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Retail Tenancies Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

Email: retailtenancies@pc.gov.au

Dear Sir / Madam

Re: The Market for Retail Tenancy Leases in Australia

The GPT Group ('GPT') is one of Australia's largest and longest running diversified listed property groups. GPT has a substantial investor base with over 47,000 investors.

The vast majority of our investors (by number) are private individuals with reasonably small holdings. Many investors rely on the distributions from their investments as income during their retirement.

GPT's portfolio of assets includes investment properties located around Australia in the retail, office, industrial and tourism sectors. The group also has interests in a range of assets in the United States and Europe. We currently have ownership interests in seventeen shopping centres and eight bulky goods centres in Australia and twenty shopping centres overseas.

Shopping Centre Council of Australia

We are a member of the Shopping Centre Council of Australia ('SCCA') and we endorse the submission being made by that body to your Inquiry.

The SCCA's submission is very extensive. So as not to be largely repetitive we will focus on what we see as some of the key issues below.

1. Highly Regulated Retail Tenancy Market

The retail property market in Australia is very highly regulated. Currently each state and territory has its own version of Retail Tenancy Legislation. Each version is different to varying degrees and is complicated by amendments and the phasing in of provisions.

In general the legislation covers a wide range of areas including:

- Disclosure
- Rent review mechanisms
- Dispute resolution
- Minimum lease terms
- Protection for tenants for disturbance and relocation
- Assignment of lease provisions
- Reporting and definition of allowed expenses

As a result of each state and territory having it's own legislation it is very difficult for national retailers and landlords to keep abreast of all the differences from state to state. This requires extensive training for executives on the relevant retail lease legislation and additional legal resources to keep on top of all the various regulations.

Each landlord needs to update standard documentation for each state and territory. It goes without saying that additional costs are being expended by having to update eight versions of disclosure statements, leases, assignment documentation, etc rather than one common form of documents.

At GPT we conduct the following compliance training of all leasing executives to ensure that we abide by the relevant legislation and our own policies and code of conduct:

- Annual legal compliance training covering the Trade Practices Act and relevant retail lease legislation
- Weekly leasing executive meetings where different speakers educate personnel on distinct aspects of retail lease legislation and recent court decisions on misleading and deceptive conduct and other relevant areas of law
- Continuing education training which is required as part of maintaining a real estate agents licence

2. National Retail Tenancy Regulation

We support either a national system of tenancy regulation (on the basis that it replaces and is not in addition to existing state and territory legislation) or the introduction of uniform state and territory legislation.

One standard across Australia would help to alleviate the costs and time taken in administering, reviewing and educating personnel on eight different forms of legislation.

Certainly additional legislation is not required in what we believe is already an area of business that is over regulated. Rather a simplification and uniformity of legislation will lead to benefits for both retailers and landlords.

3. Registration of Leases

We are aware of various suggestions regarding the access by retailers to rental information in a centre.

This is readily available today in states where it is mandatory that leases are registered (NSW & QLD).

There is no doubt that the simplest and most efficient way to ensure access to this information is to make the registration of leases in all states and territories mandatory.

We support the mandatory registration of leases in all states.

Yours faithfully

Mark Fookes
Head of Retail