COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## JOINT SELECT COMMITTEE ON THE RETAILING SECTOR

**Reference: Industry concentration in the retailing sector**

TUESDAY, 6 APRIL 1999

CANBERRA

BY AUTHORITY OF THE PARLIAMENT

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## JOINT SELECT COMMITTEE ON THE RETAILING SECTOR

**Tuesday, 6 April 1999**

**Members:** Mr Baird *(Chair)*, Mr Jenkins *(Deputy Chair)*, Senators Boswell, Ferris, Forshaw, Murray and Schacht and Mrs Elson, Mr Fitzgibbon and Mr Nairn

**Senators and members in attendance:** Senators Boswell, Ferris and Murray and Mr Baird, Mr Fitzgibbon, Mr Jenkins and Mr Nairn

### Terms of reference for the inquiry:

To inquire into:

(a) the degree of industry concentration within the retailing sector in Australia, with particular reference to the impact of that industry concentration on the ability of small independent retailers to compete fairly in the retail sector;

(b) overseas developments with respect to this issue, highlighting approaches adopted in OECD economies; and

(c) possible revenue-neutral courses of action by the Federal Government (ie courses of action that do not involve taxation reform).

### WITNESSES

**Committee met at 9.14 a.m.**

**CORBETT, Mr Roger Campbell, Chief Executive Officer, Woolworths Limited**

**DUNN, Mr Ian, National Business Manager Grocery and Perishables, Woolworths Limited**

**JEFFS, Mr Rohan Kenneth Stretton, Company Secretary, Woolworths Limited**

**ONIKUL, Mr Naum, Chief General Manager Supermarket, Woolworths Limited**

**POKORNY, Mr Peter Joseph, General Manager Fresh Foods, Woolworths Limited**

**REID, Mr Robert Gary, General Manager Property, Woolworths Limited**

**CHAIR**—I call the committee to order and declare open this public hearing of the Joint Select Committee on the Retailing Sector. I apologise that some of the members of the committee are still not here—they are undoubtedly caught up in the fog—but I am sure they will join us soon. Knowing the interests of some of the members who are not here at the moment, it must only be the fog that would keep them away.

Today's hearing at Parliament House in Canberra is part of the committee's inquiry into industry concentration in the retail sector. I welcome Mr Roger Corbett, Mr Naum Onikul, Mr Peter Pokorny, Mr Rohan Jeffs and Mr Ian Dunn. The committee prefers all evidence to be given in public, but you may at any time request that your evidence, part of your evidence or answers to specific questions be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. The committee has before it submission No. 229 dated 1 April 1999. Are there any alterations or additions which you wish to make to the submission at this point?

**Mr Corbett**—No, Mr Chairman.

**CHAIR**—I now invite you to make an opening statement and we will follow that with questions.

**Mr Corbett**—It is a privilege to commence proceedings this morning. I would like to thank you for the opportunity of putting our case to the inquiry, because we greatly value the chance to explain our proud history as an Australian owned company of 75 years and also to outline the enormous contribution which we make to Australian communities, particularly rural and regional Australia. I also appreciate the opportunity to put straight some erroneous claims which seem to have been promoted in recent months.

We have responded in terms of the committee's reference with some vigour in our report. I am proud to be able to present it. I think it is both a professional and comprehensive document which we hope will contribute significantly to the full and frank discussion of the important matters before the committee.

I will be presenting our case in a summarised form here today and my colleagues and I are on hand to answer any questions you may have. We would also welcome the opportunity to return to answer or speak to the inquiry, if the committee wishes us to do so.

May I submit at this juncture my presentation as an official record. I would prefer just to cover a few of the key points for your benefit. As I said, Woolworths is a proudly Australian owned company. I want to make this point first, because of the top four operators in the Australian market, Coles, Franklins, Davids and Woolworths, only two remain owned by Australians.

Woolworths, on the other hand, is totally Australian, owned in the main not by large corporations but rather by ordinary Australians. A study of our share register shows that we have 280,000 shareholders and, very importantly, 39 per cent hold less than 1,000 shares. Fifty-four per cent hold between 1,000 and 5,000 shares; that is, 93 per cent of our shares are owned by people who hold 5,000 or less shares. A great number of our shareholders are in fact employees and retired employees.

While we are small by world standards—we rank only 65th in the world in terms of capitalisation—we are a great example of an Australian company which has grown by delivering to Australians, regardless of where they live, a real choice in terms of where, when and how they shop. I would like to repeat that. We have grown purely because customers desire to shop with us, not because of the size of our chequebook. The Australian shopping community defines our level of success, and that is the way it should be.

We disagree with those who would suggest that the government impose an artificial ceiling on the market share of a company like Woolworths. We believe that would have disastrous effects upon the direct interests of our customers and indirectly on the Australian economy. We disagree with it both philosophically and factually. Options have been put forward to meet an agenda which has nothing to do with what Australian consumers want.

One claim widely promoted is that the three major chains—Franklins, Coles and Woolworths—together have 80 per cent of the Australian retail food market. Let me dispel this myth for the benefit of all Australians who have read it and are concerned by it. The claim is based on data collected by AC Neilsen to measure a portion of the dry grocery market, which constitutes less than 50 per cent—probably 40 per cent, according to Jebb Holland Dimasi—of the products sold in supermarkets.

AC Neilsen are the first to admit that their data was never collected for the purpose of measuring the market share of retailers. I understand that AC Neilsen have submitted a document to that effect to your committee which highlights the inaccuracy of the use of that data to describe market shares of retailers. The AC Neilsen scan data information is contained in the trade magazine *Retail World* and is clearly not a measure of the total retail food market. In fact, in *Retail World* the following disclaimer is included: 'The database used for this analysis covers a broad range of packaged, dry grocery categories sold through grocery supermarkets. It includes the departments of dairy and frozen but does not cover fresh meat, fruit, vegetables, delicatessen, bakeries, fish, et cetera.'

Our question is: how can this be a measure of the food retail market if it does not cover meat, bread, milk, fruit, vegetables, fish, delicatessen and a host of additional staple items which Australians buy in every basket of goods? Nor does it cover any of the grocery and other goods sold in any other retail outlet, of which there are approximately 20,000 in Australia. Despite this very clear explanation, some have chosen, for whatever purpose, to use these facts incorrectly, and by doing so have created a misleading context for this inquiry and have also cast a shadow over the industry and those who lead it.

So what share does Woolworths have of the total retail food market? An independent research document has been commissioned by Woolworths and carried out by Jebb Holland Dimasi, the leading economic trend analysts to the retail industry in Australia. It is contained in appendix 1 of the report before you. It is based on household expenditure survey data generated by the Australian Bureau of Statistics. It estimates the total supermarket market at $65.4 billion, of which the three largest players share not 80 per cent but 43.1 per cent.

I repeat that. According to the Australian Bureau of Statistics data, the share of market held by the three major players is just over 43 per cent. The Woolworths share is 20 per cent, the Coles share 17.3 and the Franklins share 5.8. That is on page 27 of the Jebb Holland Dimasi report before you. I understand that the AC Neilsen submission uses ABS data to reach a similar conclusion of around 47.3 per cent. But whether it is 43.1 or 47.3 per cent, it is far from the 80 per cent claimed. In short, this claim cannot be trusted and therefore cannot be relied upon.

Some have also chosen to create an impression that the three major players—Woolworths, Coles and Franklins—are one team which work against the rest of the market. This is the same as claiming that the three top football teams are one rugby league team and every other team is playing against them. Woolworths is one Australian company in arguably the toughest retail market in the world. We compete absolutely vigorously with Coles and Franklins and the fact that they are a significant size only tends to heighten the competition and continually puts pressure on our end profit margin. We deliver an EBIT of 3.53 per cent, which is amongst the lowest in the world and is similar to our major competitors'. The winner of this competition is the Australian consumer.

So if the issue is not about market share—and I suggest it should not be—what is it about? The answer, we submit, is that the issue is one of choice. We believe that every Australian, whether they live in the country or in the city, rightly claims the freedom to choose how they do their weekly shopping. And choice they have—from 544 Woolworths stores across Australia, 555 Coles and 261 Franklins, making a total of about 1,300 stores. This equates to 40 per cent or thereabouts of the market.

There are 2,400 banner food retailers in Australia consisting of such people as Action, Clancy, Advantage, Festival, IGA and Foodland. There are some 23 major banner groups. In addition to that, there are some 20,000 small retailers. In fact, one could strongly argue that we have three major retailers with sufficient volume to get economies of scale and therefore efficiencies of operation, and Australia is a very large land mass to transport very large quantities of food across; it is unique in the world. So we have sufficient volume to be efficient at world-class levels.

In addition to that, the three majors compete very fiercely with each other, delivering arguably amongst the cheapest food in the world. Our supermarkets are equal to anything in the world. So it can be fairly argued that, despite a small population over a very large land mass, Australia has a very competitive and a very efficient food operation, but only occupying 40 per cent of the market.

Sixty per cent of the market is shared through some very effective smaller operators who, in many markets, compete in a very focused and effective way against the major operations. I need only cite the success of Action and Advantage in this regard in Western Australia. Any artificial limitation on successful food retailers will ultimately impact upon the consumer's choice. The result would mean that some would have access to the world's best in food retailing and others, through the imposition of bureaucratic regulation, would not.

There is a better and more effective way of supporting small business than arbitrarily penalising success, which brings me to an aspect of our business which makes me extremely proud. Woolworths is an Australian company with 75 years of service to the community. We are the second largest private employer of Australians. We employ more apprentices than any other company in Australia. Nearly one-half of the apprentice butchers in Australia are Woolworths apprentices.

Woolworths offers far more than jobs for its 120,000 employees. It offers careers. We employ around 45,000 young Australians between 15 and 20 years of age and we give them training that can and does lead to long-term careers. In fact, 38 per cent of our full-time staff have been with our company for between six and 20 years, and 44,000 of our staff members are employed in rural Australia. Each Woolworths store has an average of 2,500 employees, plus many more in auxiliary and support functions. These are jobs that simply would not be there if there was not a Woolworths store in many rural communities in Australia.

**CHAIR—**Mr Corbett, I might stop you there for a second and welcome Senator Boswell to the committee.

**Senator BOSWELL—**My apologies. I am sorry I am late. I got caught in the air and could not land.

**CHAIR—**Welcome, good to see you. I said we would need something significant to keep you away, but you are very much welcome here. Please continue, Mr Corbett.

**Mr Corbett—**Thank you. Senator Boswell, I am just dealing with rural Australia, so you have come in at the right moment.

**CHAIR—**Senator Boswell, just for your information, basically, to date there has been a recap in terms of questions of market share, questioning the figures that have been released in the past, quoting ABS figures and Nielsen's revised figures and also questions of employment. Is it 100,000 that you employ, Mr Corbett?

