

The voice of Australia's leading retailers

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Relative Costs of Doing Business in Australia: Retail Trade Industry



**Australian National
Retailers Association**

The voice of Australia's leading retailers

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About ANRA

The Australian National Retailers' Association ("ANRA") was established in 2006 to represent the interests of Australia's leading national retailers.

Members of ANRA are:

Best & Less	GraysOnline
Bunnings	Harvey Norman Harvey Norman Domayne Joyce Mayne
Coles Group Supermarkets Express Liquor	Just Group Portmans Peter Alexander Dotti Smiggle Just Jeans Jay Jays
Costco	Luxottica OPSM Laubman & Pank Budget Eyewear Bright Eyes Sunglass Hut
David Jones	Petbarn
Dymocks	Super Retail Group Supercheap Auto BCF REBEL Rays Outdoors AMART Sports
Forty Winks	Woolworths Supermarkets Dan Murphy's Big W Masters

ANRA members lead the retail industry, across all types of retail goods and services. Their combined turnover exceeds \$110 billion of the \$255 billion turnover across the retail industry, which is equivalent to more than six percent of Australia's Gross Domestic Product.

A key objective of ANRA's is to ensure that governments and the community understand the vast contribution the retail industry makes to the national economy. Retail is Australia's largest private sector employer, accounting for 1.2 million jobs. The members of ANRA employ more than 500,000 people – or 41% of the retail workforce and 4.4% of the Australian workforce – with approximately 100,000 of these employees located in regional and rural Australia.

ANRA recognises that retailers rely on all Australians, and must competitively deliver to customers' needs. Conversely, the retail industry and members of ANRA in particular, are leading employers, contribute to local communities and regional development, and strongly interrelate with other Australian industries. Indeed, the sector supports a further 500,000 jobs in associated industries including agriculture, manufacturing, transport & logistics and construction & property maintenance.

The spectrum of ANRA member businesses, their scale and contribution to Australian communities means the development and support of robust public policy is critical to strengthening the retail sector and protecting the interests of retail businesses and Australian consumers alike.

ANRA welcomes the opportunity to make a submission to the Productivity Commission's Inquiry into the Cost of Doing Business in the Retail Sector.

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1. Executive Summary

- 1.1. The Productivity Commission conducted a major review into the retail sector in 2011. ANRA made a number of submissions to this inquiry and appeared before the overseeing Commissioners to assist with deliberations.
- 1.2. The Productivity Commission is well aware it made recommendations in 2011 that were designed to improve productivity and ensure the sustainability of the sector going forward. The Federal Government's response implied that it intended to work to implement many of the proposals.¹ Many of the recommendations required action from State and Territory governments.
- 1.3. Since then, there has been a change of government at the national level and three years have passed. Consequently, this submission partly reflects on the progress that has been made implementing the previous Inquiry's recommendations.
- 1.4. Progress has been made in a small number of areas but overall the pace of implementation has been generally disappointingly slow. In fairness to the current and former Federal Governments, many of the recommendations made by the Productivity Commission in 2011 would need to be implemented by State and/or Territory Governments. This makes it difficult – but not impossible – for the Federal Government to push the reform agenda forward.
- 1.5. The Productivity Commission is likely well aware of the background behind its previous recommendations, and so this submission does not go into great detail for many of the issues already covered by ANRA in submissions to previous inquiries.

Recommendations:

- 1. The Federal Government initiates and drives States to reform retail trading hours towards a nationally harmonised regime that delivers unrestricted trading on all days with the exception of Good Friday, ANZAC Day morning and Christmas Day.**
- 2. The Road Safety Remuneration Act 2012 is repealed. At a minimum, the Road Safety Remuneration Tribunal should refrain from making further orders until the current review of the Road Safety Remuneration System is completed.**
- 3. Best practice regulation of retail freight transport operations is uniformly applied across all state and local jurisdictions.**
- 4. Governments adhere to Office of Best Practice Regulation guidelines prior to any new, nationally consistent regulation of retailers is being considered.**

¹ Commonwealth Treasury (2011) *Government Response to the Productivity Commission Inquiry into the Economic Structure and Performance of the Australian Retail Industry*.

