issue than a consumer issue in terms of the way that we would carve things up ourselves. I think in terms of citizenship – we would say that where is the consumer demand for that? We definitely see there is the retailer demand for it and I think they've said as much and that's critical to their survival. I think as an organisation we would have no evidence but we would really ask that question, "Is this something that consumers/citizens really want and/or need?"

**MS SYLVAN:** We have formed no view. I haven't even read the submission yet. Anyway, it's a new liberalising suggestion in the marketplace which does have a public health component. Those are two minor issues and I come to the major issue, the consumer protection issues, the low value threshold and, in particular, the price discrimination and the price differentials that you've mentioned. You said in passing that Apple says it's the copyright holders here that drives the prices up for Australia. Can you just explain that.

**MR ZINN (C):** Well, I'd like them to explain it because that's the reason that they have used and we have raised this issue a couple of time and again that is the company response we get that really the reason there is a price differential in terms of iTunes is that the copyright holders here can extract a high price for their music than they can in other territories. Look, that's an interesting argument and we know in terms of music and CD and parallel importing arguments from years and years ago you would have thought that there had been perhaps a convergence or a reduction in that differential. Given that with iTunes a lot of the music it's stuff that comes from all over the world – look, I don't really know. This whole rights area is a very complex one but I'm not sure that we find the arguments that they have given particularly persuasive. The problem is if you have a higher cost for iTunes or whatever else it is here, but particularly in digital delivered areas if there is an artificially high price here, unfortunately, you are giving an incentive for those who might seek to pirate it or seek some other supply which doesn't give any return to the rights holders as well.

So we would say that there is very real incentive for suppliers to make sure that the prices generally internationally are fairly level and do not have excessive price

differentials because otherwise you are driving people to those other places that they might get at.

**MR WEICKHARDT:** I know you're not representing Apple here and probably scratching your head as much as we are, but that explanation might explain why there was a differential on music that had an Australian connection. I find it difficult to understand how it explains the difference between music that originated in the United States or Europe.

**MR ZINN (C):** This is not my of expertise but I believe that there can be people who own the rights to that music here or to that catalogue or to that record label or whoever it is, they can still own the rights here. It is a labyrinthine area which is far from transparent. Again, one would hope with this opening up and disintermediation you've spoken about that we can get some more clarity and transparency in this area. We've seen, of course, the music industry by its own descriptions has been decimated by the arrival of online because they were not prepared for it, did not accept it. There was denial and basically they have seen a lot of their business model go west.

**MR WEICKHARDT:** You have presumably followed the correspondence that Mr Husick has published in the media writing to Apple asking for an explanation. I haven't seen any response yet.

**MR ZINN (C):** No, I'm afraid that Apple are not always forthcoming when it comes to explanations and generally journalists who come to me on this kind of issue will regularly say that actually Apple have declined to comment or not even answered the call. So I think that's part of their modus operandi is not really to engage too closely on some of these issues, as of yet.

**MR WEICKHARDT:** In that circumstance did Choice see that they serve their Australian members well by helping them identify ways they can get around Apple's Australian regional pricing?

**MR ZINN (C):** Sorry?

**MR WEICKHARDT:** Do Choice encourage sharing information with their members around how they get around that regional pricing?

**MR ZINN (C):** I don't think it's necessarily our role to do that but I don't think actually consumers would need that because many of them have found their own ways around that in terms of getting people to buy Apple gift cards in America and give the numbers here. But again, they can be users of the IP address on your computer. So it's a cat and mouse game that the consumer always finds a way through and then the producer might find a way to hedge them in. But ultimately I think we always see that the consumer gets through because they are ultimately the

most nimble and when it comes to this digital area, certainly with the propensity particularly of a younger group to find ways around anything.

**MR WEICKHARDT:** If the nimble mouse can be encouraged, eventually Apple and other suppliers might decide this isn't actually working for them in this world where you can see those prices differences so visibly.

**MR ZINN (C):** Yes.

**MS SYLVAN:** Just staying on the price transparency issue because you have a lot of discussions with retailers and presumably suppliers as well. You mentioned that you had talked to some retailers who were having difficulty competing because of their wholesaler and were trying to get a better deal. Can you just talk about that a little bit more. From what we've heard from some of the smaller usually retailers but it seems to be big retailers as well because the price discrimination just was able to be done, it was done and so that some of those prices don't bear any relationship to the potential additional costs of a small volume country. What is it that the retailers say to you about these negotiations about possible parallel importation, for example, against the Australian supplier, whether they're willing to attempt to do that or whether they feel they're just going to have to put up with the terms that are being dictated?

