

Economic Structure and Performance of the Australian Retail Industry

**Productivity Commission
Public Inquiry**

Westfield

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Westfield

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1 Summary of key points

- Retail spending is currently at a low point in the cycle, although there are indications that spending growth is starting to improve. Westfield does not see any evidence to support the notion of a structural change in retail spending.
- Overseas retailers are currently responsible for a very small part of slower sales growth in the domestic retail sector. Online sales from domestic and international retailers have had some impact on bricks and mortar retailers although the impact is very small.
- Online retailing is a significant change to the retail sector and government must recognise the need for change in policy to enable retailers to adapt to the new trading environment.
 - Online retailing cannot be considered a temporary fad or something that will only affect certain parts of the retail industry. It will have implications for all sectors of retail.
 - Government policy must take account of Australian retail competing in a global market place with the subsequent differences in cost structure and trading ability.
 - Australian retailers are disadvantaged in three key areas of GST treatment, restrictive labour laws and restrictive trading hours.
 - Each of these three factors is significant in its own right but in combination they serve to prevent the retail sector from competing on an even footing with online businesses.
 - A competitively neutral system must be a cornerstone of policy. The consequences of further government inaction will have a significant impact on Australian retail on the Australian economy through job losses and reduced tax revenue from foregone GST, lost jobs and failed businesses.
- Online retailing currently accounts for less than 6% of total retail sales. However growth is expected to be significant and rapid. It is possible that online sales in Australia might grow at a faster rate, and to a higher market share, than has been seen in other markets. There are a number of factors that indicate that the internet poses a threat to Australian retail:
 - Online retail is expected to grow by at least 10% per year for the next five years in Australia. Most Western economies have seen online market share grow by 1% per year suggesting that substantial growth could continue.
 - There is little reason why Australia wouldn't follow the growth paths of other markets, especially given the competitive advantage currently enjoyed by overseas retailers selling into Australia.
 - New concepts can emerge rapidly and establish substantial businesses within the retail sector, especially from overseas bases.
 - Many overseas online retailers see Australia as one of their top-five markets for expansion. Current tax legislation makes pricing favourable for sellers into Australia.
 - Some categories of retail have been largely removed from bricks and mortar retail in Australia. It cannot be assumed that some categories of retail will be immune from the threat of online retailing.
 - Commentators argue that the pieces are falling into place for the rapid development of online retail in Australia.
- Australian retailers are at a clear disadvantage to overseas retailers as a result of the high threshold for GST on imports. Westfield supports moves by the government to rectify imbalances and ensure that competition is neutral.
- Many other markets have much lower thresholds for the value of tax-free goods that can be imported, and it seems likely that a similar scheme could be introduced in Australia.
- The price of goods in Australia compared to overseas online retailers is in some cases higher as a result of several factors:

- Labour costs are higher in Australia than in other markets. This adds costs at all stages of the supply chain, including in the cost of retail staff. Labour laws that are organised around retail workers and not around the needs of consumers also puts Australian retailers at a disadvantage when competing with online retailers.
- Duties and taxes, in the form of GST and import tariffs, add significant costs when comparing tax free prices from overseas online retailers.
- Australian retailers pay higher prices for goods when compared to overseas retailers. This is a result of the smaller scale of Australian retailers in negotiating prices with manufacturers; the cost of manufacturing products specifically for the Australian market; higher logistics costs; the presence of a wholesale layer between retailers and manufacturers.
- There is no evidence that retailers make exceptional profits in Australia when compared to comparable overseas retailers.
- There is no significant difference in occupancy cost ratios for comparable space between Australia and other countries.
- Profits made by the shopping centre industry are not excessive and are commensurate with the level of investment and risk involved in providing high-quality shopping facilities.
- Westfield generally supports the leading practices identified in the Productivity Commission's report on Planning, Zoning and Development assessments.
- Activity centres play a crucial role in creating an efficient economy and a fair society. Any moves to strengthen activity centre policies are beneficial.
- The retail sector is amongst the most highly regulated in the world. Continued restrictions on trading hours are to the detriment of the retail sector as a whole. Retailers should be able to choose the hours that they operate without government intervention. However, de-regulation of trading hours must be accompanied by more flexible labour laws to enable retailers to trade for longer hours.
- The reforms to retail tenancies must be pushed forward and allowed to settle before further review.

2 Introduction

2.1 About Westfield

Westfield Group is one of the world's largest listed retail property groups, with interests in 119 shopping centres with almost 24,000 retailers in Australia, New Zealand, the United States and United Kingdom. The company was first listed in Sydney in 1960 and manages all aspects of the ownership, development and management of centres. It is regarded as an innovative and progressive global industry leader.

Westfield Group has interests in 44 shopping centres in Australia and manages 37 of those shopping centres. The Westfield managed shopping centres within the Westfield portfolio contain 9,577 retail outlets.

During December 2010, the Westfield Retail Trust was established as a standalone ASX-listed property trust holding 50% of the interests previously held by Westfield Group in 42 of the 44 Australian Centres. Of the 44 properties, 17 are jointly owned with Westfield Retail Trust, 25 are joint ventures or co-ownership arrangements with both Westfield Retail Trust and other parties and 2 properties are held through joint ownership arrangements with Westfield Group and other parties. Westfield Retail Trust is separately listed and does not form part of the Westfield Group, however Westfield Group provides a range of corporate, property management and development services to Westfield Retail Trust.

2.2 Who owns Westfield?

The Westfield Group currently has approximately 132,000 security holders. This ownership is broad when you consider that only 30 Australian listed entities have more than 100,000 shareholders on their register.

The Group's investor base is split between Institutional Investors who own approximately 75% of the Group and Retail Investors – individuals, companies or privately managed superannuation funds, based primarily in Australia, who own approximately 25% of the Group. Institutional investors comprise both domestic and offshore fund managers who represent the investments of many individuals.

2.3 Shopping Centre Council of Australia submission

Westfield supports the points made by the Shopping Centre Council of Australia in its submission to the Productivity Commission.

2.4 About this submission

Parts of this submission respond directly to questions posed in the issues paper circulated by the Productivity Commission. In this document, those questions are formatted as in the example below.

- ***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?***

3 Trends in retail trade and drivers of structural change

3.1 Structural versus cyclical performance

- ***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?***

As a result of the tougher economic conditions during the Global Financial Crisis, retail spending growth has fallen to a low point in the cycle, although there are signals that spending growth has now turned upwards. Westfield agrees with the Productivity Commission that the decline in retail spending growth is in large part due to an increase in the savings rate which has increased to almost 10% after being at around zero for most of the previous decade. Westfield does not see any evidence to support the notion of a structural change in retail spending.

Australian retail is currently in an abnormal pattern, caused by the GFC and subsequent government stimulus. The injection of cash into households created a higher base for comparison than might otherwise be expected at this stage following such an economic crisis. The slowdown in retail is similar to the cyclical correction following the 1989 recession.

It should be noted that although retail spending growth has *slowed*, overall retail sales have continued to rise, albeit at a slower rate. The Australian retail sector has outperformed comparable Western economies in the post-GFC period.

3.2 Exceptions to cyclical decline

- ***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?***

During low points in the retail spending cycle, discretionary goods usually have lower spending growth than non-discretionary goods.

Some sectors have been affected more severely than others. Book sellers, for example are struggling to compete against significantly lower prices offered overseas. This is continuing despite the Productivity Commission's recommendation that restrictions on the parallel import of books be lifted.

3.3 Volumes versus values

- ***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?***

Westfield agrees with the Productivity Commission's Issues Paper that deflation is a part of the cause of slowing retail sales growth. Falling prices and slower, but positive, sales growth implies that volumes are continuing to grow reasonably strongly. Westfield's own foot traffic measurements support that shopping traffic is continuing to grow. Measures of average spend per visitor as measured by exit surveys have continued to grow. The current strength of the Australia dollar is likely

to be the main cause of deflation. The falling cost of technology products and the increased sourcing of manufactured products from low-cost countries, especially China has also contributed.

3.4 Impact of overseas on Australian online retailers

- ***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?***

Westfield believes that online sales by overseas retailers are responsible for a small part of slowing sales growth in the retail sector. The Reserve Bank of Australia's analysis of banks' card payment data supports this view¹

Online sales as a whole from both international and domestic retailers have had some impact on bricks and mortar retailers, although the scale of these impacts is still quite small in the majority of product categories. Westfield believes that this is not the cause of the current cyclical low in retail spending growth.

It is likely that online retailing will continue to grow, and is likely to follow growth paths set down by other countries.

If price differentiation continues to be as marked between Australia and overseas markets then it is likely that revenue growth will continue to slow in bricks and mortar retailers.

3.5 Structure of the retail industry

- ***How is the structure and character of the retail industry likely to change in the next 20 years?***
- ***What factors are likely to drive changes in the structure of retailing in the next 20 years?***
- ***Which retail models are likely to survive and which are likely to struggle given current industry trends?***

The retail sector is constantly changing and is likely to continue to change. The likelihood is that the sector will remain similar to its present structure but with changes to its overall composition. However, if competition continues to be non-neutral then a more profound change is possible, which is likely to be to the detriment of Australian retailing.

¹ RBA, SOMP, February 2011

4 Online trading: opportunities and challenges

- ***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?***

The Productivity Commission makes a number of suggestions on the reasons for slower uptake of online retailing by Australian retailers.