**Mr Corbett—**120,000.

**CHAIR—**They are the two aspects that have been dealt with at length, and now we are on to the rural aspects.

**Mr Corbett—**I might just recap a little for the senator's benefit to get the continuity. Woolworths has had 75 years of service to the Australian community, and we are the second largest employer of Australians. We employ more apprentices than any other company. Nearly one-half of the apprentice butchers in Australia are Woolworths apprentices. We employ 120,000 people, of which 44,000 are employed in rural Australia.

We have become partners with each community in which we operate. We are in the process of extending banking services to rural Australia. We are helping to support the towns that many others are leaving, and not every Australian company could make a boast of that nature today.

The Australian primary producing community—of produce, beef, fish, lamb and pork—is also a partner with Woolworths. We have long-term valuable contracts with growers, contracts which enable those primary producer growers—whether they are beef, pork, lamb or produce—to plan for and invest in the future. It provides us with the opportunity to provide our customers with the quality they demand. It enables us to ensure that the ever important questions of health and safety in regard to food and the food chain are protected. We have worked with primary producers of Australia to raise the quality of the offering.

We also have a proud record of exploring the export market for primary produce that we buy in Australia, and we have had some considerable success in that regard in recent years. The Australian pork industry has survived and increased its export drive as a Woolworths partner. There are numerous, thousands, of businesses in primary Australia that have had their business start and sustained their activities on the basis of their partnership with Woolworths, and we are very, very proud of that. We have a short video from some of our suppliers which your committee may find of interest.

*A video was then shown—*

**Mr Corbett—**Mr Chairman, we are very happy for the committee to speak to any of those suppliers who were on that video or any of our other suppliers across Australia. We are very proud of our relationship with our primary producers in Australia. We are also proud of some innovative things we have done in recent years. We just completed, two or three years ago, a $50 million distribution centre in the town of Warwick in Senator Boswell's area. Because of the success of that distribution centre, we have just completed another of the same proportion that we are currently commissioning in Monarto in South Australia. We would be delighted if your committee wanted to inspect either of those premises. We are particularly proud of the working relationships, the harmony, the productivity but, above all, the employment that has been gained in those country towns. If your committee would like to inspect any of our stores or any of our facilities in any country town of Australia or anywhere else, we would be happy to facilitate those visits.

Woolworths brings to these communities additional value, through its use of local contractors, cleaners, maintenance, security and transport. For example, all of the transport from Warwick, which covers the whole of the eastern side of Australia as far south as

Sydney and as far north as Darwin, is done from local transport contractors working out of Kilkenny on the Darling Downs, not from one of the big national operators. A great success story.

We have spent $17.6 million in the last 12 months in the labour content of store refurbishments in existing stores throughout Australia. In many cases, a Woolworths store in a country town underpins the commercial component of that town. It acts as a major employer in the town and anchor tenant. Whenever we produce one of our marketplace shopping centres—which typically is a small centre around a Woolworths or a Woolworths and a Big W—there are 30 small shops in that complex. In the last few years, that has resulted in 634 retail tenancies in and around Woolworths stores that we ourselves have created. Woolworths, on many occasions, is the linchpin and the anchor of our country communities.

This morning I wish to make one final point, and it is a critical one. By world standards, Woolworths is not big. We rate only about 65th in world standards of retailers in terms of size. Woolmark, for example, turns over more in one quarter of one year than the entire Australian food market turns over annually. Franklins is already foreign owned, as is Davids. It serves Australia well to have Woolworths strong in what is fast becoming a global economy. Woolworths needs to stand by its Australian companies to keep them strong so our destiny and the choice which Australians have is defined by Australians for Australians.

We have the best of both worlds: a strong and very competitive major retail sector with 40 per cent of the market and 60 per cent shared by 2,400 banner retailers and over 20,000 small retailers. It could almost be argued that, if we had a blank sheet of paper, it would be hard to have a more ideal market. The Australian consumer is a winner. Australia is a winner.

That concludes this aspect of our submission to you. We stand by to answer any questions you may have. Please feel free to address any questions to me and I will respond directly or, if I may, nominate a member of our team best qualified to address the issue. Thank you, Mr Chairman.

**CHAIR—**Thanks very much. Well done on the presentation, and it is good to see Mr Fleck being involved in yet another presentation. For those on the committee, Mr Fleck was involved in the Olympic presentation in Monte Carlo. We have listened to the report, and obviously members of the committee have spent a lot of the weekend reading through these volumes. I think it is appropriate that each of the major retailers here spends quite a bit of time absorbing the reports that have been put forward because they do provide some interesting discussion points and evidence.

It is also appropriate that we should say how much we appreciate your personally taking on board the task of coming down here as head of Woolworths, not ducking the questions but taking on board the issues that the committee might want to raise, and we do appreciate that. I will now defer to my deputy, Harry Jenkins, to kick off with the first question.

**Mr JENKINS—**Thank you, Mr Chair. Your submission is quite comprehensive, and I apologise that I have not read it in detail, of course. But, if we go to the essence of some of the accusations that have led to the forming of this committee, you have dealt with what you believe to be the distortion of the AC Nielsen figures. There are comparisons also about the levels of retail concentration in other countries, which I note that your submission goes to. Have you any comment to make about the way in which the committee should compare the retail sector in Australia to perhaps the United States, the UK and other countries that are mentioned in other submissions where there are suggestions of more favourable concentrations?

**Mr Corbett**—Thank you for the question. I think that comparisons between Australia and other markets need to be made extremely carefully. The Jebb Holland Dimasi report in appendix 1 is a particularly comprehensive one and does deal with the situation in Australia very thoroughly. If you move from the Australian market to other markets, comparisons are difficult because circumstances are very different. One of the situations in Australia that is particularly important is a very low population base on a very large landmass. But the types of volumes the Australian major retailers have in terms of getting economies of scale are very similar to the types of volumes that some of our major comparable operators in the rest of the world have.

**Mr JENKINS**—What about the relationship with suppliers as compared to overseas markets? It is likely that you are supplying goods from right across the country so there is a different sort of scale of operation from other markets perhaps.

**Mr Corbett**—Our relationship with our suppliers—and I have visited many of our fellow retailers around the world—is equal to anything in the world. We have geographical areas that are very separate. We buy in those geographical areas. We buy directly from the properties and we also buy through the markets in each of the states in order to maintain a fair and even distribution of our buying power across Australia. If you compare our relationships with our suppliers with some of the major retailers, we have very effective partnerships.

**Mr JENKINS**—I just have one question about the way in which Woolworths structures its independent distributor who, as I understand it, distributes to independent supermarkets—AIW. Is that the distribution arm to your own supermarkets?

**Mr Corbett**—We have two involvements with independents in Australia. One is AIW, which has a turnover of just short of $1 billion, which supplies merchandise to independents in the markets of New South Wales, Victoria and Queensland. It is a separately constituted business, and it has grown very significantly in the last quarter. I believe that we are providing those independents with a service in terms of in-stock that is very similar to that which we are providing to our own stores.

The second involvement we have is with a business called Statewide in Tasmania where we have 60 per cent of the equity and the independents have 40 per cent of the equity but where the board is evenly split between Woolworths and the independents. That business has been in existence, I think, since 1975 and has supported very strongly the independent activity on the island of Tasmania.

**Mr JENKINS—**You would probably contend that you have an obligation to your shareholders to maximise your business. In the boardroom of a corporation like Woolworths, how do you balance the conflict between a business that is involved with competitors and the internal arms of your own direct businesses?

**Mr Corbett—**Are you referring to our involvement in AIW?

**Mr JENKINS—**Yes.

**Mr Corbett—**The businesses are treated as independent businesses. We have a number of businesses. We have Dick Smith, Rockmans, Big W, a supermarket division and a manufacturing division, and each of those businesses report to the board on their results. AIW is treated as an independent business, as is our involvement in Statewide in Tasmania. And, as I have said, we have kept them very significantly at arms length to ensure that there was no influence over those businesses, for example, by our supermarket business. They operate and provide an independent service. I think the test of that is the number of smaller retailers, which is growing every day, that have chosen to use the services of AIW—which, of course, is in a competitive market where they have other alternatives.

**Senator BOSWELL—**Mr Corbett, I cannot remember the name of your predecessor, because we have got so many submissions.

**Mr Corbett—**Mr Clairs.

**Senator BOSWELL—**He said that Woolworths were aiming for a 50 per cent market share at one stage. Do you recall that being in print?

**Mr Corbett—**I cannot recall that being in print. I have great respect for Mr Clairs, but I cannot recall him having made that statement. I have nothing further to say.

**Senator BOSWELL—**I will try to get the cutting, just to make sure that I have got it right. It may have been 40 per cent, but I thought he said 50 per cent. Let us talk about the grocery sector now, not the other sector, because we are getting confused. We have got a grocery sector, 80 per cent of which I think you would agree would consist of Coles, Woolworths and Franklins, and then you have got another thing which you call a ‘stomach market’, which I think you would assess at 40 per cent. Is that correct?

**Mr Corbett—**No, I do not think it is. AC Neilsen are an excellent operation of world repute, but they are not measuring market share at all. What they are measuring is a narrow group of scan data which is distributed through the major operators and their distribution centres that is really designed for the majors to compare their own market share of Colgate toothpaste, for example, with that of its competitors. It is in no way designed to be an indicator of retail market share. The 40 per cent share named in the Jebb Holland Dimasi report is a far more accurate figure.

**Senator BOSWELL—**I have in front of me a submission by Coles that says that, of packaged dry groceries, Woolworths have 36 per cent, Coles have 26 per cent, Bi-Lo have five per cent, Davids have 15 per cent and Franklins have 14 per cent. Would you agree that that is right?

**Mr Corbett**—Senator, you are quoting figures on which I do not have the benefit of the background but, on my knowledge, no, I would not agree. I do not believe that there is any basis on which that statement can be made, because it only contains part of the distribution chain. It does not include the groceries sold through 20,000 small operations in Australia.

**Senator BOSWELL**—I would of thought it would have, through Davids and through your own AIW.

**Mr Corbett**—I do not think I can comment further on that without knowing more about the detail.

**Senator BOSWELL**—I have been corrected on the 50 per cent; it was 40 per cent in fact. Mr Reg Clairs said that Woolworths planned for a 40 per cent share of the retail market, so I apologise for putting it at 50 per cent. But we seem to have some discrepancy between you and your major competitor on, let us call them, dry groceries. What is your assessment of the dry grocery market?

**Mr Corbett**—I do not think it is possible to make that assessment. I think the Jebb Holland Dimasi report—when you have time to peruse that—is a pretty definitive work on what the market shares are. There is a very large network of grocery operations that are not included in the AC Neilsen numbers. I do not know what the numbers are, but I do know that the Jebb Holland Dimasi report is a pretty definitive study of market share.

**Senator BOSWELL**—It is going to take me 10 or 15 minutes to get across that, and I will not be able to do that while I am talking about your submission. You operate a wholesale business, and I presume that does not stand alone. You would be using the same facilities for the wholesaling—you would use the same trucks; you would use the same warehouses—so you would be getting a bit of an advantage.