- 5. The Low Value Threshold is eliminated or lowered to \$20 as soon as practicable.***
- 6. Parallel importation restrictions embodied in the Copyright Act 1968 are removed.***
- 7. Streamlining regulatory requirements where contact is made with multiple agencies would alleviate the regulatory red-tape burden faced by Australian retailers.***

2. Determinants of Retail Cost Structures

Retail Trading Hours

- 2.1. Back in 2011, the Productivity Commission recommended that retail trading hours should be fully deregulated in all states. There has been some reform towards less restrictive trading regimes in a few states, but significant further action is needed to deliver appropriate regulation of trading hours across Australia.
- 2.2. At the time of the 2011 inquiry only the ACT and NT had completely deregulated trading hours. In addition, Tasmania and Victoria only had two-and-a-half restricted trading days - Christmas day, Good Friday and ANZAC day morning (a position ANRA is comfortable with). These remain the only states to have largely deregulated trading.
- 2.3. WA has been the state that has been able to achieve the most change since 2011. WA abolished its special trading precincts that operated around Perth for Sunday and public holiday trading and now allows trading on all Sundays and most public holidays from 11am to 5pm. The only public holidays that remain restricted in Perth are Christmas day, Good Friday, Easter Sunday and ANZAC day morning.
- 2.4. However, there is still work to be done. Stores outside Perth must remain closed on all Sundays and public holidays. In addition, there are still set trading hours for all days of the week both inside and outside Perth which, while long (generally 8am-6pm/9pm) are still restricted. Completely unrestricted trading is only in place above the 26th parallel.
- 2.5. On a positive note, the Western Australian Economic Regulation Authority has just completed a review of potential areas for microeconomic reform in the State. One of its recommendations was for the deregulation of trading hours across WA and to just retain restricted trading on Christmas day, Good Friday and ANZAC day morning. The WA Government is yet to respond to this report but recent actions around trading in Perth suggest some reason to be positive that further incremental change may be possible.
- 2.6. There has been no movement on this issue in NSW. Restricted trading remains in place on Christmas day, Good Friday, ANZAC day morning, Easter Sunday and Boxing Day. In addition, NSW operates a complex system of holiday trading zones, reflecting the holiday patterns of the 1960s, where trading can happen on the restricted trading days.
- 2.7. There has been no change in Queensland on retail trading and it generally bans trading on Sunday and public holidays. As in NSW, this is made more complex by a series of local council based exemptions that allow trading in some areas on otherwise restricted days. Like WA, Queensland also has set hours of trade for normal days (8am to 5pm/9pm).
- 2.8. SA has the most regulated trading hours in Australia and does not allow Sunday or public holiday trading other than in a small area of Adelaide (effectively Rundle Mall). There has been some mild easing of this around Sunday trading in Adelaide in the few weeks leading-up to Christmas in recent years but this is at the discretion of the Minister and is not a legislated reform.

- 2.9. Figures 1a and 1b below provide extracts from Deloitte (2011) that provides an illustrative example of the administrative cost of inconsistencies in retail trading hours regulations from the perspective of a major supermarket retailer – where at least 16 additional specific tasks need to be performed by 11 different classifications of team members.²

Figure 1a – Extract from Deloitte (2011)

Table 8: Additional tasks performed by Woolworths to prepare for a public holiday

Position	Additional task
Regional HR services	By state each HR manager is required to interpret local government legislation, in conjunction with the National agreement and formulate an employee entitlement pack for Stores
Employee relations HR manager	Reviews every Regions Pack for certification Engage solicitor if required for interpretation
	Present proposal to unions
Regional HR services	Once certified, present Regions Pack to Regional Executive Team Present Regions Pack to Area HR Specialists
National Payroll	Interpret each Regions Pack and formulate payroll instructions for stores Analyse financial planning
Productivity Specialist	Present financial planning to Regional Executive Team Present financial planning to Store Managers
Regional HR services	Present Regions Pack to Store Managers and Retail Support Team
Store Managers	Present Regions Pack to Department Managers Present Regions Pack to Assistant Department Managers
Department Managers	Administer new rostering arrangement including - calling for volunteers / employee election forms / costings and rostering
Store Managers	Reviews every change of roster / and ph change processes
Store Services Offices	Change of contracts and rostering entered into payroll system
Store Managers	Re-arrange business services e.g. cleaners
Regional Office Admin	Re-arrange Armguard, waste, trading hours
Regional executive team	Sign off on agreed trading hours for all Regions in state

² Deloitte (2011), The Structure and Performance of the Australian Retail Industry.

