

**Submission to the Productivity Commission
Relative Costs of Doing Business in Australia: Retail Trade Industry**

Woolworths welcomes the opportunity to provide this submission to the Productivity Commission's study into the "Relative Costs of Doing Business in Australia: Retail Trade Industry." The short time allowed for submissions has necessarily limited the information that Woolworths has been able to prepare, but Woolworths looks forward to being able to provide further information to assist the Productivity Commission's work as the study progresses.

In three sections, this submission sets out the various state-level regulations applicable to Woolworths as a national retailer. Through reference to Woolworths' experience, this submission sets out the impact of trading hours restrictions, the imposition of red tape, and state-levied fees and charges, to demonstrate the relative costs of doing business across Australia.

Woolworths was established in 1924 when it opened its first store in Sydney's Imperial Arcade. Since then it has grown into a major Australian retailer and now employs more than 180,000 Australians. Every day, 87 young Australians start a new job with Woolworths and this year Woolworths expects to grow its workforce by more than 7,000 people. Woolworths also values the contribution of older workers – there are 2,200 Australians over the age of 65 currently working for Woolworths.

Woolworths operates across Australia, in city centres, suburbs and regional and rural towns and each week Woolworths serves an average of 28.4 million customers in its stores. The first advertisement that Woolworths ever placed, in December 1924, stated that *"Every man, woman and child needs a handy place where good things are cheap,"* and we remain highly conscious of the impact that high costs can have on our ability to offer the products that customers want at the prices they want to pay.

Costs imposed by restrictions on trading hours

The benefits of allowing consumers and traders to decide for themselves when to shop are well-established. The elimination of restrictive regulation in this area produces substantial and immediate positives and the benefits of reform have been studied and examined exhaustively.

The Productivity Commission considered the regulation of retail trading hours in its 2011 inquiry into the Australian retail industry and recommended that trading hours be fully deregulated. The Productivity Commission highlighted the:

- Costs on retailers: these include efficiency costs arising from investments not being fully utilised; from the need to manage stocks of perishable goods such as flowers and fruit; compliance costs across jurisdictions and sales lost to competitors – including international on-line retailers – that are not restricted by trading hours regulations.
- Costs on consumers: these include opportunity costs created by imposing inconvenience on consumers and the creation of congestion costs as all shoppers are forced to shop during the same restricted hours.

- Costs on employees: regulated hours impose costs on employees who would prefer to work during the hours that are prohibited by regulation.

The relaxation of trading hours is clearly a significant micro-economic reform that benefits consumers and promotes efficient and sustainable economic growth. Jurisdictions like Victoria, Tasmania, Northern Territory and the ACT do not regulate trading hours (beyond, in some states, Christmas day, Good Friday and ANZAC Day) and this should be adopted as policy in the states that persist with extensive restrictions such as Queensland, Western Australia and South Australia. While NSW is less restrictive than some, it still maintains an inconsistent patchwork of restrictions in some parts of the state relating to Boxing Day and Easter Sunday.

The relaxation of trading hours would benefit consumers and promote efficient and sustainable economic growth. Reform at this time is particularly important as the retail sector is responding to the permanent structural changes brought about by the advent of on-line retailing.

The benefits to the community include the additional wages paid to employees as a result of an increase in employment opportunities. This would represent millions of dollars in increased wages flowing, every week, into local communities. A consequence of this would also be an increase in the amount of payroll tax paid to the relevant state government and income tax paid to the Commonwealth Government.

Liberalising retail trading hours would enhance productivity in a major sector of the economy. It would generate employment and benefit consumers by allowing retailers to provide convenience and choice. Lifting the restrictions will allow retailers to provide consumers with goods and services at times that are convenient and suited to modern lifestyles. Their repeal will also remove an obstacle to innovation in the retail sector.

Importantly, the reforms have a large potential benefit, are easy to implement at no cost to taxpayers and the benefits of reform could be secured immediately.