**MR ZINN (C):** I feel the conversation that I've had it's very much the latter, that they feel that they do not have any room for manoeuvre, that they are caught in an exclusive trading relationship and it's on a take it or leave it basis. What's happening, of course, is the consumer can do their own parallel importing so you would wonder why the retailer can't meet that likewise, although they will say that they are curtailed by issues of compliance and labelling et cetera. But I think that we already see that happening in some areas. Beer is one of them, for example. Some retailers will parallel import various European and overseas beers that are brewed there and sell them against those that are licensed to produce here, often at a lesser price and, as far as the beer aficionados are concerned, at a much better taste as well despite the licence holders here saying that it's exactly the same product.

There are examples where it's happening but I think it would – again, going back to the Myer case, it seems extraordinary the reluctance of some retailers to actually embrace the fact that why be stuck in a relationship that is actually going to lead them out of business as opposed to one that will lead them into more business.

**MS SYLVAN:** Talking then to the suppliers, the intermediary, and I don't know to what extent you have done that – we have had very many put information to us at all, we've heard from the retailers – I guess it strikes me as a strange proposition to actually put your retailer out of business in a completely changed global market because they can't compete on price. Have you had any discussions with some of the

people in these areas?

**MR ZINN (C):** No. Look, that's a similar sort of grey area. It is, but I suppose it depends on how short or long term your strategy really is.

**MR WEICKHARDT:** We were talking before about concentration and Louise raised the point that there are some occasions where the consumer votes with their feet because they find one provider is a hell of a lot better than another and surprise, surprise, suddenly that provider becomes very, very powerful. One example that's been put to us in a submission expressing some concern at their power is Google. Now, if you had asked a group of learned people 20 years ago to suggest that in a market where search was basically a free commodity which didn't seem to have particularly high barriers to entry whether one company could end up having something like a 90 per cent global share – I'm not sure whether it is global the 90 per cent because China is not a market that Google are big in. But the comment in our submission suggested that of searches originating from Australia google.com.au and google.com add up to something close to 90 per cent. Most people would have asked whether you were smoking illegal substances if you put that to them 20 years ago. But here we are and consumers have largely voted with their feet because, like it or hate it, they continue to use Google. Are you concerned by the potential distortions or market power that that might give Google to distort the online space?

**MR ZINN (C):** I think it would be inconsistent of us if we weren't. In other areas we seek diversity and competition and there is this incredible competition and I know Google have all sorts of values saying, "Do no evil," but sometimes they perhaps can't even help it because of the sheer size and power that they have. So this issue of search engine neutrality is going to be an increasingly interesting and vexed one and in talks with COSBOA, the small business association, they've come up with an argument in terms of promoting niche search engines, ie, ones in terms of agricultural areas or books or whatever else it is. So instead of one size fits all Google that you go to, there are in fact smaller select search engines which actually give a better, fairer ranking of the sites that you might care to visit.

Now, I don't think we have done any work to see how feasible that is but it's a very – perhaps as we've seen this search engine area change so dramatically even in the past 10 years, who's to say in the next five or five minutes how things might evolve. But we would want to see some more diversity as opposed to increasing concentration of Google, notwithstanding the fact that I use it as a default automatically probably like everyone else because it does seem to serve a lot of my purposes but, of course, those aren't all in a retail shopping sense, they would be in a research sense.

**MR WEICKHARDT:** I remember a previous CEO who came to us from overseas

and ran our biggest telco at one stage scorned at Google and sort of said, "Our directory system is just as good, if not better." I must say from my own personal experience, having looked for phone numbers on his system versus Google, I don't think he tried. Love them or hate them, they've got a bloody good system.

**MR ZINN (C):** Exactly. It's like going to Woolworths or whatever, people might say they want to go to smaller independents to support the farmer or this, that or the other but it's just the sheer convenience and ease. I don't think we can discount that because we do it ourselves so we shouldn't berate others for doing likewise.

**MS SYLVAN:** I was going to move to the low value threshold. Can I get absolutely clear what you're saying about that. You think it should be left where it is?

**MR ZINN (C):** We believe at present it should be left where it is and that is because of the net costs of reducing it at this stage and perhaps the lack of effectiveness, as you've heard many, many times. It's a small part of the reason why people do or don't shop in terms of - - -

**MS SYLVAN:** We agree with that but we still thought that the tax neutrality issue was important. Do you think that's unimportant?

