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Costs of Doing Business: Retail  
Trade Industry Study  
Productivity Commission  
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*Via email: retail.trade@pc.gov.au*

## **RELATIVE COSTS OF DOING BUSINESS IN AUSTRALIA: RETAIL TRADE INDUSTRY**

Coles welcomes the opportunity to provide comment on the Productivity Commission Issues Paper *Relative Costs of Doing Business in Australia: Retail Trade Industry*.

The published Terms of Reference cover a range of issues relating to retail business costs, however the focus of this submission will be on the regulatory imposts. We believe these burdens represent both a significant cost upon retail businesses but also – as per the Commission’s focus – are amenable to relatively prompt corrective policy actions.

Coles operates over 2,200 outlets, including supermarkets, liquor stores, hotels and convenience stores throughout Australia and employs more than 100,000 team members across all States and Territories of Australia. Given both the national footprint and diversity of our operations, the complex Federal, State and Local Government regulatory compliance burden on our business is significant.

From a regulatory perspective, the biggest challenge to efficiencies in the retail trade industry is the cumulative impact of regulatory red tape and the inconsistent adoption of regulation in different jurisdictions. This imposes a significant administrative and financial burden on our business and ultimately on our customers.

We acknowledge the response of the Federal Government in its progress report to the Productivity Commission’s 2001 Inquiry recommendations, and would encourage continued work with COAG to implement nationally consistent policy.

As a national retailer, Coles supports:

- a nationally consistent and best practice approach to regulation to reduce inefficiencies and duplication of effort involved in modifying and distributing separate processes, procedures and compliance training in each jurisdiction
- greater coordination and cooperation between regulatory agencies to ensure that consumers and industry are not disadvantaged by ambiguity caused by the requirements of different regulation.

The benefits of streamlining Commonwealth, State and Local Government regulation would significantly reduce the cost of doing business. A lower cost of doing business would reduce inflationary pressures and keep retail prices lower for consumers than would otherwise be the case – easing cost of living pressures.

Finally, removing or reducing inconsistent regulation between the three Government tiers would enhance retail productivity and competitiveness, which is particularly important given the growth of overseas owned retailers and global internet sales.

The following note provides specific examples and details of key regulations adversely affecting Australian retailers, and the cost of doing business. It highlights specific areas of regulatory burden as identified in the Commission's 2011 Inquiry – including workplace practices, trading hours and planning and zoning – as well as other issues that have significantly impacted upon the cost of doing business. It is divided into three categories:

1. Federal Government reforms to enhance retail productivity and competitiveness
2. Conflicting State regulations and the need to harmonise at best practice
3. Local Government restrictions and the cost of red tape at a local Council level

Thank you for the opportunity to comment on the Issues Paper. Should you wish to further discuss our submission, please feel free to contact Tony Parkinson, Head of Public Affairs on 03 9829 6087 or via email [tony.parkinson@coles.com.au](mailto:tony.parkinson@coles.com.au).

Yours sincerely



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## **1. FEDERAL GOVERNMENT REFORMS**

The following areas have been identified as critical areas which the Federal Government can adopt to markedly reduce the regulatory burden within the retail sector.

### **1.1 The Safe Rates Tribunal**

The TWU lobbied the former Government to establish a Safe Rates Tribunal to adopt minimum awards rates of pay for transport drivers. If adopted, the minimum pay rates proposed by the TWU would increase transport costs for Coles alone by hundreds of millions of dollars per annum.

The TWU has also pushed for safe rates decisions to apply to all "Supply Chain participants". This would require Coles to be accountable for things it cannot control.

Coles argues that the RSRT duplicates industry codes and other Federal and State safety legislation and should be abolished.

The Minister for Employment, Eric Abetz, announced a review of the Safe Rates Tribunal on 20 November 2013. The Review will be completed in the first quarter of 2014. This should be progressed before the Tribunal makes any determinations.

***Recommendation: that the RSRT be abolished and the relevant legislation repealed.***



## 1.2 Food labelling

Coles is supportive of a clear, workable food labelling system that enables our customers to make informed nutritional choices. We need to ensure that any new Front of Pack Labelling (FoPL) such as the proposed Health Star system meets these criteria and undergoes a RIS process before industry commits to the significant capital investment required.