**Mr Corbett**—No, AIW is a completely independent business.

**Senator BOSWELL**—It stands alone in its own warehouse and it has its own trucks?

**Mr Corbett**—It has its own warehouse, its own buying, its own distribution.

**Senator BOSWELL**—Fair enough. What would you consider to be the absolute minimum market share that could sustain an independent wholesaler?

**Mr Corbett**—I cannot answer that question at this moment.

**Senator BOSWELL**—What is the critical mass throughout Australia that would be required to maintain a wholesaler?

**Mr Corbett**—I just cannot answer that question. I do not have that information. I will take the question on board and endeavour to give you an answer. By the way, that is something we have never addressed ourselves to, because AIW does not operate across Australia.

**Senator BOSWELL**—In your submission you said there were 2,400 banner stores in competition with you. We only got these submissions on Thursday—we all have families and so forth and we had things to do with our Easter other than reading submissions—but I did get stuck into them yesterday and I think that one of the submissions said that 840 banner stores have gone missing in action over the last couple of years—independent retailers which are not there any longer. I think you would agree that the market is in decline. In the event of the independents not being there any more, how would the services get out? Apart from yourself, we virtually only have one independent wholesaler left in Australia, and that is Davids. There is one in Western Australia too. If they have not got a critical mass and they are no longer there, how will the little towns with 400 or 500 people get service—towns like Mitchell and Pittsworth and so on? How do we sustain a grocery chain out to those people?

**Mr Corbett**—I do not know about your figure of 840. I do not know where that has come from, and I do not know that the statement that they are generally in decline is correct. We have got AIW, which has grown 60 per cent in the last quarter. We have got Davids, who have indicated a growing and very prosperous business in their last report. The small retail segment, supported by AIW and Davids, has many examples of very, very effective operation and distribution. FAL and its Action supermarkets in Western Australia is a particularly good example. Many of those very small country towns do have an independent operator that does enjoy very effective distribution through AIW and Davids, and there is a very competitive market between those two operators.

**Senator BOSWELL**—But my question was—and you cannot answer it—what is the critical mass required to sustain an independent warehouse? If the market size was under the critical mass required, how would the smaller towns be serviced? Your reply, I suppose, would be that AIW would service them because they would be there.

**Mr Corbett**—Taking the independent market as it currently exists with 60 per cent of the market and some 2,400 operators and some 20,000 small operators, I am sure that the market size is sufficient for both AIW and Davids to run an effective and quite profitable distribution business.

**Senator BOSWELL**—In the various submissions we have had, people have said that there is predatory pricing by the majors. Could you tell us what protocols you have that would prevent that? Is it still happening?

**Mr Corbett**—There are certain laws against predatory pricing. I assure you that our policies in Woolworths are very strongly against that. Perhaps Naum Onikul, who heads up our supermarkets, could add to that.

**Mr Onikul**—Our pricing is based on a number of issues. Our pricing is based, first of all, on our need to get a return on investment. Our pricing is also based on a need for us to be competitive in the marketplace. When we set a price for any merchandise it is set to be competitive in the marketplace. We compete vigorously in the marketplace with our major competitors. In any marketplace there are a number of other players normally which keep us very competitive. We do not set out to undercut anyone. Our pricing is based on being competitive to deliver to our customers the best value for money in that particular marketplace.

**Senator BOSWELL**—If Woolworths is in a shopping centre along with a greengrocer or butcher, do you ever find out what they are charging and then reduce your prices to take advantage of their prices?

**Mr Corbett**—As Naum has said, we are competitive in the marketplace. To be competitive we need to check our competitors' prices because our customers do. We are aware of the marketplace prices, and being competitive means that your prices take that into account. We would match pricing from competitors. We would vigorously compete with Coles and Franklins. If it were a small retailer, we would never reduce our selling price as a matter of policy. I cannot say there is not an exception across all our stores in Australia, but as a policy we would never reduce our price below their selling price of a particular item. There is a suggestion implied, I think, in your question that small retailers in Australia cannot compete effectively with big retailers.

**Senator BOSWELL**—No. That was not the question and that was not the implication. We have to put everything on the record. We will go back and look at the *Hansards* and evaluate what is on the record, so I want to get everything on the record. There have been accusations—and I am not particularly levelling these at your own chain—that there has been predatory pricing where you chase the small trader down: you go in and he cuts, you cut, he cuts, you cut. One person I heard about—and it was not in your operation—got into a price battle with a chain and it got so ridiculous that they undercut each other so badly that in the end, to make a point, he just gave 1,000 dozen eggs away. It might not have been that exactly, but it was a lot of packaged eggs. The chain chased him down. That was probably four or five years ago. That is the worst case of predatory pricing I have ever heard. That can be substantiated. As I say, it was not your operation. Does that happen now?

**Mr Corbett**—Our policy would not drive the price down. We will provide a price to our customer which would be competitive with our competitors. There are so many examples around Australia where small, focused and effective retailers trade extremely effectively against the majors. In our own shopping centres we have a line-up of small food operators who want to go into the next marketplace shopping centre we open because they enjoy trading off the traffic that the majors produce. There are many country towns in Australia where I would suggest there would be no retail heart if there was not a Woolworths or a Coles or a Franklins or a Bi-Lo supermarket anchoring that community where they provide the range, the choice and the price that keeps the shopping in that community and they provide an opportunity for other shops to trade very effectively off the volume and traffic that they create.

**Senator BOSWELL**—Have you got your market shares in this book and on what page would they be?

**Mr Corbett**—They would be best covered by the Jebb Holland Dimasi report, which is appendix 1.

**Senator BOSWELL**—Have you got the break-up of what proportion of meat and what proportion of fruit and vegetables you sell?

**Mr Corbett**—Not specifically on those product categories, although in the submission itself there are some numbers in that regard. But we would submit that the definitive numbers are those independently done by Jebb Holland Dimasi.

**Senator BOSWELL**—They have the break-ups of fruit and vegetables?

**Mr Corbett**—No, they have broad break-ups. It is very hard to get break-ups of those separate areas because the marketplace is so spread. If you take fish, for example, there are hundreds and thousands of fish shops across Australia all competing with each other. How you get the market shares of that is very difficult, if not impossible.

**Senator BOSWELL**—One of the concerns we are facing is that, because the share of Coles and Woolworths is so high, there is not enough force in the buying ring. Woolworths come in and their buyers buy a very high proportion in the cattle rings. If the Woolworths buyer or the Coles buyer does not turn up, then sales do not reach expectations. How do you actually service your butcher shops? Do you have your own buyers out there in the cattle rings? Do you buy from abattoirs or is it a combination of both? Could you give us an explanation?

**Mr Corbett**—First of all, I would not concur with your comment that the Woolworths buying power is so large that it construes the market. I do not think that is correct. We compete in a very vigorous market and a market against lots of independents who compete as well. You would only need to walk with me through the markets in Sydney, Brisbane or Melbourne at 5 or 6 o'clock in the morning to see that it is a very vigorous market with lots of small operators trading very effectively against Woolworths, Coles and other major operators. Perhaps Peter might be able to answer more specifically your questions on beef.

**Mr Pokorny**—In relation to our purchase of livestock, we have a combination of procurement options. We deal directly with producers and feedlot operators through a large field procurement network. They are coordinated by a national livestock manager. We also have direct relationships with various abattoir operators for processing. So we have a spread of procurement practices and we are very conscious of making sure that we are represented in those markets as well as being represented with our producers.

**Senator MURRAY**—Mr Corbett, as to the disputes over figures, the NARGA presentation says 80 per cent; you say the ABS says that Woolworths, Coles and Franklins come to 43 per cent; and the AC Neilsen group, which is the principal measuring mechanism for your industry, says 47 per cent. I really want to ask you about your view on competition policy. If the figure was 80 per cent, would you consider that too high?

**Mr Corbett**—I do not accept the 80 per cent figure as any comparison in terms of market share at all. The AC Neilsen numbers judge a very narrow group of products which are supplied by the major food companies—Proctor and Gamble and the like—through the distribution network. They simply measure relative market share of one product against another. As AC Neilsen have clearly indicated themselves, they are in no measure intended to be a measure of market share in any sense between retailers. So we would have to very strongly disagree that the 80 per cent is any indication of market share at all in a wide and diverse food business.

**Senator MURRAY—**I understand that, but the question that we are being faced with as a committee is how big is too big and at what stage does bigness result in oligopolistic or restrictive trade practices. The percentages you have provided from the ABS and AC Neilsen will be tested. We will ask the ABS and AC Neilsen about them. But we really need to take a view as well in terms of principle and policy. If you, as Woolworths, saw the market as being 80 per cent or 90 per cent controlled by three retailers, would you think that was too much? If your answer is no, it means that in theory you could go to 100 per cent and still hold that that was good competition. If your answer is yes, the question is: at what stage does too big get too big? Is it at 50 per cent, 60 per cent, 75 per cent or 80 per cent? I want to know if you as a company believe that there should be any limits at all on the acquisition of market power in our society.

**Mr Corbett—**We would submit to you that that question is so hypothetical that we are unable to answer it. All we know about is the market that we compete in at the present time, where we believe that we have about 20 per cent of the market. We find that market to be fiercely competitive in terms of buying well against our major competitors and fiercely competitive in terms of selling well against not only our major competitors but a whole raft of smaller and very effective competition.

**Senator MURRAY—**The Fair Trading Act of Great Britain defines two kinds of monopoly situations. One is referred to as a scale monopoly where a single company controls at least one-quarter—25 per cent—of the markets for the supply or acquisition of goods or services of a particular description. That is one measure that a very major economy has chosen. You gave us the ABS figure of 20 per cent. Would you think it unreasonable for us to adopt a similar view to that of the British parliament and accept 25 per cent as a figure at which the regulatory authority should start to investigate whether there are any market structural problems emerging?

**Mr Corbett—**I do not think I or my colleagues are qualified to answer that question. All I know is that for 38 years I have been a shopkeeper in the retail industry in Australia. I have found it, as an operator, as a shopkeeper, as a buyer, to be a highly competitive market. The right of choice of Australian customers is widespread. Every one of our customers has an enormous amount of alternative choice to shopping in a Woolworths store. In my travels around the world I do not think there is a food market anywhere in the world as competitive as the Australian food market. There are not retailers anywhere in the world operating at margins that are lower than those of the three major operators in the Australian market. Australia has a very, very competitive market with an enormous range of choice for the consumers of Australia. I suppose any market legislation finally is to protect the consumer. I would submit to you that the Australian consumer is well protected, with a very competitive market, with an enormous array of choice, in both rural Australia and urban Australia.

**Senator MURRAY—**Mr Corbett, you do appreciate that one interpretation of your remarks could be that you believe that there should be no limits on market acquisition?

**Mr Corbett**—I think we are so far away from that situation in the Australian market that it is a highly hypothetical question. We have a very competitive market giving choice with thousands of operators and the three major operators with minimum volumes in terms of critical mass giving efficiency, competing very vigorously with Australia. I think Australia has a market that is by any standard intensely competitive, to the benefit of the thousands of consumers.