**MR ZINN (C):** No, we don't think it's unimportant but I think before we would move on the low value threshold we would want to see what is the trade-off, if you want, for consumers. If we're going to give that away, what are we going to get in return? It might be in terms of consumer protection, it might be in some other area. But I think that we would still stick to the idea that that is – as I've said, it's a red herring in terms of detriment to the bricks and mortar retailers here. Something that some robust arguments – it's kept in terms of historically over time, perhaps you can even argue it should be over \$1000 as what it was 10 or 20 years ago.

We believe that there are still some good reasons to stick by it but we're mindful of the argument that it may well be reduced once some other things are in place in terms of more efficient collecting systems.

**MS SYLVAN:** So basically you're not disagreeing with the position that we have recommended at this point, and it is a draft recommendation, which is that in principle you shouldn't subject your own retailers to a negative tariff equivalent but that if you can make a system work logistically at low cost so that there is no protection that results from it, then there is no reason not to have a close rate as would be applied in Australia also applied to online retailers.

**MR ZINN (C):** Yes, I think it would depend on what the actual new threshold was at, but in terms of those principles I think it would be very hard to argue against

them.

**MS SYLVAN:** Well, in a sense I guess what we're recommending is the threshold should be as low as possible. The threshold for domestic retailers is zero. So to achieve tax neutrality if you could do that at no cost you would have the level set at zero, but we've put a tax efficiency argument as well which is that there's no country by and large that doesn't have a threshold with one exception which is Switzerland, I think, which is zero. I guess, in a sense, the in principle position should be equivalence for the retailers but that you will end up with a threshold. You put it as low as you can so the point of a tax neutrality is not to give anybody a break but just to level the playing field, however you define that – we've defined it in a particular way – but that you bring it as low as you can vis-a-vis the costs of doing that which we can't ascertain at the moment, except that they're extraordinarily high at the minute, relative to the threshold that might be set. I guess, since you don't entirely agree with that - - -

**MR ZINN (C):** I think in that we represent consumers it would be very hard for me to give away, you know, the \$1000 tax break that they have at the moment, just in arguments about tax neutrality. I think consumers appreciate that. As your own draft report says, the vast majority of the purchases are well under \$1000, and perhaps one could reduce the threshold without affecting most of the people most of the time. But I think we'd still maintain a watching brief about the threshold and how low it actually went.

**MS SYLVAN:** I think I understand the position. In a sense you're comfortable with the threshold going down, provided that can be done efficiently.

**MR ZINN (C):** Providing it be done efficiently, and I think we would still want to see some sort of return to consumers in whatever form that that might be – and I've mentioned consumer protection.

**MR WEICKHARDT:** The return in theory is that government won't have to raise tax more inefficiently somewhere else.

**MR ZINN (C):** Yes, and I'm sure it's like a bird in the hand is worth two in the bush, and most consumers would say they would still rather have perhaps the rebate than the less visible tax increase that might be applied elsewhere.

**MR WEICKHARDT:** Can I just come back to the issue of intangible imports. You mentioned that in the UK – which had encouraged the EU or somebody to take some action.

**MR ZINN (C):** Yes.

**MR WEICKHARDT:** Can you just describe what they did, and are there any angles there for the ACCC in Australia?

**MR ZINN (C):** To my knowledge it was a case that the British Isles had paid a higher rate for iTunes than music lovers in Continental Europe which highlighted this through the European community mechanism and that's why there was room for adjustment. Again I'm not sure what the issues would be in and around here. Another example was – it's a bit different, but another thing that Which? did, and we have close relationships because our CO was the deputy CO of Choice, was about automobile distribution and the fact that the British Isles people paid substantially more for vehicles because they drove on the other side of the road. So Which? actually did a market intervention and became a car importer and brought in cars and led to a change in the market.

Again this was one where the retailers or the auto industry said it was impossible, it couldn't be done. But I think they showed that an intervention actually could lead to change. I'm sure this is one we'll find in retailing, be it perfume or Peugeots. People will say, "You can't change it. We've always done it that way," but history clearly shows that when competition comes in, people change quick smart.

**MR WEICKHARDT:** Choice could start importing perfume and intangibles.

**MR ZINN (C):** Well, we are committed to an increasing number of market interventions because we believe that's a way of driving consumer benefit.

**MR WEICKHARDT:** Just on another one, you raised in your original submission a concern about logistics. A number of people have also raised those concerns. Given the fact that for most of the logistics burden of concern to e-commerce we're talking about a deregulated parcel market, if the current providers aren't meeting the needs of consumers or are inefficient or charging high prices or doing something else that's not consumer-friendly, why hasn't there been a competitive response, and is Choice considering entering that part of the market too?

