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Initial Submission to the Retail Tenancies Inquiry on behalf of newsXpress newsagents

newsXpress is a marketing and advocacy group currently representing 120 newsagents in Victoria, New South Wales, the Australian Capital Territory, Queensland, South Australia and Western Australia.

Sixty percent our members are located in shopping centres and the remainder in high street locations.

newsXpress does not enter into a head lease on behalf of members.

There are several issues in relation to current retail tenancy arrangements which we wish to bring to the attention of the Inquiry in this initial submission:

1. Nature of the newsagency business

- a. Due to supplier requirements, Newsagents have less control on the commercial levers of key parts of their businesses than other retailers of similar or competitive product. Landlords refuse to negotiate lease terms which take into account this lack of control newsagents can assert over their businesses.
 - i. The retail price of newspapers, magazines, greeting cards, lottery products, mobile phone recharge products, financial services products and bill payment products is fixed by the suppliers of this product.
 - ii. These products account for between 60% and 85% of all sales in newsagencies.
 1. Newspapers, magazines, greeting cards, lottery products, mobile phone recharge products, financial services products and bill payment products account for 10% or less of total sales in businesses which compete with newsagencies. They are therefore less likely to suffer an impact of the fixed price nature of the products.
 - iii. Newsagents have little or no control over the range of magazine titles they carry. Most have between 1,200 and 2,000 different titles in their

businesses at any one time. While magazine distributors will claim that they respond to requests from newsagents to reduce or eliminate titles, research of operational behaviour will show that this is rarely the case.

1. Other retailers of magazines in shopping centres – supermarkets, convenience stores, petrol outlets, department stores – do not operate under this magazine distribution system. They are able to control what titles they receive. Using this control, they choose the top selling titles in high volume categories and therefore have, at any point in time, less than 100 magazine titles.
- iv. Newsagents have little or no control over the quantities of each issue of these magazines supplied. In most cases we have seen, more than 50% of all magazine product supplied to newsagents is returned to magazine distributors unsold.
1. Other retailers of magazines – supermarkets, convenience stores, petrol outlets, department stores – do not operate under this magazine distribution system. They are able to control the quantity of each issue of each title they receive. This control delivers to their businesses a more viable magazine sell through rate – a considerably better return on allocated magazine space, making the magazine category more financially rewarding.
- v. Newsagents only make money from retail sales of magazines, delivering a gross profit of no more than 25%.
1. Newsagent competitors such as supermarkets, national convenience stores, national brand petrol outlets and department stores receive incentive and other allowances from publishers and their representatives for retail space allocation, taking the gross return from magazines for newsagent competitors significantly higher.
- vi. Supplier requirements on newsagents force higher operating costs.
1. Lottery companies want their outlets, which are primarily newsagents, to open longer than traditional shopping centre retail hours.
 2. Newspaper publishers want their retail outlets, which are primarily newsagents, to open longer than traditional retail hours.
- b. Despite robust local and national representation of the disadvantage newsagents have over margin, ranging and other operational costs associated with newspapers,

magazines, lottery products and some other categories – as outlined above, landlords have not responded in agreeing to more equitable lease terms which reflect these costs.

- c. Landlords know that newsagents have a contractual obligation to newspaper publishers and magazine distributors to remain within a very specific geographic area. In many cases this means they must remain within the shopping centre. This lack of location choice for the newsagent disadvantages the newsagent and is, we contend, another reason landlords do not negotiate on terms with newsagents.

2. Rent

- a. Occupancy costs (rent) for newsagencies range between 12% to 26% of turnover. Benchmark data from a respected newsagent broker of many years standing can be provided to the Inquiry to support this claimed extraordinary range in occupancy costs.
- b. Given that most of what newsagents sell is at a fixed price and with a gross profit of 25% or less, an occupancy cost of 12% or more means that the newsagency is likely to be loss making once labour, usually 10% to 12%, and other business overheads are taken into account.
- c. Newsagents pay significantly higher rent than major retailers with which they directly compete.
 - i. Australia Post, government and non government stores, for example, are often treated as an essential service and provided more favourable rent and operational terms yet in a retail sense they are essentially a newsagency without newspapers.
 - ii. Newsagents in some centres have been forced to pay close to \$2,000 per square metre per annum when national brand businesses in a similar size tenancy are on a rent which is a third or less per square metre. This delivers a significant competitive advantage in the categories in which they compete with newsagents.
- d. The margin mix in a newsagency is such that an occupancy cost above 12% means the newsagency is significantly less likely to be viable.
- e. Landlords demand rental increases of 5% a year or more without due regard to the lack of control newsagents have over the prices of more than half the products they sell.
- f. Newsagencies by the very nature of their business need considerable on site storage space.

