

The Australian Government

Productivity Commission

Economic Structure and Performance of the Australian Retail Industry

Written submission by
Retail Traders' Association of Western Australia (Inc)

About the Retail Traders' Association of Western Australia:

1. The Retail Traders' Association of Western Australia (RTA) promotes and protects the interests of members of the retailing industry in Western Australia including small, medium, large, independent, chain and franchise stores of all types. RTA's primary objectives are to support the retail industry by providing a range of practical, cost-effective and retail-specific services to employers operating in the industry.
2. RTA plays a leading role in the public debate on issues affecting the retail industry. This submission is in response to the Productivity Committee Issues Paper: Economic Structure and Performance of the Australian Retail Industry, March 2011.

General Submission:

Trends in Retail Trade and Drivers of Structural Change

Retail Activity:

3. **To what extent is current retail performance a result of structural rather than cyclical change? If it is structural change what are the implications and evidence of this?**

There has been a dramatic paradigm shift in consumer thinking around the world during the past few years. This evolution is now present within Australia and is bringing structural change to our retail industry.

In summary, consumers are now seeking

- a) convenience – pressure is on the retail industry to improve the means of meeting consumer needs because of consumer time pressures now apparent within our communities brought about by such factors as busy lifestyles, the rapid increase of the percentage of double income families within our communities, quest for work-life balance and other time pressures
- b) health – consumers are looking for healthier lifestyles, they are becoming fully aware of the unwanted ingredients within many products, especially processed foods and the effects of these on their health, i.e. note the move toward organic foods, gluten free products, natural cleaning products, etc
- c) lifestyle – consumers now seek to prioritise their lifestyle priorities and are prepared to 'trade off' to achieve these goals, i.e. accept lesser goods & services in one area to attain

- their lifestyle priorities. Consumers are also extremely interested in sustainability as their lifestyle can't be achieved without it, i.e. growing interest in the 'greening' of the planet
- d) technology – consumers have never been better educated and informed than in today's market, consumers understand and utilise this technology to attain and improve their lifestyles.

Further enhancements have been added through the GFC.

- e) consumers better educated in the process of budgeting – some 60% of the community learned to budget from the GFC, consequently, they can immediately adopt these measures, i.e. this has been dramatically noticeable after each interest rate rise by the Reserve Bank
- f) consumer 'values' have changed with the GFC – consumers have used the GFC to re-evaluate their values, to reassess what is really important to them and the means available to attain their goals
- g) consumer savings ratios – uncertainty of the future has resulted in extremely high savings ratios amongst consumers, at approximately 10.2%pa savings have not been as high a ratio to income for some considerable time, normal national expectations here are within the 0.5-1.0% range.

These factors are together causing a great deal of change within the retail marketplace. Keeping up with this change is an ongoing challenge for retailers.

Cost structures within the retail industry are also in the process of adapting to upward pressures at this time. Whilst this may be classified as a cyclical influence, it must inturn result in structural change within our industry, otherwise many retail business models will fail.

There is a structural need for high street retail areas, shopping centres (neighbourhood, sub-regional & regional), as well as 'big box' or 'bulky goods' centres. Currently approximately 60% of Aust retail sales are derived from shopping centres. However, in many instances, restrictive planning codes have resulted in effective monopolies for some shopping centres, giving control over prime locations with the resultant rent costs (including outgoings) now well out of proportion for retail tenants in many circumstances. Planning codes have not necessarily encouraged the development or maintenance of other retail locations i.e. high street or bulky goods centres.

It should be noted that variable outgoings within shopping centres currently average approximately 17-18% across Australia, this is totally unsustainable. Current retail formats will continue to be challenged by this effect. More importantly, if a retail format can no longer afford to stay within a shopping centre precinct, they have no where to go i.e. either exist within the shopping centre or close. There is no staging point i.e. the parallel development and improvement of high street developments & large 'big box' centres, has not kept up with retailer needs and demands.

The advent of international retail formats into Australia either directly via opening local retail outlets or access via online operations will be a formidable challenge for Australian retailers. Global retailers bring with them highly successful international formats along with the resultant cost reductions brought about with sales volume, efficient and lower cost based supply chains, lower wage restraints, efficient online distribution formats.

4. Have sectors within retail been affected differently, depending on whether they sell items considered to be discretionary consumption by households? Have the sales of durable goods (the purchases of which can be deferred) differed from the sales of non-durable goods such as groceries?

Discretionary household consumption has been dramatically affected within the current retail marketplace. The extent of this downturn has been across all sectors, from the normally perceived discretionary items, i.e. TV's, Furniture, Whitegoods, through to the lesser understood discretionary items, such as chocolates and soft drinks. This has been brought on by two basic factors

- a) Consumer confidence has been dramatically affected by current economic uncertainty, i.e. utilities and other cost increases, interest rate increases and the promise of more to come, i.e. flood tax, carbon tax, further interest rate increases, etc.
- b) Retailer constant 'sale' activity to promote store turnover. Consumers are now quite prepared to sit back and wait to purchase discretionary items. They will wait until their perceived value in the item has been achieved before considering purchase.
- c) Consumers now are purchasing more regularly, but in smaller quantities, i.e. purchasing 4 or 5 times a week. With smaller purchases, or as we refer to it, a smaller basket of goods with each shopping trip, it has become more difficult for a retailer to get into that basket, it requires totally different strategies than previously used within the retail industry.

Necessities have also been affected. Consumers have budgeted to cut back total expenditure such as to hold off purchasing any product or service that is not essential or required immediately.

5. What further evidence from the market is available in support, or otherwise, of the view that many categories of retail goods are continuing to grow in terms of volume but that prices have decreased, thus squeezing margins? What specific categories of goods are affected and what factors other than the strength of the Australian dollar are bringing about this price deflation?

