



MBE148/45 Glenferrie Road, Malvern  
VIC 3144

Phone 03 9527 6658

Fax 03 95072316

[info@australianmusic.asn.au](mailto:info@australianmusic.asn.au)

ABN 58 026 169 284

*Submission to the Productivity Commission's Public Inquiry*

# **Economic Structure and Performance of the Australian Retail Industry**

20 May 2011

## Table of Contents

1. Summary.....	3
2. Extra statutory, regulatory & structural costs for Australian retailers .....	4
2.1. Strong consumer protection framework.....	4
2.2. Significant sector-specific regulatory burdens .....	5
2.3. Tough border and biosecurity measures.....	5
2.4. Taxes to fund government.....	5
2.5. Minimum wages and provisions for worker entitlements .....	6
2.6. Robust planning laws .....	6
2.7. The high Australian Dollar.....	6
2.8. The multiplier – costing jobs.....	6
3. What is at risk?.....	7
3.1. Small & medium sized business competitiveness .....	7
3.2. Consumer protection .....	7
3.3. Jobs.....	7
3.4. Integrity of the Tax Base .....	7
3.4.1 GST.....	8
3.4.2 Income and Company tax.....	8
4. Reconsidering our policy settings .....	8
4.1. GST threshold for personal imports.....	8
4.2. Regulatory harmonisation .....	8
4.3. Overall red-tape reduction and tax relief.....	8
5. The importance of the market leaders .....	9
6. Conclusion.....	9

## AMA Executive Committee

<i>Name</i>	<i>Company</i>	<i>Type of company</i>	<i>Executive Committee position</i>
Carol Brandman	Engagine Music, Engadine, NSW	Retailer	President
Bernie Capicchiano	Bernie’s Musicland, Ringwood, Vic Musico, Ringwood, Vic	Retailer Wholesaler and distributor	Co Vice President, Treasurer
Chris Cumming	National Audio	Wholesaler and distributor	Co Vice President
Dom DiSisto	Holden Hill Music, Holden Hill, South Australia	Retailer	Member
Mark Smith	Roland Corporation Australia	Wholesaler and distributor	Member
Rob Walker	Allans+Billy Hyde Music	Retailer	Member
Mark Amory	Yamaha Music Australia	Wholesaler and distributor	Member
Peter Trojkovic	CMI Music and Audio	Wholesaler and distributor	Member
Richard Snape	All Music Publishing and Distribution	Wholesaler and distributor	Member

Mr Gary Banks  
Chairman  
Productivity Commission  
Level 28, 35 Collins Street  
Melbourne VIC 3000

Dear Mr Banks

**Re: Structural Barriers to Fair Competition for Small and Medium Sized Australian Business**

The *Australian Music Association* (the “AMA”) is the industry body for the music products sector - wholesalers, manufacturers, retailers and associated services for musical instruments, pro audio, print music, lighting and computer music.

The AMA is a member of the *Fair Imports Alliance*, and we support their detailed submission to this Inquiry. This additional submission seeks to underscore some of the policy settings which are of particular importance to our members.

We appreciate the opportunity afforded to AMA by the Productivity Commission to provide our comments on a critical issue for both our industry but also the wide range of other sectors of the Australian economy which are part of our supply chain and which depend on and utilise our products and technology.

The Australian music sector is estimated at some \$8 Billion annually<sup>1</sup> and we believe that a strong, competitive music products component to that sector is an important part of protecting and building this significant part of our economy.

## 1. Summary

---

The Internet and related technologies have radically reshaped the retail landscape globally. Some of these changes are inherent in their nature and our members can and will adapt to take into account the new environment. However, many of the challenges are facing our Members as they compete in the new environment have actually been caused by the various levels of government in Australia itself (or at least by the interaction of government policy with the new environment).

Small and medium sized businesses in Australia are faced with a series of statutory, regulatory and structural costs which their offshore competitors are not. As an Australian industry, we have historically been supporters of these extra burdens on our business – because they deliver better outcomes for our customers.

