SUPPLEMENTARY SUBMISSION FROM THE INDEPENDENT RETAILERS OF NSW AND THE ACT INC

24th November 2010

Regulation Benchmarking Study: Planning, Zoning and Development Assessments
Productivity Commission
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Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments.

A submission has been made by the Independent Retailers of NSW and the ACT Inc dated the 16th July 2010 to this review. The primary focus of this supplementary submission is to provide a more detailed analysis of floorspace dominance in the supermarket retail sector in Australia.

FLOORSPACE DOMINANCE

This submission contains a series of floorspace analyses of metropolitan and regional areas in Australia. The focus has been on both older and growth suburbs in each of the metropolitan cities in Australia (except Tasmania) and some regional areas.

The format for each analysis is as follows:

1. Map of Area: A map of an area is shown with a pink line delineating a market area, which is the subject of the analysis. In most examples the market area is a small suburban area. In some examples the areas are larger to examine an overall region.

2. Market Share Analysis: Lists all the supermarket stores in the market selected or reasonably likely to be shopping options for residents in that market area. Each stores total gross floor area is also listed and that floor area expressed as a percentage of the total floorspace in that market. The gross floorspace of each store is an estimate derived from actual known facts or estimates based on industry standards. It is our experience that the estimates are less than 3% inaccurate.

3. Shopping Options/ Store Area and Turnover: Lists each of the supermarkets captured in the analysis, the estimated area of those stores and an estimated weekly turnover for each store. The estimated turnover figures for the chain supermarkets are based on industry knowledge and experience, but should be treated with some caution because it changes and this data is by no means accurate. The turnover figures for independent stores are also estimates based on industry knowledge and experience and should also be treated with caution.

4. Demographic Map and Demographic Analysis: The area hatched in red and green on the Demographic Map is the area selected for the purposes of the following Demographic Analysis. The demographic analysis is a collection of data based on the last census and extrapolated to today's date. The data is listed as follows:

   - The number of people and dwellings at the time of the last census;

   - The additional people and dwellings estimated since the last census to date; and

   - The average expenditure per week per person based on the census data for socio economic means of the residents in the selected areas.

   - The average spend per week is split into supermarket and liquor expenditure.

   - The average expenditure per week is also split into 3 possible groupings, Capital, State or Country.

     a) Capital refers to data that most accurately describes residents spending habits if they were located in capital city.

     b) State refers to data that most accurately describes residents spending habits if they were located in areas that in population size and location are between being capital cities and rural towns.

     c) Country refers to data that most accurately describes residents spending habits if they were located in wholly rural townships and communities.

The following comments can be drawn from the dominance analyses.

1. The major chains have significant floorspace dominance in almost all market places in the country except for Perth and to a lessor extent Adelaide.

2. The levels of floorspace dominance by the major chains are between 75% and 90% in Melbourne, Sydney and Brisbane.

3. Canberra has a very high level of dominance by Woolworths alone particularly south of Lake Burley Griffin.

4. Some areas in some capital cities have higher than normal levels of dominance by either Coles or Woolworths.

5. Population growth areas in Melbourne, Sydney and the Gold Coast do not display any lower levels of floorspace dominance than more established areas.

The floorspace dominance analysis undertaken in this report identifies the domination of the supermarket sector by the major chains. It shows graphically how areas can be so dominated by a single player as to make the possibility for competition non existent. That is the point of floorspace dominance. It is a means to ensure the removal of existing competitors. It is also a means to discourage new entrants from entering into markets.

Notwithstanding that all the states planning systems implement a version of the "net community benefits test" (NCBT), dominance has still occurred. Less competitive tension in the supermarket sector is an obvious net disbenefit to communities. The floorspace dominance analyses demonstrates unequivocally that State Planning systems have and continue to failed to deliver more competitive markets in the supermarket sector.

Floorspace dominance also has a pernicious effect of discouraging the entry of new competitors.

The entry of Aldi in the last decade can be distinguished because it is not a conventional supermarket. Aldi offers less than 900 lines whereas conventional supermarkets offer between 20,000 and 30,000 lines. This difference is the key to the entry of Aldi into markets. The limited offer of Aldi is also the reason why Aldi's market share will always be constrained and why its impact on competition is also muted.