The strong Australian dollar is but one of the factors that has helped introduce cheaper retail pricing into what is an extremely competitive market at present. It has also awakened the consumer to directing purchases to overseas retailers/manufacturers via the internet.

Both competition and price deflation has created an unusual market affect as we have seen volume increases amongst many items, mostly with necessities, but others amongst key discretionary items still being sort by consumers.

Container imports through Fremantle Port in Western Australia are 14% higher than last year. This is a significant statistic that tends to support what is happening in the retail marketplace.

Retailers however, with the mix of lower profit dollars per item added with the further complication of intense market competition, have not seen the reciprocal increase in profits that would normally be expected from these volume increases. However, price deflation can only go so far before either reversing or causing sustainability issues within the industry.

6. To what extent has competition from overseas and Australian online retailers contributed to falling revenue growth experienced by Australian bricks and mortar retailers? What data supports this? Is this a trend which will continue?

Australia, unlike the USA and UK, has no consistent means of tracking internet sales. We are gravely concerned that this is so. We therefore don't have available reliable daily, weekly, monthly or annual figures as they do. However, we have researched available data to ascertain the approximate level of current internet activity within Australia. We understand that in 2009-10 Australian internet sales totalled approximately \$24.5 billion, 43% of which went to overseas retailers (\$10.54 billion). This represents some 4.39% of Australian retail sales (\$242 billion, excluding fuel) that has escaped to overseas interests.

Future projections are even more concerning especially if the tendency to utilise overseas connections is extrapolated. Internet sales for 2011-12 are projected at \$34-35 billion, whilst within 5 years this total is estimated to be nearing \$70-72 billion.

Unless Australian retailers can address the needs of their consumers we believe that the trend towards overseas outlets will continue to grow. The consumer paradigm shift, as detailed previously (item 3), is very much in play, but retailers are oblivious or inadvertently ignoring the significant of this change, along with the many other complaints made by consumers.

This Associations direct contact with consumers has confirmed that they really do not wish to venture overseas, but what is the alternative considering their needs. We receive consumer concerns that they either can not find products that they want, nor sizing to suit; they are time pressured and seek solutions to meet their convenience and budget needs. Consumers constantly mention their concerns about poor customer service which we perceive is at an all time low, so despite the many risks, consumers have utilised their technology skills and ventured online, not finding suitable onshore solutions, they have readily moved to overseas connections.

Profitability:

7. What are the major factors influencing the profitability of retail businesses in Australia? Why are some retail sub sectors more profitable than others?

Influencing factors can best be summarised to include....

- a) Supply chain efficiencies – access to product, negotiating strength, cost price differentiation, profit margin available (niche or commoditised product/service)
- b) Skills with people, systems, processes to efficiently bring goods to market and manage/control business
- c) Market presence – promotional ability to achieve consumer top of mind, innovation, entrepreneurship
- d) Cost of doing business – physical cost of premises, labour productivity

The extent of the market demand for a product or service will determine the amount of profitability available to that retailer/sector of the market – innovative niche product (higher margins, greater demand) or commoditised products (lower margins, need high volume).

8. Where both costs and profits are high by international comparison does this inevitably mean consumers in Australia are paying higher prices? If so, is this a likely permanent position? If not, what are the forces which are likely to change it?

Australia on world standards is a small market with only 22 million people. Our market is characterised by initially a slow acceptance/take up of new products/technology, but once accepted, the time to market saturation (or beyond) is extremely quick, hence giving the Australian market the feature of volume growth at a far greater rapid rate than elsewhere. Because of the comparative size of our market consumers are paying more than elsewhere for their choice of goods and services.

However, change is apparent. The current circumstances will not be sustainable in the longer term with the intervention of global competition whether that is direct on-shore, or online competition. The real question is how long it will take for change to occur and the resultant lag effect, i.e. damage to current businesses, business failures in the process.

9. How is the growth in online selling impacting on retail profits? What is the quantitative evidence for this?

We have presented some statistics, as well as comment on consumer preferences, with regards to the current quantity and projections for Australian internet sales (item 6 above). At present the majority of Australian retailers are not offering an acceptable online presence to consumers. They are therefore losing customers and hence profits to other retailers who are better prepared.

Our analysis from overseas retailers would envisage that online sales would amount to approximately 20% of their turnover which if transposed to Australian retailers is a sizable amount to forego because of lack of attention to their online presence and their consumers' needs.

Retail Employment:

10. How have retailers responded to changing demand conditions in regard to staff employment?

A skilled retail employee is difficult to replace. Skills acquired over many years within the retail industry are not easily replaced.

With the downturn in the market, retailers have not rushed to disengage employees, but rather looked at lessening hours worked for each employee, hoping for a quick turn around in sales/profits to reinstate employees to longer hours.

It should be kept in mind that it is the nature of the retail industry that the majority of employees have been engaged on a part time or casual basis.

It should also be noted that retailers cannot keep or maintain this position for extended periods and the more recent market pressures have brought with them greater unemployment within the retail sector.

11. What are the current impacts and likely future impacts of the growth of online shopping for employment, including regional employment, in the retail industry?

The answer to this question lies directly in how Australian retailers react to the opportunities presented by online technology.

For instance, adopting the Wal-Mart approach or driving ‘clicks to bricks’ would develop both a physical and online market presence for Australian retailers. Whilst this may slow store openings initially, it would open the employment opportunities by the usage of the technology.

On the other hand the technology supplies the means for manufactures to go direct to the market utilising their current market presence and price point to advantage. The retail component would become superfluous which would put current levels of retail employment at great risk

Retailers could also utilise the technology to remove current elements within the supply chain to lessen costs and become more competitive. Considering global competition, this would be a practical combatant to maintain market competition against the expected international intervention. This would have severe ramifications within the Australian wholesale industry reflecting in high unemployment within this sector.