Figure 1b – Extract from Deloitte (2011)

Position	Additional task
Retail Support Team	Keys revised trading hours in to system by store by day communicating to National Retail Operations
National Retail Support	Keys revised trading hours into system to list on Web site and internal systems
	Communicated with local supply chain on delivery schedule requirement changes for the public holiday
	Schedules are then sent to stores to make any additional requirements or changes to their current schedules
Retail Support Team	Schedule changes keyed into spread sheet where Area Managers review and sign off
	Retail operations forward to supply chain for keying into the data base and sign off on changes
	Forward current schedules with proposed changes for Armaguard and waste delivery services. Stores forward request for change or sign off where by changes are keyed and communicated to Armaguard and waste

Source: Woolworths Ltd.

- 2.10. ANRA recognises that the regulation of retail trading hours is conducted at the state level, but there are well established precedents for the Federal Government to formally incentivise states to reform – such as national competition payments.

Recommendation: the Federal Government initiates and drives States to reform retail trading hours towards a nationally harmonised regime that delivers unrestricted trading on all days with the exception of Good Friday, ANZAC Day morning and Christmas Day.³

Planning Systems

- 2.11. There have been major reviews of state planning systems in recent years – notably VIC and NSW, and now currently SA. One of the biggest concerns for ANRA members remains NSW, which is effectively now in planning limbo.
- 2.12. The NSW planning system is generally seen as one of the more dysfunctional in Australia and reform in this area was a key focus of the Liberal-National Government when it came to power in 2011. The policy work done by this Government focused on increasing the use of Codes and as-of-right development – a direction that has been recommended by the Productivity Commission in its own inquiries into planning systems.

³ For clarity, ANRA does not consider this recommendation implies that ANRA is also recommending ACT and NT re-regulate retail trading hours in any way.

- 2.13. Despite the extensive re-working of the planning system and consultation process associated with the reforms, the Government has not been able to have the new legislation passed through the Legislative Council. Several amendments were proposed by the Legislative Council but these include watering down the Code and as-of-right processes and so the Government has not accepted them.
- 2.14. This effectively leaves planning in NSW in limbo, especially for major developments that were previously approved under the Part 3A system and which are now stuck in a transitional system with no date for when the new system will be implemented.
- 2.15. Members also report the continued application of inconsistent and binding local Government constraints on timeframes and vehicles for making deliveries to and from stores. This is dealt with in more detail under the sub-chapter 'Transport', but at this point it is worth noting it is not uncommon for local Government to impose additional constraints on large retail businesses that simply add cost to retailers' operations.

Comment: the NSW Government has attempted to implement planning reforms that will, in ANRA's view, deliver benefits to the people of NSW. ANRA remains supportive of NSW Government efforts to deliver its original proposed reforms.

