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SUBMISSION BY THE

Swimming Pool and Spa Alliance



to the

Productivity Commission

regarding

**Relative Costs of Doing Business in Australia:
RETAIL TRADE INDUSTRY**

Swimming Pool and Spa Alliance (SPASA)
1/33 Daking Street, North Parramatta NSW 2151
Tel: 61+2 9630 6300 - Fax: 61+2 9630 6355
Email: spiros@spasa.org.au

**Costs of Retail Trade
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601**

Email: retail.trade@pc.gov.au

PRODUCTIVITY COMMISSION – TERMS OF REFERENCE

- 1) Undertake a case study of the costs (such as costs relating to capital, labour, intermediate inputs including energy, taxation, superannuation and/or regulatory compliance) facing businesses operating in Australia in the dairy product manufacturing industry and in the retail trade industry.
- 2) Where relevant, identify areas of cost advantage and disadvantage for these businesses compared to international competitors.

THE SWIMMING POOL AND SPA ALLIANCE (SPASA)

The Swimming Pool and Spa Alliance (SPASA) represents hundreds of Australian businesses within the swimming pool and spa industry. Members of SPASA include pool builders, manufacturers, suppliers, retailers, technical servicemen, subcontractors, installers, consultants and other allied trades, all of whom set themselves apart from the rest of the industry by setting standards of skill, workmanship and ethical business behaviour in the best interests of pool and spa owners.

SPASA is also a Registered Training Organisation (RTO) that provides training and assessment to the swimming pool and spa industry. Our courses are designed in consultation with key industry stakeholders and our qualifications and accreditations are highly valued by government, employers and the wider community.

SWIMMING POOL AND SPA RETAILERS

Swimming Pool and Spa Retailers are diverse. They include (but are not limited to the following):

- Pool Shops
- Mobile Pool and Spa Service Technicians
- Online Retailers
- Portable Spa Retailers
- Prefabricated Pool (fiberglass/above ground pool) Retailers
- Tiling/Paving Retailers
- Energy Efficiency & Water Sustainable product retailers
- Solar Heating Retailers
- Pool Cover Retailers
- Ancillary Retailers (outdoor furniture, shades, toys, specialty & leisure products)

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EXECUTIVE SUMMARY

Swimming Pool and Spa Retailers are wide-ranging and its sub-sectors are subject to different opportunities and pressures.

Currently, swimming pool and spa retailers employ approximately 35, 000 people and contribute \$1.4 billion to national GDP annually.

Retailers in any industry are relatively labour intensive and labour costs account for a significant share of total input costs. The swimming pool and spa retail workforce has relatively low skill levels and is relatively youthful with high levels of part time and casual working arrangements and high rates of employment turnover.

Retailers of swimming pool and spa products in Australia are facing a progressively challenging operating environment.

In the last five to ten years, the structure of the retail sector has shifted and evolved as a result of globalisation, advances in the digital economy, and changes to business related costs (such as labour, industrial relations, taxation, tenancy and tax).

In addition, the retail sector has experienced varying trading conditions as a consequence of the fluctuating Australian dollar that has had a substantial effect on the performance of the industry.

Consumer demands are constantly changing, with consumers looking for increasingly convenient shopping options. Options include the development of new store formats, such as large-scale stores that stock a broad range of items and/or increasing self-serve opportunities to help customers get in and out of the store as quickly as possible.

Traditionally consumers have been confronted by many obstacles when wanting to compare products to get the “best deal”. Historically, consumers would generally be limited to retailers in the surrounding geographic area requiring them to spend the time visiting various retailers to find out about products, specifications and negotiate best price. Modern consumer habits, expectations, and the emergence of fast improving technology have transformed the outmoded consumer shopping experience.

The employment role of retail in the swimming pool and spa industry is not just about the number of jobs – but also the type of jobs. Retailers tend to offer more flexible working arrangements for many of its staff, with a large casual and part-time workforce that are attracted to the sector the cyclical nature of the industry and by its positive work-life balance opportunities it presents.

Retailers within the industry are also now looking at heavily investing in training their workforces as a consequence of newly created qualifications for the sector. Previously, workforce development non-accredited training was conducted either in-house or through external expert training providers.

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The industries strong need to up-skill and develop a qualified workforce is crucial for retailers to be able to attract new entrants. The opportunity for industry to attract new entrants and provide the current and incoming workforce with qualifications has been hampered by government funding workforce development delays and industry qualification inclusion uncertainties.

The Swimming Pool and Spa Alliance (SPASA) welcomes the opportunity to participate in the Productivity Commission's Issues Papers on the *"Relative Costs of Doing Business in Australia: Retail Trade Industry"*.

The Productivity Commissions study on the relative costs of retail businesses in Australia is an important opportunity for the overall retail sector to engage in some self-analysis and both review the current shape of the sector and, more importantly, plan for the future potential for one of Australia's most important industries.

SPASA trusts that this study together with our responses provides an opportunity to improve understanding amongst decision-makers about the swimming pool and spa retailing sector. It is hoped that this increased understanding will, in turn, assist all governments to make better decisions regarding the regulatory framework that governs the industry.

