



National Association of Retail Grocers of Australia Pty Ltd

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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

In our first submission to this inquiry we quoted data from the PwC study of the retail grocery industry outlining market shares and market concentration issues.

This study has now been updated and extended by Accenture Australia and we attach a copy for your information. The study, completed late last year, was commissioned by NARGA in order to highlight issues relating to Australia's food supply and how we are failing to keep up with growing consumer demand. It also shows how the level of concentration in the retail grocery sector impacts the supply chain and the farm sector, affecting the structure of the supply chain as a whole as well as its capacity to continue to supply the food needed by processors and retailers to meet consumer demand.

The study also shows a continuing trend to concentration in the retail grocery sector and shows how the share of the convenience store component in the sector is in decline, in spite of the expansion evident in sites owned by the major chains.

In our first submission we also raised the potential for competition issues to be formally included within the planning function as was recommended by the UK Competition Commission following their review of the retail grocery sector.

We note that in the Commissions draft report there is mention of the potential for the planning system to be 'gamed' to the advantage of one or other party. Absent a formal requirement for planning authorities to take competition issues into account, it is likely that the only remaining mechanism preventing further increase in major chain market share is an invigorated ACCC willing to take action under Section 50 of the Competition and Consumer Act 2010.

Although the ACCC can, under Section 50 of the Act, challenge all acquisitions, including green-field developments and new leases, there is no formal notification requirement and most new outlets developed by the majors seem to slip under the ACCC radar.

Further, as both major chains have a presence in a number of retail sectors apart from groceries, for example hardware, liquor, electronics, general merchandise petrol, etc. – a site developed for a particular purpose can be diverted to a different use.

There have been instances where the requirement to divest a site on the basis of competition concerns has resulted in the site being put to another use, e.g. transferred from groceries use to a liquor store use, rather than the site being made available to a competitor as would have been the case had the site been properly divested.

The fact that the major chains in many cases operate a number of businesses within the same locality is often a means of excluding other competitors as the key to being a competitor in any market is the availability of a suitable site. This would appear to be an Australian form of 'land banking'.

The Commission's draft report also mentions that 'markets with a lower population tend to be better supplied with grocery floor space than those with higher populations' (Vol 2, P.124).

This may be explained by the trend by the majors to build stores of a size larger than the local market requires and often happens regional areas or towns with a growing population – even though the area or town has a relatively low population that would not normally accommodate a store of that size. This has the advantage to the major chain retailer of market domination in that locality (to the detriment of any small traders that may have been in that area prior to the particular development taking place) and of discouraging entry by a competitor.

Such stores may not be profitable or as profitable as a store of a size better matched to community need, but are affordable to the chains because they can be cross subsidised by stores in more profitable locations. Another way of putting this is that both major chains, because of their dominance of the sector and the margins they command, can afford to make a loss on a proportion of the stores in each of the sectors in which they are active. The net result is that the sector as a whole is not optimally efficient.

Obviously an independent trader does not have the luxury of operating an inefficiently sized store, whether or not he is in competition with one or both of the major chains.

We believe that the inclusion of competition considerations in planning law and planning decisions could be used as a mechanism to better match retail space to community need. It could, for example, be used to ensure that one chain does not dominate a particular local market, or that a new development does not squeeze out all competition or leaves no room for a competitive entry as the local market grows in size.

A 'free for all' approach is not going to result in optimal planning and competition outcomes.

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

Yours sincerely

Ken Henrick
Chief Executive Officer