Westfield agrees that many of the reasons are valid possible causes of slower uptake. There is, however, little evidence to suggest that some factors are more important than others.

The relative quality, range, convenience and accessibility of shopping centres to the majority of Australians has meant that demand has been lower than in some overseas markets.

- ***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?***

Westfield is not a large purchaser of online shopping logistics services. However, in the course of operating the Westfield online business the following observations have been noted.

Low cost or free delivery and returns are a significant factor in shoppers purchasing decisions and logistics costs are therefore a key influencing factor in online shopping growth.

Overseas retailers are able to ship into Australia, and deliver Australia wide, for low costs and in some instances for free. Without knowing the full “end to end” costs of the logistics supply chain, the items’ purchase price and other factors, it is not possible to determine the true logistics costs and overall profitability of the transaction. From a shopper’s perspective however, it appears that it can cost as much to ship a product from Melbourne to Sydney as it does from the UK to a destination in Australia.

Other elements, after cost, that are important to the shopper experience are “visibility” of the order (“track and trace”), reliability of delivery (“on time delivery”), security of packages once delivered and options for “not at home” and “redelivery”.

It is also apparent that the charges levied by some retailers for postage are greater than the actual cost of postage itself, suggesting that a handling charge is added. This is generally not the case with overseas retailer shipping to Australia. Several overseas retailers ship to Australia for free, suggesting that they see shipping as a cost of doing business rather than a cost to be imposed on customers.

If Australian Retailers are to be competitive for shipments both within Australia and for export markets, all of these factors need to be addressed.

- ***How significant is the impact of online trading on domestic retail businesses?***

Online retailing is still a relatively small part of domestic retail expenditure. Westfield's review of available research suggests that overall, online retail accounts for less than 6% of all retail expenditure.

It is not clear that the expenditure online is *replacing* all expenditure that would have ordinarily gone to domestic retail businesses. Many retailers have their own websites and will be taking a good share of the online market. Other pure play Australian retailers should be considered part of the Australian retail industry, whether or not they have physical stores.

Online is another channel for consumers to use, just as mail order, factory outlet centres, bulky goods centres and discount department stores have been new channels in the past. The majority of retailers are now taking the online market seriously and have their own transactional websites or are transacting through third party sites such as Westfield.com.au.

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

Overseas purchases are mainly driven by cost differentials or the ability to buy products not found in Australia. The cost differential is covered in more detail in section 6.

- ***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?***

It is likely that Australia will follow the United States and Europe. It is also possible that online sales in Australia might grow at a faster rate, and to a higher market share, than has been seen in other markets. There are a number of factors that indicate that the internet poses a threat to Australian retail:

- Online retail in Australia is expected to grow at more than 10% per year for the next five years². Most Western economies have seen online retail increase market share by 1% per year in recent years. The small scale of online retailing in Australia now should not be the basis for inaction, as significant changes can occur within the timeframes required to make the necessary reforms.
- There is little reason why Australia would not follow the growth paths set by other markets, especially given the competitive advantage currently enjoyed by overseas retailers selling into Australia.
- Estimates of the market share of online retail in the future are largely simple projections based on recent history. However, new concepts can emerge rapidly and establish substantial businesses within the retail sector, especially from overseas bases. For example, Groupon and its competitors utilise a business model that did not exist before October 2008, and yet now receive billions of dollars of sales worldwide. Facebook is less than seven years old and yet has more than 600 million active users, of which more than 10 million are Australian. It has yet to fully

² Forrester, Australian Online Retail Forecast, 2010 To 2015, January 2011

commercialise the significant opportunity provided by its user base, especially in the retail sector, but this is a clear objective of the organisation.

- Many overseas online retailers see Australia as one of their top-five markets for expansion, which is remarkable given the relatively small size of Australia's population. Current tax legislation makes pricing favourable for sellers into Australia when compared to other markets. Several major overseas fashion retailers report that Australia is one of their largest online markets after Britain and the United States.
- Some categories of products such as books and music have largely been removed from bricks and mortar retail in Australia. Whilst the categories that have been hit hardest have so far been commodity based (i.e. they are fixed products of known specification), there is strong evidence that non-commodity items such as fashion and homewares are growing rapidly, both in Australia and overseas. For example 30% of Australians have bought clothing and accessories online in the last three months³, which is only just behind the 32% that have bought books and ahead of the 24% that have bought music. Clearly it cannot be assumed that some categories will be immune from the threat of online retailing.
- Forrester argue that the pieces are falling into place for the rapid development of online retail in Australia. Firstly, internet access is rapidly increasing and the National Broadband Network will bring high-speed broadband to 93% of Australians. Secondly, the proportion of Australian internet users who shop online is growing at 1% to 2% per year. Thirdly, Australian retailers expect rapid growth. A 2010 survey of Australian retailers found that 70% expected their online business to grow by more than 10% in the year ahead (Forrester)

Online retailing cannot be considered a temporary fad or something that will only affect certain parts of the retail sector. Government policy must take account of Australian retail competing in a global market place with the subsequent differences in cost structure, especially through GST treatment, labour laws and trading hours. A competitively neutral system must be a cornerstone of policy.

Further government inaction will have consequences for the Australian retail sector and the Australian economy.

- ***What new business models might be created by online trading?***

The internet has brought a new dimension to retail due to ease of access, scalability and cross-border market access. New concepts, such as group buying, which were unheard of three years ago, can emerge rapidly.

- ***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?***

This is addressed in Section 6.

- ***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***

³ Forrester, Australian Online Retail Forecast, 2010 To 2015, January 2011

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?

This is addressed in Section 6.

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

A large proportion of the Australian population are currently engaging in online shopping at some point throughout the year, which suggests that online shopping is becoming increasingly mainstream and that the barriers are low for individuals to shop online.

Security concerns remain in all markets but on the whole the public are trusting of online shopping. Westfield's own online business takes security and fraud very seriously and takes responsibility for any purchases that are found to be fraudulent.

- ***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?***

Westfield considers that given the fact that the new Australian consumer law was recently enacted, available data on this issue would be unlikely to provide a basis for drawing reliable conclusions, and this should await the passage of sufficient time when more reliable data is available.

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

See previous answer.

- ***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?***
- ***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?***

Whilst Westfield does not have reliable data on this issue, it is likely, given the nature of the internet and constraints on the effective regulatory reach of Australian laws that there will inevitably be consumer protection issues affecting online retailing from overseas sources which the government has limited ability to address. This risk to online consumers should nevertheless be seen as balanced by any cost advantages they enjoy in making online purchases of overseas sourced goods and services. These are, after all, cost advantages that are available to online consumers in part because of the current failures in government policy and regulation in the areas of taxation, trading hours and labour regulation in providing a level playing field upon which online and bricks and mortar retailers can fairly compete

5 Appropriateness of current indirect tax arrangements

Westfield recognises that Australian retailers are at a disadvantage to overseas retailers as a result of the high threshold for paying GST on imports. Westfield supports any moves by the government to rectify these imbalances.

It is the responsibility of government to ensure that trade is fair and that domestic businesses can compete in a competition neutral environment. This is clearly not the case at present.

Westfield observes that many other markets have much lower thresholds on the value of tax-free goods that can be imported, and it seems likely that a similar scheme could be introduced in Australia.

It is clear that the GST has not adapted to the growth of imported goods that could not have been foreseen at its inception in 2000.

The threat to the government's revenues is not confined to indirect taxes. For example there is much greater flexibility for the operators of search engines to legitimately derive online advertising revenues through offshore jurisdictions that impose the lowest rates of income tax. This is revenue that would otherwise be derived from more traditional media formats that do not enjoy the same flexibility. As such it would have been included as part of the government's taxable revenue base.

- ***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?***

Cheaper prices definitely increase the likelihood of people to shop overseas. A basic assumption can be made that as the differential increases between domestic and international prices the likelihood to purchase overseas increases too. This is a basic function of demand.

It is likely that as pricing becomes closer to parity, the issues faced when purchasing overseas, such as warranty issues, returns issues and longer delivery times, become a disincentive to buy from overseas retailers. The absence of GST on overseas purchases means that the pricing differential is 10% wider than it should be, and so a larger proportion of purchases will be made online from overseas retailers than would be the case if the GST was applied.

With this effect, Australian retailers are certainly affected and put at a disadvantage by the absence of GST on imports under \$1,000.

- ***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?***

Westfield has no evidence on this subject.

- ***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?***

There are certainly revenue impacts, including lost GST, lost company tax and lost tax from employees. Ultimately, the retail sector will become smaller and like any sector that contracts, there will be economic and social disadvantages.

Westfield believes that the Productivity Commission's consideration of this matter would be considerably assisted if Treasury was to make available its own estimates and forecasts in relation to these revenue impacts.

- ***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?***

The issue of evading goods and services tax on international purchases is not unique to Australia. As the Productivity Commission points out in its issues paper, the United Kingdom and Europe have VAT thresholds of around A\$29. Canada has a similar scheme, and like Australia, has a strong currency which makes international purchases appealing. Tax is currently levied on purchases over C\$20 and is collected by Canada Post or other couriers. Westfield understands that couriers, including Canada Post charge an administration fee for processing packages. The United States is also concerned about purchases made interstate from retailers in states that have no local sales tax. Moves are being made to collect tax based on the destination of the package. The California legislature passed a bill aimed at closing the legal loophole that allows Amazon.com and other internet retailers to avoid collecting California sales taxes on purchases made on the internet.