We would envisage that the future will incorporate some examples of all of the above along with the further development of purely online retailers. To this extent we would expect employment levels within the retail/wholesale sectors to fluctuate initially whilst the market adapted to new technology and ways of doing business, but in the longer term we believe that employment will steady. Key factors here include population growth and the extent of technology transfer/training adopted within the retail industry.

Productivity Trends:

12. What have been the main factors driving recent productivity trends in the retail trade?

Competition has forced retailers to consider how to improve their overall productivity. This has forced retailers to consider and implement the greater use of technology, but also to consider how to better train staff to achieve productivity gains. Government has also shown some recognition that the removal of ‘red tape’ from business would increase productivity significantly; however, their efforts to date have been limited.

13. How has productivity performance differed across the various retail sectors?

The ability to accept, let alone afford the necessary technology, or implement training and plan effectively to extract the maximum potential from these initiatives varies considerably from retailer to retailer, sector to sector. In the same way, the ability to transform or adapt the technology also varies from sector to sector.

14. How does productivity in retailing in Australia contrast with comparable best practice overseas retailers?

We have made no such productivity comparisons with overseas retailers. We would however feel that it is extremely difficult to manage direct comparisons across international boundaries as the economic circumstances between countries vary significantly.

Our market place is characterised by

- a) a far smaller, but very wide spread population than most,
- b) volume factors (product availability, extent of range & price) vary greatly
- c) rent structures are far different here than overseas
- d) labour costs are significantly higher, especially when penalty rates apply
- e) knowledge, innovation and entrepreneurship are lagging here
- f) market expertise availability is restricted because of size of our market
- g) technology cost can be relatively prohibitive, can only afford older technology
- h) legal and tax system differ to overseas
- i) trading hours restricted by legislation throughout Australia, not consumer lead,
- j) Government 'red tape issues' are abundant giving issues to not only retailers, but property developers and investors

15. What are the productivity trends overseas in different sectors and how do they compare with Australian experience?

- a) Overseas markets appear more flexible to meet the demands of consumers. Flexibility here allows market supply and demand factors to operate more freely.
- b) Technological advancements are more readily adapted within those markets.
- c) Enterprise, innovation and entrepreneurship are characteristics of those markets more so than here in Australia.
- d) Government intervention is more focused on maintaining a free market rather than creating 'red tape' and hindering business productivity.
- e) Labour conditions are also more flexible allowing for minimum hours to be worked within a 7 day period before penalties apply.
- f) Trading hours are flexible in line with consumer demand. In Western Australian legislation currently restricts retail trading hours via the Retail Trading Hours Act 1987. These archaic restrictions are such that some retailers are legally denied the opportunity to trade to meet the convenience of their customers, whilst others can.

16. What factors, if any, inhibit Australian retailers from achieving overseas best practice labour productivity benchmarks?

Refer to Item 14 & 15 above.

Developments in the Retail Industry:

17. How is the structure and character of the retail industry likely to change in the next 20 years?

Hopefully we will move more to a free market thus allowing consumers and retailers to negotiate better outcomes and therefore achieve greater business efficiencies. Technology will be heavily relied upon to deliver outcomes. A large proportion of retail sales (est. of 20% or more) will be attained via online technology, either connected to a 'bricks & mortar' retail format or purely online structure. Current cost structures, i.e. rents, outgoings, wages, within the retail industry will be forced to change as international efficiencies enter our market. Retailers will have to rapidly change their business formats to survive these basic changes. It is unlikely that many of our existing retailers will survive the next 20 years, just as those of 20 years ago have not survive through to today.

18. What factors are likely to drive changes in the structure of retailing in the next 20 years?

Entering the global market will bring dramatic changes to current retail structures as they grapple with costs, technology, supply chain and labour efficiencies, together with significant margin pressure from international competition.

19. Which retail models are likely to survive and which are likely to struggle given current industry trends?

All current retail models will be challenged, but our concerns in the short to medium term rest with the present formats associated with Department Stores, Pharmacies, Newsagents, Fashion, Music & Books

Online Trading: Opportunities and Challenges:

20. Why have Australian retailers been relatively slow to take-up online trading? What impediments are there to the greater use of online trading by Australian retailers? Are there impediments (other than consumer protection issues — see later) to the use of online retailing by Australian consumers?

One could easily blame local internet capacity and speeds as being insufficient to maintain an effective online presence for retailers; however, we believe that the causes go well beyond this factor. Australian retailers have to a large extent ignored online trading through lack of knowledge and understanding on how to operate effectively online. Failure to understand the strategies required & the ongoing costs involved in establishing an online presence has seen many try and fail, to not want to try again. Unfortunately, it may appear to be a very simple project to go online, but it is far more involved and requires access to extensive expertise & knowledge to sustain and manage an online presence.

Australians venturing online will face many choices and challenges, especially if their search includes international retailers. Identity fraud is rife at this time; scams are prevalent; fake sites of well respected retailers do exist; delivery can be a challenge; returns can be a challenge, return delivery may be very expensive if even feasible. Manufacturers have also taken great care to differentiate their international markets and whilst certain products may have plenty of consumer appeal they either do not function here in Australia or have no support or backup here should faults occur. Also quality will vary as well as the materials used in the production of some products may not be appropriate here and sizing differs dramatically between continents.

21. Are there any logistic concerns that have impeded the take up of online shopping? For example, are there any concerns relating to the costs, timeliness, effectiveness and efficiency of the delivery of purchased items by Australia Post and other courier and express freight services?