**The introduction of the Health Star FoPL will cost industry \$200 million**, with some costs likely to flow through to customers. This cost will be on top of the \$72 million already invested by industry on its current FoPL, the Daily Intake Guide.<sup>1</sup>

As a Regulatory Impact Statement (RIS) was not prepared for consultation on the decision, the Office of Best Practice Regulation has assessed the proposal as being non-compliant with the COAG best practice regulation requirements.

***Recommendation: Results of a RIS be considered before final agreement to the Health Star Rating FoPL – and prior to its implementation - to ensure that the considerable regulatory costs do not exceed the intended benefits.***

## 1.3 Mandatory Reporting

When the Australian Consumer Law was introduced, it contained a new provision (s 131) which requires when a retailer becomes aware of a serious injury or illness associated with a product, it must be reported to the ACCC within two days. 'Serious injury or illness' is basically defined as one where the customer seeks 'medical supervision'.

Coles averages about one mandatory report a day and employs dedicated resources just to manage reporting. A two day reporting requirement means that Coles needs to lodge a report without being able to adequately check the veracity of the claim. Many times we find out that the report given to us was either bogus or incorrect, but only after the two days deadline. Because of this short reporting period, we have already spent resources reporting and sourcing information. With one report a day, the resources and time spent on the above process is significant, both for retailers and for regulators.

***Recommendation: Coles believes the application of s131 to food products is problematic and that mandatory reporting should be limited to non-food products***

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<sup>1</sup> Deloitte Access Economics *Reforming regulation of the Australian food and grocery sector* 28 October 2013

## **2. A NATIONALLY CONSISTENT AND HARMONISED APPROACH**

State based regulation is often inconsistently applied, particularly in relation to trading hours, age restrictions on the sale of products and other labelling or display restrictions. For retailers operating within the national trading marketplace, complying with these regulations which differ State by State adds a significant and costly regulatory burden.

### **2.1 Trading hours**

Regulation of trading hours, particularly restrictive trading days on public holidays, is inconsistent across State jurisdictions, causing added complexity and cost and lost income for retailers.

Retail store trading hours are regulated through legislation by the states and territories which limit when retailers can trade.

There are inconsistencies between States and Territories on:

- Extended weekday trading (i.e. past 5pm)
- Sunday trading
- Public holiday trading
- Restricted trading days (which may or may not be a public holiday).

For each of these trading times, there may be an additional layer of restriction on the:

- Maximum number of employees staffed at any one time,
- Floor size of the shop, and
- Type of goods sold.

Secondly, in addition to differences between States/Territories there are also restrictions within States/Territories on when retailers are permitted to trade.

Thirdly, in some States/Territories trading hours are regulated by multiple legislative instruments. For example, in New South Wales retailers must comply with the trading restrictions prescribed in both the Liquor Act 2007 and the Shop Trading Act 2008. Under the NSW Shop Trading Act 2008, a liquor store cannot sell packaged liquor on Boxing Day or Easter Sunday but a hotel can. South Australia has 11 closed trading days, the most of any State and compares unfavourably with Victoria, just across the border, which has adopted best practice of 2.5 days closed for public holidays a year.

Trading hour regulations prevent customers from shopping at a time best suited to their needs and limit store preparedness to trade immediately after a closed day. The impact of physical trading hour restrictions is increasingly frustrating given consumers can purchase products online at any time.



The table below illustrates the complexity that a national retailer such as Coles faced while operating over the 2013 Easter/ANZAC Day period.