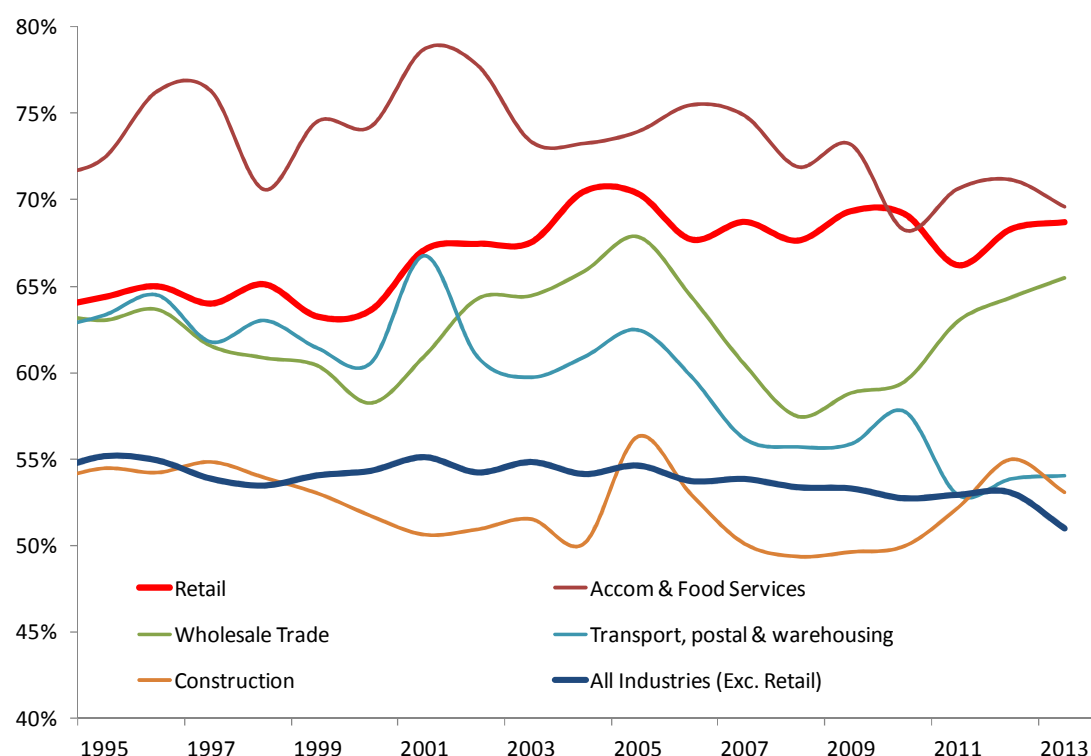
Wage and labour costs

- 2.16. Retail is one of the most labour-intensive industries in Australia, with 1.2 million employees as at February 2014 – making it the largest private sector employer in Australia. The workforce consists of roughly half full-time employees and half part-time (and casual) employees. Around 56% of retail employees are female.⁴
- 2.17. Wages growth across the retail sector was 2.7% over the year to December 2013, slightly higher than the 2.5% increase experienced across the entire private sector over the same period.⁵
- 2.18. Total compensation to employees – in the form of wages, salaries, superannuation and bonuses etc. – accounts for around 70% of each and every dollar earned in the sector. Retail is one of a few sectors where the share of 'total factor income' going to compensation for employees has been steadily rising over the past decade. This compares with a slight decline in labour's share of income to around 51% of income generated in all other industries.

⁴ ABS (2014), 6291.0.55.003 Labour Force, Australia, Detailed, Quarterly - Table 11. Employed persons and actual hours worked, industry and sex.

⁵ ABS (2014), 6345.0 Wage Price Index, Table 5b. Total Hourly Rates of Pay Excluding Bonuses: Sector by Industry, Original.

Figure 2: Compensation of employees as % total industry income⁶



- 2.19. A key driver for basic wage costs in the retail sector is the national minimum wage decision, made as part of the Fair Work Commission's Annual Wage Review. This is because the retail sector is one of the more heavily award-reliant sectors in the Australian economy.
- 2.20. Indeed, the General Retail Industry Award (GRIA) 2010 in particular is a primary instrument for engagement of employees under the federal system and also as a (the) point of reference for negotiating enterprise bargaining agreements (EBA). This in turn makes the national minimum wage decision pivotal in determining the trajectory of wage costs for the sector.
- 2.21. Table 1 below provides a summary of recent decisions and their impact on rates of pay for a full time adult Level 1 employee under the GRIA.

Table 1: Summary of National Minimum Wage decisions (2009/10 – 2013/14)

	Decision	Min wage p/h	New min wage	New GRIA lvl 1
2009/10	No change	\$14.31	\$543.90	\$600.00
2010/11	Rise \$26 p/w	\$15.00	\$569.90	\$626.00
2011/12	Rise 3.4%	\$15.51	\$589.30	\$647.30
2012/13	Rise 2.9%	\$15.96	\$606.40	\$666.10
2013/14	Rise 2.6%	\$16.37	\$622.20	\$683.40

⁶ ABS (2014), 5204.0 Australian System of National Accounts – Table 46 Total Factor Income by Industry and Principal Components – Current prices.

- 2.22. The penalty rate structure of the GRIA also has a significant influence on the total retail workforce cost. Table X below details the penalty rates applied to hours worked outside of Monday to Friday before 6pm and not on public holidays.

Table 2: Penalty Rate structure of the GRIA 2010 (non shiftwork)

Hours worked during	F/T and P/T employees	Casuals
Monday – Friday after 6pm	+25%	+25% (Casual loading only)
Saturday	+25%	+35% (casual loading plus 10% between 7am and 6pm)
Sunday	+100%	+100% (incl. casual loading)
Public Holidays	+150%	+150% (incl. casual loading)

- 2.23. Larger retailers tend to engage employees under an EBA, which are typically more suited to the particular business it covers. Developing an EBA that passes the Better Off Overall Test (BOOT) will also generally necessitate paying employees comparatively more on average than if those employees were covered under the General Retail Industry Award 2010.

Comment: The inaugural four-yearly review of modern awards is currently underway. ANRA also understands the Productivity Commission will likely review the Fair Work Act in the near future.