- i. Newsagencies have a significant volume of product incoming and outgoing every week.
- ii. Processes as dictated by magazine and newspaper distribution companies require that newsagents hold, at any point in time, between one and three pallets of out of date unsold stock to be returned to suppliers.
- iii. Landlords rarely agree to this non income producing space to be made available at any discount off retail tenancy price. This means newsagents can be found paying close to \$2,000 a square metre for back room space used to store unsold magazines waiting to be returned.

3. Lease terms

- a. Newsagents tend to be offered leases with short terms compared to national retailers. The current most common lease term we have seen offered to newsXpress newsagencies is between five and seven years and no extension beyond this.
- b. A lease term of less than seven years makes it difficult for a newsagent to recoup the capital cost of the shop fit or for the purchaser of a newsagency to recoup the goodwill paid for a business in a shopping centre.
- c. Landlords consider newsagencies an important traffic generator and therefore place them within a centre in a location to draw traffic to that location as opposed to being put in a location with good traffic already. Newsagents are often placed at extremities. This puts the business at a disadvantage as many consumers visit newsagencies on impulse and not as a destination.
- d. Landlords pressure newsagents to take more space than they require and more than is economically viable for a newsagency business. The lease offer is often put as a take it or leave it offer proposition. Newsagents often commit to too much space at a very high cost and struggle to achieve viability.

4. Marketing and other contributions

- a. No financial recognition is provided for the marketing contribution made by a group like newsXpress to the business of a member. Where major retailers are given a break because of external marketing designed to draw people to a centre, newsXpress newsagents, demonstrating similar compelling activity are denied any marketing levy concession.
- b. newsXpress regularly engages in professional external marketing campaigns which drive traffic to newsXpress newsagencies in shopping centres. Landlords do not regard this professional and consistent marketing to be on a par with campaigns of

other national brand retailers and therefore to not permit a discount on or elimination of a marketing levy they charge tenants.

5. Guarantee of tenure

- a. Landlords have been known to not offer terms to a newsagent at the end of a lease which enable the existing tenant to continue in the business.
- b. It is our contention that for small businesses meeting reasonable Key Performance Indicators, security of tenure ought to be ensured.
- c. This would stop the landlord forcing a tenant out when a prospective tenant pitches better terms to the landlord than the lease terms paid by the incumbent tenant.
- d. There are cases where newsagents of long standing have lost their businesses because of being priced out of the market.

6. Trading requirements

- a. There is disparity between the trading requirements and obligations put on newsagents and other independent retailers compared to national brand, large retailers.
- b. Where major retailers such as Australia Post are permitted to close on Sundays, newsagents are often required to be open.

7. Competition

- a. Landlords actively seek out short term tenants from outside the shopping centre to fill mall space with outposts. These outposts often compete with the key seasonal newsagency offerings of Mother's Day, Father's Day, Valentine's Day, Christmas, Easter, Back to School and Calendar Season.
 - i. Calendars are an excellent example of this model in operation. Where a newsagency traditionally offers an excellent range of calendars, landlords have been known to permit a tenant external to the shopping centre to rent mall space on a short term basis in the high season to sell calendars and thereby undercut the long term newsagent tenant in this category.
- b. Landlords often invoke permitted use clauses in determining and restricting what newsagents are permitted to carry yet they do not protect the interests of newsagents when major tenants move into categories previously the exclusive domain of newsagencies. Newspapers and magazines are categories in which this has happened in recent years.

In summary, newsXpress asserts that even though there is at least one newsagency in every shopping centre in Australia and that landlords consider a newsagency an essential offering in the

retail mix, the rents charged and associated lease terms are unfair, particularly in comparison to the businesses with which newsagents compete.

We would hope that the Inquiry supports the following outcomes:

- A. Guarantee of tenure on fair and equitable terms for small business tenants such as newsagents.
- B. Leases of at least seven years with a minimum of one extension – to permit sale of the business on a going concern basis.
- C. Fairness and equity in rent for newsagents on a per square metre basis comparable with national brand retailers.
- D. Fairer rental increases which compare favourably to those negotiated with national brand retailers.
- E. Fairer marketing levy and other costs which reflect the external marketing activity of a newsagency designed to bring additional traffic to the newsagency and therefore the shopping centre.
- F. Reduced per square metre rental costs for non retail space as required by the nature of the newsagency business model.
- G. Elimination or significant discount of any marketing levy or contribution if the newsagent is a member of an active marketing group.
- H. Agreement on first right of refusal for an outpost / shore term mall space rental in products which may compete with a newsagency.

Submitted on behalf of newsXpress Pty Ltd and all newsXpress newsagents by:

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