**MR ZINN (C):** By your own figures there's 55 million parcels arriving every year, over a million a week. I think we'd be hard stretched to have too much of an intervention quite so quickly. Look, you know, the role of Australia Post – and we've got something in the latest magazine about this in terms of the international obligations, and again it's covered in your draft report as well – the stories that we hear from members, and I know you've heard them in terms of the post office; when it's open, collecting parcels, bulk parcels that people have to have. There obviously has to be a substantial change.

I know from our own business which in part is sending out magazines, as well as an online delivery channel for our products, in Australia there's not the same



printed parcel rate that there is in other countries. I know the online book people argued about this as well. Again, while Australia Post seems to be in a position of some change, going through some change, we would hope they were really grabbing this one by the horns, but certainly deregulation has hit many other areas and it seems harder and harder to argue that it shouldn't come into the postal service as well.

**MR WEICKHARDT:** Well, apart from the letters it is deregulated.

**MR ZINN (C):** Yes.

**MS SYLVAN:** There is, however, a community service obligation on Australia Post in relation to delivery of parcels coming into the country which, of course, doesn't exist in the private sector. It could reasonably argue that this puts post at a disadvantage; in other words, the private sector competitors can cherry-pick the market. You cherry-pick it into the regional centres, certainly metropolitan but probably the major regional centres, but you don't deliver to the little whatever. Does that concern you from the point of view of a national provider, even though it's in competition in this area?

**MR ZINN (C):** Well, you could look at telecommunications perhaps as a parallel for this. I think I'd just say that Australia Post is also a retailer selling books. I mean, they really have diversified in what they do. In terms of a community asset, perhaps we'd like to see them being far more engaged in banking products. But they actually have some terrific advantages too. We don't have a policy position about whether letters should be deregulated, but I think we would see that as time goes on perhaps that's something that might have to change.

**MR WEICKHARDT:** Yes.

**MS SYLVAN:** On consumer protection issues, you didn't write a lot about that in your submission, and consumers are, by and large, on their own when they're shopping overseas, whether they've travelled overseas or whether they're on the Internet shopping. We've outlined in our draft report the nature of the consumer protections that are there, the kind of global activities that are taking place about ICPEN, the International Consumer Protection Enforcement Network, and it's surfing on the Web a couple of times a year trying to find products that breached safety standards and shut the sites down if they're fraudulent et cetera.

But it's still a potentially unsafe place in the market and it's very easy to put up a site and it's very easy to close it down and to make it non-trackable. Given that all of the evidence is that online will grow, a lot of that will be overseas online, even if we have good Australian competition. What is it that you envisage should occur in this space? The large-end retailers who were here, ANRA, suggested that every

product imported into Australia, irrespective by who, needs to be checked to make sure that it meets Australian standards. That would mean some 45 million parcels entering through the mail and carrier systems – it might even be more than that – and all of the products people are bringing in; the suggestion was not only safety standards but labelling standards as well. I'm just wondering whether you would take the recommendation that far.

**MR ZINN (C):** No, because we have to be realists. There's probably two issues here: one is in terms of the safety of the site, and in terms of your data and how well it's protected. I know you alluded to this in your report that there's a terrific business opportunity for someone who actually can give guidance to consumers in this area, and it might be the equivalent of some Kitemark or safety standard that this is an accredited site in terms of the way it holds your data and is trustworthy, and we will operate as a third party in terms of any dispute or problems alongside. Having said that, apart from the obvious scams that get busted from time to time, if you think of the big sites like Amazon or whatever, we find generally that people are very happy with the service that they get there, so there really are no problems apart from the expense perhaps of sending things back.

Looking at product safety and labelling issues, I think as you said earlier, it really is far more efficient that there is some consumer empowerment and information around that; not that the government should go to town with a bicycle helmet campaign, but you would have thought that was a perfect thing for the bicycle retailers to do. That's where people go in to find out about bicycle helmets. There is an issue with some things that do come in. Another example would be babies' dummies that have bling around them and various glitter which the ACCC has recently withdrawn, and still available online. I don't know if you can ever stop them there but in terms of the information you give people here. Again government has its role, the particular retail sectors have their role but it may well be that there is some nimble business, you know, a trusted third party, that can actually grow pretty substantially by driving this.

**MS SYLVAN:** There are a number of third party trustee type organisations, including one of the consumer organisations which, as I recall, had a product in the UK. Are any of them, in your view, reliable? Are there a bundle of things that consumers can trust - - -

**MR ZINN (C):** I think the issue for consumers in this country is what they know and what they trust. I would perhaps argue that people really wouldn't be aware of that. There are certain padlocks and icons on sites to suggest that they have some security in terms of the payment systems, but I'm not sure that there really is a player here that people know or trust that they would use in that area. As I said, how pronounced is the detriment in terms of people feeling that something isn't going to arrive, at least when dealing with established sites.