It is apparent that many countries have found reliable solutions to address a large part of this issue. It is not clear why Australia cannot impose and enforce similar schemes. It is also clear that a much lower threshold is workable in practice and that a threshold of \$1,000 is not consistent with other markets. It seems likely that if thousands of companies in Australia are able to cost-effectively process GST, then overseas sellers, border agencies or shipping organisations should also be able process GST in a cost effective way. The processing and administration cost of the GST for Australian businesses is a further expense that overseas sellers are exempt from under current arrangements.

A number of options are worthy of further investigation, such as using credit card companies to collect GST on overseas purchases, enabling a voluntary scheme for overseas sellers that would ensure rapid passage of deliveries through customs, and requiring shipping companies to collect GST as part of their function.

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

Westfield has no data on this subject. Westfield recommends that a review of schemes used in other countries be undertaken by the Productivity Commission as part of this inquiry.

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

Westfield has no data on this subject.

- ***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?***

A zero threshold would be ideal, as many retailers selling books, music and video are competing with international retailers when the majority of products fall below even the thresholds imposed in other countries. Westfield acknowledges that no other countries have found a workable solution to such a threshold and therefore a threshold of around \$20 would be appropriate.

We have noted the suggestion that lowering the threshold would significantly increase administration costs associated with the collection of additional revenue. That suggestion is addressed in the Shopping Centre Council of Australia's submission and we support those comments.

Any scheme should ensure that senders can pay tax when sending packages to Australia, thereby causing no impact on people receiving gifts.

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

No. Duty is payable by Australian retailers when importing goods. To exclude personal imports from duty would continue the current competitive non-neutrality.

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

Yes. If competitive neutrality is to be achieved then intangibles must be included.

6 Cost structures in Australian retail

6.1 Overall costs contributing to final price of goods

This section examines the components of final prices of goods sold by Australia retailers. The broad components are as follows.

- Retail shop occupancy costs
- Labour costs
- Duties and taxes
- Retailer profitability
- Retailer productivity
- Cost of goods
- Effect of exchange rates

6.2 Retail shop occupancy costs

6.2.1 Rents and occupancy costs

Rents in Australian shopping centres are a function of a free market. Westfield and other shopping centre managers are able only to charge rents at a level that retailers are willing to pay. The Productivity Commission examined occupancy costs in its 2008 Inquiry⁴ and concluded that:

“Creating legislative limits or controls on occupancy costs would impede the efficiency of the market.”

It also found that:

“There appears to be little evidence that the current process of negotiating occupancy costs is constraining the efficient operation of the market for retail tenancies. It is unlikely there would be net community benefits from attempts to further regulate occupancy costs. The conditions that govern business operations, in particular the cost of tenancy within shopping centres and other retail formats, should remain a matter negotiated between tenants and landlords.”

Rents per square metre paid by retailers vary based on a number of factors, even within an individual shopping centre. Major tenants, such as supermarkets and department stores pay lower rents per square metre, but they also contribute more capital to the construction of the store, take longer term leases, up to thirty years in some cases, and take much larger stores. They also offer a point of difference to the shopping centre and so have a stronger negotiating position. Major stores bring foot traffic from which specialty stores benefit.

⁴ The Market for Retail Tenancy Leases in Australia, pp. 151-152.

6.2.2 Westfield's data on rents and occupancy costs

The table below shows comparable metrics for Westfield's shopping centre portfolios in Australia, the United States and the United Kingdom

Table 1 - Comparison of Westfield's shopping centres in different countries

Country	Rents per square metre (Dec 10) in local currency	Rents per square metre (Dec 10) in A\$ at current exchange rates ⁵	Rents per square metre (Dec 10) in A\$ at long term average exchange rates ⁶	Total retail floorspace per capita (sq-m) ⁷	Turnover per square metre of specialty stores ⁸	Occupancy cost ratios on a comparable basis ⁹
United States	US\$629	A\$586	A\$830	4.2	US\$4,498	16.2% ¹⁰
United Kingdom	GBP825	A\$1,270	A\$1,857	1.3	n/a	n/a
Australia	A\$1,428	A\$1,428	A\$1,428	2.1	A\$8,920 ¹¹	17.6%

A number of points are evident from this data:

- Based on Westfield's portfolio, rents per square metre in Australia are higher than the United States but lower than the United Kingdom, when compared using long term average exchange rates. (The current high value of the Australian dollar is misleading when making international comparisons so a long term average rate has been used.)
- Rents are a function of the availability of retail floorspace in each market. The United States has lower rents but approximately double the floorspace per capita of Australia. The United Kingdom has higher rents than Australia but about 40% less floorspace per capita than Australia. Australia has taken the middle ground between the US and the UK in providing neither too much nor too little floorspace.

⁵ US\$1.0735 = A\$1, GBP0.6495 = A\$1 (31 May 2011).

⁶ US\$0.7582 = A\$1, GBP0.4442 = A\$1 (ten years to 31 May 2011).

⁷ Urbis.

⁸ Both exclude sales taxes for comparability. The Australian figure of A\$9,724 was reported in December 2010 with GST included. US figures have been converted from square feet to square metres.

⁹ Note that occupancy cost ratios cannot be calculated from rents and turnover figures presented in this table, as outgoings recoveries, which form part of occupancy costs are not shown. Australian speciality store occupancy costs usually include stores up to 400 square metres whereas specialty occupancy cost ratios in the United States include all stores up to 20,000 square feet (approximately 1,858 square metres). In this case, Australian occupancy cost ratios have been presented using the same methodology as the United States to give a more meaningful comparison. The figure published in Westfield's December 2010 Results Presentation, which did not use the United States methodology, was 18.2%.

¹⁰ United States occupancy cost ratios are usually presented for comparable stores (i.e. stores that have traded for 12 months or more) whereas Australian figures use all stores. In this case the US number has been presented for all stores. The figure published in Westfield's Results Presentation was 16.0% (December 2010).

¹¹ Westfield includes GST in specialty stores sales per square metre for external disclosures in line with the Shopping Centre Council of Australia's guidelines on turnover reporting. However, due to the variation in taxes by state in the US, in this case, specialty turnover per square metre is presented excluding GST.

- The ratio of occupancy costs to sales, when compared on a consistent basis, is broadly similar in the United States and Australia. This is explored further in section 6.2.3 below.
- The table also shows productivity levels as turnover per square metre of floorspace. Productivity in Westfield's Australian malls is 98% higher than in its US malls at parity exchange rates.

6.2.3 Occupancy costs as a percentage of sales (occupancy cost ratios)

Due to a lack of consistent data on the subject, a variety of views have been put forward on the difference between occupancy cost ratios in the US and Australia. It is often claimed that Australian retailers in shopping centres pay a much higher proportion of sales to occupy a space than in other markets, especially when compared to the United States.

Westfield believes that comparing two similar portfolios of prime regional shopping centres is a more suitable way of understanding the differences. There are many poor performing regional centres in the United States, with high levels of vacancy, low customer traffic and low turnover per square metre performance. This is virtually unheard of in Australia and so averages between the two countries are not directly comparable.

Westfield's own market measures, which are publicly available as part of releases to investors, show that the occupancy cost ratio is 16.0% in the United States and 18.2% in Australia and New Zealand combined, a difference of 2.2%¹² at December 2010. However, the methods used to calculate these vary from country to country for historical, market and regulatory reasons. Westfield complies with the recommendations made by the shopping centre industry in each market.

When occupancy cost ratios are compared using an identical methodology the difference between the two ratios is just 1.4%¹³. This is a small gap and demonstrates that retailers in both markets pay around the same proportion of their sales to occupy retail spaces.

The ratio has varied over time and the gap is currently at one of its widest levels. The table below is from Westfield's own published data. Note that the methodologies used in both markets are different. When comparable methodologies are used for both markets the gap in 2010 was just 1.4%.

Table 2 - Historical occupancy cost ratios in Westfield centres

Year	United States	Australia & New Zealand	Difference
2010	16.0%	18.2%	2.2%
2009	17.3%	17.7%	0.4%
2008	16.3%	17.2%	0.9%
2007	14.7%	16.6%	1.9%
2006	13.9%	16.2%	2.3%
2005	13.5%	15.6%	2.1%
2004	13.7%	15.3%	1.6%

¹² From Westfield's Results Presentation December 2010

¹³ Includes mini-majors in Australia, as the US includes stores up to 20,000 square feet. Both calculated excluding sales taxes and for all stores.

Whilst there remains a difference in occupancy cost ratios of 1.4% between the two countries, this is largely explained by differing productivity levels. At parity exchange rates, productivity in the Australian portfolio is 98%¹⁴ higher than in the US portfolio. Higher productivity translates to higher margins and higher profit, and in competition for the best shops retailers are prepared to pay higher rents as a percentage of sales.