Western Australia:

Retailers in WA must contend with a number of regulations that should be reformed, for example:

- North of the 26th parallel of south latitude, trading hours are deregulated. South of this line there are a range of restrictions. Within the Perth Metropolitan Area trading hours for “General Retail Shops” are restricted to 8am to 9pm on weekdays, 8am to 5pm on Saturdays and 11am to 5pm on Sundays.
- Regulations prevent Masters Home Improvement stores from trading in line with the hours enjoyed by other hardware stores. To be eligible to trade as a “domestic development shop” Masters must only sell those goods which are prescribed by the *Retail Trading Hours Regulations 1988*. The regulation prescribes a list of what a “domestic development shop” can sell which gives rise to all sorts of inconsistencies and anomalies. The regulation:
 - Allows the sale of light bulbs but prohibits the sale of light fittings
 - Allows the sale of outdoor lighting but prohibits the sale of indoor lighting
 - Allows the sale of kitchen sinks but prohibits the sale of dishwashers
 - Allows the sale of wood-fire heaters but prohibits the sale of gas heaters
 - Allows the sale of indoor television antennae but prohibits the sale of outdoor television aerials

The practical effect of the regulation is that Masters Home Improvement stores cannot trade as a “domestic development shop” because it stocks both light bulbs and light fittings. Competitors who stock a smaller range of products are able to open for extended hours –

thus placing Masters at a competitive disadvantage. The situation is an inconvenience for customers and an anti-competitive restriction.

- In some parts of WA Sunday trading is still prohibited. Woolworths has 8 supermarkets that, by law, must remain closed on Sunday. These stores are: Albany, Albany – Brooks Garden, Albany – Bayonet Head, Esperance, Geraldton, Kalgoorlie, Katanning and Manjimup. Allowing these stores to trade on Sundays would immediately create new employment opportunities in regional towns and extend the convenience of Sunday trading currently being enjoyed elsewhere.
- While Woolworths petrol stations can open at any time, the *Retail Trading Hours Regulation 1988* limits what goods can be sold in the petrol station shop at different times. The regulation means that Woolworths petrol stations are restricted in what they can sell outside general hours. The original point of these restrictions is lost and the regulations are now quite redundant and create all sorts of inconsistencies. For example, a Woolworths petrol station:
 - Can sell film and flash bulbs on Sundays before 11.00am – but it is illegal to sell a digital camera's memory card at this time
 - Can sell cigarettes before 8.00am on Mondays – but it is illegal to sell nicotine patches at this time
 - Can sell pantyhose after 9.00pm on Thursdays – but it is illegal to sell underpants at this time
 - Can sell needles before 8.00am on Tuesdays – but it is illegal to sell wool at this time

In 2012 limited Sunday trading was introduced in the Perth metropolitan area. This small reform has been a success with Woolworths publicly predicting that it would hire 700 additional staff as a result. This prediction has been met and the new positions have been created across the Woolworths group including the supermarkets, BIG W discount department stores, and Masters Home Improvement stores.

The WA Economic Regulation Authority has recently issued a draft report into micro-economic reform opportunities that recommended the liberalisation of trading hours in WA. If this reform is adopted, Woolworths alone would create hundreds of additional jobs and there would be many more across the entire retail sector.

Queensland

Trading hours in Queensland are regulated by the *Trading (Allowable Hours) Act 1990* which runs over 57 pages plus 8 pages of regulations. There are therefore 65 pages of legislation to open a store which creates a complex and inconsistent regulatory environment.

For South-East Queensland there are set trading hours:

- Monday-Friday 8am to 9pm
- Saturday 8am to 5pm
- Sunday 9am to 6pm

These restrictions are compounded by a patchwork of complications and exemptions. For example, on Saturdays, shops in South-East Queensland must close by 5.00pm, but in inner city Brisbane by 5.30pm, in the "City Heart" of inner city Brisbane by 7.00pm, in New Farm by 9.00pm and in the Gold Coast tourist area by 10.00pm.

Stores are not able to vary their trading hours in response to customer demand arising from local conditions such as seasonal variations, weather events and community festivals. The law also prevents Sunday trading in many regional towns and Woolworths is unable to open its stores at

Chincilla, Kingaroy, Stanthorpe, Roma, Warwick, Pittsworth, Dalby, Childers, Blackwater, Bowen, Ayr, Charters Towers, Prosperpine, Mission Beach, Mt Isa, Weipa, Mount Isa Plaza, Cloncurry and Ingham. Allowing these stores to trade on Sundays would immediately create new employment opportunities in regional towns and extend the convenience of Sunday trading currently being enjoyed elsewhere.

The Queensland trading hours system allows for exemptions to be gained through a highly complex, expensive and adversarial process adjudicated by the Queensland Industrial Relations Commission.