Overseas delivery systems are far more advanced, more cost effective, far speedier as well as totally track able by consumers online than those currently available within Australia.

22. How significant is the impact of online trading on domestic retail businesses?

We have now seen the impact of the likes of Amazon on retailers of books, DVD's and CD's. The music industry is basically now available and pursued by consumers online. Whilst the main impacts to date within Australia have been predominantly centred around small, light and easily shipped goods, once systems and techniques are improve/developed many other products will come under attack from online specialists.

23. What factors explain Australian consumers' willingness or reluctance to purchase online from overseas suppliers? What is the relative significance of these factors?

Refer to items 3, 6, and 20 above

24. How significant will online trading be for the Australian retail industry in the future? Is it likely that Australia will realise similar growth in market share for online retailing to that seen in the USA and Europe? What retail sectors are likely to be impacted the most by the growth of online trading? What new business models might be created by online trading?

Refer to items 11, 17, and 22 above. We would state here that Australia has shown a strong tendency to follow the USA market in preference to other international retail markets.

25. What is the extent of international price differentiation in the global marketing of branded products which impacts on Australia? What other factors explain the differences in prices between domestically and overseas sourced identical products?

There is a strong price differentiation in price between Australia and other overseas destinations, especially with the USA, UK and China. However, it should be noted that **not** all products are in fact cheaper on the internet; there are many instances where this occurs.

Price differentiation is brought about by many factors including those such as negotiating and purchasing power; source of product – manufacturer, wholesaler, or retailer; country of origin; cost structure differentials i.e. labour; tenancy, etc; tax applications; import duties; brand or parallel product; delivery and on costs, etc.

For instance, we have major concerns that because of the Australian \$1,000 threshold before import duties and GST are applicable on imported goods that this loop hole is being fraudulently used by some to bring products into the country for resale. False declarations are also of major concern here. The price advantage gained over legitimate retailers is significant.

26. Is the parallel importing of identical or very similar products from overseas suppliers an effective and sustainable strategy for local retailers to reduce their costs and allow them to compete more effectively with offshore online providers? In the future, will the much greater ability of both consumers and retailers to import directly from overseas, tend to erode the degree of regional price discrimination by international brand owners in certain product categories?

Parallel importing, as long as product standards and patent/copyright are protected will bring greater choice and lesser price points to the Australian consumer. However, consumers are also

chasing quality, product range, sizing, etc, online, parallel importing may not necessarily meet all such needs.

Technology will enable consumers to go direct to an overseas source, thus bypassing the existing supply chain i.e. local wholesaler and retailer. This will not assist our retail/wholesale industry in a positive way. It will remove current segments of our industry rather than resolve any price discrimination challenges.

Consumer Protection:

27. Are there additional measures that could be taken by industry or governments to increase consumer confidence in the security of purchasing online?

Consumers should be fully informed, given detailed information outlining the advantages of dealing with an Australian retail source as opposed to the intrinsic risk of dealing with an overseas source. They need to clearly understand that the Australian Consumer Law (ACL) doesn't apply to overseas sources.

28. What impacts have the consumer guarantee provisions of the new Australian Consumer Law had on the ability of consumers to obtain an appropriate remedy (for example refund, exchange or repair) when they experience a problem?

The ACL has only been in operation for some 6 months now; it is too soon to offer any constructive comment at this time. Keep in mind that the most significant distinctions to previous State laws is that now consumer services are covered by the ACL.

29. How have the new provisions impacted on retailer costs and is the impact consistent with that anticipated when the new laws were being developed?

We have clearly identified a challenge with the new legislation in relation to lay-bys. The process of allowing cancellation of a lay-by without explanation is incongruent with the rest of the legislation. This section allows the consumer to return the item for no other reason other than a 'change of mind' at minimal cost to them. The retailer has to bear most costs as prolonging the matter by debating what is 'reasonable' is a costly exercise.

30. Are there any significant examples of problems with regard to the safety, quality or performance of goods purchased by Australians from overseas online traders? Where problems are experienced with online trading, what avenues of redress have been pursued and how successful have consumers been in obtaining a satisfactory outcome?

Online purchases can be made from any place or country around the world, some of which have no concerns with regards to product safety, quality or performance. We believe that circumstances will arise, if not already, where an Australian consumer will have an incident in this regard. Redress in such circumstances will be both impractical and impossible to enforce.

31. Are there adequate protections for Australian consumers purchasing goods from overseas websites online? If not, what can be done to improve consumer protection for online purchases from overseas websites or to better educate consumers to help them avoid detriment?

There are absolutely no protections for Australian consumers purchasing online from overseas sources. As mentioned previously, consumers need to be made fully aware of the all the intrinsic risks involved in overseas online purchases.

Appropriateness of Current Indirect Tax Arrangements:

32. What evidence is there that Australian retail businesses are being adversely impacted by the low value importation threshold? To what extent does the threshold motivate Australian consumers to purchase online from overseas suppliers? What other factors explain the differences in prices between domestically and overseas sourced products?

Refer to items 3, 6, 9, 14, 15, 17, 20, 21, 22, and 25 above. We are waiting to view the Customs review of these matters; however, initial reports to us confirm that there is a high degree of fraudulent behaviour involved which is of major concern to the retail industry.

33. What evidence is there of the extent to which local resellers are using the low value importation threshold? To what extent does this really give them a competitive advantage compared to larger retailers after freight costs and volume discounts have been considered?

We believe that investigation of the true source of products sold through the likes of EBay; local markets; casual leasing within shopping centres would identify an extensive use of this available importing loop hole. We await the Customs report on this matter.

The competitive advantage lies not only in the avoiding GST and import duty, but also in availing themselves of their overseas sources pricing advantages i.e. manufacturer direct, or retailer buying power. Freight costs from overseas destinations can be extremely reasonable and bear little effect on the overall price of the goods.