Westfield acknowledges that occupancy cost ratios have risen in the last two years, largely due to a slowdown in consumer spending following the GFC. Urbis's¹⁵ series shows that occupancy cost ratios have increased gradually since 2007/8. This has largely been caused by the current cyclical slowdown in consumer spending. Westfield has experienced similar cyclical slowdowns before. Such slowdowns have usually been followed by a marked increase in spending which has then moved occupancy cost ratios back to the norm, as rents do not grow at the same rate as consumer spending during high period of spending growth. The table above demonstrates this: In the United States during the worst of the GFC in 2008 and 2009 occupancy cost ratios rose. As retail sales rebounded in 2010 the occupancy cost ratio began to fall. In Australia Urbis note that occupancy cost ratios for all regional centres fell from 15.6% in 2001/2 to 15.1% in 2003/4. This coincided with a period of stronger retail sales growth following subdued growth after the introduction of the GST.

Whilst many comparisons involve the United States and Australia there is also strong evidence from other markets that Australian occupancy cost ratios are not high by international standards:

- Urbis¹⁶ notes that occupancy cost ratios in Canada are higher than Australia for regional malls based on the occupancy cost ratios of Ivanhoe Cambridge's shopping centres in Canada.
- Green Street Advisors estimate that Capital Shopping Centres' occupancy cost ratio in its large UK portfolio is roughly 25%¹⁷. A similar report estimates that the occupancy cost ratio of Hammerson's UK centres is 23%¹⁸.

6.2.4 Profitability of the shopping centre industry

Rental levels must be considered not just in an international context but against the returns on investment received by investors in the sector. Rents form a large part of the return that an owner gets from investment in a shopping centre.

Whilst rents are higher per square metre in Australia when compared to the United States, the cost of land, construction, operating and investing in shopping centres is also higher. In Australia, regional centres are typically located at the nodes of public transport and on smaller parcels of land in highly urbanised areas. Thus structures are multi-level with often both underground and decked parking structures. This contrasts physically with typical US regional malls that are generally located on large land plots at the junction of major freeways with substantial parking provided on grade.

¹⁴ Standard definitions of specialties in both markets, excluding mini-majors, and excluding sales tax in both markets. Dollar set at parity.

¹⁵ Urbis letter to Shopping Centre Council of Australia 29 April 2011, page 3

¹⁶ Urbis, email correspondence to Westfield.

¹⁷ "Capital Shopping Centres, Benchmarking Tenant Occupancy Costs", Green Street Advisors, 12 August 2010"

¹⁸ "Hammerson", Green Street Advisors, 22 February 2010"

The capitalisation rate is an indication of the income return that an investor would expect for owning or developing a shopping centre. Westfield publishes the capitalisation rate of its shopping centres in Australia and overseas. These returns on capital invested are not excessive given the risks associated. Shopping centre investment requires huge amounts of capital that most usually requires investment through partnership or syndication.

Table 3 - Capitalisation rates of Westfield centres

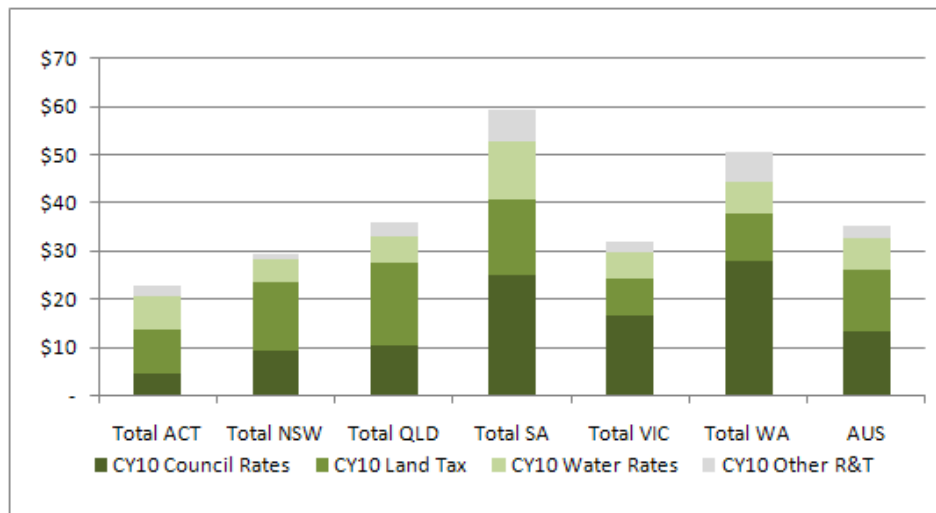
Country	Weighted average capitalisation rate of Westfield centres (Dec 10)
United States	6.5%
United Kingdom	5.9%
Australia	6.0%

Although failure of shopping centres is very uncommon in Australia, there are risks in ownership and development. The recent example of Centro demonstrates that even for large companies, considerable skill is required to get effective returns for owners. Likewise, individual centres such as Top Ryde and Fox Studios in Sydney have struggled to provide effective returns for owners. For many years Robina on the Gold Coast was a poorly performing centre, and it is only with massive further capital investment that its fortunes have been transformed.

6.2.5 Operating expenses and statutory charges

Operating expenses vary from state to state with no clear justification. The chart below shows the statutory charges imposed on Westfield shopping centres per square metre.

Table 4 - Rates and taxes charged to Westfield centres by state (\$ per sq-m)

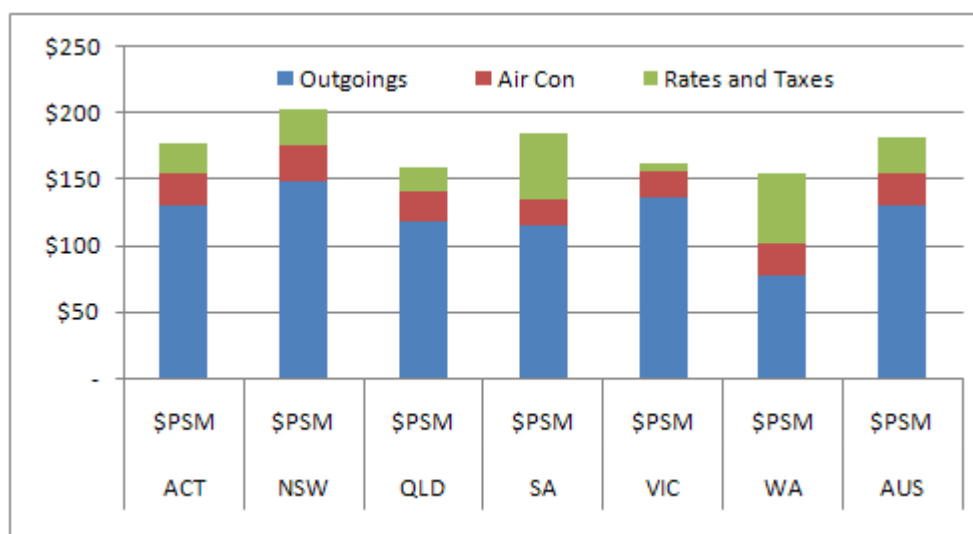


Statutory charges are much higher in some states. For example, South Australian specialty retailers paid \$50.27 per square metre compared to \$26.67 nationally. In Western Australia the figure is \$52.72. The charges in South Australia and Western Australia add \$25 per square metre to occupancy costs compared to some other states.

Westfield, and the retailers within its centres, contribute \$91.2m in rates and taxes each year.

The amount contributed by retailers is shown in the chart below. In Western Australia, almost one-third of retailers' outgoings are on government rates and taxes.

Table 5 - Outgoings charged to retailers by state (\$ per sq-m)



6.2.6 Outgoings per square metre

The table below shows outgoings per square metre contributed by retailers in Westfield's Australian, New Zealand, United Kingdom and United States portfolios. Despite high rates and taxes in Australia, outgoings are relatively much lower in Australia than in the United States, and significantly lower than the United Kingdom.

Table 6 – Outgoings including rates and taxes per square metre in Westfield centres by country

Country	Outgoings per square metre (local currency)	In Australian dollars (current exchange rate) ¹⁹	In Australian dollars (long term exchange rate) ²⁰
Australia	A\$188	A\$188	A\$188
United States	US\$310	A\$289	A\$409
New Zealand	NZ\$267	A\$205	A\$227
United Kingdom	GBP264	A\$407	A\$595

6.2.7 Outgoings in other forms of retail

According to the Property Council of Australia²¹ benchmarks on NSW operating costs for 2010, statutory expenses (rates and taxes) for bulky goods stores are \$11.34 compared to \$29.94 for regional shopping centres.

Total operating costs in NSW are \$146.64 per square metre for regional centres and \$49.31 per square metre for bulky goods centres. However, it is not reasonable to compare regional shopping centres to bulky goods centres. Shopping centres may have in excess of 20 million visitors per year

¹⁹ US\$1.0735 = A\$1, GBP0.6495 = A\$1, NZ\$1.2998 = A\$1 (31 May 2011).

²⁰ US\$0.7582 = A\$1, GBP0.4442 = A\$1, NZ\$1.1774 = A\$1 (ten years to 31 May 2011).

²¹ Benchmarks 2010, Survey of Operating Costs, Shopping Centre Council of Australia. Bulky goods benchmarks are only available for some states so NSW has been taken as an example.

versus 2 million to a typical bulky goods precinct. This volume of traffic requires additional cleaning, security, maintenance and management. Furthermore, shopping centres are usually built over multiple levels, requiring escalators and lifts.

