

Governance and oversight of remote community stores

Overview

- 3.1 One of the central themes of this inquiry was the governance of remote community stores. Effective governance and training are fundamental to the successful operation of a remote store. Given the importance of these businesses to the lives of First Nations people living in remote communities, governance standards were of major interest to the Committee.
- 3.2 The NIAA states in its submission that good store governance relies on the capacity of the community to direct store policy in the interests of the community, while holding store management to account in maintaining a viable business.¹
- 3.3 The University of Queensland (UQ) outlines some of the diverse governance arrangements that exist for remote community stores, including community owned, privately owned and government managed and owned models.² UQ contends that decision-making needs to move closer to communities as service provision will then be more likely to address the priorities and needs of the communities.³

1 NIAA, *Submission 36*, p. 6.

2 University of Queensland (UQ), *Submission 23*, p. 7.

3 UQ, *Submission 23*, p. 12.

- 3.4 The WA Government emphasises the crucial role of community governance for remote stores, including the accessibility of healthy foods.⁴ The WA Government further states:

The performance of community stores is heavily dependent on the decisions of its owners – often the community corporation. The corporation's board make decisions and may pursue a number of objectives including reducing costs, increasing sales of healthy foods and ensuring financial sustainability. Managers play a crucial role in delivering these objectives through day-to-day operations.⁵

- 3.5 Aboriginal Medical Services Alliance Northern Territory (AMSANT) supports greater community involvement in the management of stores stating:

When you have community ownership, management and governance of remote stores, it not only leads to improvements in store management but then leads to other opportunities in business in remote communities.⁶

- 3.6 Interestingly, APO NT noted in its submission⁷ that the 2017 NT MBS indicates that the percentage of stores with a Committee was highest in 2011 at 79 per cent and since had dropped to 68 per cent.⁸ The 2019 NT MBS reported a slight increase in this figure to 71 per cent.⁹

- 3.7 The National COVID-19 Commission Advisory Board expressed the view at its appearance before the Committee that skills and knowledge were vital to successful governance. Mr Neville Power, Chairman, stated:

I think there's evidence of very good governance systems and evidence where that has failed. I'd say the biggest difference is not so much the structure or the nature of the organisations but rather the skills and training of the people. To me, most of the areas that

4 WA Government, *Submission 110*, p. 1.

5 WA Government, *Submission 110*, p. 10.

6 Mr Pike, AMSANT, *Committee Hansard*, 23 July 2020, p. 18.

7 APO NT, *Submission 60*, p. 12.

8 *Northern Territory Market Basket Survey 2017*, Northern Territory Government, p. 13.

9 *Northern Territory Market Basket Survey 2019*, Northern Territory Government, p. 6.

I've seen that could cause problems are lack of understanding and lack of knowledge and skills.¹⁰

3.8 Aboriginal Investment Group (AIG) comments in its submission that it provides specialist governance training, noting that failings in this regard have consistently been the most significant threat to the success of Aboriginal Corporations.¹¹

3.9 Arnhem Land Progress Aboriginal Corporation (ALPA) discusses its own two tiered governance structures in its submission and emphasises the importance of its centrally governed Board of Directors with local community committees that provide direction to the store managers and staff have been formed for each ALPA member store.¹²

3.10 MoneyMob Talkabout, which provides financial service support and training to remote Aboriginal communities in the APY lands¹³, made a supplementary submission to the inquiry regarding the licensing and governance of remote stores. MoneyMob Talkabout emphasises the importance of having a rulebook that is carefully followed and structured in order to maintain good governance.¹⁴

3.11 MoneyMob Talkabout further states:

With regard to observations we have previously made about governance; in any context, it can take years to be fully equipped with the skills and knowledge to run and operate a multi-million dollar corporation with the complex obligations of meeting economic, commercial, cultural and welfare expectations. This is possibly more so in remote communities, with attendant language and cultural differences of directors. We believe that directors in remote communities generally require a higher level of ongoing support and mentoring - as would anyone undertaking this type of function in a cross-cultural context.¹⁵

10 Mr Neville Power, Chairman, National COVID-19 Commission Advisory Board, *Committee Hansard*, 18 August 2020, p. 11.

11 Aboriginal Investment Group (AIG), *Submission 103*, p. 14.

12 ALPA, *Submission 106*, p. 19.

13 The Anangu Pitjantjatjara Yankunytjatjara (APY) Lands are located in the remote north west of South Australia (SA). Governance of this area is determined by the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (or APYLRA, amended 2017), whereby an Executive Board is elected from the community and reports to the Premier of SA.