34. What is the potential impact on government revenue and the integrity of the tax system of sustained growth in the total value of low value items entering Australia without having GST or customs duty paid?

We have seen estimates from Government totally approximately \$350 million, others have put the level as high as \$460 million on current activity. We would prefer that a far more in depth study be made to support these estimates as we believe that they are far from correct.

35. How do other countries seek to strike the right balance between compliance with their threshold, revenue collection and administrative efficiency? Are their thresholds being effectively enforced? What can Australia learn from overseas experiences?

Other countries have far lower thresholds than Australia. We can only assume that they enforce these thresholds utilising methods that give cost efficiency. Some enforce an administration cost against items below their thresholds to cover any additional costs involved. As to effective

enforcement we have no comment, but note that the mere fact that legislation exists is a sufficient deterrent to most honest citizens. Simply screening imports looking for persons with excessive usage or specific mailing addresses would act as a further deterrent to fraudulent abuse of the system.

36. What technological developments could be employed to reduce administrative collection costs, particularly given international postal agreements?

No comment available in this regard at this time.

37. How might continued growth of overseas online shopping affect existing border control and cost recovery arrangements?

No comment available in this regard at this time.

38. Would a lower or higher threshold be more appropriate? How would any suggested change affect industry, consumers and government? How might people receiving gifts from overseas be affected by a change to the threshold?

We would support a lower threshold as being more appropriate. Gifts should be treated in the same light as overseas online purchases.

39. Would there be any merit in having a higher threshold for duty collection and a lower threshold for GST?

We see no merit in adopting this suggestion as it just further complicates the administration in this matter.

40. Should imported intangible goods be brought into the Australian tax base? If so, how could this be accomplished?

We believe that this would bring into conjecture the determination of the actual value involved whereas other physical goods have an actual purchase price.

Other issues impacting on the performance and efficiency of the industry:

Planning and zoning regulation

41. How do the different ways that states and territories determine the size and number of activity centres impact on retailing? Are the definitions of centres unnecessarily constraining different types of retailers?

The challenge with all such planning implementation is that market forces are being totally ignored, what is considered by government bureaucrats as a great location for an activity centre is not necessarily where market forces would place the centre. This is especially of note as retail is always the first industry to be present at such centres. A further implication here is that all activity centres need to cater for all retail tenancy formats – high street, shopping mall, big box, as well as the growth of those formats overtime, but also understand that each such format must present a feasible cost alternative so as to allow retail businesses to expand from or shrink down

to a suitable cost basis to sustain their business format – the alternate is the loss of the business because the format is outgrown or now too expensive. It is also of concern that developers responsible for the development of these activity centres are now being forced (in WA at least) to produce multiple usage developments, this is not within their areas of expertise, i.e. a shopping centre developer has no understanding of the intricacies of a residential development, etc.

42. Which retail activities would be most/least likely to benefit from a broadening of zone definitions, as suggested by the Productivity Commission (2011), which expands the range of sites available for commercial activity?

Beneficiaries would most likely be those retailers that can sustain a stand alone operation.

43. To what degree does the Foreign Investment Review Board requirement for land that is purchased by a foreign company to be developed within 12 months (which is sometimes impractical given zoning problems and planning delays) act as a further barrier to entry for foreign retailers?

Considering that any retail development would currently consume more than a 12 month period then this FIRB requirement would prohibit foreign owner/occupier involvement.

44. How do retail trading restrictions impact on the flexibility of retailers to respond to changing consumer preferences?

See item 15(f) above. Retail trading hour restrictions completely interfere with market influences and prohibit retailers from changing trading hours to better suit their clientele. Retailers are therefore legally prevented from vastly improving their productivity and return on investment, as well as meeting their customers needs.

45. Given the recent growth of online retailing, do the benefits to some parts of the community of the current retail restrictions continue to justify the costs to the broader community?

We believe that there is no justification whatsoever for retail trading hour restrictions, they are discriminatory and totally against and do not support our free enterprise system, as well as prevent market competition and consumer satisfaction.

Retail trading restrictions

46. Do current retail trading hours restrictions reduce or redistribute expenditure in the retail industry? In other words, does the ‘retail dollar’ remain in the retail industry or is it spent in other industries?

Competition for the consumer’s expenditure is far greater today than in previous time periods. Consumer choice has been vastly improved and continues to improve over time. Consumer expenditure on necessities will be redirected according to what retailer is available/allowed to open, however discretionary spend is optional and available to be spent in areas apart from retail. Hence if the retailer in question is not allowed to open, the consumer dollars maybe spent elsewhere and therefore the retailer completely misses out.

47. What have been the effects of longer opening hours in those jurisdictions that have relaxed restrictions (for example, on retail sales and employment within different retail sectors)? Was there any redistribution of retail sales between small and large retail businesses following longer opening hours?

We have witnessed additional sales and employment with extended trading. Sunday trading has been exceptionally beneficial to those allowed to trade attaining sales rates that are in some cases unsustainable from a supply viewpoint. However, these growth statistics have been achieved at the expense of those legally restricted from being allowed to trade. The result is both discriminatory and unsustainable.

48. Given the experience of the ACT and the Northern Territory with fully deregulated retail trading hours, what would be the implications of removing all retail trading restrictions in other Australian jurisdictions?

The market would welcome this occurrence, retailers would finally be allowed to negotiate directly with their customers mutually agreed trading hours. This would allow commonsense to prevail across the multitude and variety of retail formats to trade more efficiently & productively. We would note that this may not mean that trading hours are extended, just rearranged to suit all parties. It would also encourage greater innovation and entrepreneurship into our industry.