6.2.8 Rents as a driver of property development

The shopping centre industry is a balanced market. The supply of space has provided a good service to the consumer. Rental levels are part of the balance required for developments to proceed in an orderly manner, and this would be expected to continue.

Property developments contribute a great deal to the community. A good example is Westfield Plenty Valley, which is discussed further in section 7.3.

6.2.9 Regulation of the industry as an increase of cost

The shopping centre industry in Australia is amongst the most highly regulated in the world. This inevitably leads to higher costs for owners, managers, retailers and the public through higher public compliance and administrative costs. For example, inconsistencies in retail tenancy laws between states create additional administration.

6.3 Labour costs

- ***How have retailers responded to changing demand conditions in regard to staff employment?***
- ***What are the current impacts and likely future impacts of the growth of online shopping for employment, including regional employment, in the retail industry?***
- ***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?***
- ***What are the current and future implications of the growth of online shopping for skills development and training requirements in the retail industry?***
- ***What are the major pressures driving wage costs and to what extent are productivity improvements offsetting the effects of wage increases?***
- ***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?***
- ***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?***
- ***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?***
- ***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?***

6.3.1 Minimum wages by country for all workers

The minimum wage for all workers in Australia is one of the highest in the world, and is 110% higher than the United States. The prices of goods in Australia are increased by higher wages at all points of the supply chain, not just with retail employees.

Table 7 - Minimum wages by country

Rate for adult workers May 2011	Hourly rate in local currency	Hourly rate in AUD
Australia (AUD)	14.31	14.31
New Zealand (NZD)	13.00	9.69
United Kingdom (GBP)	5.93	9.06
Canada (CAD)	8.80	8.50
United States (USD)	7.25	6.82

Note: Canadian minimum wage varies between province ranging from \$8.80 to \$10.00

Source: Urbis, Fair Work Australia, HMRC, US Department of Labor, NZ Department of Labor

6.3.2 Retail award wages and penalty rates

The wage rates in the Modern Retail Award are higher than the minimum wage. Penalty rates further increase the cost of labour for retailers in Australia, to the point where it becomes uneconomic to trade at certain periods. Late night trading is uneconomic for many retailers because of penalty rates. Compare, for example, retail and penalty rates in the United States and Australia.

Table 8 - Retail award wages and penalty rates in Australia and the United States

Rate	Australia (based on retail award with 70:30 split fulltime:casual)	United States (based on minimum wage) ²²
Standard time	A\$17.30	US\$7.25
Standard overtime starts after	38 hours	40 hours
Overtime	A\$25.95	US\$10.88
After 6pm	A\$21.63	US\$7.25
Sundays	A\$34.60	US\$7.25 ²³
Public holidays	A\$43.25	US\$7.25

Retailers that wish to trade beyond 6pm in Australia find that the hourly rate paid to retail staff is nearly three times higher than in the United States. This is problematic as a proportion of retail sales lost to online retailers would be because of the lack of late night trading options. It is likely that late night trade would draw back a proportion of the sales lost to online retailers (say 50% of the 6% currently going online), and so could grow retailers' sales by 3%. However, it is unlikely that this would be economically feasible because of high labour costs. Labour laws also preclude retailers from hiring staff to work later shifts specifically in the evenings.

²² Varies from state to state but this is representative.

²³ Sunday penalty rates apply if the employee does not usually work on Sunday and vary from 0% to 50%. It is likely that most retailers would employ staff specifically to work on Sundays.

The retail labour market is organised around worker and not the consumer. Ultimately the consumer will decide on the most convenient channel to shop and the domestic bricks and mortar retailer sector will adjust accordingly, resulting in fewer retail jobs in the long term.

6.3.3 Incentivizing staff

The high minimum labour cost precludes retailers from rewarding the best and most productive staff. This is a restraint on retailers' abilities to optimise resources in their businesses. Many retailers would like to offer incentives but the already high basic wages prevent them from doing so.

6.3.4 Labour as a percentage of sales

Labour costs in Australia represent a greater proportion of total sales than that reflected by other international retailers. This finding is consistent with the fact that the Australian minimum wage is 48% higher than the next comparable country. Labour costs account for between 14% and 17% of sales for Myer and David Jones, whilst they only account for 10% of Marks & Spencer's sales. Note it is not possible to ascertain the ratio of employee cost to sales for American retailers as they are not required to report labour costs in their financial reports.

6.4 Duties and taxes

As discussed in section 5, GST on purchases adds 10% to the overall cost. However, retailers who import goods into Australia also pay a 10% tariff on clothing imports, further adding to the final cost. Although the tariff is applicable only to the wholesale price, on the basis of retail prices being double wholesale prices, it remains an additional 5% tax that must be paid by consumers. Online shoppers buying in Australia can avoid such taxes when buying from countries that have lower tariffs. It appears that Australian manufacturing jobs may be protected at the expense of Australian retail jobs.

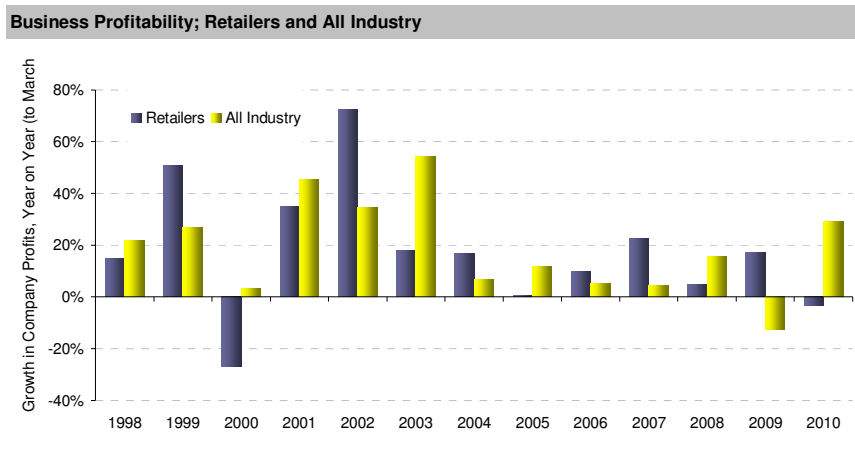
As previously mentioned, the issue of taxes on consumption in relation to online sales is affecting many jurisdictions. The absence of VAT on many orders from the UK gives the impression that prices in the UK are about 20% lower than prices in Australian shops. This is misleading, in that the VAT free prices are only applicable to overseas buyers and prices in shops are much higher. However, for many Australian shoppers who compare overseas prices to Australian prices it gives the appearance that prices in Australia are significantly higher than overseas.

6.5 Retailer profitability

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

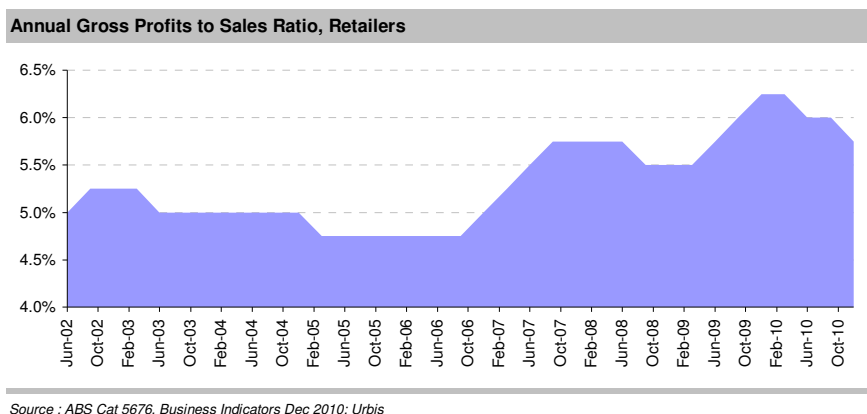
Some sectors of retail have less predictability than others. Clothing, for example, is dependent on external factors such as weather and the appeal of seasonal fashions. The chart below shows that retail profits do not necessarily move in step with other sectors of the economy.

Table 9 - Historical growth in company profits for retailers versus other businesses



The chart below shows that retailer profits have increased slightly since 2007, but only by about 1%. The strength of the Australian dollar is likely to be a key factor.

Table 10 - Historical profitability of retailers in Australia



The table below provides a summary of the net profit margins for a select group of publically listed retailers. This limited sample of some of Australia's largest retailers does not appear to support the claim that Australian retail companies are enjoying higher profit margins than their international counterparts. In fact, from the sample below none of the Australian retail firms could be claiming to make super profits.

JB Hi-Fi in this instance is an interesting case study. JB Hi-Fi has one of the highest floorspace productivity levels of any company in Australia at \$23,921²⁴ per sq.m but the company only reported net profits of 5.8% in 2009 and 6.2% in 2010. Therefore, it is likely that the main impediments towards the company achieving higher profits are in fact its ongoing operating expenses (labour) and the high cost of sales (wholesale and distribution).