**Recommendation: the Federal Government take the lead in harmonising and streamlining State and Territory trading hours at best practice levels across the Commonwealth.**

### Overly prescriptive trading hour restrictions – Easter and ANZAC Day 2013

In table below, the following key has been used: **Normal** = Normal trading ability state wide. **P/H trade** = Stores may trade on a declared Public Holiday – Public Holiday rates of pay apply **Restricted** = Stores may trade only in some areas of the state or for restricted hours – see notes below and/or check with relevant government authorities

	GOOD FRIDAY 29 March	EASTER SATURDAY 30 March	EASTER SUNDAY 31 March	EASTER MONDAY 1 April	ANZAC DAY Thursday 25 April
<b>VIC</b>	Public Holiday	Public Holiday	Not a Public holiday	Public Holiday	Public holiday
<b>Trade</b>	Closed	P/H Trade	Normal	P/H Trade	Closed until 1.00pm
<b>NSW</b>	Public Holiday	Public Holiday	Public holiday	Public Holiday	Public Holiday
<b>Trade</b>	Closed	P/H Trade	Restricted	P/H Trade	Closed until 1.00pm
<b>ACT</b>	Public Holiday	Public Holiday	Not a Public holiday	Public Holiday	P/H Trade (Recommend Closed until 1.00pm)
<b>Trade</b>	P/H Trade (Recommend Closed)	P/H Trade	Normal	P/H Trade	Closed until 1.00pm
<b>QLD</b>	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
<b>Trade</b>	Closed	P/H Trade	Restricted	P/H Trade	Closed
<b>****SA</b>	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
<b>Trade</b>	Closed	Restricted	Restricted	Restricted	Closed
<b>NT</b>	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
<b>Trade</b>	P/H Trade (Recommend Closed)	P/H Trade	Normal	P/H Trade	P/H Trade (Recommend Closed until 1.00pm)
<b>WA</b>	Public Holiday	*Refer to note below	Not a Public Holiday	Public Holiday	Public Holiday
<b>Trade</b>	Closed	Normal	Restricted	Restricted	Closed
<b>TAS</b>	Public Holiday	Not a Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
<b>Trade</b>	Closed	Normal	Normal	P/H Trade	Restricted - Closed until 12.00 noon

Note that in the Coles EBA, public holiday work is voluntary

## 2.2 Container Deposit Legislation

Container Deposit Schemes exist in South Australia and (pending) in the Northern Territory with other States reportedly considering their options.

A wider CDS would impose a significant cost on the economy, estimated to add at least \$300 to an average shopping basket per annum (or equivalent to twice the inflationary impact of the carbon tax). The deposit is only part of the story – infrastructure and running costs also need to be paid for. COAG analysis shows a CDS is 28 times more expensive than industry alternatives capable of delivering the same environmental outcome.

Over 97% of Australian households already recycle through kerbside bins and many local governments will suffer a financial loss if a CDS was to be introduced. The following table analyses the financial impact of the introduction of a CDS on Victorian Councils.

### Overall impact of a CDS on kerbside recycling in Victoria<sup>2</sup>.

Grouping of Councils	Annual change per year (AU\$)	Change 2015 to 2035 (AU\$ millions)
All Metropolitan	-\$514,900 to -\$ 1,519,600	-\$22.8
All Regional	\$2,500 to \$7,500	\$0.112
All Rural	\$226,900 to \$669,600	\$10.0
Victoria Total	-\$285,518 to -\$842,500	-\$12.6

**Recommendation: the Federal Government take the lead in resisting proposals to adopt a national Container Deposit Scheme, acknowledging that CDS are another unnecessary tax on consumers when more effective recycling programs exist.**

<sup>2</sup> The financial impacts of Container Deposit Legislation to local governments in Victoria, Prepared for: Sustainability Victoria in Partnership with the Municipal Association of Victoria. 8 November 2012

## 2.3 Food Safety Regulators

As outlined by Deloitte in their analysis for the AFGC, there is roughly one special purpose national regulator for each aisle of a typical supermarket (and that is not including State based regulators). In several cases, there is overlap that causes some products to be regulated by several of these bodies. The following table lists those regulatory bodies, along with the type and number of products they cover.

Regulator	Product Coverage	Estimated number of items impacted
FSNAZ	packaged food, ingredients, labelling, chemical residues in food (in combination with APVMA)	20,000+
ACCC	country of origin, labelling, mandatory reporting of incidents (as well as some broad-based regulation)	20,000+
APVMA	some pet supplies, chemical residues in food (with FSANZ), fly spray, insect candles, pool and spa chemicals, some garden supplies	2,000+
NICNAS	chemicals such as detergents, cleaners and some personal care products)	3,000+
NTC	transport of dangerous goods	5,000+
Biosecurity	inspects imported food items on behalf of FSANZ	500+
TGA	vitamin supplements, over-the-counter medicines	1,000+
NMI	weights and measures, across both food and grocery	20,000+

There are several instances where retailers need to engage with multiple regulators whose different timeframes result in unnecessary time delays and cost for businesses.