14 MoneyMob Talkabout, *Supplementary Submission 48.1*, p. 3.

15 MoneyMob Talkabout, *Supplementary Submission 48.1*, p. 4.

- 3.12 APO NT concurs that improving the governance of remote community stores requires greater support and engagement of communities. APO NT also emphasises that this requires support for Aboriginal people to be involved with and develop an understanding of the operational management of these stores.¹⁶
- 3.13 Outback Stores notes in its submission that many private non-Indigenous owned or controlled retail stores operating in remote communities are not registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) or with the Office of the Registrar of Indigenous Corporations (ORIC), and that some of these store operators also have commercial stakes in the wholesale provider for the store. Outback Stores contends it would be reasonable to assume that such businesses operate predominantly on for-profit principles.¹⁷
- 3.14 Boab Health Services (Boab) remarks that there is a considerable lack of transparency around remote store governance and decision making which creates uncertainty around store nutrition policies and prevents potential partnerships that would support healthy choices.¹⁸ Boab states however that this is not an easily solved issue:
- The appropriate channels for advocating for positive change are unclear and experience suggests that the only means to bring about local change is to build relationships with store managers. Unfortunately, manager turnover is high and tenure is short, thereby consistently thwarting efforts for sustainable change.¹⁹
- 3.15 As identified in Chapter 2, it is not clear where complaints can be dealt with when concerns over pricing or other matters arise. The ACCC does not take responsibility for issues of pricing when they are not otherwise related to matters such as collusion, but the unique context of remote stores make a clear price complaints mechanism necessary.

16 APO NT, *Submission 60*, p. 14.

17 Outback Stores, *Submission 85*, p. 5.

18 Boab Health Services (Boab), *Submission 95*, pp. [2]-[3].

19 Boab, *Submission 95*, pp. [2]-[3].

Training and support

- 3.16 The existing training frameworks that are available to the directors, managers and staff of remote community stores emerged as a key factor in the effectiveness of the governance arrangements for these businesses. The Committee learned that ORIC provides training at the director level to Indigenous corporations registered under the CATSI Act and that it conducts regular follow-up visits.
- 3.17 ORIC training, however, is not currently provided in language due to resource intensity of doing so for the many First Nations languages and the need for company directors to understand the legislation in English.²⁰
- 3.18 The Committee also learned that while Outback Stores, ALPA and CEQ provide training for the stores they manage, the situation is a lot more varied for independently-owned or community-owned and managed stores, which represent the majority of the 218 remote community stores in Australia.²¹
- 3.19 ORIC differs from the Australian Securities and Investments Commission (ASIC) in terms of its regulatory interventions which it refers to as examinations and not investigations.²²
- 3.20 ORIC informed the Committee that it has undertaken examinations for some remote community stores:
- In 2019-20 we've only had one examination of a community store. There have been a handful of examinations of community stores over the last few years. In 2013-14 we did three, and the most we've done in a particular year was in 2016-17 when we did five examinations of community stores.²³
- 3.21 ORIC further informed the Committee that CATSI registration is free, that it works with Aboriginal Corporations under this Act to try and ensure that they stay afloat, and that ASIC doesn't provide the same capacity-building and support.²⁴

20 Mr Selwyn Button, Registrar, Office of the Registrar of Indigenous Corporations (ORIC), *Committee Hansard*, 28 August 2020, p. 18.

21 NIAA, *Submission 36, Attachment C*, pp. 27-35.

22 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 17.