Table 11 - Retailer net profit margins - selected international public companies (Source: Urbis)

	Australia	Net Profit Margin	United States	Net Profit Margin	UK / Europe	Net Profit Margin
Food & Grocery	Coles	3.2%	Costco	4.0%	Tesco	5.4%
	Woolworths	7.2%	Wal Mart	5.9%	Carrefour	3.2%
			Sam's Club	3.2%		
			Dollar General	9.0%		
			Kroger	1.4%		
Department Store	Myer	8.2%	Macy's	7.6%	Debenhams	7.1%
	David Jones	10.1%			Selfridges	9.1%
Discount Dept Store	Target	9.9%	Target	8.6%	M & S	7.3%
	Kmart	4.9%	Scars	0.9%		
	Bg W	4.8%				
Clothing	Premier Investments	10.1%	Gap	14.7%	Frimark	8.1%
	Country Road	6.3%			Zara	15.5%
	Michael Hill	4.8%			Next	13.1%
					H&M	22.7%
Electronics	JB-Hi Fi	5.8%	Best Buy	4.5%		
Other	Reject Shop	6.9%	Staples	3.0%	Laura Ashley	4.1%
			Lowes	9.8%	Foots	6.4%

Source : Annual Reports, Peter Shephard Research; CIM Investment Research & Analysis; Urbis

- **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?**

It is likely that the cost of goods to retailers will always be higher than for overseas retailers. This is likely to mean that prices to consumers will also be higher. Retail profits in Australia are not high by international comparison

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

Retailers may possibly lower margins to compete with online retailers. However, with differentials in pricing caused by different tax treatments, retailers may struggle to meet prices from retailers overseas.

²⁴ Urbis

6.6 Retailer productivity

- *What have been the main factors driving recent productivity trends in the retail trade?*
- *How has productivity performance differed across the various retail sectors?*
- *How does productivity in retailing in Australia contrast with comparable best practice overseas retailers?*
- *What are the productivity trends overseas in different sectors and how do they compare with Australian experience?*
- *What factors, if any, inhibit Australian retailers from achieving overseas best practice labour productivity benchmarks?*

Westfield has limited information on this subject. The last decade has seen many retailers vertically integrate their operations from manufacturing through the shops. This has led to better management of costs and has increased productivity.

6.7 Cost of goods

Westfield has limited information on the prices charged to retailers for goods purchased. In general this information is not available on a detailed basis to draw conclusions across the whole retail sector. Westfield notes that some submissions already made indicate that a number of factors drive the cost of goods. The following points are important to note:

- The scale of Australian retailers is smaller than overseas counterparts, which means that they cannot achieve the same economies of scale when buying from manufacturers.
- Australian products often require features unique to the Australian market such as power supplies or other forms of compliance. It is more expensive for manufacturers to make small runs of products purely for the Australian market than it is to make large runs for the US market.
- Further compliance costs are created because of Australia's world leading practices in health and safety of products.
- Logistics costs are also more expensive in Australia. Westfield understands anecdotally that many ships bringing imports to Australia leave with limited cargoes, thus increasing the cost of shipping to Australia.

Anecdotally, Westfield understands that in some sectors, such as cosmetics, manufacturers set prices at a much higher level for Australian retailers than their overseas counterparts. This results in much higher prices for Australian consumers.

6.8 Effect of rising Australian dollar on prices

In a perfect market, a rise in the value of the Australian dollar relative to the US dollar should see cost savings passed on to retailers and then consumers. However, the dollar fluctuates and importers must account for possible changes. Anecdotal feedback from retailers suggests that the price of imported goods is generally hedged and rapid increases in the value of the Australian dollar are not rapidly accommodated. This has created an artificial position where many overseas retailers appear to be selling at significantly lower prices. Much of the gap would be explained if price comparisons were calculated with the Australian dollar at its long term average of US\$0.76, and GST were added. This would add more than 50% to the price of overseas items and would narrow or even reverse the gap in prices.

6.9 Wholesaler structure

Wholesalers form a further layer of cost within many sectors of Australian retail. Whilst major overseas retailers are able to source directly from manufacturers, Westfield understands that many retailers have to buy through local wholesalers and distributors, further increasing the cost to the consumer. It is a fact that many retailers do not have the scale to operate their own negotiation and buying functions as is the case with larger retailers in the United States and Europe.

Westfield's impression is that wholesale prices were set when the Australian dollar was at a much lower level, and that the benefits resulting from appreciation of the Australian dollar have not been passed on to consumers. A recent example where cost savings were passed on was bicycle manufacturer Giant unilaterally lowering recommended prices in Australia by a significant percentage, ostensibly in response to the appreciation of the dollar. However many manufacturers, in many sectors seem to have regarded the current value of the dollar as an aberration and have not adjusted prices accordingly. Whilst some hedging is known to take place against fluctuations in the exchange rate, it is likely that the strength of the Australian dollar should now be reflected in prices.

7 Planning and zoning regulation

- *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?*
- *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?*
- *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?*

7.1 Findings from Productivity Commission draft report

Westfield generally supports the leading practices identified in the Productivity Commission's report into Planning Zoning and Development Assessments²⁵, in particular the support for strengthening and enforcing activity centres as retail centres. Westfield supports moves to create equity in the planning system through enforcement of activity centres policy.

7.2 Benefits of retail activity centres

A small number of retailers, whose business model is not ideally suited to location in activity centres, decry the policy of activity centres. It is easy to focus on the needs of a minority of retailers, but the benefits of activity centres are vast.

Activity centres provide a hub for concentration of activity, which benefits the community as a whole though more efficient provision of public transport etc. Westfield will provide a report prepared by planning experts SGS that explains the benefits of activity centres. In summary, the benefits of activity centres are:

- More sustainable travel including:
 - Reduced passenger Vehicle Kilometres Travelled (VKT) per year per capita.
 - Greater physical activity.
- Enhanced agglomeration economies including:
 - Labour productivity enhancement.
 - Increased human capital.
- Concentrations of development density leading to:
 - Greater housing diversity.
 - Efficient utilisation of infrastructure and resources.
 - Avoided consumption of rural and agricultural land.
- Social sustainability through:
 - Creating a sense of place and meaningful connection with the community.
 - Promoting the development of 'social capital' and community collaboration.
 - Affecting our perceptions of safety and danger.
 - Influence our physical activity and mobility.
 - Promoting interaction and socialising amongst residents.
 - Developing a positive sense of empowerment and self confidence - especially amongst the elderly and disabled.
 - Providing access to services and employment for people without private vehicles.

²⁵ Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments

These benefits directly address the challenges faced by Australia's major cities and contribute towards the Council of Australian Governments (COAG) objective of making our major cities more productive, sustainable and liveable.

By encouraging development that supports the concentration of services, employment and population within a hierarchy of activity centres, activity centres policies provide the framework through which these benefits can be realised.

7.3 Shopping centres contributing to community

An overriding consideration in maintaining a robust physical retail environment that can continue to grow and flourish in Australia is that the retail sector is one of the country's largest employers. The Retail Employers Superannuation Trust (REST), established in 1988 is today Australia's largest superannuation fund by membership, with over 1.9 million members and more than 18 billion of funds under management.

Shopping centre developments provide a wide range of services to the community that would otherwise have to be provided by government. Shopping centre owners are one of the largest private sector contributors to community facilities.

An example is Westfield Plenty Valley in the northern growth corridor of Melbourne. Westfield's development contributed the following:

- \$200m investment in the construction of the centre, comprising 145 specialty stores and 5 major tenancies servicing and benefiting the broader community.
- Created provisions for 1,800 new positions within the growth corridor.
- \$18m investment in road infrastructure benefiting the broader community.
- \$2.6m investment in the community centre facility benefiting the broader community.
- \$2.1m investment in purchasing land from Investa to facilitate the construction of Bush Boulevard.
- \$18m investment in land swaps for the creation of road infrastructure, land for conservation reserves and associated facilities and consultants expenditure.
- \$300,000 investment in development of the Development Plan for the DPO8 area.

In addition, planned future expenditure, subject to board approval includes:

- \$4m investment to complete the Bush Boulevard extension benefiting the broader community.
- \$400,000 investment to complete the conservation reserves and recipient sites in additional infrastructure, ongoing management, planting, translocation of lilies etc.
- \$1.2m in completing the Development Plan and Planning Permit for Stage 3.
- \$150m investment in the construction of the further expansion of the centre.
- Creating provision for a further 1,000 positions within the expanded centre.

7.4 Planning legislation in other countries and impacts

7.4.1 Comparisons between countries

The three countries of Australia, United States and United Kingdom have varying levels of planning regulation affecting retail development.

- The United States has the least regulation and consequently has the highest level of retail floorspace per capita.
- The United Kingdom has the highest level of regulation and consequently has the lowest level of floorspace per capita.
- Australia has a level of regulation in between that of the United States and United Kingdom and levels of floorspace per capita are consequently in between.

7.4.2 Productivity of invested capital

It is clear that a lack of planning regulation in the United States has led to an oversupply of retail space. This had led to the closure of large numbers of malls. In fact mall closures are so commonplace in the United States that a website (www.deadmalls.com) contains descriptions and photographs of almost 400 malls that no longer function or are severely limited in function. This is virtually unheard of in Australia.

This is clearly a terrible waste of economic productivity. Malls are difficult to convert into other uses. Whilst rents are lower in the United States there is a huge economic cost associated with the oversupply of retail floorspace.

Urbis²⁶ notes that a conservative estimate of the level of floorspace in defunct malls is 14 million square metres. At a construction cost in today's dollars of US\$6,000 per square metre this amounts to US\$84bn of wasted productivity.

Similarly, vacant stores are effectively fallow economic capacity and an indication of lower vibrancy. Higher vacancy rates are not to be desired.