A little while ago Mr Jenkins asked about our shareholders. We also have 11 million customer transactions in our stores across Australia every week. We are delivering to our customers with our competitors a great range of merchandise in a very competitive manner right across Australia. Every day, we live in a competitive market. We watch our sales, we watch our competitors. We are delivering I think a wonderful array of choice to the Australian consumer.

**Senator MURRAY**—Mr Corbett, there is no question that you are a very professional and popular company; that is not the issue. The issue is: how big is too big? Let me move on to your earnings, if I may. You have indicated that one way in which you can be sized up internationally is in terms of your earnings before interest and tax, which I think you gave to us as 5.3 per cent.

**Mr Corbett**—No, 3.53 per cent.

**Senator MURRAY**—I was going to question that, because on page 48 of your submission you list your earnings before interest, tax, depreciation and amortisation as 4.1 in comparison to Coles Myer at 5.2. I would appreciate it if you would explain to the committee, firstly, the difference between those two figures you have given us; secondly, if you would indicate whether your lower return is because of your different mix as a company to Coles Myer, who have substantially different interests, and if that would also account, to some degree, for the differences with the other countries and companies listed on page 48; and, thirdly, if you are able to give an EBIT for your food and supermarket operations separate from the Woolworths company as a whole.

**Mr Corbett**—On page 48 are the numbers I gave as EBIT and the number 4.1 is EBIT DAR. That is the difference between those two numbers. No, at this point of time I am unable to give an EBIT return on supermarket alone. As you would appreciate, many of the services are cross-services, and we do not have that number to hand.

**Senator MURRAY**—Is the difference with Coles Myer because of their different mix of companies and products compared with yours?

**Mr Corbett**—I cannot speak for Coles Myer, as you would understand. I do not know what makes up their figures. I only know what makes up our own. I suspect that part of it may be in the mix of merchandise.

**Senator MURRAY**—What is your return on capital?

**Mr Corbett**—That is not a figure that we publish publicly.

**Senator MURRAY—**But you realise that with retailers a low EBIT is standard, because retailers focus very much on cash. Often it is the return on capital which is the real indication of profitability.

**Mr Corbett—**Our return on shareholders' funds finds reflection in our profit returns and, therefore, the market price of our shares. Our profitability in terms of our relative perception in the market and the price of our shares indicates that both in the capital markets and the retail markets it is a very competitive business.

**Senator MURRAY—**Do you have a figure of your profitability as a percentage of sales?

**Mr Corbett—**Not that I am in a position to talk about this morning.

**Senator MURRAY—**That too is often used by retailers worldwide as a comparative measure, and quite frequently anywhere between 1½ per cent and 3½ per cent of sales depending on the retail industry is regarded as a good percentage of net profit before tax.

**Mr Corbett—**Probably the most accurate measure of profitability is the EBIT one that we have described, which is at the bottom of the page. Our return is less than retailers in both Europe and America enjoy, as indicated in our report.

**Senator MURRAY—**There is a belief that Australia has relatively good merger legislation. The Trade Practices Commission, now the ACCC, could look at any merger situation and act fairly well. There is a view that the way in which your industry has got around market growth which might be considered to be worthy of attention from the ACCC is that you indulged in what is known as creeping acquisitions—in other words, acquiring stores and independent operations on a small but a cumulative basis. The ACCC, quite frankly, is not equipped to deal with that. It can certainly deal with a merger, as we have seen with some of the Davids attempts. Do you think that is an area of trade practices law which needs to be tightened and improved?

**Mr Corbett—**I am unable to give you an opinion on what is appropriate in the case of the law. I can say to you that acquisitions have been a relatively small part of our growth. They are described in our report, as you will see, and acquisition growth has been one per cent or 1½ per cent—something of that order. It has not been a significant factor in Woolworths growth. It has certainly been there.

The other aspect of the acquisition of small businesses is that many of these small businesses—and small business has a view on this itself—represent the lifelong work of some individual or his family. That business represents his superannuation. Any cap that would prevent one of the larger retailers buying his business would immediately devalue the value of thousands of businesses throughout Australia.

**Senator MURRAY—**Because it takes out of the wheel a major acquirer?

**Mr Corbett—**Correct. It would greatly devalue the business. I do not think acquisitions, as you will see in our report, are a major factor. They have been one per cent or 1½ per cent over the last few years. That is not a significant factor in moving market share.

**Senator MURRAY—**In some writing I have done I have described modern planning as creating islands of commerce in a sea of residences, and the result is this potential for local monopolies to emerge where a single developer will buy that island and then create a shopping centre and associated shops. Generally speaking, my understanding is that they will come to a major as the anchor, such as Coles or Franklins, and then the rest of the shops fall off from that. The difficulty with planning in the new areas of Australian cities is that that can lock out independents from the process. Do you have any views on modern planning and how it may create local monopolies and that sort of thing?

**Mr Corbett—**Perhaps Gary Reid, who is our General Manager Property, might like to comment on that.

**Mr Reid—**We find that there are a number of different town planning alternatives around and that each state tends to operate with a different view. There is certainly some town planning—and Canberra is an example—where the intention is to create commercial centres as the hub of the whole population. Coming back to your question, Senator, are you asking for a personal view?

**Senator MURRAY—**I am asking for the view of the company. Sometimes you are put in a monopolistic situation through no fault of your own. There simply is one island of commerce established by planning regulations in a sea of residences. The consequence is that you have an opportunity, because you are an anchor tenant, offered to you which independents are not.

**Mr Reid—**I would argue that 'monopoly' is not the correct word to describe it, because in creating any of those opportunities there are inevitably many, many businesses created and established within that. In most of those town planning examples, you are talking about a combination of retail, commercial and other uses. Wherever there is a retail use established, it is a major or a number of majors plus a significant number of small business retailers and commercial retailers.

**Senator MURRAY—**But not independent grocers.

**Mr Reid—**Independent grocers have the opportunity to bid as much as anyone else for the space.

**Mr FITZGIBBON—**Mr Corbett, I would like to begin where Senator Murray began, and that is on the question of industry concentration. There appears to be no shortage of evidence that, at least in some parts of the sector, there is quite a deal of concentration. I want to deal more with Senator Murray's question—that is, what is an acceptable level of concentration—rather than focus too much on what is the level of concentration. You skirted around his hypothetical question by branding it as such. I noticed in NARGA's submission to the committee that they quote a *Business Review Weekly* article in which your Tasmanian manager had this to say:

Government has no role to play in competition and business, and business cannot get too big.

Do you agree with his statement?

**Mr Corbett**—I do not have the benefit of that article in front of me, and I do not know in what context it was said, but the market varies right across Australia. In some areas, we have a relatively high level of concentration and in other areas we have no concentration at all or a relatively minor level of concentration. But over the whole market, on the basis of the Jebb Holland Dimasi report, we have about 20 per cent. In some towns we might be the only store in town. In other cases, there are three or four competitors in a town that really cannot afford three or four competitors. The market varies dramatically across Australia.

**Mr FITZGIBBON**—I have quite often been the victim of quotes taken out of context, but when your Tasmanian manager says, 'Business cannot get too big,' I think that is a fairly clear statement.

**Mr Corbett**—We both know that to rely upon journalistic reports is not always accurate. I do not know what Mr Kent said on that occasion or what question was put to him. I am sorry, but I do not really feel capable to comment upon that.

**Mr FITZGIBBON**—If he was referring to market concentration generally in the retail sector, and he specifically intended that to mean that business cannot get too big, would you disagree or agree with his statement?

**Mr Corbett**—Again, you are quoting a statement out of a magazine that I have not had the opportunity to read. I do not know what the question was that was put to him. I am unable to comment upon his comment, and I am sure you would appreciate the reason why.

**Mr FITZGIBBON**—I will leave that there. You would be aware with respect to your moving to petroleum retailing that local councils right across the country have been doing all in their power to stop those service stations at a planning level. I think that is a manifestation of this fear in rural communities that the retailers are getting so big that at the end of the day all they will have in their country town is one or two big retailers and nothing else. Do you understand their concerns? How do you see those rural communities developing in the future? Do you envisage that we will reach a point in time when their CBDs will be entirely dominated by the large retailers and will be totally devoid of small business operators? And is that necessarily a bad thing?

**Mr Corbett**—As part of my job I travel Australia, visiting our stores and the markets in which we compete. First, in regard to petrol, that is just not correct. We have about 100 service stations—a little less now—and are on the way to perhaps having 200. The vast majority of those applications have been very well accepted by the communities from which they have come. There have been an isolated few where there has been resistance. But with the great majority we have received permission at the council level.

In addition, the great benefactor of that has been rural Australia; that is, our customers who in many markets have got significantly reduced petrol prices. Not the least of these markets would be Darwin, for example, where the price of petrol has fallen very significantly. The consumers of Australia have been the benefactors of that.

In regard to the small markets, the rural markets, my experience is that the Woolworths or Coles—or whatever it may be—supermarket in that town is the linchpin to that town's commercial activity. If that supermarket were not there, there would not be the range in choice in that town and that town's residents would go elsewhere to do their shopping. Alternatively, if that supermarket were not there, only a limited range of services would be provided and, therefore, the people of that town would be the poorer.

Our market survey has shown that the one thing the consumers are terribly interested in is their right of choice: the right of convenience, the right of range of merchandise, the right of selection and the right of price. My experience is that, in most of those country towns, those stores have maintained that spending in that town, the retail wages are retained in the town and the jobs are retained in the town. If you were to ask those people whether or not they want a Woolworths or Coles store in that town, I would suspect the answer to be a resounding yes—yes, we want the range; yes, we want the jobs; and yes, we want the training and career opportunities those stores provide.

**Mr FITZGIBBON—**I must say that I agree with your assessment of the retail petrol market, and I agree that Woolworths entry into that market at the retail level has provided competition and has been healthy in those country towns. But the reaction in many of the local communities I have seen is—or could be argued to be—a manifestation, as I have said, of their fear of this growing dominance of retail chains. What, if anything, does your company do on a PR basis to overcome some of those fears that may or may not be unfounded?

**Mr Corbett—**We make a point of being very active in the communities that we are in. We make a contribution socially. We make a contribution in donations. For example, you will see in our report that we have given away many, many millions of dollars to the charity of our choice, children's hospitals, which provide wonderful service to country Australia.

If this committee, for example, were to carry out a survey of country towns of Australia, I think it would find that those towns greatly value the presence of their major supermarket, whatever brand it may be, and the choice, the range it brings. But, above all, the key issue is the jobs and training. There are many people in our business who are at relatively senior levels. Our late chief executive, Harry Watts, started in our supermarket at Dubbo.

**Mr FITZGIBBON—**On the issue of the jobs that flow, NARGA says that, with small business retailers, one employee is created for every $85,000 in turnover; yet, with the major chains, it takes $145,000 in turnover to produce that one job. Can you comment on that?