Transport

- 2.24. Australia's major retailers are large consignors and consignees and have a significant component of their freight transported by means of the road transport industry. In some instances some of ANRA's members also act as an employer or hirer of road transport drivers.
- 2.25. The size of their logistical task means that retailers are second only behind the manufacturing industry as users of the road freight system.⁷ ANRA's members are therefore committed to maintaining and promoting a safe and efficient road transport industry. ANRA members do not accept or condone unsafe practices in the road transport industry and are committed to the elimination of such practices.
- 2.26. Working practices and remuneration outcomes for the road transport system are complex and regulated via a number of legislative instruments across numerous jurisdictions. Prior to the establishment of the *Road Safety Remuneration Tribunal* under the *Road Safety Remuneration Act 2012*, this included:
- (a) Commonwealth, State and Territory Work Health and Safety legislation (including Regulations and Codes of Practice made under that legislation);
 - (b) Chain of Responsibility legislation, such as under the *NSW Road Transport (General) Act 2005* and associated regulations;

⁷ Deloitte Access Economics, unpublished paper - Market analysis of the Australian road freight transport sector.

- (c) State and Territory road transport legislation, including safety and traffic management, driver licensing, and heavy vehicle registration laws;
 - (d) minimum conditions of employment under the National Employment Standards in the *Fair Work Act 2009* (**FW Act**);
 - (e) industrial awards and enterprise agreements made under the FW Act setting terms and conditions for employees in the road transport industry;
 - (f) contract determinations made under State and Territory legislation establishing minimum terms and conditions for the engagement of contractor drivers, such as the Transport Industry - General Carriers Contract Determination, the Transport Industry - Mutual Responsibility for Road Safety Contract Determination and the Transport Industry - Interstate Carriers Contract Determination made under the *NSW Industrial Relations Act 1996* (**NSW IR Act**);
 - (g) additional protections under Chapter 6 of the NSW IR Act, as well as under the *Western Australian Owner Drivers (Contracts and Disputes) Act 2007*, and the *Victorian Owner Drivers and Forestry Contractors Act 2005*;
 - (h) rights and protections for independent contractors under the Commonwealth *Independent Contractors Act 2006* (**IC Act**); and
 - (i) rights and protections against unconscionable or oppressive conduct under the Commonwealth *Competition and Consumer Act 2010* (**CAC Act**).
- 2.27. The raft of regulations means that large operators, including some ANRA members, have vast and complex systems and processes in place to meet their obligations. The regulatory complexity was added to in 2012 by the introduction of the Road Safety Remuneration System.
- 2.28. Indeed, prior to the introduction of the Road Safety Remuneration System, a report by Deloitte Access Economics found that despite the substantial size of and growth in the number of interstate road freight journeys, the incidence of fatal crashes involving articulated vehicles and rigid trucks has trended downward over the last decade.⁸
- 2.29. In ANRA's view, this finding suggests the mix of laws and regulations that existed prior to the establishment of the Road Safety Remuneration System were already having a positive impact on road safety outcomes.
- 2.30. ANRA is concerned that for large operators within the sector, such as its members, the Road Safety Remuneration System does not represent an effective and appropriate means of addressing safety concerns in the road transport industry.

⁸ Deloitte Access Economics (2011), unpublished paper - Market analysis of the Australian road freight transport sector.

- 2.31. ANRA notes the RSRT's *Road Safety Remuneration Orders* to date have largely reflected implementation of industry best-practice in terms of fatigue management, drug testing and contracting and payment practices; where large retailers already met or exceed these requirements as standard business practices.
- 2.32. However, the RSRT has been granted jurisdiction to make determination on rates of remuneration for services providers and/or road transport drivers which could potentially override the agreements made between retailers and their logistics partners. These agreements are the result of sophisticated commercial negotiations and ANRA has therefore suggested that where making recommendations on rates of remuneration is necessary for any perceived impact on road safety, the RSRT would be best placed to focus on establishing minimum rates of remuneration and related conditions that apply only to contracts involving small independent contractors.

Recommendation: ANRA recommends the Road Safety Remuneration Act 2012 is repealed. At a minimum, the Road Safety Remuneration Tribunal should refrain from making further orders until the current review of the Road Safety Remuneration System is completed.