In 2013 the Queensland Competition Authority released its *Final Report – Measuring and Reducing the Burden of Regulation* and recommended liberalising retail trading hours in Queensland. This report found that the net potential benefit to Queensland of removing the current restrictions was \$200 million per annum which was the largest benefit of any of the priority reform areas proposed by the Queensland Competition Authority. The Queensland Government has not yet acted on this recommendation.

South Australia

Trading hours are regulated by 26 pages of legislation and 15 pages of regulation that create a highly restrictive and very complex operating environment.

The legislation creates different trading hours regimes for areas that have been defined as being in the CBD Tourist Precinct, the Glenelg Tourist Precinct or the Metropolitan Shopping Area. There are a further 34 Proclaimed Shopping Districts. Those parts of the state that are not covered by any of these precincts, areas or districts are not subject to regulation.

On days that are not public holidays, stores in the CBD Tourist Precinct, Glenelg Tourist Precinct or Metropolitan Shopping Area must not trade:

- after 9pm on a weekday;
- after 5pm on a Saturday; or
- before 11am or after 5pm on a Sunday.

On days that are not public holidays, stores in a Proclaimed Shopping District must not trade:

- after 6pm on a weekday other than Thursday;
- after 9pm on a Thursday;
- after 5pm on a Saturday; or
- on a Sunday.

Lifting these restrictions and allowing retailers to decide when they wished to open for business and when customers wished to shop, would immediately create additional employment opportunities in South Australia. Woolworths alone would create hundreds of additional staff members and it can be expected that thousands of additional jobs would be created across the wider retail sector. Freeing the sector of these restrictions would also allow retailers operating in the state to better meet the competitive challenge posed by online retailers who may be based interstate or in another country.

Costs imposed by red tape

The retail sector is subject to an array of poorly designed regulations that impose unwarranted costs. Many of these regulations are cumbersome and inefficient and constitute nothing but pointless red tape. Despite these regulations being long overdue for repeal they persist as significant or irritant costs imposed on retailers. Some examples are:

Victoria - Control of Weapons Act 1990

Disposable plastic picnic knives are harmless and innocuous items that represent no threat to public safety, law and order. Disposable plastic picnic knives are not used to commit crimes. The Victorian *Control of Weapons Act 1990* defines any knife – including a plastic picnic knife – as a “controlled weapon” and retailers are not permitted to sell “controlled weapons” to people under the age of 18.

Every year hundreds of thousands of packets of plastic picnic knives are sold in Victoria. Every one of these sales requires the shop assistant to ensure that the customer is over 18. This can mean that the transaction has to stop while the customer produces proof of age. At self-service check-outs the transaction is suspended while a customer service officer attends and allows the transaction to continue. The process wastes time and does not assist in making the community safer as items of plastic picnic cutlery are not used to commit crimes.

Woolworths estimates that this regulation adds costs of \$128,000 per year to the operations of its supermarkets. This estimate does not include costs incurred in other stores (eg BIG W) or the wider retail sector. Applied across all retailers and the costs will increase. There will also be customer service benefits that would usually lead to increased sales – but these are very hard to estimate with precision.

Victoria is unique. No other state or territory defines a plastic picnic knife as a controlled weapon. Earlier this year the Victorian Government announced that they would exempt plastic picnic knives from the provisions of the *Control of Weapons Act 1990* but, to date, no repeal has taken place.

South Australia - Prices Regulation 2001

South Australia is the only state that regulates the commercial arrangements that are negotiated between the manufacturers and retailers of bread by outlawing the practice of “sale or return.” In other states, out-of-date bread is returned to manufacturers who process it into other bread products, such as breadcrumbs or croutons. Some of the bread also re-enters the food chain as animal feed. In contrast, in South Australia, where out-of-date bread can not legally be returned, costs are increased as most of the bread is dumped as waste at landfills.

Strangely, the *Prices Regulation 2001* that is responsible for this situation applies only to leavened breads, ie breads that contain yeast. It does not apply to non-leavened breads such as crumpets and muffins which, across Australia and in South Australia, are supplied on a sale or return basis.

South Australia is unique. No other state or territory regulates the sale or return of bread. This demonstrates that regulatory intervention is not required for a sustainable and reliable bread industry. There is no reason to believe that the practices established in the other states would not also quickly apply in South Australia if the regulation were to lapse. The regulation was set to lapse in 2013 but the South Australian Government renewed it for a further 12 months.

Western Australia - Liquor Control Act 1988

In non-metropolitan areas of WA, section 98D of the *Liquor Control Act 1988* prevents liquor stores in non-metropolitan areas from opening on Sundays. However, packaged liquor sales are allowed to be made in regional areas by hotel licence holders.

