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24 August 2011

Inquiry into Australian Retail Industry
Productivity Commission
GPO Box 1428
Canberra ACT 2601

Dear Sir/Madam,



I write to you in relation to the Productivity Commission's Draft Report on the *Economic Structure and Performance of the Australian Retail Industry*. This submission focuses on the draft recommendations in the report.

Business SA is South Australia's leading business membership organisation, representing thousands of businesses through direct membership and affiliated industry associations. We represent businesses across all industry sectors, ranging in size from micro-business to multi-national companies.

Draft Recommendation 4.1

Business SA supports greater efforts to collect and analyse data on the extent and characteristics of online retailing in Australia.

Draft Recommendation 6.1

Business SA agrees that there are strong rationales for lowering and ultimately removing the low value threshold exemption for GST and duty on imported goods. This would provide a level playing field for domestic retailers.

Business SA also supports the Productivity Commission's view that this should only be done when the benefits exceed the costs. However, in determining this, consideration should be given to the benefits that will prevail from higher levels of economic activity in the domestic retail industry, not just the increase in the direct tax revenue and the administrative costs in collecting that revenue.

Draft Recommendation 6.2

Business SA supports the establishment of a task force to investigate ways of improving the processing of low value imported goods. The task force should provide recommendations that will make such processing more efficient to lower costs and make possible the reduction of the low value threshold exemption. The reporting timeframe of 2012 is appropriate, but the sooner the better.

Draft Recommendations on Planning and Zoning Regulation

Business SA supports planning and zoning regulations that provide a level playing field for all retailers and supports competition. This means that retail zones need to be both large enough and broad enough so as to not unduly restrict any retailer because of their size or what they sell. There also needs to be a sufficient number of retail zones in any given area, to provide choice for consumers and to encourage competition and innovation.

Planning and zoning regulations should not inappropriately or unevenly inflate the cost of doing business or raise property values. The regulations need to be coordinated between State and Local Government to reduce inconsistencies, confusion and duplication and avoid prescriptive requirements where possible.

Draft Recommendation 8.1

Business SA supports the full implementation of a national disclosure statement for retail tenancy leases, nationally consistent reporting requirements and the use of uniform terminology.

All recommendations made in the Productivity Commission's Inquiry into *The Market for Retail Tenancy Leases in Australia* should be considered for implementation. Voluntary codes of conduct are supported over more heavy handed regulation.

It is important to note that some States have introduced, or are introducing in the case of South Australia, a Small Business Commissioner. In addition, the Commonwealth Government is considering options to improve small business dispute resolution processes. These initiatives are likely to provide adequate responses to some aspects of the recommendations in that report.

Draft Recommendation 9.1

Business SA strongly supports the full deregulation of retail trading hours in all States and Territories, including public holidays.

As alluded to in the Draft Report, South Australia has one of the most restrictive retail trading hours regimes in the country. Business SA has long advocated for the full deregulation of shop trading hours in the State, including in our State Election document: *A Charter for a Prosperous South Australia*.¹

Total deregulation would allow retailers to open when they wish to open, close when they wish to close and provide consumers with the widest choice in terms of when and where they do their shopping.

¹ *A Charter for a Prosperous South Australia* can be accessed from the Business SA website - <http://business-sa.com/your-voice/submissions>

Total deregulation would also remove the current ridiculous situation where some retailers are discriminated against because of arbitrary exemption systems, which are based on the size of the retailer and what they sell.

Recent experiences with extending shop trading hours in the Adelaide CBD highlight the benefits from allowing shops to open on public holidays and at times when the majority of consumers want them to open. The most recent example was on the final day of the Easter/Anzac Day holiday period – Tuesday 26 April – when over 100,000 people flocked to Rundle Mall, generating sales for retailers, providing additional income for workers, creating a more vibrant city and benefiting tourism.

There are two other important examples:

- On Sunday 20 February 2011, two cruise ships were docked at Outer Harbour and shops in Rundle Mall were allowed to open two hours earlier than usual to cater for these tourists
- the Rundle Mall Management Authority initiative for shops in Rundle Mall to open until 7pm on weeknights, in addition to opening until 9pm on Friday night.