**Mr Corbett—**I certainly could not comment. I do not know from where or on what basis those figures came. I only know that in appendix 1, the Jebb Holland Dimasi report—a report compiled by Australia's leading demographic researcher which is undoubtedly 100 per cent independent—has some very important figures. I am sure that, when you go through it, you will find it of interest.

**Mr FITZGIBBON—**Obviously, many of those submissions have come very late and we have not had the time necessary to concentrate on them.

**Mr Corbett—**That is why we would be very happy to return.

**Mr FITZGIBBON—**I understand that. I think we would have to assume, without having read the report, that the big chains are more capital intensive and, therefore, theoretically may employ less people per turnover. But you might argue that price falls as a result of competition and, therefore, more money is produced in the community to be spent on other things. Does that report go to that aspect as well?

**Mr Corbett—**It does. But I think you will find that the capital intensive nature of major retailers is not in the store; it is in the distribution and the facilities that lower the cost and efficiency of distribution. At the point of sale, the operations and store jobs are much the same from one retail operation to another.

I think what is important is that we have a policy to employ local services and to give work, whether building, refurbishment or maintenance, to the local community. For example, in Senator Boswell's area of Warwick when we built that distribution centre, all the major contracts went to people in that area. So it generated not only a big investment but also a lot of jobs in the Warwick area. The fantastic thing that has followed is that those jobs have continued to grow. We are seeking to get our suppliers to locate manufacturing facilities adjacent to these rural distribution centres, and this again has a multiplier effect. For every job we give in a country town, we know that a multiple in other jobs work from it.

**Mr FITZGIBBON—**NARGA also quotes the Tasmanian experience. It says that in Tasmania, where there is no very strong third competitor, the consumers are paying up to 23 per cent more for staple items than, for example, in Mackay where there is a strong third competitor. How do we deal with this in the long term? If the major retailers just get stronger and stronger and we have a oligopoly situation, should we then fear the subsiding of the competition that is being experienced now?

**Mr Corbett—**The Tasmanian market is a very interesting one. As those who know about the Tasmanian market would know, the distribution operation in Tasmania is an operation called Statewide. Of that operation, we own 60 per cent and the independents own 40 per cent. That is certainly a linchpin in providing independent support.

If that were the case, then I would submit to you that the independents in Tasmania would be 23 per cent cheaper than the major operators; they are clearly not. The reason why the Tasmanian marketplace is higher is with the transport costs of moving freight across to Tasmania. That is a significant factor. The Tasmanian market is a competitive one. The independents do have a presence there, and that independents' presence is supported to a degree by Woolworths as a 60 per cent shareholder in Statewide.

**Mr FITZGIBBON—**The Reid committee recommended that section 47 of the Trade Practices Act be amended to allow the ACCC to take representative action for damages for small business. Unfortunately, the parliament did not pick up on that recommendation. That opportunity is available under parts IV and V but not under part IVA, which is the unconscionable conduct provisions. Would you be fearful of the government legislating to amend section 47 to allow the ACCC to take representative action for damages for small businesses that have been injured by a bigger player undertaking unconscionable conduct?

**Mr Corbett—**Perhaps Rohan Jeffs could answer that question.

**Mr Jeffs**—I think section 46 is the one you are seeking to clarify, Mr Fitzgibbon. I understand that the Reid committee did look at this issue but in fact determined, and I may be corrected, that section 46 is a provision aimed not necessarily at small business but more at the protection of consumers, and that indeed is the way in which the Trade Practices Act, the ACCC and the High Court have looked at section 46—that it is primarily a consumer protection provision. Nonetheless, the issue of putting some form of representative remedy on section 46 is an issue, I understand, still before parliament in relation to another report of the Law Reform Commission. However, there is a class action available through part IV, and I think our view would be that that is a more than adequate remedy for consumers and for anyone else seeking to use section 46.

**Mr FITZGIBBON**—I have that question on the record, so I think I will leave it at that and take it up at another time. Finally, and I suppose very importantly, Mr Corbett, what impact do you believe a government move to cap concentration would have on your company, and indeed on any of the major chains?

**Mr Corbett**—I think, first of all, it would have the effect of limiting choice to some sections of the market. It would result in some people in Australia having more opportunity to enjoy first-class retailing facilities than others. I think you might argue that it might have a primary negative effect in the country, which it could be argued has some of our less profitable stores. But I think what probably concerns me most is that it could have the potential not only to limit the opportunity for 11 million customers in Australia but also to have an adverse effect upon, I am sure, the share prices of the major operators and the 280,000 shareholders who own them.

But Australia now is a global economy, and we know that a number of major retailers have visited Australia. In recent days we have heard rumours of a German retailer finding its way to Australia. I think we have in Australia a very fine retailing skill, and it may be in the future one of our export potentials. If we are to balance our trade for the future, for the 21st century, we will need to have export potential, and the intellectual property that we have in retailing, I would submit, is one of those.

**Mr NAIRN**—Mr Chairman, you will be pleased to know that several of my questions have already been asked. Mr Corbett, the Jebb Holland Dimasi study was commissioned by Woolworths for this particular inquiry—is that correct?

**Mr Corbett**—Correct.

**Mr NAIRN**—What were the terms of reference—for want of a better term—for the study that you gave that organisation?

**Mr Corbett**—I will ask Rohan Jeffs to answer that question.

**Mr Jeffs**—The only terms of reference were to examine what they as the experts considered to be an appropriate determination of market share. There were no specific requests, deliberately so, so that there was no influence on the outcome of that report. I understand that Mr Dimasi is available to respond to questions on how his report was put together and the methodology used but, from Woolworths' perspective, we certainly did not seek to have any input on how that determination of market share was made.

**Mr NAIRN**—Did that include various qualitative and quantitative research done as a back-up for that report?

**Mr Jeffs**—There was some indication of that, but we did not seek to influence that at all.

**Mr NAIRN**—Mr Corbett, you mentioned earlier the shareholding of Woolworths and that you have quite a number of employees who hold shares. Do you know how many there are, and do you have a scheme within Woolworths for employee purchase of shares?

**Mr Corbett**—Yes, we do. Rohan might like to answer that.

**Mr Jeffs**—We have a little over 30,000 employee shareholders under an employee share plan that was established when this company was floated as a public company, again, in mid-1993. That number has built up from that time. As permanent, full-time and part-time employees have the opportunity to acquire shares on an interest free loan basis for 10 years and, on the basis that we would like to see more—in fact, once they have qualified for the two years of employment, most of our permanent employees become shareholders—we also have a plan to enable employees on an annual basis to increase their holdings if they wish. So we encourage that and believe it is of value to those employees and to our business.

**Mr Corbett**—I might add that our staff follow the fortunes of the shares and the profits with great interest as a result.

**Mr NAIRN**—Would you give us some sort of idea of how you come about some of your pricing levels between stores? I am particularly interested in a situation such as I have in my electorate, where there are now two Woolworths stores in the one town, Cooma, after the takeover of Cannons. What dictates how you work your pricing structures in that sort of scenario—and I do not know how often that sort of scenario is duplicated around Australia—but also, generally speaking, between a variety of your stores in similar sorts of markets?

**Mr Corbett**—Yes, we would be happy to answer that question.

**Mr Onikul**—As I indicated earlier, the pricing structure which we put in place depends on, first of all, the return on investment which we need to get as a company. Secondly, of course, it depends on the competitive activities which exist in that particular marketplace. We operate in a very competitive marketplace, and I do not believe there are many places in Australia where we operate without any competition at all. There is always competition available in country or metropolitan areas of Australia. We also look at the freight factor in relation to some of our stores, and in some of our isolated stores freight is a factor which has to be taken into consideration. Our main concern is, first of all, to make sure that the customers of that particular area, of that particular supermarket, are shopping in a competitive environment. Consumers are very intelligent people. We have been in business for 75 years and one thing we have learned is that we must continue to satisfy our consumers—we must continue to deliver value for money to consumers, regardless of where they are.

**Mr NAIRN**—Is the price difference between rural and city areas becoming less? Can you comment on what is the major difference between the price of items, say, in a much more competitive urban environment compared with a rural or regional area? What is the major factor? Is it just freight and/or volume, or is that changing? As you seem to be setting up more distribution areas in regional locations, I would have thought that freight would become less of a factor.

**Mr Onikul**—Thank you for that question. In a majority of rural areas right throughout New South Wales we sell at the same price as we do in metropolitan areas. We do not recover freight around New South Wales. So the consumers in the country areas are actually getting very good value for money, and they are getting a tremendous range of merchandise. We deliver to a majority of the country areas seven days a week. We are operating seven days a week, therefore we deliver to a majority of country areas seven days a week, at all times making sure the quality and range is available to country consumers as much as they are available to metropolitan consumers.

**Mr NAIRN**—So you are saying that, generally speaking, pricing would not be all that different, or does volume play a hand in it? I would assume that, in many circumstances, a lot of aspects of establishing stores in rural and regional areas would be less expensive than in urban areas. Real estate values, to start with, would be substantially different.

**Mr Corbett**—Volume plays a part only in terms of the average over the whole, reducing our average costs. We endeavour to deliver to country Australia—and we do so, as Naum said, throughout New South Wales and, I think, Victoria—at prices which are very comparable to city prices. The only differential is freight, and that is in only limited examples. As Naum has said, our customers are very price conscious and I can assure you that they soon let us know if they see a differential in price that is not to their liking and cannot be explained. So we are very conscious about the price perception of our customers both in rural and metropolitan markets.

**Mr NAIRN**—I have one last question for Mr Reid. Can you tell me what percentage of your stores are within Woolworths owned complexes and what percentage are in rented premises?

**Mr Reid**—The vast majority of our occupancies are as tenants. I cannot give you the exact percentage, but I believe that in about 95 per cent of cases the retail space we occupy is as tenants. I would add that we are developers with a view to selling the end product generally.

**Senator FERRIS**—A number of questions have centred on likely reasons for pressure being put on small business by large retailers. I would like to introduce another dimension to that issue, and that is the issue of Sunday trading. I would like to draw your attention to an article in yesterday's *Daily Telegraph*, which centred on the city of Armidale, where evidence shows that 18 small businesses have been lost in the past four months. Interestingly enough, this is a town where Coles and Woolworths have both operated for some time. The pressure has actually come as a result of Sunday trading by the large stores. I wonder whether your company has ever looked at the presence of the larger three in a town, as distinct from extended trading hours, in putting pressure on small business.

**Mr Corbett—**Thank you for that question, Senator. I think there are a few things to be said about Sunday trading. Sunday trading is overwhelmingly favoured by the customers of Australia. In Victoria, where Sunday trading was introduced some years ago, it resulted in enormous growth and, it could be argued, in growth in the Victorian economy as well. It added a lot to the vigour of retailing in that state. It is true that, in country towns around Australia where Sunday trading has been introduced, the retail community generally prospers as a result. It is resisted by some traders who now have the right to trade on Sunday against others who do not have the right to trade on Sunday. A lot of the resistance comes because there is clearly a competitive advantage in being able to trade on Sunday where others cannot.