For example, the APVMA and FSANZ must both approve new MRLs (Maximum Residue Levels for agrochemicals). There is normally a delay of a number of weeks between the approval received from one organisation to the other, or indeed a case of when FSANZ will allow an MRL for imported product, but the chemical may not be approved by the APVMA for use on farm.

***Recommendation: the streamlining of regulation where it must cover multiple regulatory organisations would relieve business of considerable red tape regulatory burden.***



## 2.4 Review of Quarantine Arrangements

A number of Australian jurisdictions have state or region based quarantine rules which limit the ability to move food between zones. For example:

- Only honey which is made in WA can be sold in WA
- Only Australian rice which is made in the Riverina district can be sold in the Riverina district
- Only fin fish which is caught in Tasmania can be sold in Tasmania

As a national retailer there is significant administrative and compliance burden in order to comply with these restrictions.

As an example of the challenges for a national supermarket retailer, the following table from the Quarantine Tasmania website illustrates the restrictions on food products into Tasmania.

**What you can't bring into Tasmania:** these items are either fully prohibited, need specific certification or require treatment.

Items entering Tasmania	From all Australian States and Territories
Abalone and abalone products (all) including fresh, frozen, dried, vacuum sealed etc.	No
Apple/pear trees, cuttings and fruit	No
Capsicum fruit, plants and seed	No
Fin Fish (Boney Fish, Sharks etc.)	Ask
Other Fish & Fish Products - includes Fin Fish, Crustaceans and live Molluscs	Ask
Fruit and vegetables	No
Leafy vegetables	No
Maize, corn seed	No
Molluscs (live) including mussels, oysters etc.	Ask
Peas in the pod and seed	No
Potatoes	No
Salmon	No
Tomato plants and seeds	No
Yabbies (Freshwater Crayfish)	No

**Recommendation: an independent review of all quarantine rules be completed and that only those which provide positive economic impacts (benefit vs cost, including an estimate of consumer health) are continued. The rules between States should also be justified by the Federal Quarantine Service before being applied.**

## 2.5 Tobacco and liquor regulation

While the Commonwealth, State and Territory Governments have had a national policy for addressing alcohol, tobacco and other drugs since 1985, there is no national agreement on how to achieve the objectives in this policy.

The lack of national agreement on the approach to regulating tobacco means that Coles, as a national retailer, has to comply with varying State and Territory's interpretation - resulting in differing policies in regard to signage, display, licensing, ticketing, definitions of tobacco products and sales to minors for each jurisdiction. This situation applies equally to liquor regulation.

The following images illustrate the different mandatory signage required by various Australian jurisdictions:

### *New South Wales*



### *Western Australia*



### *South Australia*



### *Queensland*



### *Victoria*



### *Northern Territory*



## Responsible Service of Alcohol Training

Coles is supportive of the requirement to ensure that any person involved in the sale or supply of liquor has completed Responsible Service of Alcohol training. However, we believe there should be some flexibility regarding the training methods available to licensees (ie. face to face and online training). New South Wales, Victoria and Queensland only accept face to face training with the remainder supporting online training. We support online training as it:

- allows access to a wide reaching numbers of participants including those in remote locations;

- allows deployment of learning in a controllable, yet flexible learning environment;
- can be conducted at a time which suit the team member and be completed before commencing work;
- enables a consistent and cost effective approach. (i.e. not having different trainers with different approaches, less traveling expense etc);
- allows access to immediate and measurable learnings aligned with Coles Liquor's compliance objectives; and
- overcomes the highly manual administration process of organising and recording training via classroom method.

We also believe that RSA training undertaken in other States and Territories should be recognised in all States and Territories. We have some team members who, due to working close to the border are required to undertake RSA training in two states and other team members who are required to redo training if they move states. This would be consistent with mutual recognition laws and the commitment to reduce red tape for businesses.