It should also be noted that Aldi flourished in part because of direct intervention in the planning system to override prohibitions that would otherwise have prevent their entry. This being particularly the case in the ACT (direct grants) and Victoria (call in system).

Apart from a specialised retailer like Aldi, it remains the fact that conventional full line supermarket retailers are not entering the Australian market. The reason for this is the level of dominance of the major chains. Woolworths has 43% and Coles 34% share of the market. By floorspace this level of dominance is often greater. The next most concentrated market is the UK in which Tesco has 30% market share.

Dominance by the major chains is also achieved in a qualitative and spatial sense by dominance in floorspace in regional and sub regional centres. The Floorspace Dominance analyses show clearly that sub-regional and regional shopping centres are dominated by the major chains. Independent supermarkets are rarely present in sub-regional and regional shopping centres. Domination in sub-regional and regional shopping centres delivers an extra advantage to the major chains, because a large portion of Australians prefer to shop at these centres.

It should also be noted that the current levels of dominance occurred under the Trade Practices Act regime re acquisitions. Any expectation that the Trade Practices Act will protect competition is misguided.

STATE PLANNING SYSTEMS

It is appropriate for State Planning systems to take into account competition as part of the overall assessment of the "NCBT. The NCBT already directs townplanners to assess competition impacts in a macro sense. Practically that has developed into a test which seeks to determine if a proposal might put out of business the main body of existing retailers (not any one specific retailer).

The NCBT's do not set out in any fashion an assessment regime for dealing with new commercial development. Attached to this submission is a submission made in NSW which sets out a "NCBT" which requires townplanners to consider competition impacts in the planning. The approach taken is a proposed trigger level based on floorspace dominance. Above the trigger level of 25% of floorspace dominance higher levels of prescribed assessment would be required. Those higher prescribed levels of assessment would include an assessment of the impact a proposal will have on competitive tension in that local market. The higher levels of assessment are directed to achieving better competition outcomes by encouraging more competitors into market places.

A NCBT with a trigger test for dominance will also strike at the longer term impacts that flow from floorspace dominance by the major chains. Floorspace dominance by the major chains tends to discourage the entry of new competitors into markets. If new market participants can have an expectation that existing players with large floorspace dominance in a market place are likely to be constrained from further growth in that market, it lowers the perception of the risk for those new entrants. A lower perception of risk is likely to increase the possibility of more entrants and thus more competition in those markets. All of the above is consistant with the core objectives of the existing NCBT's in the State planning systems.

State planning systems have a role to play in promoting better competition outcomes by focussing the NCBT on floorspace dominance.

INDEX OF FLOORSPACE DOMINANCE ANALYSES

^ Denotes low population growth area
* Denotes high population growth area

QUEENSLAND

- CABOOLTURE*
- CHERMSIDE*
- COOMERA*
- SPRINGFIELD^
- TOOWOOMBA NORTH*
- TOOWOOMBA SOUTH*
- WELLINGTON POINT^

NEW SOUTH WALES

- ALBION PARK*
- ALBURY^
- MAITLAND EAST*
- MATILAND NORTH*
- MANLY^
- NEWCASTLE^
- NORTH WEST SYDNEY REGION*
- QUEANBEYAN^
- ROCKDALE / ARNCLIFFE^
- SOUTH WEST SYDNEY REGION*
- WEST WALLSEND*
- WOLLLONGONG^
- WOLLONGONG NORTH^
- TWEED HEADS*

VICTORIA

- FRANKSTON NORTH*
- FRANKSTON SOUTH / LANGWARRIN*
- GEELONG NORTH*
- MELTON*
- PRESTON^
- TEMPLESTOWE^
- WERRIBEE*
- WODONGA^

ADELAIDE

- ADELAIDE*
- GOLDEN GROVE*
- MUNNO PARA*
- SEACLIFF^
- TORRENSVILLE^

WESTERN AUSTRALIA

- ATWELL^
- BOORAGOON*
- CARLISLE*

- FREMANTLE*
- MELVILLE*
- NORANDA*
- QUINNS ROCK^