Vacancy rates are significantly higher in the United States. In Westfield's portfolio unleased stores make up less than 0.5% of Australian centres, but 5.9% of centres in the United States. Westfield's US portfolio is of high quality, with lower than average vacancy rates. Reuters²⁷ reported in 2010 that vacancy rates in large US shopping centres overall were at 9%. This equates to 50 million square metres of unoccupied space in the US, which is about two and a half times the area of all shopping centres in Australia. In economic terms this amounts to approximately US\$300bn of constructed space that is currently serving no purpose. Unproductive malls also create social issues such as increased crime.

As has been noted, occupancy cost ratios in the United States are similar to Australia. It is clear that a free market approach to planning and shopping centre development does not lead to lower costs for retailers. In fact it leads to increased business risk and wasted capital, for retailers, shopping centres owners and consumers.

²⁶ Urbis private report for Westfield, May 2011

²⁷ <http://www.reuters.com/article/2010/07/07/usretailproperty-idUSN0610302020100707>

8 Retail trading restrictions

- *How do retail trading restrictions impact on the flexibility of retailers to respond to changing consumer preferences?*
- *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?*
- *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?*
- *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?*
- *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?*
- *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)?*
- *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?*
- *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?*

8.1 Overview of trading hours

Restrictions on trading hours impact the flexibility of retailers to respond to changing customer needs. The restrictions cause many problems on social, economic and productivity dimensions.

Westfield believes that deregulation of trading hours across all states will increase the total level of retail expenditure made in Australia and will help to avert retail expenditure leaking to online retailers, both within Australia and overseas. It will provide greater choice and convenience to consumers and will increase the productive capacity of retail space.

However, it should be noted that a change of regulation alone will not be sufficient to create extended trading hours into the evening due to labour laws and penalty rates. In the face of increasing online shopping, late night trading would provide a good alternative to the internet. Furthermore, billions of dollars of retail capital investment sit idle in the evenings, weekends and on public holidays due to governments intervening in determining trading hours.

8.2 Evidence for the benefits of deregulation

A report prepared by ACIL Tasman²⁸ in 2006 to investigate the benefits of extended trading hours found that:

- States and Territories that have liberalised trading hours have typically experienced higher overall retail sales growth per capita.
- Local economies also benefit from extended trading hours through increased consumer spending, greater retail sector investment and enhanced employment opportunities.
- Retail spending is influenced by the opportunities afforded to local populations to spend. Positive spin-offs for local economies include: increased retail sector investment, job creation, enhanced tourism, and attraction of skilled migrants

8.3 Trading regulations

There are four categories of regulation at present:

- Totally deregulated (ACT and NT) where no regulations are present. Most stores continue to close on Christmas Day, Good Friday and the morning of ANZAC day.
- Effectively deregulated (VIC and TAS) where the only regulations apply to the 2½ days outlined above.
- Lightly regulated (NSW) where shops are closed for an additional two days on Boxing Day and Easter Sunday
- Heavily regulated (QLD, SA and WA), where shops are closed for up to 12 days as outlined in the chart below. In addition, regulations are in place restricting trading hours

Table 12 - Public holiday trading restrictions by state

	Christmas Day	Good Friday	Anzac Day	Boxing Day	Easter Sunday	Labour Day	New Year's Day	Australia Day	Easter Monday	Easter ⁷ Tuesday	Queen's Birthday	Other	Total Compulsory Closed Days
ACT	Open ¹	Open ¹	Open ¹	Open	Open	Open	Open	Open	Open	Open	Open	Open	Nil
NT	Open ¹	Open ¹	Open ¹	Open	Open	Open	Open	Open	Open	Open	Open	Open	Nil
TAS	Closed	Closed	Closed ²	Open	Open	Open	Open	Open	Open	Open	Open	Open	2½ Days
VIC	Closed	Closed	Closed ²	Open	Open	Open	Open	Open	Open	Open	Open	Open	2½ Days
NSW	Closed	Closed	Closed ²	Closed ³	Closed ⁴	Open	Open	Open	Open	Open	Open	Open	4½ Days
South-East QLD	Closed	Closed	Closed	Open	Closed	Closed	Open	Open	Open	Open	Open	Open	5 Days
WA	Closed	Closed	Closed	Open ⁵	Closed	Closed	Closed	Closed	Closed	Open	Closed	Closed Foundation Day	10 Days
SA	Closed	Closed	Closed	Closed ⁶	Closed	Closed	Closed	Closed	Closed	Closed ⁸	Closed	Closed Adelaide Cup Day	12 Days

KEY:

1. Trading hours are not regulated in the Territories but large shops close voluntarily on these days and on the morning of Anzac Day
2. Trading permitted on the afternoon of Anzac Day
3. Except for Sydney CBD, Newcastle CBD, Cabramatta and tourist areas. Shops in other areas can apply for exemptions but these are rarely granted
4. Except for a small number of retailers with 'grandfathered' exemption certificates. Shops in other areas can apply for exemptions but these are rarely granted
5. WA Government permitted trading on this day in 2010
6. Proclamation Day in SA
7. Special holiday gazetted for 2011 only
8. Limited trading permitted in Adelaide CBD only

Shopping Centre Council of Australia: May 2011

²⁸ ACIL Tasman, Review of Trading Hours in South Australia, 2006

8.4 Restriction of fair right to trade

Restrictive trading hours limit retailers' ability to trade freely to maximise their sales and profits, and so adds unnecessary risk to running a retail business. Retailers, like any business, should be allowed to decide when it is economically sensible for them to trade. No other industry in Australia has its hours of operation regulated so closely by government.

8.5 Comparison to major cities overseas

Most major international cities of the scale of Australia's state capitals have late night retail trading. It is disadvantageous for Australia's tourism industry to have cities effectively closed after 6pm, which is particularly problematic given current challenges faced by the tourism industry.

This also has consequences for the vibrancy and safety of retail districts in major cities.

8.6 Impact on retail sales

A common misconception is that the pool of money to be spent on retail is a fixed sum and that money not spent when shops are closed is spent at a later date or time when shops are open. This is clearly not the case.

Westfield has analysed the effect of the number of trading days on total retail sales in its centres. The analysis, which is cited in the SCCA submission, demonstrated that money not spent on days when shops are closed does not come back into stores on other days. The expenditure is lost to retailers, who are deprived of the ability to compete with other beneficiaries of consumer expenditure.

Westfield compared a major shopping centre in Adelaide to a similar centre in Brisbane. The analysis revealed that over the two months of July and August, when there were an identical number of days traded, the turnover in the Brisbane centre was just 3% higher than the Adelaide centre. However, over the December to January period later that year, where the Brisbane centre was open for three days more, sales in the Brisbane centre were 14% higher than the Adelaide.

More recently, Westfield has observed that the performance of its centres in Western Australia and South Australia over the combined March and April period was weaker than other states where opening hours were less restricted.

Shopping is a leisure activity that competes with other forms of leisure activity. Restrictions on trading hours put retailers at a disadvantage to other forms of leisure. It is not clear why retail is singled out as an industry for regulation when other sectors are not.

The ACIL Tasman report, already mentioned above, found that retail sales growth per capital was higher in states where deregulation occurred further supporting the link between longer trading hours and higher retail sales.

Westfield's online mall saw high levels of sales on Boxing Day, at a time when shops were closed in some states.

8.7 Impact of online retailing

Given the rise of online retailing, trading hour restrictions are detrimental to retailers who are not online. Online retailers that can trade 24 hours a day have a competitive advantage over bricks and

mortar retailers. This is unsustainable and will ultimately be to the detriment of retailers and their employees in a declining retail sector. Ultimately, jobs will be lost and this will affect regions where restrictions are toughest, such as South Australia. Job losses will also have a disproportionate effect on youth, of which retail is the largest employer.

Analysis of Westfield's online business reveals that 48% of transactions made online are made outside of standard shopping centre trading hours. There is clearly a consumer need to engage in retail outside of normal shopping and working hours.

The restrictions on trading hours are seemingly from a bye-gone age when regulation could determine how and when people could shop. Online retailing has changed this irrevocably and it is necessary for legislation on trading hours to catch up.

8.8 Relationship with labour laws

Even with deregulation of trading hours, labour laws prevent many retailers from profitably trading late nights, or on Sundays and public holidays. This submission discusses the costs of labour elsewhere but both trading hours and labour laws need revision to ensure that the Australian retail sector is prepared for the changes in shopping behaviour that are upon it. There should be flexibility for retailers to trade when they choose, and there should be employment opportunities available for those people that cannot or choose not to work conventional hours.

8.9 Productivity issues

Retail space is a fixed quantity. As retail spaces reaches the limit of its useful trading capacity, a situation known as over-trading, more retail space is invariably added to the pool of space in a given city. Limiting the number of hours that retail space can trade effectively limits the productive capacity of retail space and will inevitably lead to an increase in the amount of space that is created. This is a waste of resources.

8.10 Consistency of trading hour regulations

It is hard to understand why different states have different regulations on retail trade. This causes problems for retailers in supporting sub-sections of their store network, when some states are allowed to trade and others not.