***Recommendation: regulations concerning tobacco and liquor products be uniformly applied across all Australian jurisdictions. Consistency benefits both consumers and enforcers of regulation.***



## 2.6 Regulations on the Sale of Knives

Victoria, New South Wales, the ACT and South Australia have banned the sale of knives to minors.

However the regulations in the four jurisdictions differ in the age above which retailers may sell a knife, the extent of the knife ban, signage required and the penalty imposed for a prohibited sale.

	Victoria	NSW	ACT	South Australia
<b>Age under which ban applies</b>	18	16	16	16
<b>Extent of ban</b>	All knives, including plastic*  * The Vic Govt has signalled its intention to remove restrictions around plastic knives	All knives, does not include plastic	All knives, does not include plastic  Signage of a regulated size and font is also required at point of sale	All knives, does not include plastic
<b>Means of monitoring</b>	Same ID as tobacco laws	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds
<b>Penalty for prohibited sale</b>	12 penalty units (approx \$2,389)	Up to \$5,500	6 months and/or 10 penalty units	Up to \$20,000 and two years imprisonment

**Recommendation: the regulation of retail knife bans be reviewed and uniformly applied across all Australian jurisdictions**

## 2.7 Transport restrictions

Retailers heavily rely upon an efficient logistics network where third-party road carriers, shipping and airfreight operators undertake the majority of their product transportation.

The operational efficiency and cost effectiveness of retailers logistics networks are diminished by two key State-based transportation restrictions on:

- The time of transportation; and
- type of transportation to retail outlets is restricted by local council regulation.

Restrictions on the time of transportation are aimed at reducing noise and light disturbances at night for local residents. Time of transportation restrictions can differ between local areas but are generally imposed from 6pm to 7am. However, this means more traffic congestion in peak hours.

Type of transportation to retail outlets is restricted by the freight capacity delivery trucks. State-based regulation limits the size of vehicles used for store deliveries and line haul operations. Australian retailers are unable to transport goods using Super B-Doubles or B-Triples and in the absence of competitive rail infrastructure, existing trailers are limited to moving a maximum of 36 pellets per vehicle.

Time of transportation and type of transportation restrict retailers ability to move efficiently move products around and between States and Territories, a challenge that is exacerbated by remote locations, longer distances, climate fluctuations and the topographical challenges of Australia. Consequently, retailers operational efficiency is restricted which increases the price of products and prevents stock from being available when stores are open.

A number of local councils apply night time delivery curfews. Restricting time deliveries subsequently limits retailers' ability to remove vehicles from the roads during peak times and move stock efficiently. This is further exacerbated by the need for additional vehicles in a fleet to meet tighter delivery windows. In addition, delivery runs are organised according to curfew restrictions rather than the preferred geographical groupings.

Extended time deliveries are a practical example of how retailers could maximise benefits and reduce costs related to time of transportation restrictions. This would ultimately increase the operational efficiency of their transport and logistics network.

The benefits from moving towards extended deliveries include the following:

- Decreased transit time due to less congestion on roads
- Faster unload time due to lessen congestion at stores and streamline paperwork process
- Fewer kilometres travelled and lower greenhouse emissions
- Smaller fleet requirement as deliveries are spread out through the day and evening

- Increased capacity of distribution centres not in residential zones by allowing the distribution centres to operate over a 24 hour period (i.e. retailers would not need to keep trucks and trailers idle at distribution centres during curfew restriction times).

Lifting the curfews on deliveries would allow retailers to increase their operational efficiency and deliver products to consumers at a lower cost.

***Recommendation: the regulation of retail transport arrangements be uniformly applied at best practice levels across all Australian jurisdictions.***



### A Case Study of Red Tape and Inconsistent State Regulation

Proposed petrol price board regulations came out of NSW based on NRMA surveys showing motorists were confused about prices on price boards.

The NSW Government commissioned a departmental survey which mirrored this and introduced legislation in September 2012 requiring price boards to have 5 fuel prices to be shown but no discounted fuel price. There were to be prescriptive rules around size of prices, order of prices (volumetric by site), colour of prices and a very short time to make this happen.

Industry said they were happy to have a national standard and offered to get together and agree on them. This was never seriously considered by the States.

