

Response to Productivity Commission Interim report

Relative Costs of Doing Business in Australia: Retail Trade



**National Retail
Association**

Prepared by the National Retail Association

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Overview

The National Retail Association thanks the Productivity Commission for the opportunity to provide a response to the interim report. Generally we feel the Commission is on the right track – that is to say that the issues canvassed in its interim report are indeed the issues of greatest concern to our broad membership and the wider retail sector.

We endorse the Commission's findings relating to issues identified in its 2011 report, but not yet addressed. These are mostly the responsibility of state governments, but not exclusively. Areas identified for action by local governments and Commonwealth have also gone unactioned. As the Commission points out, in some cases its recommended reforms have progressed to the review stage, but no further, and the pace of reform differs greatly across jurisdictions.

We support the Commission's finding that the costs of labour, energy and rent are among the most significant costs for retail business owners. The significant shift in relativities of these products – particularly labour – compared with the cost of capital and with retail CPI is starkly highlighted by Figure 1 on page five of the draft report. This is true also of figure 3.5 on page 43.

We disagree with the Commission's assertion on page eight that the retail sector as a whole appears to be managing these cost pressures effectively, and that net margins have been relatively stable over the past two decades. While the Commission points to a small number of high-profile, high end overseas retailers arriving in Australia in recent years, this fact alone does not support the implication that conditions are acceptable or encouraging for the local industry. There have been just as many high-profile business failures and collapses of large retail chains and just as importantly, the mostly unreported closure of countless small and micro retail businesses over recent years. This has been true across most sectors of retail – from whitegoods and home wares to fashion. Furthermore, a consistent theme in our discussions with the majority of our broad membership is that of the growth in costs outpricing the growth in sales in recent years, with those cost pressures currently still building rather than easing. A common story is one of small businesses, or medium chains of stores (mostly in the discretionary categories of retail) experiencing a trend whereby profitable stores become more marginal, or marginal store unprofitable overtime, as labour and other costs grow faster than sales.

Responses to information requests

The NRA does not propose to respond to each of the Commission's information requests. In some cases – such as specific operational costs – our members will have the most accurate empirical evidence to support their position, and will respond directly. In other cases – such as the likely benefits or costs of reforms – the answers would require far more detailed modelling than time or resources permit. However, we have chosen to provide responses to some of the information requests, where we feel we are best able to assist.

INFORMATION REQUEST 2.1

What are the impediments to a faster adoption of e-commerce by Australian retailers?

The following response is also relevant to:

INFORMATION REQUEST 3.2

The Commission is seeking further information on relative cost structures between Australian retailers and those operating in comparable markets overseas.

- How do the costs of doing business differ between retailers in Australia and those operating overseas?

In our initial submission, the NRA wrote at length on the advantage provided to overseas retailers by the GST low-value threshold. This provides an exemption from GST for overseas purchases valued at less than \$1000. This exemption also carries with it an exemption from other border costs, including tariffs, import duties and Customs charges. Together, these exemptions can represent a cost-advantage of up to 25 per cent over a comparable product sold by an Australian-based business – regardless of where products are manufactured or sourced.

In our experience, large overseas-based retail chains have become adept at ensuring their sales to Australia remain under this threshold. Where necessary they may break a large purchase up into smaller bundles, each of which sits under the \$1000 cap and therefore qualifies for the exemptions.

It defies logic that a retailer with the capacity to establish an on-line sales presence would not at least give very serious consideration to establishing their operations base overseas, in order to take advantage of this loophole. At the very least, a pricing disadvantage of up to 25% is a significant disincentive for an on-line retailer to establish in Australia. Price competitiveness is an even more critical issue in the online marketplace. Bricks and mortar stores at least have the advantage of allowing their customers to test and try products, and take them home straight away. If a shopper is going to wait for parcel delivery from an on-line store, it makes little difference to them whether that parcel is dispatched from Sydney or Shanghai. And when they can compare costs at the click of a mouse button, Australian stores that are not cost competitive struggle to survive.

While tenancy costs are not as critical for on-line businesses (although in many cases they still require premises and warehousing facilities), uncompetitive labour costs are also a significant disincentive. Again, legacy (bricks and mortar) retailers have no choice but to suffer the strictures of Australia's rigid workplace relations regime and comparable high labour costs – exacerbated by penalty rates for many businesses. However, having an on-line presence means competing directly with workers in lower cost jurisdictions. Disparities in wages, workplace inflexibility and associated costs is a serious impediment to establishing on-line retail in Australia.

These are the major reasons that on-line stores in Australia tend either to be merely a web-based presence for an existing store (thus drawing on existing infrastructure) or source and ship very cheap products from overseas to try to compete on price. We remain strongly of the view that both these issues – the GST low value threshold and labour laws – must be reformed in order to allow Australian businesses to compete in an increasingly globalised world. We iterate our recommendations on these issues from our initial submission.