23 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 17.

24 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 15.

- 3.22 ORIC also stated in its testimony that the capacity of the directors of Aboriginal Corporations varies and is dependent on the support of other board members, and of the CEO and staff.²⁵ Notably however, ORIC has not done specific and tailored training for remote community stores since 2016.²⁶
- 3.23 Mr Martin Schahinger expressed the view at a public hearing that current training and development in relation to community stores was problematic. Mr Schahinger stated:
- I'm not a huge fan of the training and development that's around at the moment, particularly around that point of the directors understanding finances, understanding the cost pressures on the store, understanding how to run a business. You're dealing with people who in many cases don't know how to run their own family budget and don't have much money in their own bank accounts.²⁷
- 3.24 ORIC had a partnership with the NIAA and NT government on capacity building for stores that commenced in 2016 but this pilot program ended in 2018 because the demand had decreased.²⁸
- 3.25 ORIC states in its submission to the inquiry (responding to questions taken on notice at the hearing on 28 August 2020) that of the 81 Aboriginal Corporations under the CATSI Act that own or control stores '25 corporations (31 per cent) have had one or more person participate in corporate governance training activities provided by ORIC over the five years to 2020.'²⁹
- 3.26 ALPA voiced its strong support for governance training at the public hearing on 23 July 2020, but remarked that many of its own directors would struggle with the complexity of some of the current training and that more intermediate courses are needed:
- ORIC do basic, entry-level governance training, which is important and good and which needs to be more frequent. AICD [Australian Institute of Company Directors] runs your pre-eminent company directors course, but it's really heavy going
-

25 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 16.

26 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 18.

27 Mr Martin Schahinger, *Committee Hansard*, 12 August 2020, p. 32.

28 Mr Button, Registrar, ORIC, *Committee Hansard*, 28 August 2020, p. 18.

29 ORIC, *Submission 123 (Responses to Questions Taken on Notice)*, p. [7].

around prereading and complexity. Only some of our directors, for example, would be able to get through that. What's missing is governance training in the middle – something in between the AICD and the ORIC.³⁰

- 3.27 MoneyMob Talkabout also expressed concerns about the level of understanding of governance training. Ms Carolyn Cartwright, Managing Director, told the Committee:

In terms of my own experience of having worked with Indigenous people around a board and also as employees, I know the amount of effort and discussion that's needed in order to break down concepts and ensure that you've got the correct language to describe things – and then to have people understand it, sitting across two worlds. I imagine that that's quite challenging to achieve for the stores groups. I imagine that there's not a great understanding perhaps at government level of the amount of effort and resourcing that's needed to do that well.³¹

- 3.28 The NIAA noted in its testimony that the standards and understanding of governance are variable in remote communities and informed the Committee that it provides \$1 million per year in funding to ORIC to support governance training.³²

Licensing of remote stores

Overview of exiting frameworks

- 3.29 The licensing of remote community stores was another key issue for the inquiry in relation to the effective governance of stores and their compliance with certain standards. A licensing regime for remote stores exists for the NT under the *Stronger Futures in the Northern Territory Act 2012 (Stronger Futures)*, however there is no comparable arrangement in other States.

30 Mr King, CEO, ALPA, *Committee Hansard*, 23 July 2020, p. 34.

31 Ms Carolyn Cartwright, Managing Director, MoneyMob Talkabout, *Committee Hansard*, 24 July 2020, p. 18.

32 Mr Ray Griggs, Chief Executive Officer, NIAA, *Committee Hansard*, 9 October 2020, p. 3.

- 3.30 The WA Government notes in its response to a question taken on notice that the governance of its 44 remote stores is regulated under a variety of different Commonwealth and State legislation including the *Associations Incorporation Act 2015 (WA)*, *CATSI*, and, in the case of stores managed by Outback Stores, the *Public Governance, Performance and Accountability Act 2013 (Cth)*.³³