**Instead, NSW implemented regulation that eventually came into effect in September 2013. South Australia has drafted different standards which came in effect 1 January 2014. Queensland and WA have also flagged similar Bills for 2014. At the same time, the Federal Government has confirmed it will work up a proposal to put to State and Territory ministers for a vote in 2014.**

Ultimately, these 'consumer protection' regulations simply ban the display of a discounted price on fuel price boards, however they also require service stations to display 3-5 fuel prices (depending in which State) and keep records so that the fuel prices reflect, in descending order, the volumes of fuel sold by type.

Coles does not have an issue with a national price board standard, but that the solution to customer 'confusion' was dressed up as something it wasn't, imposed by States trying to demonstrate their "reform" credentials and adding more red tape that varies from State to State.

### **3. LOCAL GOVERNMENT RESTRICTIONS**

Coles works in conjunction with over 500 local Councils on a wide range of compliance matters including food safety, delivery and trading hours restrictions, trolleys regulation, noise and other environmental issues.

Local Government is responsible for the administration and enforcement of much legislation enacted by State and Federal Authorities. However, local Councils are often left to interpret requirements and resolve disputes independently. As there is no co-ordinating system for determining precedent, different jurisdictions will often apply the same rules in different ways.

The significant regulatory burden arising from local government legislation is not just the action required to comply with a regulatory requirement itself. The cost of monitoring the different regulatory instruments and maintaining arrangements to vary standard operating procedures for specific operations is onerous. There can also be a significant cost just for participating and providing advice when consultation occurs. Even though the advice offered to local consultation is consistent, it must be tailored on each occasion to the specific circumstances of the location.

#### **3.1 Onerous development and planning requirements**

Planning systems and development consent conditions vary between States and Local Governments, each with different focuses on factors such as design, noise, signs, trading hours/delivery hours, trolley managements etc.

In New South Wales, our supermarkets operate in approximately 90 Councils where each Council can set prescriptive conditions in development consents. A specific example is the plastic bag conditions imposed by Manly Council in the Stockland Balgowlah and Coles Balgowlah consents. In this consent, councils wanted to ban plastic bags and other plastic materials, but existing stores were not required to meet the same conditions and the Manly Council could not retrospectively impose those conditions on existing stores creating competition issues. The outcome was that the Land and Environment Court determined that the council's planning controls did not require that plastic bags be prohibited and the condition banning plastic bags would result in competitive disadvantage compared to other retailing centres in the local government area.

Again in NSW, noise restrictions are often contained in the development consent and based on the relevant EPA Act, which has mandatory requirements for design and construction. However, it is not uncommon for councils to order additional acoustic requirements or require reports to investigate an alleged issue which could be investigated in a more timely and efficient way.

As noted previously, local governments can also impose restrictions on the time during which goods can be transported and offloaded which can significantly impact on business costs and operational efficiencies. In addition, some councils specify allowable truck length, axles etc and others only allow



rigid or semi-rigid vehicles etc. Such restrictions increase truck numbers and thereby add to traffic congestion in a local government area. We believe businesses are best placed to assess individual sites for vehicle types in keeping with the road rules and Australian standards.

Other council requirements vary in relation to height limits, operating hours, delivery hours, parking rations etc. In some cases, no weekend deliveries are stipulated in the development consent. Whilst we understand the aim of a restriction is to protect the amenity of the local area, certain restrictions are unworkable for businesses seeking to offer customers fresh produce such as bread and milk on the weekend.

***Recommendation: that operational issues not be included by local government in either a planning permit or development consent due to the fact that they are fundamentally not building or planning issues.***

### 3.2 Food Safety

Despite progress at the Federal and State level to improve consistency of food policy, there are still differences in the interpretation of regulations between those responsible for developing it and those responsible for enforcing it. (For example, between FSANZ / Food Authorities and Environmental Health Officers (EHOs) on issues such as food safety and food borne illness.