Many of these extra costs in locally retailed goods go to funding things which we as Australians value and have always taken for granted: minimum wages, provisions for worker entitlements, taxes to fund government and the welfare safety net, robust planning laws, tough border and biosecurity measures and a strong consumer protection framework.

Each of these statutory, regulatory and structural costs on their own cause a relatively minor increase to the prices paid by Australian consumers. Collectively, however, these costs are acting to substantially change consumer behaviour.

---

<sup>1</sup> Hoegh Guldberg, Arts Economist for The Music Council Of Australia

A walk down most suburban “high street” shopping centres across Australia shows graphically what many of our retail and wholesale members have known intuitively for many years – that there are massive forces for change occurring for retailers and consumers right now and that these changes are represented by empty shops. While the percentage of total retail sales which have moved offshore and/or online is a relatively small part of the overall economy at this stage, the percentage is now very high for certain product sets and growing very fast across increasingly large segments of the retail sector.

We welcome this inquiry most importantly because we feel that the current policy settings have been arrived upon by virtue of momentum rather than design. This is a time of unprecedented structural change not just for the retail sector, but for Australian consumers and your inquiry is a welcome opportunity for us to explain how longstanding government policies have been acting in concert with other changes to the retail landscape to adversely affect our members.

## 2. Extra statutory, regulatory & structural costs for Australian retailers

---

The traditional structure of the Australian sector retail underpins a number of policy settings which have always been taken for granted:

### **2.1. Strong consumer protection framework**

The inbuilt compliance costs for exactly the same product meeting Australia’s consumer protections laws are frequently higher than the costs for that product meeting the consumer protections laws in other jurisdictions. Further, the increase in grey-market importation has made delivery of warranty and consumer support more difficult for licensed Australian distributors and retailers.

Even at the most basic level, for electrical goods, a series of local adaptations must be made for most products to make them compliant with Australian electrical and safety standards. For the relatively small volumes in the Australian market, this can add a substantial cost which does not exist when a consumer purchases the same product directly from overseas without Australian electrical compliance.

By pointing out these discrepancies, we are not actually saying that we think that our consumer protections should be wound back. But this inquiry and our legislators should understand that current structural settings are pushing increasing number of Australians outside of this consumer protection framework by making their purchases overseas.

At times (such as with non-compliant electrical goods) these policy settings actually lead to genuine health and safety implications for Australian consumers. It may be that as a society these are risks which we wish to allow our citizens to make – but if that is the case, why did we build such a strong consumer protections framework in the first place?

## **2.2. Significant sector-specific regulatory burdens**

There are literally hundreds of regulatory burdens specific to different sectors of the economy which add substantially to the cost of importing goods into Australia through conventional retail channels, but which are not imposed on grey-market or consumer-imported versions of exactly the same product.

An example of such a regulatory burden for our industry is Electromagnetic Radiation Compliance (EMC, EME and Radiocommunications Compliance) Labelling using the “C-Tick” mark. Authorised Australian importers must invest thousands of dollars in ensuring “C-Tick” certification for thousands of products as varied as wireless microphones for singers to home entertainment systems.

These significant compliance costs are embedded in the Australian retail price for such products. Again, we have historically been supporters of the strict safety and compliance systems which protect our customers. However, these policy settings are now one of the factors pushing Australian consumers towards buying the same or similar product from offshore, where such compliance costs are not built in to the retail price.

## **2.3. Tough border and biosecurity measures**

The AMA has historically and will continue to support the border and biosecurity measures which are designed to protect our customers and our country. However, the cost and time implications for our members to clear their product through Customs has become a significant competitive barrier for our industry locally.

In particular, musical products made from wood are being subjected to lengthy delays (and resulting costs) in clearing Customs. In comparison, a single item purchased directly by a consumer is frequently clearing Customs and being delivered to that consumer directly in less than a week.

These are policy settings which increase the costs and decrease the choice available to Australian consumers shopping locally and which act to push Australian consumers, and jobs, offshore.

## **2.4. Taxes to fund government**

When a product is purchased in Australia it triggers the payment of a set of taxes which help to underpin our system of government and our governments’ programs such as the health system and the welfare safety net. Such taxes triggered include PAYEE, GST, Company Tax and Withholding Tax at a federal level, down to land taxes and council rates at a state and local government level.