Northern Territory licensing scheme

- 3.31 As outlined in the NIAA submission to the inquiry, the NT Community Stores Licensing Scheme was originally introduced under the *Northern Territory National Emergency Response Act 2007* to support income management and improve food security for First Nations communities.³⁴
- 3.32 This scheme was subsequently continued under the *Stronger Futures* legislation. Its operation is described in the NIAA submission and includes the following:
- before determining whether a store is required to be licensed, the NIAA undertakes community consultations about the services provided by the store and the licensing scheme
 - if consultations indicate a store is an important source of essential goods, the NIAA provides formal notice to the store's owner and manager of the proposal to require the store to be licensed and seeks submissions from them.
 - after considering submissions and other relevant information, if the NIAA determines a store is required to be licensed, the owner is invited to apply for a license. If an application is not made or the store cannot meet licensing standards (even with assistance), the store would be prohibited from trading and is subject to penalties for continued trade.³⁵
- 3.33 Stores that receive a license are subsequently monitored and assessed to ensure that they continue to meet licensing requirements as outlined in the next section of this chapter. Currently, 100 remote stores are licensed under the *Stronger Futures* legislation, including some takeaway businesses.³⁶

33 WA Government, *Supplementary Submission 110.1 (responses to questions taken on notice)*, p. [4].

34 NIAA, *Submission 36*, p. 11.

35 NIAA, *Submission 36*, p. 11.

36 NIAA, *Submission 36, Attachment D*, pp. 36-37.

- 3.34 The NIAA further informed the Committee that 53 of the licensed stores in the NT are independently managed, of which 17 are incorporated under ORIC.³⁷

Monitoring and oversight of remote stores

- 3.35 The monitoring of remote community stores is also a vital activity from a governance and management perspective. This only occurs, however, in any systematic way in the NT under the abovementioned licensing scheme. The NIAA informed the Committee that it has 70 authorised officers tasked with inspecting remote stores under the *Stronger Futures* legislation, which includes an assessment of governance and financial performance.³⁸
- 3.36 As noted by the NIAA in its submission to this inquiry, the regulation of Indigenous-owned stores is spread across a number of different Commonwealth, State and Territory agencies so that there is no uniformity in the approaches to regulatory compliance.³⁹ NIAA states:

ORIC has responsibility for those registered under the CATSI Act, the Australian Securities and Investments Commission (ASIC) oversees governance matters for stores under the Corporations Act, and state and territory business affairs agencies deal with corporate governance issues for stores, assisted by ASIC. This creates a variety of regulatory compliance approaches, and the need for a simplified and strengthened regulatory framework for stores has been noted previously.⁴⁰

- 3.37 NIAA outlined its inspection framework for the NT remote stores during its second appearance before the Committee, which includes monitoring visits and assessments:

We have a combination of two types of inspection visits. One is a monitoring visit and that's based on the assessed risk of each store. For a monitoring visit, if it's a low-risk store, we visit every 18 months. If it's a medium-risk store, we visit between six and 12 months. If it's a high-risk store, we visit every six months. If it's an extreme risk store, we visit every quarter for an assessment...

37 NIAA, *Supplementary Submission 36.4 (responses to questions taken on notice)*, p. [18].

38 Mr Griggs, CEO, NIAA, *Committee Hansard*, 9 October 2020, p. 5.

39 NIAA, *Submission 36*, pp. 9-10.

40 NIAA, *Submission 36*, pp. 9-10.

There are a number of things like change of management or ownership of stores which also trigger an assessment visit.⁴¹

3.38 NIAA further noted in relation to the assessments that they are not based on financial viability but on the impact to the communities from a food security perspective. NIAA stated:

We do take in the human element around this. It's not just purely a numbers game. Often, in particular, if there is a change of store management, for example, there is a food security assessment undertaken... We assess that. We then come to a position about where the risk rating for that particular store sits on that. Then we monitor that store, and if things are improving we bring the risk rating down, particularly on the supply and access to food.⁴²

3.39 The NIAA also confirmed that these evaluations continue through the wet season and include an infrastructure assessment.⁴³