**MS SYLVAN:** So basically you're saying that the regulatory settings are pretty okay. The vigilance that's being exercised by the global consumer regulators both in concert and in Australia is relatively fine?

**MR ZINN (C):** It may be at the moment I don't have specific information to suggest it isn't, but the issue is what is it going to be in five years. Can it possibly keep up? What is going to change? I'm not sure that we have an answer to that, except that given the dramatic growth that everyone is predicting, you know, business as usual – and I think we already know in terms of some of these agencies it can be hard to contact them. It can take time to get a reply. Really the awareness of them by consumers in this country, I'd suggest, is very low. But having said that, the ACCC is concerned about Amazon and the book depository, so who's to say what's changing in this area.

**MR WEICKHARDT:** You raised the issue of bicycle helmets. The commission looked at standards going back four or five years ago. I guess there's always the question of where there's a local standard, the degree to which it has its origin in some form of local protection, as opposed to genuinely preserving the safety or the welfare of Australians. The bicycle helmet people put to us the frustration they have that there are people importing fancy, ritzy helmets that don't comply with the Australian standard and they wanted something done about that. I guess in that case it seems to me that consumer education is the way to go. But has Choice spent some time reviewing cases where consumers may be being disadvantaged by having a standard which incorporates a KOALA factor, if I may call it that, into the Australian product – which doesn't actually protect the consumer – versus recognising some international standard?

**MR ZINN (C):** There is an example. We haven't tested it to find the actual answer but it's about car seats and capsules for children. There is a system in this country and there is a system in Europe. The name currently escapes me but it's used by Volvo and whatever, and it allows a car capsule for the very young to be clipped in and clipped out. Apparently, according to its proponents, it's far safer and stronger and it's certainly far easier to use. As the child seat people would say here anyway that most of them are wrongly installed as it is. Now, I've heard it suggested that the industry interests here do not want to see any change. So the standard only allows one sort of child car seat system, not two.

I'm aware of a number of people just within my network who have sought to import these things themselves online, as they have. They are technically in breach of the laws but parents believe it's actually safer and better. Again it's an interesting challenge. If they were picked up by a police officer who actually understood the difference they could find themselves liable to some sort of prosecution. I'd say parents, where mindful and knowledgeable, are going to make the call of what they

think is best for their kids, regardless sometimes of what the local regulations might be.

**MR WEICKHARDT:** Is that something Choice are proposing to spend some time looking at?

**MR ZINN (C):** I have. There's been some technical difficulties in doing it immediately, but it is a live issue, and I think it's symbolic perhaps – you know, we might find some other areas to – safety is argued as one. In fact I do have another issue – for fear of talking too much about beer, I've been contacted by a suggestion – some research that's been done, I think, for retailers, that the parallel importing of beer is in fact a product safety issue because the batch codes are removed from the bottles and the boxes which means that if there was glass in any particular shipment, it couldn't be recalled because would know where it is.

Again, intellectually, that might be a fair argument. I've never heard of any cases quite like that, but that seems to be one particular front that's opening up in terms of parallel imports, also things such as confectionary, or whatever, because of its formulation and labelling it might be in breach, despite the fact that it could be two to three times cheaper.

**MS SYLVAN:** So if I take your position correctly, unless a standard actually delivers some additional consumer protection which is real, then an equivalence standard should be fine, as long as the protection is reasonable for a consumer.

**MR ZINN (C):** We've been involved in formulating - - -

**MS SYLVAN:** Therapeutic goods is an example where a regulator will recognise certain overseas countries that have been identified as having drug evaluation systems which are consistent with the Australian standard.

**MR ZINN (C):** Yes. I think the issue is in terms of that consumer empowerment and information. If people went for a free-for-all and got things willy-nilly from whatever, there are going to be issues. But it's as well to give them the information to make the decisions because certainly they will have some cost incentives or in fact availability, be it in terms of some complimentary medicine or whatever to get hold of it.

**MR WEICKHARDT:** All right. Well, thank you very much indeed for your input and your involvement with this inquiry. It's much appreciated.

**MR ZINN (C):** Thank you.

**MR WEICKHARDT:** Ladies and gentlemen, that concludes today's scheduled

proceedings. For the record, is there anyone else who wishes to appear before the commission this evening? No. In that case I'll adjourn today's proceedings and we'll start again at 9 am tomorrow morning. Thank you.

AT 5.20 PM THE INQUIRY WAS ADJOURNED UNTIL  
TUESDAY, 13 SEPTEMBER 2011