I cannot comment specifically on Armidale but, generally, across the retail communities in towns that have Sunday trading, there is very vigorous retail activity. It brings people to town, and they not only do their grocery shopping but walk up and down the street and shop in other stores. There is a large number of specialty retail businesses, including food businesses, that compete very effectively against us, and we see them as very effective competition.

**Senator FERRIS—**But would you agree that extra pressure is placed on small business as a result of Sunday trading, as distinct from simply the presence of the larger food outlets in a small town?

**Mr Corbett—**You could argue both ways. Those that currently enjoy a monopoly on Sunday trading obviously are disadvantaged if others who have not previously been permitted to trade on Sunday are permitted to trade. But, generally, vigorous retail activity in a country town develops other retail activity in that town.

**Senator FERRIS—**I only have a few more minutes, so I may, if I can, put some questions on notice. I would like to ask Mr Pokorny a range of questions related to the way your supply contracts operate both in the horticultural and in the meat and livestock areas. Perhaps I will just start and then flag questions that I may send to you, if that would be acceptable.

**Mr Corbett—**We would be very happy to accept any questions and answer them.

**Senator FERRIS—**Thank you. In the couple of minutes that I have, could you explain to me how you decide to take up contracts—whether you work through established farm organisations or horticultural marketing groups in regional areas, whether you do contracts on a seasonal basis or whether they are ongoing contracts where price fits in? Could you also explain how you determine price? What happens if, for example, the price of lettuce changes as a result of seasonal conditions in a region? Do you change your price contracts as a result of that upward pressure?

**Mr Corbett**—Before Peter answers that question, I would just like to say that we have a policy of supporting the markets where they exist and of supporting the agents where they exist and, where appropriate, of going direct to primary producers. We want to support all three of those channels of distribution because all three play a part in a vigorous market.

**Mr Pokorny**—In response to your question—which if I understand correctly is how do we go about coming to an arrangement in terms of moving forward on a contract and how does that cascade into many parts of that negotiation—very much, as with all our business with our suppliers, it is by mutual agreement. We identify a common objective, and that objective relates to customer wants and needs. The viability of our company, the viability of our supplier and the viability of that relationship very much depends upon responding effectively to those customer wants and needs.

The first stage in developing a formalisation, a contract arrangement or a memorandum of understanding is making sure that we both understand the needs of the customer. Then we identify the common goals, objectives and benefits that we are seeking. The viability of our suppliers is the paramount focus in our relationships. Having identified the common benefits, we progress from there. The arrangements will cover a number of issues, and again these stem from our customers' wants and needs. First and foremost, our customers are telling us very clearly—and it is the message we are sharing with our suppliers—that they want consistent quality and safe food. So they become part of our focus.

We then work together to implement the appropriate activities and practices to achieve those standards. It is very important to us that our suppliers are profitable, and part of ensuring profitability is to take the risk out of the business. Quality assurance, food safety programs, long-term planning and supply scheduling are all activities that take the risk out of the business and allow our suppliers to plan with more confidence and plan effectively, and to access finance at more acceptable rates.

Part of that process at times will be looking at and evaluating different pricing mechanisms. Most of the fresh markets operate very much on a supply and demand basis. That has some positives, but it also has some very real negatives. We are empathetic to those situations, and we do look at pricing mechanisms that bring security and reduce the risk in the relationship.

**Mr Corbett**—For example, recently I was in Bundaberg. Quite a big tomato farmer up there could quite often bring his crop to market by necessity when it ripened when the market was low. There was definite advantage to that grower in having a contract price that was negotiated that took the danger of the dips out of the market for him. But, equally, he needs to have access to the markets as well. We have come to a dual relationship with that particular supplier. It is quite fascinating and, as part of my job, I really enjoy visiting these wonderful primary producers of Australia to feel the empathy, the concerns and the fear they have when they can put their hard labour into producing a fantastic crop of tomatoes that comes to market when the market is at rock bottom, and the heartache that that provides. So there is a partnership, and a very valued partnership. It delivers to our customer value, but it often delivers to that supplier security of tenure which is very important.

**Senator FERRIS**—What happens if you have a contract at a fixed price and then seasonal conditions mean that that product becomes in greater demand and the price goes up? Are your contracts flexible enough for that grower, who may still have the lettuces to sell when they have been washed out in the region, to take advantage of the uplift in price that you are going to be able to charge at the retail end as distinct from the price he might have set his contract at originally?

**Mr Pokorny**—I come back to my comment that it is important for us to have profitable and viable suppliers. So, in answer to your question whether the contracts are flexible enough to review pricing, definitely.

**Senator FERRIS**—I have one last question in relation to the meat industry—and I will explore those other matters in my questions on notice, if I might. I must comment on your remark on page 8 of your summary where you talk about Woolworths being the largest purchaser of pork and the assistance that you have given the industry's survival through its export initiatives in particular. Of course, Woolworths have got both entry into the export and import markets through Chisholm Marketing. So, while I note your point here about assisting the industry's survival, you also have been an importer of pork as well as an exporter. There has been an accusation made by the pork industry that you have in fact been the price setter in that industry through the period when the price of pork was disastrously low.

**Mr Corbett**—The proportion of pork that we have brought into the country—not directly, by the way, but through other processed products—

**Senator FERRIS**—Through Chisholm Marketing?

**Mr Corbett**—Through Chisholm, but again through secondary people—we have not imported directly—is outweighed many, many times by the export markets of pork that we have been able to achieve. We are very proud of our record in the pork industry in Australia and happy for it to be scrutinised in any way that your questions might choose to do. Our record is a very proud one in the pork industry. We are big processors of pork and big exporters of pork, and we stand very vigorously by our statement that you have read out.

**CHAIR**—I know we would like to have a short break, but I have a final question. Thank you very much for your presentation, Mr Corbett. It has been professional. We may have had some criticisms along the way, but we appreciate your coming here. I think, from having spent quite a bit of my Easter, as my colleagues have, in going through these submissions, it is important that representatives from the majors spend time looking at the representations because it is clear that a lot of the representations come from retailers in regional areas. They are operating successful retail businesses and then, all of a sudden, the majors come in. They do a deal with a firm such as Lend Lease or Westfield; they get significantly reduced lease costs in terms of the price of rental versus what other retailers pay; they come in with significant buying power and ask the suppliers to pay 2½ per cent for promotion, to go through a quality assurance program, and then they move into other areas. They start off with a supermarket and they start to expand: they go into fresh fruits, they go into pharmacy areas, they go into magazines, and then sometimes into petroleum retailing. So we have, as part of it as well, fruit and vegetable outlets, liquor outlets and tobacconists suddenly under threat as the majors expand into those areas. There are also the special promotional deals in the placement of particular products on supermarket shelves. You can add to that, as Senator Ferris talked about, the fact that the shops are able to open sometimes around the clock.

Do you not feel that this market power in many of our rural towns has a strongly negative impact when you read the stories of retailers whose life savings have gone into stores which suddenly are worthless, where the market has been totally eroded, where pricing has come down and they claim that they are watched by the majors and that they are undercut in terms of pricing? This is the common theme that comes through. Given that fact, for what reason do you believe that you should be allowed to go unfettered to increase your market share, whether it is 80 per cent or 60 per cent?

If you go out there into the marketplace, there are seen to be three major players, and you are one of them. What reason should this committee have, in summary, as to why we should not provide a basis for saying, 'Enough is enough: these guys have forced a lot of small people out of business; a lot of them have lost their life savings and, unless some check is made, they will totally dominate the market, they will dominate the suppliers, they will dominate right across the board and expand into larger areas such as pharmacy or petroleum distribution—you name it. Everybody should be on the lookout because here they come'? In summary, what is the reason why this committee should not say, 'Enough is enough'?

**Mr Corbett**—That is a very long question.

**CHAIR**—It was only one question.

**Mr Corbett**—First of all, let me answer, if I might, the spirit of your question. You have drawn a scenario, but I could, with equal validity, draw another scenario that says in this country town or this community is a range of services and prices which the consumers really enjoy and want. I could equally say that when those services are provided in a community it adds other focused retail services.

**CHAIR**—One of the things that comes up here time and time again is the fact that small operators say, 'How is it that Woolworths or Coles are able to sell their Coca Cola for a cheaper price retail than I can get it from my wholesaler?' They mention other products, but that is a common theme. There is pricing there, but who is missing out?

**Mr Corbett**—In regard to your question on pricing, yes, there are certain economies of scale which the major retailers enjoy that enable them to pass on those benefits to the consumers of Australia. Those consumers of Australia want those benefits and they are entitled to those benefits because they can be delivered to them by efficiencies of scale which they enjoy. But there are 2,400 banner retailers and 20,000 smaller retailers in Australia that are running very successful, very competitive and focused businesses meeting needs and, in some cases, taking a price premium for the service, location, range and mainly convenience that they offer. I submit to you that the Australian marketplace is a very competitive one with the benefit of both a very large segment—60 per cent—enjoyed by the smaller retailers of Australia delivering to the customers of Australia consumer choice that is equal to anything in the world.

**CHAIR**—Aren’t they under threat? Depending on what the right figure is, that is what we are talking about. If this market advantage continues—and you talk yourself about economies of scale—does that not put the very people you are talking about right under threat? When you have the leasing advantage, the supply advantage, the pricing advantage and, through your own admission, the economies of scale being there, how long can they realistically last?

**Mr Corbett**—At the present time throughout a lot of Australia they seem to be prospering and providing very effective competition. If you took the anchor retail store out of many country towns in Australia, not only would there be an enormous community backlash about the denial of choice that that would give but also some of those country towns would die forthwith. Those retail establishments are providing an anchor and linchpin in many country towns in Australia.

As I said earlier, I travel those country towns and I can tell you that small place retailers alongside those major linchpins in those towns give a very healthy retail community. The fact that many of the people do not prosper has nothing to do with the major retailer or the competition. It has a lot to do with expert skill, capital and knowledge of running their own business. As we submit in our report, many of the failures of businesses in Australia have nothing to do with competition but a lot to do with the skill level that they have to bring to their business.

**CHAIR**—Thank you very much. We appreciate your contribution today and your submission. We may need to come back to you at some stage and ask further questions.

**Senator BOSWELL**—I would like to go into Mr Corbett’s and his team’s evidence today. I think that we will require them to attend at some place, whether it be here, Melbourne or some other place, at some future time.

**Mr Corbett**—We greatly appreciate the courtesy of the questions and the way they have been expressed. We welcome the inquiry. We welcome the opportunity to be able to respond in a frank and open way, and I personally would be prepared to come back again, as would my colleagues, and answer any further questions when the committee has had time to digest all the material it has before it.