As an example, our supermarkets have received mixed directives from Councils about the regulatory requirements for open fish displays. In Brisbane, we can display fish fillets but not in Cairns where only the whole fish is permitted. Similar inconsistencies have also occurred around the regulation of 'naked' bread, salad and olive bars. The Belconnen store in the ACT has been directed to bag all naked bread due to their belief the bread is not adequately supervised. However in the ACT Gunghalin store, the same EHO has deemed no issue with their naked bread offering. The only variance is the minor design difference of the unit being one tier in Gunghalin and two tiers in Belconnen.

In many cases, our supermarkets have been treated differently to others who operate to the same standards – for example, with fish displays, to fish markets and wholesalers. While independent food safety data has been provided on open fish display on ice demonstrating food safety compliance, certain councils have still opposed the displays on the basis of risk that smaller retailers who may not have the same robust procedures and controls may copy. We believe the overall objective should be to ensure that any retailer who offers the concept is doing so in a safe manner.

There are also widespread differences in the number of food safety visits or inspections across councils nationally (e.g. annual or bi-annual store inspections) and the frequency and cost of audits and inspections can differ markedly depending on jurisdiction. In addition, a number of councils may charge for initial inspections, whilst others may only charge for follow-ups after an identified breach. In Queensland, one council will charge an administration fee and expect documentation for all sites in a



single manner, while another may require a food business with multiple premises within the same municipality to process each site separately, creating unnecessary burden.

***Recommendation: consistent advice and procedures across all Local Governments would significantly reduce regulatory burden and unnecessary cost impositions upon retailers.***

***Naked bread***



***Fish on ice displays***



***Olive bars***



### **3.3 Noise Issues**

Local Councils are responsible for administration of State Environment Protection Policies, noise control guidelines and other environmental regulations relating to residential amenity. Underpinning these rules is a general requirement for commercial activity to be non-intrusive at night. Night is defined as the period from 10pm to 7am (9am on Sundays and Public Holidays). This definition is outdated, having not been reviewed since it formed part of superseded legislation which regulated commercial hours and prohibited Sunday trading.

Many jurisdictions have legislated to codify the guidelines and specify penalties for breaches of these standards. In some cases the resulting local laws apply, and impose restrictions, regardless of whether the prescribed activity is in fact intrusive or obnoxious.

Arbitrary specification of curfews unreasonably limits Coles' ability to operate efficiently and provides no direct benefit to residential neighbours who are rarely affected. Curfews limit the time windows available to roster deliveries, so overlaps occur, causing unnecessary noise and disturbance. Trucks are scheduled to be on the road contributing to peak commuter traffic (6am–9am, 4pm–7pm).

***Recommendation: The 'night time' hours during which commercial businesses must be entirely silent should be redefined to midnight to 6am. Noise standards could be provided for business operations during sensitive 'evening' and 'morning' periods.***

### 3.4 Misappropriated and abandoned trolleys

Shopping trolleys provide an essential service for millions of customers every day in shops and shopping centres throughout Australia. The retailers who provide shopping trolleys have millions of dollars invested; in the provision of trolley services, in maintenance, replacement and upgrading of trolleys, and in the collection and return of trolleys to stores for use by other customers.

Coles takes its shopping trolley management responsibilities very seriously and is committed to taking action to deal with any problems. We understand the difficulties that Council officers can experience when supermarket trolleys are misappropriated and abandoned in residential streets and have implemented a range of measures to assist and work cooperatively with Councils to identify and retrieve abandoned trolleys in a timely manner.

However, some individual Councils have chosen to introduce legislation imposing penalties or requiring investment by retailers in specific technology such as coin deposit systems, which are not customer friendly nor welcomed by many elderly customers or parents. We believe there should be flexibility in the local laws to allow for new technologies (such as wheel lock systems) to be installed that would benefit customers. There also needs to be a more consistent approach in terms of enforcement as approaches and fees can vary significantly.

At any rate the business of trolley fleet management remains a labour intensive, manual activity. Even using the best available trolley management systems we must still engage contractors or employ service assistants to recover and return abandoned trolleys.

We note that some Councils have reported significant improvements where they have worked collectively with retailers and other stakeholders on trolley management issues, thus reducing the burden on local councils, as well as enforcing local by-laws around dumping.

***Recommendation: Coles believes local government should be provided with specific guidance for legislative responses to issues around misappropriated and abandoned trolleys to ensure national consistency across LGAs.***