The avoidance of taxes by online sellers has broader implications for the tax base. Not only does it facilitate the avoidance of GST, import tariffs and the like – but it creates longer-term structural incentives to keep online sales infrastructure and accounting offshore.

As the online market grows, this problem will only become worse and will:

- Decrease the overall tax take and the integrity of the tax system;
- Increase competitive pressure on small and medium sized Australian retailers, wholesalers and other parts of the traditional retail supply chain; and
- Be a disincentive to the development of competing Australian online retail infrastructure.

## **2.5. Minimum wages and provisions for worker entitlements**

The AMA would state from the outset that as a whole we support strong protections and fair wages for Australian employees. We also think that it is important to note that every time a product is purchased in Australia, it helps to fund and underpin this system – a key part of our way of life. However, these protections and higher wages do have a real cost for Australian consumers. Absent of policy settings to protect these jobs, there will be a natural shift of these jobs to lower cost environments.

## **2.6. Robust planning laws**

Again, the AMA understands that Australia's robust planning laws – largely set at a state and local government level – have been an important factor in the fantastic amenity and lifestyle we enjoy in Australian cities and towns. However, because they act to effectively restrict supply of large format destination shopping centres, these rules also act to make our retail rents among the highest in the world.

Similar rules also make logistics and warehousing facilities more expensive per-square-meter than in most other economies. Such costs act to undermine the competitiveness not just of traditional retail, but also of Australian online retailers as they attempt to contend with foreign competitors.

Again – the AMA is not arguing against robust planning laws. Rather, we are hoping that policy makers understand that these policies are among the many that act to increase the prices of goods sold by the Australian retail sector.

## **2.7. The high Australian Dollar**

Currency risk is an innate hazard to any business which imports or competes against offshore competitors – a risk which we know that government can not mitigate. As long as the mining boom lasts, the demand for Australian dollars is likely to trigger an exchange rate which causes significant difficulties for many Australian manufacturers, wholesalers and retailers.

We also put it to this inquiry that when considering the overall policy settings which Australian retailers face, the current currency situation should be taken into account.

## **2.8. The multiplier – costing jobs**

Each of these push and pull factors listed above combines to mean that exactly the same item sold in a shop in Australia (or even on an Australian website) is inherently more expensive than that item purchased from another market.

These costs push Australian consumers offshore for an increasing percentage of their purchases and as such they will also push significant number of Australian jobs offshore to those lower cost environments.

## 3. What is at risk?

---

As has been recently pointed out by the Australian Bureau of Statistics, between 2007 and 2010, some 30,000 small businesses disappeared from Australia.<sup>2</sup> These represent jobs and taxes lost to Australia.

There are several reasons why this inquiry is long overdue and is critical to protecting and securing policy settings which Australians hold dear:

### 3.1. Small & medium sized business competitiveness

As discussed above, small and medium sized businesses in Australia are faced with a series of statutory, regulatory and structural costs which their offshore online competitors are not.

Businesses paying GST and income tax are unable to compete with the price-points of those online e-tailers not paying GST and income tax. As the online economy grows, and the global economic climate becomes riskier this is a growing source of frustration and anger, particularly for small and medium sized business nationally.

Other structural and regulatory costs built into our economy were not designed to deliberately make small and medium sized businesses uncompetitive – so should be reassessed as a whole.

### 3.2. Consumer protection

Online sellers avoiding tax are typically also avoiding the entire consumer protection framework. These sellers often are avoiding regulatory frameworks such as the *Trade Practices Act* (“TPA”) the various *Sale of Goods Acts* the *Designs Act*, the *Patents Act*, the *Trade Mark Act* and the *Copyright Act* by:

- Importing illegal goods;
- Importing goods not modified to comply with our electrical and other safety standards;
- Selling goods not fit for the purpose for which they were sold;
- Selling grey-market goods with no warranty support; and
- Making “price claims” in breach of the TPA.