Furthermore trading hours are not consistent, even within states. Examples are:

- Western Australia, where four suburban centres in Special Trading Precincts can trade to the exclusion of all others, including most centres with a department store. For example, Joondalup is allowed to trade on Sunday whereas Westfield Whitford City is not despite being just 8km apart.
- Adelaide where retailers in the CBD were permitted to trade on Easter Tuesday but retailers in the rest of Adelaide were not.
- Adelaide and Perth, where bulky goods retailers have advantageous trading hours compared to other forms of retailing.

Westfield asks for equity across and within states to ensure that businesses can operate beyond the whims of state governments. The seemingly random allocation of extended trade to certain types of retail in certain locations is unfair on retailers, property owners and consumers.

8.11 Desire of retailers and consumers to shop

Trading hours deregulation in states so far has demonstrated that there is demand from retailers and consumers to facilitate shopping. It is certainly the case that retailers and consumers wish to shop in other states where regulations still exist.

As the number of single person households, flat sharers and dual income households increases, Australians are increasingly time poor. Restrictions on trading hours are in opposition to the needs of many Australians. It is inevitable that people will increasingly shop online if they do not have the ability to visit shops.

8.12 Infrastructure charges

Property developers are asked to contribute to the creation of infrastructure that is used to access shopping centres, such as roads, but yet are restricted in the time that they are able to make use of that infrastructure. This is unfair.

9 The retail tenancy market

9.1 Previous reviews

- **Are the retail tenancy reforms being implemented in an appropriate and timely manner?**

No. The various jurisdictions have taken more than two years to agree on the content of a common lessor's disclosure statement and, so far, only NSW, Victoria and Queensland have agreed to adopt one. The agreed disclosure statement which took effect in these States on 1 January 2011, is still deficient because of peculiar state legislative requirements. A single disclosure statement, which can operate across each of these states, has still not been achieved. A single disclosure statement, which can operate in all jurisdictions in Australia, must be achieved.

- **Once implemented, will the reforms deliver better outcomes for the community? Are any further reforms required? If so, why?**

Yes, greater harmonisation of retail tenancy legislation will reduce administrative and compliance costs for retailers and shopping centre owners and managers which operate in more than one jurisdiction.

9.2 The role of owners of shopping centres

- **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?**

There is no evidence that owners of major retail complexes exert market power to command higher rental and occupancy costs than are experienced in overseas markets.

This is a topic that has previously been reviewed by the Productivity Commission. Its report concluded the following on page XXV:

"The Commission did not find strong evidence that the difference in the size of market participants in the retail tenancy sector distorts the efficient operation of the market of the market. Overall, the market is working reasonably well – hard bargaining and varying business fortunes should not be confused with market failure warranting government intervention to set lease terms and conditions to set lease terms and conditions. Generally:

- *there is no convincing evidence that systemic imbalance of bargaining position exists outside of shopping centres;*
- *inside shopping centres, there is stiff competition by tenants for high quality retail space and competition by landlords for the best tenants, reflected by relatively low vacancy rates and high rates of lease renewals;*
- *the more desirable tenants and shopping locations are able to negotiate more favourable lease terms and conditions;*
- *the incidence of business failure in the retail sector is not exceptional compared to other service activities; and*
- *formal disputes are relatively few and widely dispersed both geographically and according to shopping formats.*

In this environment, it is unlikely that market tensions will be resolved or eliminated by government intervention into contracts through retail tenancy or other regulation."

Indeed the Productivity Commission concluded:

“The case for greater prescriptiveness of lease terms and conditions in tenancy legislation is weak.”

However, to address these points in more detail:

The comparability of occupancy costs has been dealt with thoroughly in section 6. It is largely a myth that Australia has higher occupancy cost ratios than other markets, and the myth has been built on erroneous comparisons of good quality shopping centres in Australia with poor quality shopping centres in the United States. On a comparable basis occupancy cost ratios are similar.

The industry is highly regulated and has been the subject of numerous inquiries. None have found that market power is used to command higher occupancy costs. If anything, the high degree of regulation adds costs to shopping centre owners, retailers and to the general community through higher public sector administrative costs.

There are a large number of owners of shopping centres, with less concentration than many other sectors of industry. Market shares of the largest owners are much smaller than in many industry sectors, resulting in a wide range of choice for retailers. For example, department stores, discount department stores and supermarkets ownership is concentrated in the hands of two major companies in each sector. Westfield would welcome further competition in these sectors.

Shopping centres account for the minority of retail space in Australia.

New entrants such as Aldi have managed to establish large store networks both within and outside shopping centres.

- ***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?***

Westfield has demonstrated that there is no significant difference between occupancy cost ratios in Australia and other countries (see section 6.2).

9.3 Retailer stability

Contrary to some claims made by retailers, the tenants of shopping centres are stable over time. It is often asserted that shopping centre owners churn through tenants, replacing failing retailers with new ones. The facts do not bear this out with small numbers of tenants leaving during the term of their lease or not renewing at the end. It is not in Westfield's, or any other owner's interest to constantly replace tenants. The preference of shopping centre owners is to have successful retailers who offer long-term financial stability and contribute to an exciting and varied product mix that is attractive to shoppers.

Table 13 – Retailer stability in Westfield shopping centres

Year	Percentage of retailers closing or not renewing
2008	8.3%
2009	7.6%
2010	9.2%

9.4 Effective competition

- ***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. The Productivity Commission has conducted two major inquiries in the past four years which considered competition issues in the shopping centre industry amongst other matters. The first was the inquiry into the market for retail tenancy leases in Australia in 2007-08. We have quoted from the Productivity Commission's conclusions about the market for retail tenancy leases above.

The second was the inquiry into planning, zoning and development assessment in 2010-11, which also considered whether the planning and zoning system hindered retail competition. The recommendations of the first inquiry are still with governments for consideration and the recommendations of the second will soon be before COAG. There is certainly no need for any further inquiries.

There have also been several inquiries by parliamentary committees and an expert panel into the operation of section 51AC of the Trade Practices Act (now the Competition and Consumer Act). The Federal Government proposes to implement recommendations of the expert panel through the Competition and Consumer Legislation Amendment Bill 2010, which was introduced into Federal parliament last year but lapsed with the prorogation of parliament prior to the 2010 Federal Election. It is understood that the Federal Government plans to reintroduce this bill during 2011. Assuming the bill is passed into law it is important that there be no further inquiries or legislative amendments for the foreseeable future. A period of legislative stability is desperately needed in this area.

10 Other regulatory burdens

- *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.*
- *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.*
- *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?*

10.1 Covenants restricting competition

The previous issue of restrictive covenants preventing competing stores opening in shopping centres is no longer seen as an issue by Westfield. The issue has been resolved by actions taken following the ACCC inquiry into the grocery industry.

Woolworths and Coles gave enforceable undertakings that restrictive provisions in leases would be phased out over five years. Two and a half years have elapsed of this period. Similar undertakings have since been given by Franklins, Spar, Foodworks, Metcash and Supabarn.

Westfield is satisfied with current arrangements in relation to supermarket leases.

10.2 Turnover collection

It has been the subject of some public discussion that shopping centre owners misuse turnover information collected from retailers, in order to set rents, and subsequently that occupancy costs are higher than would otherwise have been. Westfield made a submission to the Productivity Commission's inquiry into The Market for Retail Tenancy Leases in 2008:

The provision of such sales data is a vital ingredient in the efficient operation of shopping centres as it enables informed ongoing analysis of the performance and market positioning of the shopping centre and an efficient monitoring of the appropriateness of the tenancy mix of the centre. Further, this information provides a data base for industry researchers as well as a general data base for benchmarking purposes for individual retailers who, in practice, will generally be given access to it.

Westfield does not accept that the so called imbalance of information regarding turnover data is a relevant factor that materially impacts upon negotiations between landlord and tenant for the grant or renewal of specialty leases. Firstly, retailers have ready access to their own representative organisations and retail consultants who, given the growth within the industry that has occurred, have significantly grown in numbers over the years. These bodies have a solid data base of information (including information concerning the trading performance of the centre, centre sales and growth in sales as well as the sales performance of particular retailer categories). Notably there are no confidentiality restrictions in Westfield's specialty leases preventing retailers supplying this information to their representative bodies.

Secondly, the major driver of rentals determined through lease negotiations are normal supply and demand factors. The balance of advantage will fluctuate between landlord and retailer depending upon the range of market factors that apply at the time when the relevant negotiation takes place. Again, Westfield supports the comments.

The Productivity Commission's conclusions were as follows:

“Prohibiting the collection of turnover data, or mandating that it be provided at a store category level, could limit shopping centre owners’ managing their assets optimally. This could limit the performance of centres, ultimately disadvantaging centre tenants and consumers. Also, while the reporting of turnover data was one of the most contentious issues raised during this inquiry, it is very unlikely that any means to prohibit the collection of turnover figures would materially ameliorate the expressed concerns (chapter 6). Given information on vacancy rates, and that it is likely shopping centre managers could gauge a tenant’s performance and turnover through other means, it is not clear that prohibiting the provision of turnover data (or legislating the fashion in which it is provided) would materially affect occupancy costs. The Commission’s assessment is that the provision of turnover data, and its use by landlords should be the subject of commercial negotiation between the parties to a lease.”²⁹

In summary, the Productivity Commission found that:

“Prohibiting the reporting of turnover data would be unlikely to lower average occupancy costs.”

²⁹ The Market for Retail Tenancy Leases in Australia, Productivity Commission Inquiry Report, 31 March 2008, pp146-148