3.40 The checklist used by the NIAA when monitoring stores was provided to the inquiry as a supplementary submission and includes documents that relate to governance such as a copy of the Constitution or Rule Book, copies of minutes from Corporation meetings, and the availability of an operations manual. Stores are also required to satisfy the checklist by providing information on when directors meetings have occurred, confirmation that the directors have ratified store opening hours and pricing mark-ups, and that policies on nutrition and employment are in place.⁴⁴

3.41 This NIAA checklist further requires confirmation that directors are undertaking performance appraisals with the store managers or the management company, and allows directors to indicate whether they feel supported in their roles and if they would like additional support or training.⁴⁵

3.42 The NIAA gave evidence that 10 days' notice must be given to a remote store of an inspection under the *Stronger Futures* legislation. NIAA remarked on this issue:

41 Mr Griggs, CEO, NIAA, *Committee Hansard*, 9 October 2020, p. 2.

42 Mr Sam Jeffries, Group Manager, Central, NIAA, *Committee Hansard*, 9 October 2020, p. 6.

43 Mr Jeffries, NIAA, *Committee Hansard*, 9 October 2020, p. 6.

44 NIAA, *Supplementary Submission 36.4 (responses to questions taken on notice)*, pp. [4]-[6].

45 NIAA, *Supplementary Submission 36.4 (responses to questions taken on notice)*, p. [6].

This is one thing that I think is a bit of a problem in the legislation, to be honest – that is, that we have to provide 10 days' notice for a visit. Interestingly, in the explanatory memorandum for the *Stronger Futures in the Northern Territory Act*, it was pretty clear that the intent was that they'd be no-notice/announcement visits. That didn't make its way into the legislation itself, but, because the legislation isn't ambiguous, you can't invoke the explanatory memorandum.⁴⁶

3.43 Some of the contributors to the inquiry expressed concerns about the current monitoring and oversight of remote stores in relation to the NT scheme and indicated support for a national licensing and monitoring system.

3.44 AMSANT (also representing APO NT) suggested in its testimony regarding the NT licensing scheme that the NIAA, or another body, should conduct a greater number of visits to remote communities and recommended 'stronger engagement with the licensing body with community members and store boards so that they're more aware of what's happening and the changes that are needed.'⁴⁷

3.45 ALPA expresses concern in its submission about a lack of visits to stores by NIAA under the current NT licensing scheme and that store risk ratings are not therefore being updated.⁴⁸ ALPA has further concerns that, although licensed stores are required to hold a nutrition policy, NIAA does not stipulate what this should be, and does not assess whether it is being implemented and updated as required.⁴⁹

3.46 NIAA informed the Committee in relation to monitoring visits, however despite the COVID-19 pandemic it was now up to date:

I can report now that, since we've been able to get back out into the community, we've conducted 94 monitoring visits in the Northern Territory, we've conducted two assessments and we have another 10 assessments to go. In terms of monitoring visits, we are up to date.⁵⁰

46 Mr Griggs, CEO, NIAA, *Committee Hansard*, 9 October 2020, p. 2.

47 Mr Pike, AMSANT, *Committee Hansard*, 23 July 2020, p. 17.

48 ALPA, *Submission 106*, p. 16.

49 ALPA, *Submission 106*, p. 16.

50 Mr Griggs, CEO, NIAA, *Committee Hansard*, 9 October 2020, p. 2.

3.47 Both AIG and Wirrimanu Aboriginal Corporation queried the nature of the relationship between Outback Stores and the NIAA in relation to whether it was sufficiently at arm's length to facilitate proper oversight of Outback Stores.⁵¹

3.48 NIAA informed the Committee, however, that although Outback Stores is part of the same Ministerial portfolio, the two entities are quite separate:

Outback Stores is an independent organisation with an independent board that reports to the minister. The only relationship that we have from a portfolio perspective-we're both portfolio bodies in the Prime Minister and Cabinet portfolio-is that the NIAA has in its executive order a role to coordinate with other Indigenous portfolio bodies. So the only connection that we have on a regular basis in that respect is I have a monthly meeting with all portfolio bodies just to share information around what's happening from a governance perspective...⁵²