This is clearly an anti-competitive provision. In the same regional town, a hotel can sell takeaway packaged liquor but a liquor store is prevented from selling the identical product. This imposes costs on retailers including the efficiency costs arising from investments not being fully utilised. There are also costs imposed on employees who miss out on the potential to work additional shifts and on customers who are inconvenienced by not being able to shop where they want.

Woolworths would like to see non-metropolitan consumers afforded the same choice that those in metropolitan areas enjoy by allowing them access to liquor store sales on a Sunday. It is unclear why one consumer is afforded the convenience and choice of being able to purchase on a Sunday while another consumer, living in another part of the state, is denied this option.

A 2013 Review of the Liquor Control Act considered this issue and recommended that section 98D of the Act be amended to authorise all liquor stores to trade on Sundays between 10.00 am and 10.00pm. There has yet to be any legislative response from Government to this recommendation.

Costs imposed by fees and charges

In the course of developing its store network across Australia, Woolworths has acquired significant experience of the different regimes of land tax and council rates and charges that are applied across jurisdictions. The experience has been that land tax, council rates and service charges in South Australia are relatively high compared to other jurisdictions.

Woolworths makes a significant contribution to economic development and employment across South Australia. We are one of the State's largest employers with over 11,500 team members employed in 168 stores including supermarkets, BIG W, petrol sites, Dan Murphy's and BWS liquor outlets and our new Masters Home Improvement stores.

South Australia - Land Tax

Land tax in South Australia is based on the unimproved land value as calculated by the Valuer-General. The main disparity between South Australia and other jurisdictions is the applicable tax rates, particularly on land valued in excess of \$1 million.

For a parcel of land valued at \$20 million, the tax payable in South Australia is over \$700,000. Victoria would levy just over \$400,000 while Western Australia would levy less than \$300,000.

The land tax for South Australia is almost double the rate payable on similar projects in NSW. For example, a property in Adelaide with a \$12 million land value has a land tax assessment of \$435,000. In NSW the same property would be liable for only \$225,000.

For commercial property this is a significant and ongoing addition to the cost of doing business in South Australia, creating a disincentive to investment.

South Australia – Council Rates

Rates in South Australia are based on the capital improved value of the property as determined by the Valuer-General and under the South Australian *Local Government Act 1999*, councils have greater flexibility over the rating system than is observed in some other states.

Individual councils are able to determine their own policy on the applicable rate in the dollar they apply to property categories. The applicable rate can differ significantly from council to council for a property of similar value, and the rate applied to any one property can fluctuate significantly year on year. These fluctuations and disparities between councils add uncertainty for investors.

For example, during development of Woolworths' Murray Bridge Marketplace, the final council rates liability upon completion was some 30% higher than the estimated liability calculated during planning.

Aside from the quantum of the rates liability, the use of capital improved value, rather than unimproved capital value also serves as a disincentive to high-quality development and urban outcomes as high-value capital improvements create greater council rate liabilities for investors.

South Australia – Utility charges

In South Australia, water pricing for commercial customers comprises a supply charge, based on the capital value of the relevant property, and a usage charge calculated on a per kilolitre basis.

Woolworths believes that charges should be based on the recovery of efficient costs. The linkage of water charges to capital values creates significantly higher charges than in other states and acts as a disincentive to investment in environmentally sustainable infrastructure.

The table below sets out the cost disparity in water and sewerage supply charges between Woolworths' Murray Bridge Marketplace in regional South Australia and a comparably sized development in Bega in regional NSW. Costs are approximate.

	Murray Bridge Marketplace (SA)	Bega Marketplace (NSW)
Annual water supply charge	\$51,000 p.a.	\$3,000 p.a.
Annual sewerage charge	\$126,000 p.a.	\$15,000 p.a.

Concluding Remarks

It is Woolworths' experience that trading hours restrictions, the imposition of red tape, and state-levied fees and charges combine to create significant relative cost differences between Australian states and territories.

For a multi-national business such as Woolworths Limited, these costs create localised disincentives to investment that are ultimately detrimental to living standards and economic growth.

I hope that this submission assists the Productivity Commission's study into the relative costs being faced by Australia's retail sector. Woolworths would be happy to provide further detail or clarification on any point and to provide additional information as the study proceeds.

Yours sincerely

Michael Samaras
Government Relations Manager

5 May 2014