WAGE AND LABOUR ON COSTS

It is unsurprising that labour shortages and the associated rise in salaries and wages, staff turnover and training costs are continuing to have a significant impact on retailers of swimming pool and spa products in Australia.

There is a high level of frustration across larger swimming pool and spa retailers from paying an increasing payroll tax bill, not necessarily because these businesses are employing more, but because they are being forced to pay higher wages to existing or new staff due to increased competition directly driven by labour force shortages.

Taxing retail businesses for wanting to employ more staff is counterproductive to the concept of creating jobs. Significant changes are urgently required such as abolishing payroll tax, significant cuts to the rate as well as an increase in the exemption threshold as well as indexing that threshold so as to stop bracket creep as a result of rising wages.

Penalty rates increase labour costs, reduce employment, and hamper business attempts to serve customers on the most important trading days on the calendar: late nights, weekends, and public holidays.

Although penalty rates increase the take home income of workers lucky enough to be employed their higher wages come at the expense of other workers who are shut out of the labour market. Penalty rates are a crude and grossly unfair means of distributing work and wages across a modern workforce.

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Penalty rates may have resonated loudly for much of the last century but the world is fast changing for today's "24/7" modern consumer.

SPASA submits that policy makers must acknowledge and act on changing consumer spending trends rather than penalise small business. The current antiquated penalty rate regime does nothing to strengthen the retail sector as a viable seven day a week business as well as promote a pathway into employment for young people.

INDUSTRIAL RELATIONS

Australia's industrial relations regulation is too rigid, which compromises retail economic growth and obstructs productivity gains.

The Fair Work legislation continues to remain a concern as it assumes a 'one size fits all' approach to industrial relations whilst imposing unnecessary cost burdens on businesses and limited work choices to employees.

The current *Fair Work Act* provides protection for employees under a framework that has been designed for large businesses, yet small businesses are burdened by the same obligations and are not offered any protection themselves as small business owners.

Under the *Fair Work Act* the employee is protected by an Award which governs their working conditions. The small business owner bares all the responsibility for ensuring their employee(s) Award conditions are met, yet the small business does not benefit from any protection under the Act themselves. This imbalance must be addressed to ensure that retailers are also protected by our industrial relations framework.

Retailers also face increased costs through compulsory arbitration that forces outcomes which almost always go beyond minimum standards. Further, there is also legislative emphasis on process rather than outcomes, which increases delays and related costs.

Retailers of swimming pool and spa products have seen an increase in vexatious unfair dismissal claims which has resulted in those businesses making "commercial", "nuisance" or "go-away" financial settlements to circumvent protracted and even more costly arbitration.

Whilst employers are expected to correctly pay and manage their employees the Fair Work Commission have been quick to prosecute for any transgression. A call to the Fair Work Australia or the Fair Work Commission requesting specific information is usually met with vague and generalised information with the catchphrase being "we cannot give specific advice about your workplace".

If awards can only be interpreted by a lawyer, then they should be rewritten in plain English so that both employers and employees are clear as to their entitlements and obligations.

Boosting productivity growth is critical to addressing output gaps created by labour shortages. Underlying this need for greater productivity growth is a need for industrial relations reform, which is essential in promoting economic prosperity and driving productivity within retail businesses. Fundamentally, the industrial relations system needs to allow and facilitate flexibility in employment arrangements, whilst protecting all participants from unfair conditions. Industrial relations reform should be an urgent policy directive for the current government(s).

SPASA's principal concern is that the current Federal industrial relations system disproportionately favours employees at the cost of profitability, employment of more staff and productivity.

TRANSPORT

The nature of retailing in Australia means that it is a heavy user of all transport networks. Having such a significant dependence on transport allows retailers to deliver goods to their stores or customers homes as quickly as possible.

Australia is geographically a large country with a small population when compared with other first world trading nations. Most of Australia's population is concentrated in capital cities; however, many non-metropolitan suburbs and regional towns that have sizeable populations also need to be serviced by retailers.

The arrangement of large distances and our small population means that Australian retailers are more likely to face higher logistical and transportation costs when compared with similar businesses in smaller, more densely populated countries.

Furthermore, retailers in Australia frequently face higher international transportation costs when importing goods for sale in their stores as our small population means goods imported tend to be delivered in smaller batches and sometimes longer routes.

Government investment in rail and road infrastructure nationwide would make for a positive contribution to minimising transport costs for retailers and ultimately, consumers.

ENERGY

Energy is a crucial essential input for all retailers.

Australian retail electricity prices increased by an average of 30 per cent between 2006 and 2010, and by some estimates may continue to rise by at least 100 per cent from 2008 levels by 2015.

Whilst the retail sector is one of the largest private employers in Australia it has been a neglected business sector in terms of publicly funded energy efficiency programs and services, unlike the commercial building or the domestic consumer sectors.