- 2.33. The efficiency of retailers' logistics operations is inhibited by restrictions on the time and type of vehicles that can be used for freight operations.
- 2.34. Restrictions on the time of transportation are aimed at reducing noise and light disturbances during the early morning and at night for local residents. Time of transportation restrictions can differ between local areas but are generally imposed outside of daylight hours. However, this also directly contributes to more heavy and medium sized vehicle traffic on the roads during peak hours and therefore contributes to road congestion. Restricting delivery times subsequently limits retailers' ability to remove vehicles from the roads during peak times and move stock efficiently.
- 2.35. The type of transportation to retail outlets is also restricted by the freight capacity of 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 pallets per vehicle.
- 2.36. Restrictions on both the time of transportation and type of transportation restricts retailers' ability to efficiently move products around and between States and Territories; a challenge that is exacerbated by long distances between locations and Australia's at times harsh terrain.
- 2.37. These constraints combine to simply add cost to retailers' physical supply chain efforts and therefore both increases the price of products and prevents stock from being available when stores are open.
- 2.38. This is further exacerbated by the need for additional vehicles in a fleet to meet tighter delivery windows. In addition, delivery runs might be organised according to curfew restrictions rather than the preferred geographical groupings.

- 2.39. Extended delivery times 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.
- 2.40. The benefits from moving towards extended deliveries include the following:
- Decreased transit time due to less congestion on roads;
 - Faster unload time due to lesser congestion at stores and streamlined paperwork processes;
 - 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).
- 2.41. Lifting the curfews on deliveries would allow retailers to increase their operational efficiency and deliver products to consumers at a lower cost.

Recommendation: best practice regulation of retail freight transport operations is uniformly applied across all state and local jurisdictions.

Holding Costs

- 2.42. Estimates vary on the duration of stock turnover for different business models and sub-sectors within the retail industry. Eslake (2011) suggests that retailers in the United States hold on average four weeks worth of stock, in comparison to 4.7 weeks for Australian retailers – which invariably means proportionally higher holding costs for inventory management, physical storage and insurance costs.⁹
- 2.43. Eslake (2011) points out that a key driver in the differences between the two nations is the much lower population density of the Australian market – with more 318 million in the United States and 23.5 million in Australia, or some 13.5 times more in the United States.¹⁰

⁹ Eslake, S. (2011), *Comparisons between US and Australian retailers: some facts*.

¹⁰ United States Census Bureau (2014), *Monthly Population Estimates for the United States: April 1, 2010 to December 1, 2014* and ABS (2014), *Population Clock*.

Retailers' tax burden

- 2.44. Research by PricewaterhouseCoopers (2011) shows Australian retailers face a high number of taxes when compared to other Australian industry groups.¹¹ A survey conducted by PwC identified that retailers face a total tax rate of 45%, representing all business taxes borne as a percentage of profits before all tax. This includes corporate income tax and other business taxes.
- 2.45. The survey also identified the number of taxing points for taxes borne and collected across Federal, States and Territories in the supply chain, which identified retail as the industry with most taxing points, amounting to 32 in total.
- 2.46. The vast majority of these relate to taxes borne, and a low number relate to taxes collected. This can be seen as an indication of the level of compliance burden faced by the retail industry, especially when compared to other industries.
- 2.47. The GST is an example of a tax that is not paid by Australian retailers but that, as collectors of the tax, levies a high compliance burden on the retail sector. Australia-based retailers have substantial costs associated with collecting the GST and complying with the indirect tax system. These are costs that international online retailers, not registered within the Australian GST system, do not face.

Challenges for Food Retailers – Food Safety and Labelling

- 2.48. National food retailers face inconsistent food business registration requirements across Australia. In some states retailers can register with a central jurisdictional registration system that local government can then refer to, while in other jurisdictions local government authorities may ask food retailers to register with them directly. This adds unnecessary complexity and administrative burden.
- 2.49. ANRA also believes there is merit in achieving a degree of consistency in the manner in which food safety audits and inspections are conducted nationally. ANRA's food retailing members continue to report vast discrepancies in the frequency of inspections and approaches to cost-recovery by local governments. In some areas inspection levies are only applied when a follow-up inspection occurs in response to an earlier violation, while in others there is a flat fee for inspections or a structured levy that reflects the types of products the business sells.
- 2.50. Several elements of the Australia New Zealand Food Standards Code are still implemented and enforced in quite different ways.
- 2.51. For example, ANRA members report that some local inspectors may permit both fresh whole fish and fish fillets to be presented in/on an open ice-pack display, while in others only whole fish can be displayed in this manner and in some jurisdictions neither is permitted – despite local inspectors being guided by a single national standard. This inconsistency is not particular to one jurisdiction and therefore makes development of national compliance models highly problematic.