There are no valid reasons to not fully deregulate shop trading hours in South Australia. Concerns regarding workers being forced to work on public holidays are accommodated in the *Fair Work Act 2009* at Section 114. This provision prevents an employer unreasonably requesting an employee to work on a public holiday. In addition, there is capacity to make enterprise agreements, particularly with major stores or retail chains, to ensure that no staff member will be forced to work on public holidays.

There are employment benefits from extending retail trading hours. Data from the Australian Bureau of Statistics show that in the seven years after 2003 – when there was a substantial extension to shop trading hours in South Australia – employment in the retail sector increased by almost 20 per cent. This compares to growth of less than 14 per cent in the seven years before 2003. While not all of this higher growth rate could be attributed to extending shop trading hours, the partial deregulation of retailing restrictions would have no doubt contributed.

Virtually all of this growth has been in part time employment. Indeed, part time employment growth was substantially stronger in the second period, at almost 28 per cent, compared to around 17 per cent in the earlier period. This has provided important income particularly for females as a second wage earner in family households and for young people such as University students.

Restricting shop trading hours limits choice for both shop owners and consumers alike, limits employment growth and limits tourism activity. Limitations such as these should not be part of Government policy.

Draft Recommendation 10.1

Business SA provides important services to its members on Modern Awards, pay scales, transitional arrangements and many other workplace relations matters. Indeed, many other employer and industry associations provide similar services. Business SA believes that Government agencies, such as the Fair Work Ombudsman, should not be competing with employer organisations and other businesses in the provision of such services and therefore does not support the recommendation.

Draft Recommendation 10.2

While a review of the Fair Work Act to examine concerns that the retail industry has, particularly with regards to the efficient negotiation of enterprise-based arrangements, flexibility and productivity, is important, Business SA believes that such a review should be widened to cover all industries and all issues with the Fair Work Act and associated rulings.

The fact that large and unsustainable pay rises are being won by unions in some industries, without commensurate improvements in productivity, is a major concern for the business community and the health of the economy.

Specifically with regards to the retail industry, Business SA is concerned about the impacts of the Modern Awards, including penalty rates and the transitional arrangements, the 3.4 per cent increase in the award rates in the Fair Work Australia Minimum Wage decision and the lack of flexibility in bargaining on productivity, profitability and the ability of retailers to hire new workers and grow.

Business SA supports a reduction in the minimum hours that retailers are able to employ workers from three hours to one and a half hours. This will improve flexibility for retailers and provide income for students and other part-time workers.

Draft Recommendation 12.1

Business SA strongly supports all tiers of Government reviewing and prioritising the reform of regulations that are unnecessarily burdensome and reducing regulatory inconsistency across jurisdictions where there are net benefits to businesses and the wider community.

Regulatory reviews should be conducted regularly and they should be independent, transparent and lead to greater Government accountability.

Business SA made a number of recommendations on red tape to the South Australian Government in our *State Budget Submission 2010-2011*.² These were:

- complete regulation impact statements thoroughly and with due consultation when new regulations are introduced or existing regulations are changed substantially
- review regulations on a regular basis and with due consultation to ensure they remain applicable, relevant and effective and so that changes can be made to improve them if considered inadequate
- implement a “one-in, two-out model” which requires Government to remove two old pieces of regulation for each new one it proposes
- implement transparency and accountability mechanisms, such as annual reporting by Government agencies and create an independent agency to provide oversight regarding regulatory compliance and prioritising regulatory reform to ensure that regulation-making processes are properly implemented and adhered to
- where possible, achieve national consistency and harmonisation on regulations and regulatory processes and also work in cooperation with Commonwealth and/or Local Government regulations and guidelines, so that duplication, confusion and conflicts are minimised.

Should you require any further information or have any questions, please contact Rick Cairney, Director of Policy, Business SA on (08) 8300 0060 or rickc@business-sa.com.

Yours sincerely



Peter Vaughan
Chief Executive Officer

² The *State Budget Submission 2010-2011* can be accessed from the Business SA website - <http://business-sa.com/your-voice/submissions>