INFORMATION REQUEST 4.2

How can state and local governments most efficiently accommodate the interests of both retailers and residents in mixed developments in relation to noise and other issues (congestion and safety for example)?

Governments should regulate business for the outcomes they want, rather than attempting to set prescriptive guidelines on business processes and inputs. As an example, an NRA member has recently been given very prescriptive hours in which they may move goods by truck in and out of their premises, in order to avoid unnecessary noise at night time. Unfortunately, this means they must move large trucks and semi-trailers through busy suburban streets at peak commuter hours in order to have the shelves properly stocked but also comply with their curfew. The same outcome in relation to noise could be achieved by using modern, ultra-quiet vehicles to service that particular store, and to avoid the use of air brakes. This would have had less impact on the surrounding area than multiple truck movements at peak hour.

If the desired outcome was a noise limit at certain times of the day, then government should regulate – and enforce – allowable noise and leave it to the business operator to determine how that can be achieved in the most cost-effective way.

INFORMATION REQUEST 5.1

How have governments progressed against the 2011 Productivity Commission recommendations?

Progress against the 2011 recommendations has been patchy across the various areas of proposed reform and between different states. However in the NRA's view it is the recommendations from the Commission's 2008 report into the operation of the retail tenancy market that have also been allowed to wither on the vine. That inquiry examined the planning and operation aspects of retail tenancies and how they affect business viability. We quote from our initial submission to this current inquiry:

Inter alia, that report recommended Federal and/or State Government action to:

- Improve transparency and information accessibility in the retail tenancy market;
- Improve national consistency and administration of lease information in order to lower compliance costs;
- Reduce jurisdictional differences in the provisions for unconscionable conduct, as applying to retail tenancies;
- Work with stakeholders towards a voluntary national code of conduct for shopping centre leases, with enforcement by the ACCC;
- Remove restrictions in retail tenancy legislation that provide no improvement in operational efficiency;
- Develop model retail tenancy legislation to help move towards national consistency, and for this to be adopted in each jurisdiction; and
- Relax state controls that limit competition and restrict retail space and its utilisation.

Disappointingly, many of the recommendations in that report have not been actioned by the appropriate governments and/or agencies.

The NRA believes that many of the issues identified by the Commission in 2008 remain relevant and unresolved in the marketplace. In some areas these issues have become more difficult for business owners than was the case six years ago.

The NRA therefore recommends that the Commission's 2008 report be revisited and its recommendations be actioned by government.

Of the list of recommendations above, the NRA considers that all continue to be relevant and should be revisited. Each of the recommendations should be actioned, subject to the following updated comments:

- While the ACCC is not the only potential solution for the enforcement or administration of a national code and conduct for shopping centre leases, there remains a clear need for a national approach to facilitate harmonisation, with the involvement of both industry and government.
- The recommendation to remove restrictions in retail tenancy legislation that provide no improvement in operational efficiency remains relevant as a general principle but many jurisdictions have since concluded a subsequent review of their own regimes. These subsequent reviews have to various degrees focused on the potential for cutting red tape. Future deregulatory gains are most likely to be realised through a national approach to facilitate harmonisation.

INFORMATION REQUEST 5.3

- What are the advantages and disadvantages for businesses operating across state borders of opt-in harmonised arrangements — with the existing state regulations being the default?
- Would a two-tiered opt-in system impose undue regulatory burdens on small businesses and/or government administration?

The NRA does not believe that a two-tiered or opt-in national approach to regulation would solve the issues of disparate state regulation in areas such as product, packaging and signage compliance. Indeed, we believe it to be likely to further complicate issues by allowing some businesses to operate under state regulations and other to take advantage of the opt-in federal laws. This may create competitive disadvantage for some businesses, and confusion for consumers. In our initial submission to this inquiry, we raised concerns about a complex and confusing web of regulations and rules which apply to different businesses depending on their different circumstances. We called for the Federal Government to establish an industry-led committee to simplify retail labelling laws, and to examine options for streamlining product technical and safety requirements. We believe these outcomes are preferable to a two-tier or opt-in national system.

About the submitter

The National Retail Association (NRA) is a not-for-profit industry organisation providing professional services and critical information and advice to the retail, fast food and broader service industry throughout Australia. NRA is Australia's largest and most representative retail industry organisation, representing more than 19,000 stores and outlets.

This membership base includes the majority of national retail chains, as well as independent retailers, franchisees and other service sector employers. Members are drawn from all sub-categories of retail including fashion, groceries, department stores, home wares, hardware, fast food, cafes and personal services like hairdressing and beauty. The NRA has represented the interests of retailers and the broader service sector for almost 100 years. Its aim is to help Australian retail businesses grow.

Contact information

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