The next step after deregulation trading hours would be to create a practical and level playing field with regards to labour costs within our industry, i.e. bring flexibility in the hours of work and penalty rates, to restore productivity and profitability within the Australian retail industry.

49. If some jurisdictions retain restrictions on retail trading on public holidays, are there any community benefits in standardising the number of restricted trading days across Australia (that is, for those jurisdictions that are not fully deregulated)?

Recognition of days of significance to the Australian people is accepted by the retail industry i.e. Anzac Day, Good Friday & Christmas Day; all other public holidays should allow retail trading. There should also be only a set number of public holidays allowable i.e. 10 public holidays, that incur penalty rates, where some States allow 'in lieu' situations where public holidays occur on a weekend, the additional public holiday should not be subject to penalty rates. This is not now the situation in WA. as the introduction of the NES under the Fair Work Act has inadvertently overlapped with the State Act (Holiday and Bank Act) to enforce all public holidays in WA subject to penalty rates. In 2010 WA retailers paid penalty rates for 13 days as opposed to 10 days nationally.

50. What problems are created by different processes in different states (and in some cases different regions within states) for retailers to seek exemptions to restricted trading laws?

Exemptions, permits, applications, all cause confusion and should be removed by legislation so that the retail industry in each State has totally deregulated retail trading hours except for nationally recognised days of significance which are Good Friday, Anzac Day and Christmas Day.

51. Is there evidence from the use and times of usage of online retailers in states with more restrictive shopping hours — particularly Western Australia — of consumer demand unable to be satisfied through bricks and mortar retailers?

Various polls that this Association has carried out in WA have clearly shown that the majority of consumers in the Perth metropolitan area support extended trading hours, especially Sundays. Unfortunately, legislation restricts many retailers from trading on Sundays here in Perth. As outlined in item 3 above, consumers' main concern is convenience which along with the many other issues outline previously has forced consumers to adopt online purchasing in many instances.

Retail tenancy leases

52. Are the retail tenancy reforms being implemented in an appropriate and timely manner? Once implemented, will the reforms deliver better outcomes for the community? Are any further reforms required? If so, why?

We have constantly seen a lag in time between the review/consultation periods to the introduction of legislation to effect the changes. We see that current changes may improve the relationship between landlords and tenants.

However we would suggest further improvements to stop the abuse of the power imbalance between landlord and tenant (especially smaller tenants) as essential. Our recommendations would include

- a) a 'good faith clause/definition' into all retail leases – this would instill a requirement as to the conduct of both parties, before, during and after the term of the lease.
- b) implement purely percentage rental only clauses (as determined within retail sector guidelines) for the term of all leases, thus removing any need for a rent review during a retail lease. This enforces a partnership arrangement as opposed to the current power imbalance and the possible abuse thereof. Currently a retailer maybe able to astutely negotiate rent (uncommon) at the beginning of a lease term, thereafter the landlord with access to turnover figures is able to ascertain operating margins, hence profitability and set rentals accordingly to 'grab' his share of that profit, this does not reflect the actual market rent of the premises during the lease term.

53. Is there any evidence that owners of major retail complexes in Australia exert market power to command higher rental and occupancy costs than are experienced in many overseas markets?

Refer to item 52(b) above. To establish finance and substantiate the feasibility for a retail shopping centre, developers need to sign up major long-term tenants well prior to commencement. The rental and terms of these leases are extremely beneficial to the tenant and reflect the competitive market for such tenancies. Smaller tenancies that are pursued after the majors are established can reflect rental that is some 3 or 5 times per m² (in some cases more) than the majors or anchor tenants. It is here that the developer creates the end value of the development; it is here that the true market rental is overlooked and all efforts are utilized to exploit smaller tenants to maximize the end value of the project.

54. Is it inevitable that Australian retailers must pay higher rental and occupancy costs as a proportion of sales than offshore counterparts? If so, why and what factors cause this? Does this mean that Australian retailers will have to charge higher prices to maintain reasonable levels of profitability?

Refer to item 52 above. Unless changes as recommended by this Association are installed then the continuation of present practice will no doubt enshrine higher rentals and occupancy costs both as a percentage of sales and against 'real' market rental. The result can only be higher prices for consumers which may in turn be unsustainable with expected future international competition coming to our marketplace

Other competition issues: market structure and conduct

55. Are there any important competition issues or specific aspects of the enforcement of competition laws that have not been considered by recent reviews that need to be addressed?

No comment available in this regard at this time.

56. Are there any significant and enduring skill shortages in the retail industry? Which sectors or regions are affected? Are current training arrangements sufficient to satisfy future skill requirements in the industry?

WA presently has pressing skill shortages within our mining and mining service industries. As these shortages escalate they will in time cause skill shortages within the retail, tourism and hospitality areas. The retail industry can only look to a more effective immigration policy to satisfy this demand. Productivity gains could be enhanced by improved training within the industry, but with the staff churn, there is a reluctance to invest in this area. There is also a shortage of experienced, knowledgeable, retail specific training personnel.

57. What are the current and future implications of the growth of online shopping for skills development and training requirements in the retail industry?

A greater need for expertise in the online technology, supply and distribution area will add to the need for skill development and training initiatives.

58. What are the major pressures driving wage costs and to what extent are productivity improvements offsetting the effects of wage increases?

Failure of our Federal IR legislation to properly understand and address the needs of the retail industry, to recognise the 24/7 activity within the industry, has caused significant increases to wage costs throughout the industry. We would see that this has not only offset previous productivity gains but led to a reversal of gains from the past.

59. How are current workplace legislation, awards and other institutional factors impacting on the retail sector, in particular: the level and structure of employment; wage outcomes; penalty rates, labour market flexibility and productivity performance?

