④ NARGA

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20 July 2010

The Relevant Commissioner
Business Regulation Benchmarking,
Planning, Zoning & Development Assessments
Productivity Commission
PO Box 1428
Canberra ACT 2061

Email: planning@pc.gov.au

Dear Sir or Madam,

Planning

NARGA represents the independent retail grocery sector comprising over 5000 stores employing more than 225,000 people.

The independent grocery sector now comprises less than 20% of the national grocery market, yet provides essential supplies to thousands of regional and remote communities, particularly those considered too small to be of interest to the major supermarket chains, as well as providing competitive pressure to those chains through larger stores in metropolitan and regional centres.

The ongoing viability of the independent network is ***dependent on the competition and planning framework within which they must operate, which include banking competition factors and other factors affecting small business access to finance***.

Even though all political parties express their support for small business, the importance of small business to the Australian economy tends to be underestimated and the political support so often expressed rarely translates to concrete action.

Whilst the market capitalisation of the ASX in 2006 was around $1.4 Trillion (in a $1.0 trillion Australian economy) and funds under management were around $1.3 Trillion, family owned business represented a capital value of around $4.3 Trillion.

It is well recognised that SMEs provide the greater proportion of employment opportunities in Australia as evidenced by the following chart taken from a PriceWaterhouseCoopers study prepared for NARGA:[1]

[1] The economic contribution of small to medium-sized grocery retailers to the Australian economy, with a particular focus on Western Australia, PriceWaterhouseCoopers, June 2007

Characteristics associated with market participants in the grocery industry

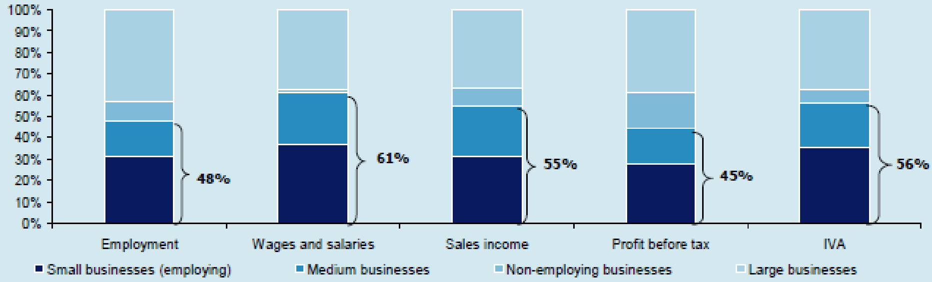
Market Participants	% Turnover	Stores	Turnover	FTEs	FTEs per store
Top 2 – Woolworths & Coles	78-79%	1,493 (24%)	$59 billion	108,833 (43%)	65
Top 4 – Woolworths, Coles, ALDI & Pick 'n Pay (Franklins)	80%	1,683 (27%)			
Independent grocery banner groups – IGA, FoodWorks, Ritchies	18.9%	2,140 (35%)	$15 billion	144,267 (57%)	32
Other independent grocery retailers	1.1%	3,291 (53%)			
TOTAL	**100%**	**6,183**	**$74 billion**	**253,100**	

The same is true for the retail sector as a whole, as is shown below:

Box 4: Contribution to retail trade by business size

The graph below shows the proportion of employment, total wages paid, sales generated, etc. in the retail trade sector according to business size. The percentages in bold indicate the percentage contribution of SMEs (excluding non-employing business) to each variable of interest.

Percentage of total operating contributions by business size in retail trade, 2004/05



Source: ABS Cat. 81550

Large businesses (ie MGRs) account for a sizable contribution to the retail industry, however, cumulatively, SMEs account for a proportionately greater value given their lower market share.

Employing SMEs contribute a greater proportion of wages and salaries and Industry Value-Added (IVA) than the level of employment or profits they generate. This is indicative of the important role that SMEs play in promoting wealth redistribution and local economic prosperity through recirculation of a larger proportion of sales income at a local level.

This graph also provides a number of insights into the contribution of SMEs (excluding non-employing businesses):

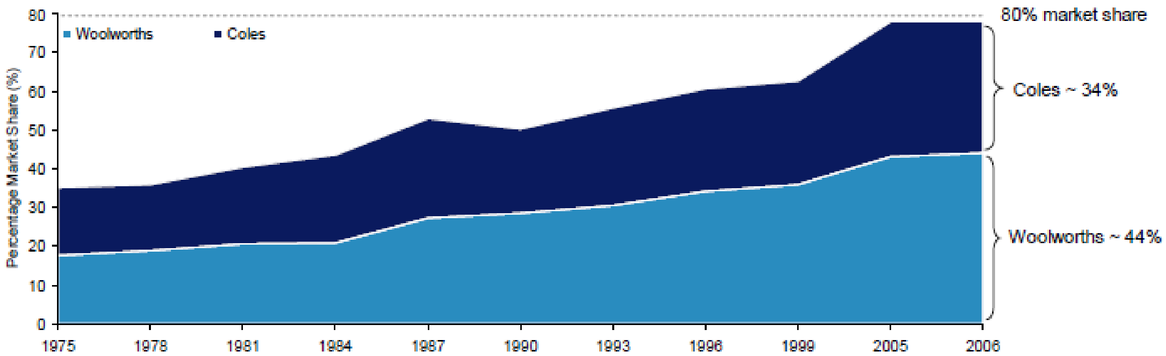
- SMEs employ approximately 48% of all employees and pay approximately 61% of all wages and salaries paid in the retail trade sector, whilst large businesses employ approximately 43% of all employees and pay an even smaller proportion, 38%, of all wages and salaries paid in the retail trade sector
- SMEs generate 45% of retail trade sector profits before tax, only slightly larger than the proportion of sector profits generated by large businesses (39%). This highlights that a greater proportion of sales generated each period are distributed by SMEs in the form of wages, salaries and to local service-providers (eg accountants, lawyers, printers, local papers, etc) than by large businesses. However, large businesses distribute higher profits to shareholders than SMEs deliver to owners for reinvestment
- SMEs generate 55% of sales and 56% of the IVA of the retail trade industry – greater proportions than their employment contribution

It should be noted here that it was employment in the SME sector that held up best during the recent economic downturn.