**CHAIR**—As you know, the aim of today is to allow the majors to make a presentation, and also NARGA, so that we set the parameters. Then, having heard the various submissions around Australia, as we take off and look interstate—and also the regional centres will follow—there will undoubtedly be questions asked. We will also be making an official request to the ABS to see if we can get some clarification on what is the real market share. It would be appropriate for all of us to have the objective basis on which we can look at this and input it into classification. Thank you for your participation today.

**Senator MURRAY**—I note that the Woolworths submission is confidential.Is it the intention that it remain so?

**Mr Corbett**—No, that is open.

**CHAIR—**The whole submission is open?

**Mr Corbett—**I am advised by my colleague Rohan Jeffs that there are a couple of sections that he would consider sensitive, but apart from those sections it is fully available.

**Senator BOSWELL—**This will go out today and be available to the media.

**Mr Jeffs—**We have a public version of that being prepared and it will be available within the next hour.

**Senator MURRAY—**So this one will remain confidential?

**CHAIR—**Does the committee agree with that? It is so moved.

**Senator MURRAY—**To save us the difficulty of marrying up the two, perhaps you would be good enough to drop us a note and let us know which sections of this are locked out so that we do not have to scramble around trying to find out which is which.

**Mr FITZGIBBON—**I would assume that the public document would be all of this document, excluding only those things that you believe should remain commercial-in-confidence. Is that the case?

**Mr Jeffs—**Yes, indeed, but also there are sections where individuals may not want their personal information disclosed publicly, but obviously to the committee. We would want to preserve those confidences.

**CHAIR—**Thank you very much.

**Proceedings suspended from 11.14 a.m. to 11.24 a.m.**

**ABRAHAM, Dr Darryn Ross, Senior Economist, Access Economics**

**SCOTT, Mr Peter Richard, General Manager, Perishable Merchandise, Coles Supermarkets**

**WILLIAMS, Mr Alan, Managing Director, Coles Supermarkets**

**CHAIR—**Welcome. The committee prefers all evidence to be given in public, but you may at any time request that your evidence, part of your evidence or answers to specific questions be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. The committee has before it submission No. 168 dated 25 March 1999. Are there any alterations or additions that you wish to make to your submission?

**Mr Williams—**No.

**CHAIR—**I now invite you to make an opening statement, and at the conclusion of your remarks we shall proceed to questions.

**Mr Williams—**Good morning and thank you for inviting me here today. Assisting me I have Peter Scott, who is the General Manager, Perishable Merchandise. Peter's area covers the buying and procurement of fruit, vegetables, meat, chicken, dairy products, delicatessen lines—in fact all of the fresh product that we sell through our supermarkets. I have invited Peter to be with me this morning because the committee has made special reference to the purchase of primary products. Dr Darryn Abraham is the senior economist with Access Economics who wrote the Access submission. If necessary, if there are any detailed questions that we do need to answer, I can refer them to him. Our submission covers a lot of ground. However, my opening comments today are really based on what we believe the inquiry is all about—big retailers and their impact on small retailers and our role in that relationship.

We are an Australian company. We started off in 1914 with one store. We have evolved since then, and really we have evolved by carrying out what our consumers want. We believe we have kept ahead of the changing times and the demands that the customers have put on us. As an example of that, some 25 years ago we probably carried somewhere between 10,000 and 12,000 lines in our supermarkets; now we carry in excess of 40,000 in some of our supermarkets. From that single store we have grown into a chain of 410 Coles supermarkets. We employ 53,000 people in our Coles chain and we are Australian owned.

We have had success in recent times, and that success has brought growth in jobs. Our job growth has gone from 43,000 to 53,000 in the last four years. We believe that we have improved the quality and the potential of our people by offering high quality jobs—jobs with careers and security. In particular, throughout the organisation we have moved towards more permanency in our work force. As an example of that, four years ago, approximately 60 per cent of our work force was casual; that is now down to 38 per cent.

We have worked very hard with our suppliers on opportunities and jobs for both large and small suppliers. Currently we have 7,750 suppliers supplying our organisation. Eighty-four per cent of these have a turnover with us of less than $500,000 per annum. We have a policy of buying Australian, and an example of that is pork. We believe that what we have done has benefited all our stakeholders—our customers, our employees, our suppliers and the community overall. We currently have some 320,000 shareholders. The vast majority of those are small.

We have also significantly reinvested back into our business and, in the business I am representing here today, that is in excess of over $900 million in the past four years. We have worked with those key stakeholders—our staff, suppliers and customers. We have done what these people have expected. We have also responded, we believe, to what successive governments have asked us to do—work hard, work well, improve our efficiencies and take the business forward.

We also believe that we have acted in an ethical and fair way. We believe we are efficient. We believe we have innovated. We are competitive, and we believe we have been able to pass those benefits on to our stakeholders—in particular, our customers. We have better stores, we have competitive prices, we have improved our service levels. The quality of goods that go into our stores has significantly improved, as has the food handling and safety aspects. We have a wide range of products and a wide range of offerings, and we are open at times that are convenient to the consumer.

We have a long history and we have learnt from that history, and we have certainly learnt from past experiences. If you do not do the job with your stakeholders, they vote with their feet and they go somewhere else. I am not just talking about consumers there; I am certainly talking about our suppliers as well. We have worked very, very hard particularly with our supplier base to improve the relationships over the past few years. Everything we have done, we have spread equally across Australia. All geographic areas of Australia have had reinvestment. We employ some 17,600 people in our non-metro stores.

However, in saying all of that, there appears to be a view by some that we have done something wrong, and that is probably why we are here today. Also, we believe some of those market figures are based on narrow selections of the overall market. There have been some solutions put forward. We have given careful consideration to those, and I will just make some comments on two of them—capping and restricted trading hours.

In our view, capping will not work. In our view, it has some serious implications for the community—job losses, price increases—and we have covered that in our submission. But I also would urge the committee to think about some of the unintended consequences that might come from that—small landlords would suffer, small shops and passing trades would suffer. From our observation, we do not believe it will fix the independents' dilemma. It will not achieve the outcome—there is the 25 per cent recommendation for the independents, but you cannot guarantee it is going to go to them. There are international operators looking at coming into the Australian market now, and already one German company has carried out job interviews. We have seen recently Caltex and IGA coming together with small and medium sized supermarkets. All of that evolution is happening now as we speak.

On restricted trading hours, most of the OECD countries are liberalising their hours. We believe restrictions would reduce employment but, most importantly, with trading hours, it is the consumers who are driving the change. They have clearly demonstrated that they want to shop when it is convenient for them. Retail is a service industry and we are here to service the customers. There was a referendum held in Bendigo where the community voted overwhelmingly for Sunday trade. Seventy-three per cent of the people who were eligible to vote did vote and, out of that 73 per cent, 77 per cent voted in favour of keeping the extended hours. Interestingly enough, only 45 per cent of the Australian population voted for the Constitutional Convention.

In conclusion, Coles believes the issue for the committee is not concentration so much, but whether the retail sector is competitive and accessible to new entrants. Competition is demonstrated by Coles's slim margins and low food prices. In real terms, prices have fallen over the last 25 years. The market is competitive. There are many opportunities. There are lots of new independent food retailers and there are some outstanding examples of that. Lenard's Poultry is one which commenced here a few years ago and is now operating in South Africa and New Zealand. There has been a significant expansion of the specialty food retailer, and customers do have plenty of choice.

Retail should always be evolving to meet the customer needs, and we have had to change. The customer is what drives us. It is the customer who is making the choice and determining our success. We have a simple philosophy: we believe that we are the servants of the customer, and we take that very, very seriously. Quite simply, if you do not meet the customers' expectations, they will shop elsewhere.

We trust this committee is not considering stopping the evolution and the good work that has happened in our industry. It would curtail innovation and, most importantly, it would encourage status quo management, and that is certainly not what we would want in our industry. We also believe it would undermine what should be the most powerful force in retail—that is, the interests of the customer. If that happens, we believe it will impact on our suppliers and it will impact on our staff. Thank you.

**CHAIR—**Thank you, Mr Williams. Firstly, congratulations on the submission you have made. It was easy to read and fairly comprehensive. I have two quick questions and then I will ask the panel to fire off the questions.

I saw you sitting there when we were questioning Woolworths. There is an issue that seems to be more specific to Coles than the other majors—that is, the question of your relationship with your suppliers. It seems to me that a number of significant stories have emerged about the relationship which is less than helpful to your organisation, in that you use your market dominance to extract a commercial relationship which the other partner feels fairly grieved about.

Also, there is the question of payment. According to the National Farmers Federation, apparently there are many instances where the payment has moved out from 30 days to 90 days. Could you tell us a bit about your suppliers? I understand you have already done some work in that area, but would you like to outline what you have done?

**Mr Williams—**First of all, we are not ducking from the fact that you could only describe our supplier relationships as very, very poor a few years ago. We do make mention of that in our submission. It was one of the factors that we believed had a negative impact on our overall business. That was one of the key things I was talking about—our stakeholders. It was not just our customers whom we had issues with; it was our suppliers. We also had issues with our staff as well.

Over the last four or five years, we believe we have addressed those issues. We have several procedures which are in place. We have a Coles Myer code of conduct which covers the whole gambit of the Coles Myer organisation. We have our own buying guidelines. We have dispute mechanisms in place and we are happy to supply the committee with copies of all of that documentation.

We also do regular supplier reviews. I am pleased to say that, every year we have done those reviews over the past four years, on the key aspect of our relationship with the suppliers, the relationships have improved significantly. We have benchmarked them against the industry average and, on most of the key components now, we have moved ahead of the industry average. That is an internal survey we do and the feedback comes back anonymously. We also use the Chris Forsyth research company, which carries out research with our suppliers to get feedback on how we are perceived there. In all cases, there has been a significant improvement in our operation, our ability to do what we say we are going to do and our ability to generate business for the suppliers.

In saying that too, it is very important that the committee realises that the chain can start from the production line or from the paddock, and it is very important to us that all aspects of that chain remain strong and viable. It is of absolutely no advantage to us if a supplier does not have sufficient funds to continue to develop. It is of no advantage to us if a supplier falls over. We need to do the things that we need to do to be innovative and to go forward. We need the whole chain to be strong, and we certainly recognise that. I am certainly aware that we are carrying baggage from the past.

**CHAIR**—You clearly recognise that there was abuse of market position in terms of suppliers?

**Mr Williams**—I would not say it was abuse of market position; I would say that we were probably not focused on the main game. Again, it was not just with suppliers. If you look at, I think, page 8 of our submission, you will see where our market share collapsed over a couple of years and that is because we took the focus off the three key stakeholders. When you do that, you do that at your peril. We are very well aware of that, and we are very concerned and very anxious that we do not fall into that trap again.

As far as the 30 to 90 days is concerned, that has been mentioned to us, and when visiting the various members of the committee who were available to see us that was brought up. We have been through every one of our suppliers. We have checked their payment terms. We have had our accountants check them. We have also asked our external auditor, PriceWaterhouse, to have a look at it. We have no record of any such 30 days to 90 days.