Refer to item 58 above. We have very real concerns with the current Federal Retail Award. The Award doesn't reflect or address the need for flexible hours to meet the convenience and other

needs of our consumers. Penalty rates are at unsustainable levels and have inflicted large cost increases over those under previous legislation. Flexibility and productivity are not the context of the misnamed 'modern awards.' There exists no incentive under current legislation to encourage further growth nor greater participation in the Australian retail industry.

The retail industry urgently needs greater flexibility in managing employee engagement, i.e. the ability to roster ordinary hours, at ordinary hour's rates, over any 5 days in the week, or over any 10 days in a fortnight at any time of the day as well as a reasonable daily maximum limit of ordinary hours such as a maximum of 12 hours per shift (inclusive of rest breaks) with a minimum of 8 hours between the cessation of one shift and the commencement of the next.

60. Are there any significant remaining differences in labour market laws operating across Australian jurisdictions? If so, what are the implications of these differences for labour market costs, flexibility and mobility?

WA has its own State IR Laws which are currently under review. Hopefully the review will revamp State Awards and practices towards modern needs, practices and so act as an incentive/advantage to small businesses with the State. They apply to sole traders, partnerships and trusts as well as the public service.

61. What are the implications for employees and employers, and for efficiency and productivity in the sector, of the current use, or lack of use, of commission-based remuneration and incentive payments in the retail sector?

The retail industry operates on extremely low margins and any factor that can bring lower overheads and relate costs directly to sales would vastly improve productivity within the industry. Commissioned base remuneration would greatly assist the industry's productivity especially with the expected international cost and price competition close at hand. It would put the Australian retail industry on a more level playing field with international competition.

62. Is it inevitable that Australian retailers will always on average have higher labour costs as a percentage of sales than their offshore counterparts? If not, why not? Does this mean Australian consumers will necessarily always pay higher prices? Does this mean online sellers from overseas will always have a competitive advantage?

To continue with the same practices and expect different results is the definition of insanity. Changes in many aspects of our retail industry are essential to improve its international competitiveness. Labour costs and IR issues are a large factor in any retailer's cost structure and therefore must be subject to scrutiny and change. Other major cost areas need to undergo that same scrutiny to secure positive changes for our industry. Otherwise we will all suffer the consequences from a failing industry, one that is uncompetitive, caught with prices unacceptable within the marketplace. A healthy, efficient and productive retail industry is vital to the Australian economy as the retail industry is the largest employer in the nation.

Other regulatory burdens imposed on the retail industry:

63. Regulation that is unnecessarily burdensome, complex or redundant –

To support a case for change, the Commission invites participants to provide information, including quantitative information where this is possible, to shed light on the nature and extent of any unnecessary regulatory burdens impacting on the retail sector.

Key Concerns that we have exist within the following legislation areas...

a) *Parental Leave*

Whilst our members would support the objective here, we find it difficult to accept that the administrative burden is to be passed directly onto business come 1st July 2011. This is an extreme burden, especially for small businesses that form the bulk of our industry.

In any case, the envisage administration come the 1st July 2011 is a complete round robin, totally unnecessary and it is totally inept in thinking that it will be easily facilitated. Centrelink is responsible for the funds, not the retailers; the administration of these regulations should continue to be in Centrelink's jurisdiction, retailers should not and need not be responsible nor administer someone else's funds, it will simply lead to problems and greater litigation.

b) *Occupation, Safety & Health*

We have a number of concerns in this area as the new harmonisation legislation overall is more prescriptive; involves a far greater administration burden for business; is perhaps too complicated especially for small business; creates a level of uncertainty as to the level and extent of the documentary proof required to support business actions under the proposed regulations. Further comments are as follows.....

- (i) more detailed regulations and compliance requirements
- (ii) complicated consultation duties for employers who work with other employers and share or have concurrent duties of care over people or a job
- (iii) increased penalties
- (iv) increased administration requirements in the form of records about OSH decisions to enable defence of actions taken as the legislation stipulates compliance pathways
- (v) broadening of coverage to include non-traditional employment relationships
- (vi) likely continued jurisdictional differences despite harmonisation efforts

c) *Payroll tax*

Before you register this topic as a State issue we would hasten that you to recall that with the introduction of the GST several other tax items including Payroll Tax were to be removed by the States. In WA, this most certainly has not happened and we would raise this issue at this time. This tax is not only a burden on business but it is a tax that disputes economic sense in that it is a tax against employing people, a tax against business growth, a tax against creating value, meaning and livelihoods within our

communities where our businesses exist. Overall it is directly related to adding to the price at which retailers sell their respective goods and services.

d) *Tax system*

The Australian economy benefited significantly from past reform agendas undertaken by successive governments since the 1970s. These reforms have ensured the Australian economy is flexible, resilient, and increasingly integrated with global markets, and have provided the impetus for almost two consecutive decades of growth, and historically low unemployment.

However, in recent times, productivity growth has slowed and the need for a new economic reform agenda is essential to prepare the nation for future growth against global competition.

Governments at all levels should conduct a review of spending programs, to determine the appropriate level of the tax burden. This Review should identify programs that are no longer relevant, or do not perform a core role of government, as well as determining options for contracting out services that could be provided more efficiently by the private sector, and privatising or consolidating agencies.

Reform within the tax system is urgently needed. The tax system needs to be reviewed so that it has a minimal impact on business and individuals, assists competition, and promotes employment, investment and economic growth.

(i) *Reducing complexity and compliance costs*

Taxation complexity and compliance represent a major drain on the time and finances of all businesses. A complex tax system reduces transparency, can influence decision making, and lead to errors in tax collection.