3.49 The Committee was also interested in the oversight of remote store infrastructure through the existing monitoring mechanisms in the NT. The NIAA informed the Committee that it doesn't keep a list of infrastructure upgrades or requirements in community stores but does check for this as part of its inspections and discusses any issues with individual stores.⁵³

3.50 Outback Stores also informed the Committee that an assessment of store infrastructure forms part of its due diligence processes. Outback Stores stated:

When we enter into a management agreement, we go through the store building or infrastructure as part of our due diligence. We would then form an opinion that this requires a significant improvement before we can start managing it, or this is the amount of investment that we need to seek to make sure that we can continue to trade as efficiently as possible. With regular stores we will keep making smaller improvements every year.⁵⁴

51 AIG, *Submission 103*, p. 11; Wirrimanu Aboriginal Corporation, *Submission 66*, p. 19.

52 Mr Griggs, CEO, NIAA, *Committee Hansard*, 9 October 2020, p. 3.

53 Mr Jeffries, NIAA, *Committee Hansard*, 9 October 2020, p. 6.

54 Mr Rathore, Outback Stores, *Committee Hansard*, 9 October 2020, p. 20.

Improving monitoring and licencing

- 3.51 In 2009, COAG agreed to consider establishing a national licensing scheme for community stores as a way of helping close the gap on health between First Nations and other Australians.⁵⁵ To date no national licencing scheme exists.
- 3.52 The 2009 report from this Committee following its Inquiry into Remote Aboriginal and Torres Strait Community Stores determined that ‘the licensing of stores under the NTER has provided advantages to communities, governments and to stores and provides a means to better manage challenges to food security in remote communities.’⁵⁶
- 3.53 Throughout this Inquiry, Committee again heard from numerous groups that a national licencing scheme for community stores would be welcome.
- 3.54 ALPA states in its submission that it welcomes ‘considerations for a national licensing or benchmarking scheme, or the utilisation of lease agreements to improve food security across all states and territories.’⁵⁷
- 3.55 Apunipima states in its submission that it ‘supports the investigation of a national benchmarking and/or accreditation scheme’ for remote stores and expresses the belief that the scheme should be informed by the outcomes of the 2020 Healthy Stores Study.⁵⁸
- 3.56 Queensland Aboriginal and Islander Health Council (QAIHC) believes a rigorous licensing scheme would improve the consistency of stores and would set important benchmarks for store management, operation standards and governance. Its submission also states that ‘QAIHC supports a national accreditation scheme for remote community stores and retail outlets within remote communities.’⁵⁹
- 3.57 Outback Stores believes that a national licensing system should be supported by a dedicated agency at a national level to conduct monitoring and ensure compliance.⁶⁰

55 House of Representatives Aboriginal and Torres Strait Islander Affairs Committee, *Everybody's Business: Remote Aboriginal and Torres Strait Community Stores*, Parliament of Australia, November 2009, p. 129.

56 House of Representatives Aboriginal and Torres Strait Islander Affairs Committee, *Everybody's Business: Remote Aboriginal and Torres Strait Community Stores*, Parliament of Australia, November 2009, p. 144.

57 ALPA, *Submission 106*, p. 16.

58 Apunipima Cape York Health Council, *Submission 87*, p. 8.

59 Queensland Aboriginal and Islander Health Council (QAIHC), *Submission 89*, p. 9.

60 Outback Stores, *Submission 85*, p. 23.

Competition

3.58 In many remote communities there is only one store in operation, creating a monopoly situation for consumers. This has the potential to lead to inflated prices and lower quality goods for people living in remote communities who are dependent on a single store for provision.