¹¹ PwC (2011), *Total 2010 Total Tax Contribution: Understanding the economic contribution of business*.

- 2.52. ANRA members also report that in a number of instances their stores have not been permitted to display products in this manner, despite these same methods being employed at nearby competing businesses (at local fish markets and at smaller vendors, for example).
- 2.53. There are also recent examples of developments in food labelling requirements that have occurred without consideration of COAG's agreed principles for best practice regulation.
- 2.54. For example, the (former) New South Wales and Australian Capital Territory Governments introduced energy content (kJ) labelling requirements for freshly prepared in-store 'standard' food items. These requirements only apply to larger businesses or businesses operating under a franchise model.
- 2.55. ANRA is not aware of any regulatory impact assessment or customer research that was undertaken prior to the introduction of the relevant legislation, to determine the appropriateness of these schemes in achieving the desired policy outcomes in supermarkets.
- 2.56. Indeed, ANRA supports the policy intent behind kilojoule labelling requirements. ANRA's major supermarket members have now implemented point of sale kJ labelling for the affected items in question on a national basis. However, ANRA remains opposed to the inclusion of supermarkets in these schemes because these schemes were designed to capture consumers of fast food and quick service restaurant meals, not people undertaking a periodic 'grocery shop'.
- 2.57. ANRA acknowledges that, to the credit of these jurisdictions, attempts have been made to ensure consistency in the effective regulatory requirements of these schemes. However, ANRA believes that a national approach would have been appropriate from the start. That is, for the policy principles and guidelines to be established first. ANRA understands that this occurred, but the policy principles and guidelines were essentially finalised alongside development of the New South Wales scheme.
- 2.58. ANRA notes a similar experience with the development of a new approach to front-of-pack-labelling (FoPL) scheme for food products. ANRA remains proud of its involvement in development of a new FoPL scheme. However, it is worth noting that the Office of Best Practice Regulation (OBPR) assessed the initial construct of the scheme as being non-compliant with relevant COAG requirements and consequently a regulation impact statement is now being developed to assess the proposal to introduce the scheme.

Recommendation: Governments adhere to Office of Best Practice Regulation guidelines prior to any new, nationally consistent regulation of retailers is being considered.

Challenges for Discretionary Goods Retailers – Low Value Threshold

- 2.59. The Productivity Commission is likely well aware of its 2011 recommendation that *there was strong in-principal grounds for the low value threshold (LVT) exemption for GST and duty on imported goods to be lowered significantly, to promote tax neutrality with domestic sales.*¹² But also noted that this should not be done unless the cost of collection was lower than the revenue collected.
- 2.60. This recommendation was noted by the Government and the Low Value Parcel Processing Taskforce (LVPPT) was established to investigate new approaches to the processing of low value imported purchases. This LVPPT was heavily focused on current collection methods and found these inefficient processes needed to be modernised to allow for the effective operation of the parcel system, irrespective of what happened with the LVT issue.
- 2.61. ANRA has undertaken considerable research to investigate alternative methods to the current GST collection system on international purchases. This includes looking at why other jurisdictions are able to operate a system that has a GST LVT at considerably lower levels such as £15 in the UK and CAN\$20 in Canada.
- 2.62. Based on this research ANRA has proposed a GST collection system which lowers the LVT to \$20 and sets up a pre-registration system for overseas retailers/couriers to collect and remit GST directly to the ATO. This is similar to the system operating in the UK and moves the collection system away from the high cost manual inspection system that is currently in place.
- 2.63. ANRA research also highlighted the significant cost that the delay in implementing this recommendation from the Productivity Commission is imposing on local retailers and taxpayers.
- 2.64. A series of Ernst and Young reports, commissioned by ANRA, estimate that Australian States and Territories are forgoing an estimated \$806 million in GST on imported goods alone in 2013/14. This figure would be higher again if imported services were also considered.¹³
- 2.65. Looking into the future, this forgone GST revenue is set to grow further. Ernst & Young estimates that in 2012/13 online spending accounted for 6.6% of total retail sales – with 3.4% being spent at offshore sites. By 2019/20 the share of total online spending is expected to rise to 10.6% of total spending, with 6.9% being to offshore web-based businesses.
- 2.66. Under ANRA's proposed \$20 LVT and collection system Ernst and Young estimates the net gain to Australia would be an estimated accumulated gain in GST of \$6.5 billion between 2014/15 and 2019/10.

