

8 June 2010

The Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email economics.sen@aph.gov.au

Dear Sir,

Re: Competition and Consumer Legislation Amendment Bill 2010

We refer to your invitation to make a submission to the Senate Economics Legislation Committee in respect of the inquiry into proposed amendments to the above named Bill.

We thank you for this opportunity and we have made brief comments below.

Master Grocers Australia (MGA) is a National Employer Industry Association representing Independent Grocery and Liquor Supermarkets and packaged liquor stores in all States and Territories of Australia. The supermarkets trade under brand names such as IGA and FoodWorks and range in size from small, to medium and large businesses. The packaged liquor stores trade under brand names such as Duncans, Cellarbrations and Bottlemart.

Independent supermarkets play a major role in the retail industry and make a substantial contribution to the communities in which they trade. There are 2100 independently owned IGA and Foodworks supermarkets employing over 70,000 full time, part time and casual staff and accounting for around \$12 billion in retail sales. Many MGA members are small family businesses, employing 25 or fewer staff.

Over the past 15 years MGA retailer members have witnessed substantial changes to the supermarket and packaged liquor landscape grossly affecting the breadth of choice and competition for the Australian consumer. Consumer legislation in Australia encourages the existence of a robust competitive market. It has been confirmed that healthy competition results in increased efficiency, greater consumer choice, better products and lower prices. However, it is questionable as to whether the independent supermarket and packaged liquor sectors have had the opportunity to be truly competitive in the market place given the dominance of the larger supermarket and packaged liquor chains.

The major chains have been able to increase their supermarket, and more recently their packaged liquor market dominance consistently over a period of time. Although the terms of the Trade Practices Act (1978) are intended to have the effect or likely effect of substantially lessening competition, they have not been effective in preventing "creeping acquisitions." The long term effect of these acquisitions has been to increase market power by the major retailers. By acquiring more and more competing businesses, the major chains have been able to slowly grow their supermarket and packaged liquor market share while escaping the scrutiny they would be subject to had they increased their market share in a single large acquisition.

MGA considers that all acquisitions by dominant entities must be reviewed in terms of the competitive effect on the market. It is appropriate for the issue of creeping acquisitions to be addressed by the Federal Government and MGA welcomes the move towards addressing this serious anti competitive hindrance in the supermarket and packaged liquor market place.

The proposed amendments to the Competition and Consumer Legislation Amendment Act 2010 which are as follows:

Subsection 50(1) of the Schedule- omit "a market" and substitute "any market" and

Subsection 50 (6) of the Schedule (definition of market) - omit "substantial"

go some way to addressing the issues which have contributed to anti competitive activities in Australia for many years.

The substitution of the word, "any" and the omission of the word, "substantial" are a positive step towards extending the powers of the ACCC to review acquisitions on a broader level. The ability of the ACCC to embrace a wider geographical area when making a decision in respect of an acquisition has potential to assist businesses who have been adversely affected by creeping acquisitions in the past. The inclusion of the word "any" should enable the ACCC to embrace the impact on all markets that are likely to be affected by an acquisition rather than being limited to a single market. There is in doubt that in order to ensure that the amendments are effective, they need to be tested and MGA supports the views expressed by National Association of Retail Grocers Australia (NARGA) in its submission, in particular, the call for Guidelines which would provide a clear interpretation of the amended clauses.

MGA welcomes the amendments but regards them as a first step towards establishing an equitable, open and truly competitive market place where all competitors are given equal opportunities to establish new stores. There are still a number of barriers that need to be addressed in the retail supermarket and packaged liquor sectors to achieve a healthy competitive market and MGA supports the proposal made by NARGA that, "major retailers should be called on to openly divulge the sites that they currently have at their disposal".

MGA supports the amendments to the legislation in respect of "creeping acquisitions"

MGA thanks the Committee for this opportunity to comment on the amendments and we would be pleased to comment further should we be required to do so.

Yours sincerely

Jos de Bruin

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CEO

Master Grocers Australia.

Liquor Retailers Australia