3.59 Torres Shire Council told the Committee:

In real terms, there is no effective community competition between our stores, as outlined in our submission, and no effective community and supply chain. Predominantly, food is sold through IBIS, and whilst it is possible for residents to obtain food from the large supermarkets in Cairns, they must be registered clients with Sea Swift and pay a premium for the transport through-freight.⁶¹

3.60 Even in less remote locations such as Ilparpa Town Camp, Alice Springs, a lack of public transport creates an effective monopoly for corner stores that are accessible to a community. Tangentyere Council Aboriginal Corporation told the Committee:

Fourteen of the 16 town camps are not within 500-metre walking distance of any supermarket or healthy food option. They do have closer access to a corner store and, as I said earlier, the market basket survey showed that unhealthy food is more commonly bought there and also that the average basket would cost about \$200 more.⁶²

3.61 Given this situation, having a diversity of organisations available to provide management support to stores, is an essential aspect of competition. This provides a mechanism by which pressure is applied to management groups to ensure they are providing an appropriate service.

3.62 The Committee heard evidence of stores changing management groups or comparing costs and deciding to operate independently. Yarrabah Council in Queensland for example, told the Committee that they considered working through CEQ or Outback Stores for their store but decided to stay

61 Ms Yorkston, CEO, Torres Shire Council, *Committee Hansard*, 19 August 2020, p. 27.

62 Dr Anna Flouris, Executive Officer, Tangentyere Council Aboriginal Corporation, *Committee Hansard*, 23 July 2020, p. 37.

independent instead. This was because of an assessment that the other bodies would not yield a better result for them.⁶³

- 3.63 The Committee heard concerns that this competition is less effective in Queensland, due to the statutory nature of the CEQ management group. ALPA told the Committee:

We are also in the Queensland market but have found CEQ does not abide by competitive neutrality obligations, by trying to squeeze us and other independents out of the Queensland market, which they dominate with 27 stores. They also recruit our managers without any attempt to recruit, onboard and train their own. We estimate there are 15 or more former ALPA managers and senior managers now with CEQ.⁶⁴

- 3.64 The Committee also heard different practices are in place among different stores regarding evaluation of management groups. There is no requirement for management groups to regularly retender, though in some cases it happens naturally.

- 3.65 Outback Stores told the Committee:

That [tendering at the expiration of management agreements] generally occurs. It might not be written in the agreement. It depends on the community relationship and how long they've been managing the store. Outback Stores would be fully supportive if that's what brings more competition to the market.⁶⁵

- 3.66 Mai Wiru identified times when competition during a tendering process has taken place. They described a situation at Koonibba where Outback Stores and Mai Wiru competed for store management. ALPA nearly participated in the tender process too. Mai Wiru was awarded the service agreement. They also currently operate a store in Yuendumu which is in direct competition with another store managed by Outback Stores.

- 3.67 When asked whether tendering for management contracts would be realistic for Mai Wiru, they responded positively:

... we're in a very good position to tender. Our organisation is very lean. Everybody wears several caps. Our pricing structure is considerably lower than anybody else's because we don't have the

63 Mr Leon Yeatman, Chief Executive Officer, Yarrabah Aboriginal Shire Council, *Committee Hansard*, 19 August 2020, p. 2.

64 Mr King, CEO, ALPA, *Committee Hansard*, 23 July 2020, p. 31.

65 Mr Rathore, Outback Stores, *Committee Hansard*, 9 October 2020, p. 17.

big overheads. We run a fairly lean ship, which means that we can do the jobs mostly a whole lot cheaper because of the way we operate.⁶⁶

- 3.68 The Committee received consistent evidence that greater competition was needed in remote communities, to put downward pressure on prices and improve the quality of food and grocery provision.