¹² Recommendation 7.1

¹³ Ernst & Young (2013), Levelling the playing field – implementing a \$20 LVT for overseas on-line purchases.

- 2.67. ANRA recognises that these GST funds, if collected, could be spent on a range of public infrastructure and services by the States and Territories. This is spending that is crucial to important areas such as law & order, education and health.
- 2.68. However, the issue is broader than lost GST revenue.
- 2.69. Ernst and Young estimates that if the LVT is lowered to \$20 then by 2020 between \$9.4b and \$15.7b in retail sales will shift back to Australian traditional and online retailers from foreign retailers, resulting in:
- additional GDP of between \$5.1b and \$8.5b
 - additional retail jobs of between 23,400 to 39,000 and
 - additional jobs in all sectors of 43,400 to 72,300.
- 2.70. ANRA has widely shared its research and proposed solution with the Federal and State and Territory Governments in an attempt to instigate change in the collection method and the LVT. This has, however, not yet resulted in a timetable for change.

Recommendation: ANRA recommends the LVT is eliminated or lowered to \$20 as soon as practicable.

Challenges for Book Retailers - Parallel Importation Regulations

- 2.71. The Australian economy is broadly an open economy, with strong trade connections to the international economy. However, there remain anomalies in some trade regulations that place artificial constraints on wholesale supply markets and therefore put offshore retailers at a distinct advantage to local-based retailers.
- 2.72. One of the most obvious examples of this is the continuing ban on parallel importing within the Copyright Act 1968. This Act restricts imports into Australia of material subject to copyright, such as books, computer software and DVDs. In the past these restrictions also covered music sales but these were lifted in 1998.
- 2.73. These restrictions mean local retailers are forced to buy products from the local publisher only and are not permitted to import legitimate products produced offshore. This limits the competition in the wholesale market for these products, ultimately driving up retailers wholesale costs and leading to local consumers paying more than their overseas counterparts.
- 2.74. Importantly, these restrictions do not apply to imports for personal use – for example, buying a book from an overseas bookseller online. This means consumers can buy these products from overseas sellers much cheaper than they can be offered by Australian retailers.
- 2.75. Parallel importing has a negative impact on local retailers of these products, such as booksellers or computer game retailers, who are trying to compete in what is now a global market for these products.
- 2.76. A further source of frustration for the industry is the fact that a study into the impacts of parallel importing restrictions on books by the Productivity Commission in 2009¹⁴ recommended that the restrictions be lifted in 3 years.

¹⁴ Productivity Commission (2009), Restrictions on the Parallel Importation of Books.

- 2.77. The Productivity Commission also recommended, as part of its retail sector review in 2011 that the Australian Law Reform Commission examine whether the costs to the community outweigh the benefits in relation to parallel import restrictions in the Copyright Act 1968.¹⁵
- 2.78. Lifting parallel importing legislation into the modern era would recognise that persisting with restrictions is both damaging local retailers and causing Australian consumers to pay more than their overseas counterparts.

Recommendation: parallel importation restrictions embodied in the Copyright Act 1968 are removed.

Challenges for Hardware and Garden Retailers – Multiple Regulators

- 2.79. During the course of their operations a hardware and garden retailer that sells pool cleaning and garden products may interact with the following agencies:
- Australian Competition and Consumer Commission (ACCC);
 - National Measurement Institute;
- (for general conduct and broader communication with customers)
- Australian Pesticides and Veterinary Medicines Authority (APVMA);
 - National Industrial Chemicals Notification and Assessment Scheme (NICNAS); and
 - National Transport Commission.
- (if the goods may be considered dangerous or have explosive/pollution applications)
- 2.80. ANRA notes this challenge is not unique to hardware and garden retailers, but is illustrative of the regulatory overlap faced by the sector. This list also does not include state regulators like the Environmental Protection Agency, Workcover or State Fair Trading.
- 2.81. Indeed, food retailers will also have interactions with Food Standards Australia New Zealand (FSANZ), the Australian Quarantine and Inspection Service (AQIS) for imported food products and local food regulators.

Recommendation: Streamlining regulatory requirements where contact is made with multiple agencies would alleviate the regulatory red-tape burden faced by Australian retailers.

¹⁵ Productivity Commission (2011), *Economic Structure and Performance of the Australian Retail Industry*.

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