### 3.3. Jobs

As increasing components of the retail sector are pushed offshore, this will inevitably lead to jobs being moved to lower cost environments. We acknowledge that there are times when offshoring jobs can be of benefit to the economy – freeing up those workers for other parts of the economy. However, as we have discussed above, many of the factors pushing these jobs overseas are regulatory in nature and do not reflect the true competitiveness of the Australian retail sector.

### 3.4. Integrity of the Tax Base

Several elements of the online marketplace system facilitate non-compliance with Australia’s tax laws:

- Use of non-traditional and offshore payment mechanisms (e.g. PayPal, eGold);
- Ability to “hide” large volumes of sales through the use of multiple accounts (e.g. more than one account on a given auction site, or accounts across multiple online marketplaces)
- Greater ability to ship directly from third countries, even if masquerading as a local Australian “non-commercial” sale.

---

<sup>2</sup> <http://www.news.com.au/business/business-smarts/australia-shuts-up-shop-malcolm-farr-on-the-effect-the-gfc-has-had-on-your-local-stores/story-e6frfm9r-1226056709832>

### 3.4.1 GST

Many goods sold online are sold GST free because they are purchased from an offshore seller or because the seller is in Australia, but masquerading as vending privately owned goods. For example, there are numerous examples of sellers consistently importing ongoing quantities of “personal goods” (avoiding GST) and which are then resold again as “personal goods” without GST.

### 3.4.2 Income and Company tax

Almost no tax is paid by offshore sellers, while many non-compliant sellers actually based in Australia are not declaring income tax. We believe that this is being particularly facilitated in the online marketplace sector by sellers who are able to operate much of their payments and accounting offshore, who can buy and sell from that account, without declaring any income in Australia

## 4. Reconsidering our policy settings

---

### 4.1. GST threshold for personal imports

When Australian regulators and legislators consider related issues such as the GST-free threshold for the import of goods (currently \$1,000), it is important to remember that such thresholds are not just about the cost-benefit analysis of the compliance costs of collecting the GST itself. Each time we push a sale offshore due to inefficiencies in the Australian retail system, we heighten the risk for Australian jobs, Australian businesses and the Australian tax base.

We also believe that this higher threshold is allowing tax evasion within Australia, as growing numbers of tax-dodging unofficial importers “hide” large volumes of imports and sales through the use of multiple accounts (e.g. more than one account on eBay, or accounts across multiple online marketplaces)

### 4.2. Regulatory harmonisation

We strongly recommend that the government look to harmonisation of regulations which cause extra cost burdens on the Australian retail system and on consumers buying in Australia.

There are literally hundreds of examples, but taking an example already given in this document, we believe that it would be relatively easy to harmonise the Electromagnetic Radiation Compliance (EMC, EME and Radiocommunications Compliance) Labelling using the “C-Tick” mark across a number of similar markets (either on a regional basis or on an economic basis with North America and Europe).

The fact that the Australian importer of a niche product has to spend significant amounts of time and money to recertify for standards which have already been signed off by authorities in similar jurisdictions seems not only superfluous but damaging to our economy. Now that consumers have the ability to import that very same product directly from another market means that the current regulatory burden has become farcical.

### 4.3. Overall red-tape reduction and tax relief

The easiest way to reduce red tape and provide tax relief is to reduce the statutory, regulatory and structural burdens. This means reducing the overall burden of red tape and taxation on Australian businesses.



## 5. The importance of the market leaders

---

As the market leaders, businesses like Amazon and eBay are the most mentioned online retail vehicles. However, we believe that this is a factor of their size and that in fact they are among the more responsible and responsive participants in respect of regulatory compliance.

We strongly contend that in order to encourage these businesses to make significant further investments in tax compliance and consumer safety viable for websites such as Amazon and eBay, the same rules must apply to all online marketplaces.

## 6. Conclusion

---

Our industry, and a number of other industries with which we regularly deal, are happy to see the Productivity Commission pursue this matter. We are available to provide further detail or other support should that be appropriate.

In the meantime, both you and your office should feel welcome to contact me at any time on [info@australianmusic.asn.au](mailto:info@australianmusic.asn.au) or (03) 9527 6658 if the Australian Music Association can be of any assistance.

Yours sincerely

**Ian Harvey**  
Executive Officer