The contribution to the economy by SMEs is made in spite of the reality that the economic 'playing field' is far from level.

The graph below[2] highlights the problem of market concentration in the retail grocery sector and how that concentration gives the major chains a degree of market power that distorts the market for the supply of groceries. Concerns have also been raised in relation to concentration in the retail leasing market. Both of these factors result in proportionately higher costs for small businesses in the retail grocery sector and in retailing generally.

Figure 2.10: Growth in market share of Woolworths and Coles, 1975-2006



Source: Retail World, ACNielsen

Concentration in any market brings with it a number of competition issues. Australia's grocery market is the most concentrated of any such market and the majors in that market are gaining increasing shares in other retail sectors including clothing and general merchandise, petrol, hardware, liquor. A comparison between the annual retail turnover of the two companies – Woolworths and Wesfarmers and the ABS estimate of retail sales suggests that Australians spend around 40cents in every retail dollar with the two companies.

In the grocery sector, the level of concentration has substantial impact on the food and grocery supply chain, affecting the evolution of the chain at all levels to the detriment of local farmers and suppliers.

The ACCC in its recent inquiry into the grocery sector called the industry 'workably competitive' – a term not recognised in competition theory which more commonly calls such markets a duopoly and characterises the behaviour of its participants as market sharing. In fact in large areas of our major cities, each of the major chains have regional monopolies.

The two major chains have been allowed to grow as big as they are under a National Competition Policy scenario that appears to be taking the 'big is beautiful' approach supported by a 'hands off' approach to mergers and acquisitions by the ACCC. From a competition perspective this has been justified on the basis of 'contestability', even though the conditions for contestability in these markets are not being met.

As a result market concentration has also become a problem in other sectors such as airlines, petrol and banking.

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[2] Ibid

Even though the two major chains between them have a substantial share of the grocery market, they are still in expansion mode, adding substantially to their store numbers each year. Such additions have come from takeovers of smaller players, but increasingly they are through the development of greenfield sites – more often than not as part of a new shopping complex on the edge of a small regional town, modelling the approach taken by Tesco in the UK where these are called Tesco towns – a new village complex on the outskirts of the original village which diverts shopping away from the main street killing off the businesses there, resulting in a village with a 'dead heart' and a net reduction in retail employment.

Many Australian towns have already been affected in this way. They end up with a small shopping centre out of town and a substantial proportion of empty shops (amongst dollar stores) in the main street.

We would be happy to provide case studies.

In each case the appropriate planning processes would have been followed. The question is whether these properly assessed the net impact on the town or on competition in the affected sectors. Local government would have been sold on the 'extra jobs' provided by the new development, not realising that in many cases these came at the expense of existing employment and the loss of existing businesses, diversity they offered and the support they gave to local communities.

Large companies have the resources to game the regulatory system. We see examples of this when examining planning decisions and in other government decisions that give access to markets. In the case of the two major supermarket chains there are many examples of gaming behaviour. These include:

- Use of liquor licensing laws to reduce competition from smaller outlets by requiring them to agree not to compete in return for not lodging an objection. Both chains have received multi-million dollar fines from the ACCC for this behaviour.
- Gaming the council planning/zoning system to gain access to supermarket sites. In some cases this has meant giving the local government access to part of a site, building a library as part of the project or offering some other benefit. A common approach is the purchase of a car park from a cash strapped council.
- Lobbying government for 'fast track' approval for projects as was the case for many of the 12 Victorian sites earmarked for the development of a new hardware chain for Woolworths.

The latest growth opportunity for the major chains is in-fill development facilitated by proposed changes in planning law in some states which would allow the development of smaller shopping centres in residential areas.

What then is the role of planning?

Examination of each state's planning laws clearly identifies the purpose of the planning regime as a coordinating function, one which ensures that the community's infrastructure needs are met. But each Act also suggests that the role of planning is the optimisation of community benefit.

Governments are also fond of reminding us that they want to take a 'whole of government' approach to issues – so that decision making is not compartmentalised. This was the view taken by the UK Competition Commission (UKCC) during its review of the grocery sector there – where, as detailed above the grocery market is not nearly as concentrated.

The UKCC in its report expressed concern about the level of concentration in the sector and in particular about concentration in individual local markets (defined in terms if isochrones). It therefore proposed a role for planners in ensuring that there was completion at the local level.

The mechanism adopted is a floor space ratio test where any new development or any expansion on an existing site needs to ensure that the entity involved does not have more than 60% of the grocery retail floor space. Where that percentage is currently exceeded the entity will not be allowed to open on a new site or expand its current. This ensures that there is room for other competitors in each local market.

This approach contrasts with the ACCC decision in favour of Woolworths in Kalgoorlie (and other places) where it was allowed to take over a competitor resulting in a Woolworths' monopoly there, on the basis that there were retail sites available should a competitor wish to enter that market.

NARGA supports the inclusion of competition considerations in planning law and planning decisions.

We would be happy to discuss these matters in greater detail.

Yours sincerely

Ken Henrick
Chief Executive Officer