Electricity is a significant input into many Australian businesses. It represents an unavoidable cost of doing business due to our reliance on energy to produce goods and services for the domestic market and export. Maintaining our competitive advantage in low cost energy is an important strategic economic and business goal for government.

In this regard, government should work towards recapturing our status as a low-cost energy jurisdiction in order for smaller retailers to remain competitive business to once again flourish.

Low energy costs must become an essential objective of our national energy policy.

GOVERNMENT TAXES

Australia is long overdue for a tax system that supports the achievement of sound economic and social principles. In this regard, Australia's local and international competitiveness should be assisted by a well consulted and structured tax system rather than being harmed by it.

A justifiable and sustainable tax system will only be achieved via an integrated approach of reform across all Federal and State tax thereby reducing complex, inefficient and duplicated taxes.

SPASA submits that government commit to the creation of a small business taskforce (made up of retailers) to investigate a more efficient and sustainable lighter tax burden on retailing businesses with the view of driving stronger sector economic growth.

PLANNING AND ZONING

Retailers have a number of concerns about the operation of planning systems in metropolitan areas. These include issues such as insufficient land supply, infrastructure charges, transport planning, parking, local government costs and approval timeframes.

A lack of suitably zoned land for retail pushes up development and rental costs for small business which is ultimately absorbed or passed on to consumers.

Australia's restrictive planning and zoning regimes also make it difficult for new retailing formats to gain approval. Many jurisdictions have narrow and prescriptive definitions of what constitutes a retail outlet and emerging hybrid formats that do not fit a traditional physical store based definition find it difficult to plan and establish themselves in suitable locations.

There are many draconian challenges presented by the planning system that hinder the potential growth of retailing and that act as a barrier to the growth of the overall retailing sector. These barriers include excessive planning controls, associated costs and the failure of the planning system to allow convenient shopping opportunities for time poor modern consumers as well as the planning systems inability to understand and keep pace with changing retail trends.

RETAIL TENANCY

High rents and a complex leasing process are part and parcel of the major challenges faced by retailers.

While many retail businesses have sufficient resources to negotiate leases and gain appropriate legal advice about lease agreements, the fact remains that small retail businesses are often at a disadvantage when negotiating with large shopping outlets or groups and their legal teams.

It is important to have some streamlining and simplification of the leasing process with so many retailers and franchisees trading in every state and territory.

SPASA submits that:

- Leases be written in plain English
- Leases have an agreed set of prescribed inclusions
- Landlords should be required to provide the tenant with copy of the lease before it is registered
- Landlords should be penalised for not registering a lease on time
- Landlords should not be able to draw down the bank guarantee unless there is a clear breach of the lease by the tenant and proper notification processes have been exhausted
- The creation of a standardised lease for smaller retailers
- Improve the transparency and accessibility of information on leasing processes and lease documentation;

TRADING HOURS

There are important connections between trading hours and the use of technology that act to decrease the competitiveness of physical store based retailers, in favour of online retailers, and strengthen an uneven competitive environment.

The imbalance of trading laws also create an uneven competitive landscape between those stores located in areas that have less restrictive trading hours, such as special purpose shopping designated precincts.

Online stores never close are not subjected to trading hour's regulations.

This gives online stores a major competitive advantage over physical store based retailers who face restricted trading days. Trading hour restrictions need to be urgently reviewed to cater for the modern consumer who wishes to shop on their terms. Trading hour laws must reflect consumer trends rather than simply following a "tick a box" planning approach.

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Without increased flexibility in trading hours traditional retailers may find it increasingly difficult to compete with online retailers and stores located in special shopping precincts.

A logical and rational approach is to de-regulate trading hour's right across Australia.

SPASA submits that retailers should be allowed to open any time they choose except for Christmas Day, Good Friday and the morning of ANZAC Day (unless an exemption has been granted to trade on these days).

RED TAPE

Small business owners spend approximately 5 hours each week just on government compliance with a red tape price tag of at least \$10,000 per year.

A typical small retailing business must comply with a considerable number of regulations administered by multiple regulators. Some of the regulation is generic, applying to all or most businesses (such as taxation, OH&S, insurances etc.), while other regulation is more specific to a particular industry or business activity.

Notwithstanding, small retailers generally incur proportionately higher compliance costs when compared to larger and better resourced businesses.

There are approximately 120 national regulators, 350 regulators that operate within state and territory governments and 560 local councils in Australia.

Compliance costs for retailers that operate nationally or in more than one state create an enormous financial burden on businesses by asking them to replicate processes which include unnecessary costs, administrative tasks, resources and sizeable and unnecessary delays.

While the burden of each individual regulation may be small and justified, the combined or cumulative burden can have a major impact on the development and growth of small business.

SPASA submits that early consultation with retailing businesses in the development of regulation is critical to ensuring regulation is appropriately targeted and understood by those affected.

For further information:

Spiros Dassakis - CEO

Swimming Pool and Spa Alliance (SPASA)

Toll Free: 1800 802 482

Ph: (02) 9630 6300

Email: info@spasa.org.au

Web: www.spasa.org.au

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