There are currently at least 125 taxes levied in Australia, with 99 of these levied by the Commonwealth, 25 by the states and territories, and one by local Government. Around 90 per cent of the nation's tax revenue is raised through just 10 of these taxes.

For businesses, the tax framework is made even more complex by the lack of uniformity and overlap that exists between jurisdictions. The complexity of the system is of particular concern for small businesses.

Reform is needed to ensure the system does not add excessively to business operating costs by being overly complex. Reducing the complexity of the tax system is also an important way to lift productivity, by ensuring that resources are directed towards their best use.

The latest PWC Tax Contribution Study revealed that Australian businesses incurred high administrative costs when collecting a range of taxes on behalf of the Commonwealth,

such as GST, excise and PAYG on employee remuneration. The report noted that for every \$1 of taxes survey participants paid, they collected an additional \$1.78 on behalf of government.

(ii) *Personal Income Tax*

With labour shortages ahead, there is a pressing need to reform the personal income tax system. Personal income tax directly impacts on labour, and the nation's ability to attract and retain suitable workers. With labour markets becoming increasingly global, high marginal tax rates undermine the ability of Australian businesses to attract migrants; retain existing workers in Australia; impacts upon the incentives of the current population to participate in the labour force.

To ensure that Australia has a workforce capable of supporting our growing economy, measures are needed to lower the marginal income tax rates and increase the thresholds at which the rates start to apply. To remove the incentive for tax avoidance, the gap between the top marginal rate for personal and company income tax should be closed.

(iii) *Company Tax and Depreciation*

Company tax needs to be adjusted to promote investment, entrepreneurialism and improve the nation's global competitiveness. Australia's company tax rate is currently above the OECD average.

In addition to the rate of company tax, there is also scope to improve depreciation arrangements. The current system is complex, and adds to the administrative burden for many businesses. The complexity arises as the current system provides different arrangements for different types of assets - there are currently 40 different effective depreciation periods provided for 3,700 different assets. These arrangements are particularly burdensome for small businesses.

(iv) *Fringe Benefits Tax*

Reform to the Fringe Benefits Tax is needed to reduce the cost of doing business in Australia, and maintain the nation's international competitiveness. Since its introduction, the FBT has been extended, to the extent that it now encompasses legitimate business expenses rather than fringe benefits to employees. As a result, FBT adds to the tax confusion, increases significantly to business compliance costs, which is of particular concern for small businesses.

As a large proportion of retail employees are female, it is of particular note here that a key reform to FBT would also involve the treatment of childcare, as a strategy to help

boost workforce participation, particularly among women. In addition, the current caps for FBT exemptions should be indexed, to preserve its value over time. The current caps have remained unchanged since 2000, and as a result, its value has been eroded due to the strong growth in wages over this period.

(v) ***Capital Gains Tax (CGT)***

Australia is not competitive on capital gains tax internationally. Reform to, and reduction in the rates of CGT is needed to encourage investment and the promotion of efficient resource allocation to enhance both productivity and international competitiveness.

CGT impedes economic growth and productivity for when an asset or business is sold; CGT detracts from the amount of capital that can be used to reinvest in other more productive assets, generating a much higher return. Relatively high tax rates on capital also discourage the retention of earnings, and in turn lower corporate saving and investment. Another concern with the CGT is that it double-taxes earnings, given that a company's retained earnings have already been subject to company tax.

64. Duplication and inconsistency of regulation between jurisdictions -

The Commission seeks views on the nature and extent of any duplication and inconsistency, the consequences for retail businesses and proposals and a timetable for reform. The Commission is interested, for example, in receiving information about the nature and consequences of jurisdictional differences in the regulations governing the display and sale of tobacco and alcohol products.

As mentioned previously there are currently at least 125 taxes levied in Australia, with 99 of these levied by the Commonwealth, 25 by the states and territories, and one by local Government. Around 90 per cent of the nation's tax revenue is raised through just 10 of these taxes.

For businesses, the tax framework is made even more complex by the lack of uniformity and overlap that exists between jurisdictions. Businesses operating across more than one state are faced with different rules, different tax bases, thresholds and rates in each State and Territory.

Much of the complexity of the current system has arisen from incremental changes, exemptions and policy decisions that have been made to existing legislation. In particular, attempts to make the system more equitable or efficient have made the system overly complex and cumbersome.

Simplification of state taxes is also a key area where reform should be achieved in the short term. Little uniformity exists in the application of many taxes across the States, while the current scales and rates for many taxes are inherently complex.

In order to minimise complexity and improve the fairness of the taxation system, tax scales and thresholds should be simplified. The existence of multiple rate scales for conveyance duty, land

tax and motor vehicle duty increase the complexity of these taxes, and introduce the problems associated with bracket creep.

Bracket creep can also be addressed by indexing thresholds to a reasonable measure of price change. The index should reflect price changes in the tax base – for example, average earnings in the case of payroll tax and personal income tax, property prices in the case of conveyance duty.

65. Has progress in reaching agreement to and implementing, relevant COAG regulatory reforms been adequate? If not, what can be done to facilitate more rapid progress in addressing regulatory cost burdens associated with jurisdictional inconsistencies and overlaps?

The States need to look to harmonise legislation where possible, to reduce the burden on businesses operating across jurisdictions. Harmonisation provides the opportunity for changes to be made which adopt the best elements of legislation in different jurisdictions, and in doing so, greatly reduce the administrative costs for business.

A more consistent approach to tax legislation between States would provide a greater degree of certainty for businesses; reduce the administrative costs for all, including Government. The States have made some progress in this area, after agreeing to harmonise payroll tax administration as part of the COAG agenda for business regulation and competition. While this is a positive step, there is scope to harmonise the definitions and administration for a range of other state taxes such as stamp duties, land tax, and motor vehicle duty.