Committee comment

- 3.69 The effective governance and oversight of community stores will be a vital part of any future solutions to food pricing and food security in remote communities. The Committee's view is that these need to be strengthened, principally in licensing, monitoring, and governance training.
- 3.70 A purely government designed, centrally created solution will not be effective without being reinforced by local communities taking actual responsibility for the governance and oversight of individual stores. All of this requires better training than is presently on offer. People put through the training course should be examined on their responsibilities. To do less than this is to create the appearance of local community governance without ensuring this local involvement is substantial or meaningful.
- 3.71 The availability and effectiveness of the training for directors of Aboriginal Corporations that run remote stores, and also for the managers and staff of these stores, will be critical going forward to increase and sustain the viability of these businesses, and also improve the quality of the services that they provide to their communities.
- 3.72 It was clear from the evidence to the inquiry that there are a number of skills that must be strengthened and fostered to improve the operation of remote stores. Improved governance and financial literacy among the governing board members is key, and it is therefore important that training can be tailored and provided as regularly as needed to facilitate this.
- 3.73 It is unacceptable for ORIC not to have had specific and tailored training for remote community stores since 2016, or for ORIC to imply that First

66 Mr Bate, CEO, Mai Wiru, *Committee Hansard*, 6 November 2020, p. 10.

- Nations store directors could rely on the support of other board members and management to discharge its duties.
- 3.74 The Committee's view is that ORIC and the NIAA should overhaul the current governance arrangements and tailor the training in a way that will increase participation by the directors of remote stores. The Committee suggests, as a matter of urgency, that ORIC should create and deliver training packages in both English and language that provide members of communities the skills necessary to make appropriate decisions to properly run the stores in the best interests of their communities.
- 3.75 The Committee notes that First Nations people in remote communities are no less able to be members of boards if the training is appropriate, in language, and provides the competency and governance skills required to oversee their responsibilities.
- 3.76 There also needs to be effective monitoring of participation in this training by ORIC and NIAA and a testing regime to ensure that those who have completed it have actually acquired the necessary understanding of their obligations under the legislation.
- 3.77 The NT licensing scheme appears to be a reasonably effective system for ensuring that remote community stores in the Territory are functioning in a way that will best serve their communities.
- 3.78 The Committee believes that monitoring to ensure good and robust governance of remote stores can be better achieved through a national expansion of the current NT remote store licensing scheme. This will benefit remote communities across Australia as it will help to ensure that service standards for these businesses are met and that there are proper consultations between directors, store managers and the wider community through the use of store committees.
- 3.79 The Committee believes that improved governance through an effective national licensing regime will better enable remote communities to have a say in the running of their local store and in the type of services that they would like it to provide.
- 3.80 It was noteworthy that under the *Stronger Futures* legislation, inspections of remote stores by NIAA currently require 10 days of notice. This is not satisfactory as it can distort the true picture in a store that may be struggling. The Committee would like to see this requirement removed so that unannounced inspections can take place as needed.

- 3.81 In addition, given the intersection of portfolio responsibilities, the Committee urges the strongest possible separation of the NIAA's policy-making and oversight functions, particularly in relation to Outback Stores.
- 3.82 The Committee also believes that there may be merit in Outback Stores, as a Commonwealth-owned management group, reviewing their roles and functions. This review should include the possibility of Outback Stores providing support for the operation of smaller independent stores that they do not operate. This support could include assistance in such areas as governance and staff training, access to supply chains and infrastructure
- 3.83 Finally, the Committee believes that as part of the new national licensing regime, there should be a proper tendering process for store management contracts when they come up for renewal. This should lead to some competitive pressure in the provision of services for remote communities.

Recommendation 5

- 3.84 **The Committee recommends that an independent review of the outcomes and quality of governance training conducted by ORIC be undertaken so that in future training be available in language, and that evidence be collected that those who have completed the training actually understand their duties and obligations as directors.**

Completion of initial governance training and some level of continuing professional development for directors and staff should also become part of the national licensing scheme.

Recommendation 6

- 3.85 **The Committee recommends that the Australian Government institute a national scheme of licensing and inspection of remote community stores.**

Recommendation 7

- 3.86 **The Committee recommends that the *Stronger Futures in the Northern Territory Act 2012* be amended to remove the requirement that stores be**

given notice before inspections.

Recommendation 8

3.87 The Committee recommends that remote stores provide material to inform communities on their use of rebates.

Recommendation 9

3.88 The Committee recommends as a means of applying competitive pressure that at the expiration of store management contracts, new contracts should ideally be open to competitive tender.