**CHAIR**—Perhaps we should take it up with Wendy Craik from the National Farmers Federation.

**Mr Williams**—I have actually spoken to Wendy Craik about that. We had a meeting with her a couple of weeks ago. She did not mention specifically it was Coles. Peter, I do not know whether you want to make any further comment on it.

**CHAIR**—We accept that at this point, and obviously we will ask the National Farmers Federation. We will specifically write to them to get clarification.

**Mr Williams**—In fact, on Thursday we had a meeting with the New South Wales branch of the National Farmers Federation. We have had two meetings with that branch. They had a list of issues, and that was not one of the issues.

**CHAIR**—So there is no evidence of this 90 days payment, and we accept that. My second and last question is to Darryn Abraham and relates to market failure. Geoff Carmody from Access Economics, who is well known to us around here, talked a lot about market failure and its role with small business. Is this not a clear example of market failure? Here you have majors who dominate the marketplace and small business who is not able to compete on a whole number of grounds, whether it be negotiation on retail space, supply position, incentives for placement in retail shelving and ability to buy out other operators and expanding into other areas. Is this not using market position by the majors to the detriment of small retailers across Australia? Is this not a clear example of market failure to which Geoff Carmody would be proud to put his name?

**Dr Abraham**—No, I do not think so. There are many potential sources of market failure in retailing just as there are in any other market. The fact that you have a small number of relatively large companies with what would probably be argued is a reasonably large share of a broad definition of the market does not necessarily mean the market is failing. In fact, the fact that we see an evolution of larger firms and an evolving and changing composition of small firms probably says that the market is working extremely well, that it is not failing.

**CHAIR**—You obviously have a commercial relationship with Coles; is that right?

**Dr Abraham**—Not past the provision of the supporting submission.

**CHAIR**—Is this a view that is widely held by commerce that this would not represent market failure?

**Dr Abraham**—Yes, it is. If you argued that dominance was a source of market failure—and I would argue that it is not clear that the market is dominated in retailing in any case here—there is a potential there but, by itself, it is not a case of market failure. You have to look at it from many other aspects of the market, and that is certainly the opinion of commerce generally and is certainly the opinion of the Office of Fair Trading in Britain when they were looking at competition in retailing there.

You need to look at market shares, to establish a prima facie case of potential abuse of market power, and then you have to look at things like behaviour, the existence of potential competitors, the actual rates of entry and exit turnover into the industry and many other factors—all of which, we argue in our supporting submission to Coles's paper, would point to retailing being one of the most open and competitive industries in Australia.

**CHAIR—**So you would regard it as normal free market activity if I were a fruit and vegetable retailer in Wagga Wagga and a supermarket distributing fresh fruits came alongside me and suddenly my market dropped to about 10 per cent of what it was before? Would you just regard that as free market and not as market failure? These submissions are full of examples. In one particular country town, about five butchers went out of business within about a two-year period when a supermarket came in and suddenly was selling meat. That just put them straight out of business.

**Dr Abraham—**I am not in a position to discuss the details of any particular case. However, I would say that, yes, the operation of a free market would mean that, where any firm was free to enter the market, it would drive out a competitor who was unable to sustain the quality of service, the prices, the offer and all of the aspects that consumers would look for in their purchases and was unable to establish a niche in the market. Clearly that is what a free market does.

**CHAIR—**There is the question of size also—that you have a multibillion dollar business competing with a small retailer. Is that a normal free market situation?

**Dr Abraham—**It is probably an ideal situation in the sense that, if you look at the full scope of retailing, including the narrower level of dry groceries, fresh foods or whatever aspect of retailing you wish to look at, you have in Australia a very broad range of sizes of firms. I think that is a sign of a very healthy market.

**CHAIR—**You could not get more disparate competition. It is like having someone with a small avro aircraft trying to compete against Qantas, isn't it really?

**Dr Abraham—**The first answer is, of course, they do not. In direct terms, Qantas provides a very large-scale service. Somebody with a small avro, a SAAB or whatever can establish competition on a particular route.

**Senator FERRIS—**I would be interested to just follow that. There have been some varying figures—I think your figures differ from Woolworths and both yours and Woolworths' differ from NARGA's submission in dominance of the big three. Dr Abraham, at what point would you consider there was market failure in terms of the big three's competitive control of the Australian food market?

**Dr Abraham—**As I have said, I do not think there is any particular level of concentration which, by itself, would indicate the market had failed.

**Senator FERRIS—**So 90 per cent?

**Dr Abraham—**No particular number. It would depend. You could have market failure with, say, 40 per cent, provided that the players involved were perhaps coordinating their actions—a cartel of sorts—if the larger players were not competing strongly or if there was no scope for competitors to enter into the markets freely. Concentration, by itself, is a product of market processes which is not necessarily going to indicate that the market has failed.

**Senator FERRIS**—I am interested in that comment because point 211 on page 57 of the Access Economics paper—and I will not read it all—talks about the competitive structure of retailing and the disadvantages of putting some sort of cap on the growth of the big three. The sentence that I would like you to respond to is this:

Trying to tackle them—

that is, these competitive structures—

by capping market shares or reversing the liberalisation of trading hours would be a most inferior way of proceeding. It would be counter-productive and come at a sizeable cost to the community.

Could you define for me what you would consider to be a sizeable cost to the community? Also, in what way would you see it as being counterproductive?

**Dr Abraham**—I will take the last point first. It would be counterproductive because it would inhibit the operation of the market for fresh food, groceries and so forth, in the sense that it would restrict competition.

**Senator FERRIS**—But, Dr Abraham, it may mean that there are two or three more fruit shops in the city or in the regional town that we are talking about or that there are half a dozen more butchers.

**Dr Abraham**—Yes, potentially. But numbers in themselves do not make a competitive market. Let me take the sizeable cost. With the limited information available about the market it is difficult to say exactly, but it would seem clear that if retail trade was forced back into small specialty stores or smaller sized supermarkets—without the advantages of economies of scale, without the advantages of large distribution networks we see in Coles and Woolworths and the more successful of the discount stores, and with the higher costs associated with smaller stores—you would expect to see an increase in the prices of goods supplied to consumers. That is the ‘sizeable cost to the community’. Quite apart from the limitations in product range and the scope of offered ancillary services, such as parking, you would most likely see an increase in the cost of goods on the shelf. We have done some modelling on the basis of available ABS figures. We would put an upper limit on those increases of perhaps 25 per cent. If all the retail trade was forced out of large stores back into smaller scale stores, consumers could end up paying as much as a quarter more for their groceries than they do at present.

**Senator FERRIS**—Just following that point, I think you were here when I referred to the article in yesterday’s *Daily Telegraph* in relation to the experience of Armidale. I will go on to ask Mr Williams about Bendigo in a minute. But, just on Armidale, 18 small businesses have gone from Armidale in the last four months. These businesses make the point that Sunday trading has had something to do with it. In relation to the point that you are making about the loss of small businesses not necessarily being a loss of competitive structure for the town, I find it difficult to accept that losing 18 small businesses—with whatever that means not only to the families who owned them but also to their employees—is not a greater cost to the community.

**Mr Williams**—I think we would need to look at what the 18 businesses in Armidale that closed were and at whether they actually closed because of Sunday trading. Last week I watched a video of a WIN news television report from Deniliquin. We opened a supermarket there 12 months ago, and there was a lot of concern that we were going to implode the small retail business in the town. In fact, according to the chairman of the local chamber of commerce, it has been the exact reverse. In fact, small business is thriving in that town because, again, we have anchored the town down. Small business is certainly surviving and is thriving in that town. I will just come back to Victoria. In Victoria since deregulated trading, small businesses have actually increased at a higher rate than they have anywhere else in Australia.

**Senator FERRIS**—Mr Williams, can you give us any more information about Bendigo? You gave us the figures on the community vote in Bendigo. What has actually happened there? Are you able to give the committee any further information about the effect of the change?

**Mr Williams**—The effect of the change—from our understanding and certainly from the information that we have received from Bendigo Council—is still very, very favourable. There has been no closure or contraction of the small business area in relation to Sunday trading.

**Senator FERRIS**—How long ago did that happen?

**Mr Williams**—The vote was, I think, in the middle of last year. We can provide that information to you.

**Senator FERRIS**—That would be helpful.

**Mr Williams**—In fact, a lot of that information was in one of the additions to our submission. We used that as a basis for our inquiry into competition policy. That is documented, and most of the supporting evidence is there. We can provide you with updates.

**Senator FERRIS**—That would be useful. My final questions concern the provision of contracts, and I think you were also here when I asked these questions of the previous witnesses. I am interested to know the way in which you purchase and access contracts for meat and livestock, poultry, fish and also horticultural products. Do you have longstanding relationships with individual growers? Do you work through regional cooperatives? To what extent are the contracts flexible to take into account rises and falls because of seasonal conditions and so on? Do you have provision in your contracts for cancellation? Do you have penalty provisions for an inability to supply, for example, because of a seasonal situation?

**Mr Williams**—I will hand over to Peter shortly. We buy direct from the grower, through the market and, in some cases, through agents. It is done by mutual agreement. We believe what we offer and what they receive is beneficial for both parties. For fruit and vegetables I think we are into our third or fourth season now, and we have more growers than we can accommodate at the moment. People who were with us for the first year have come back the second year and the third year and want to be with us for the fourth year as well.

We clearly recognise—again, I am just reinforcing this—that the farmers have to be profitable. They have to be able to reinvest back into their plant and their equipment. They need to be able to go to the bank with a business plan. They need to be able to fund their loans, et cetera. We recognise all of that. If anybody gets into any difficulties—and that may not be just from seasonal changes; it could be, for example, that something has gone wrong in that particular area or there could have been a mistake made in the prices that they have submitted—we will look at all of that, and we have done that. Again, if the committee wants detailed information about that, we can do provide it. I now hand over to Peter.

**Senator FERRIS—**I would be interested to know how you set the price and whether you take long forward contracts or short contracts.

**Mr Scott—**I will start with fresh produce as an example, and I will give you a real life example out of Bowen, North Queensland. Some three years ago we went up there and talked to a lot of the growers in response to their request to come and talk about forward buying and the longevity of supply to Coles. The group of growers were somewhat disenchanted with the central market system, so we started a process of direct procurement just out of the Bowen region. Initially we looked at a small component of product to be on a fixed price, and that price was calculated on market indicators from the central market system. For example, we fixed 40 per cent of the crop of tomatoes. There was some sort of seasonal impact—rain or winds or whatever—and the price on the central market actually went up around 30 per cent on what we had fixed. We sat down at their invitation and spoke about an adjustment to that price mechanism so that in terms of the relative market price we gave them a more than fair rate of return.

We try to have a small component on a fixed price based on our benchmarks. We try to use the market indicator based on the volatility of the product. The growers are looking for sustainability and certainty, and we talk to our growers with three to five year forward plans, business plans. The percentage that we fix is by mutual agreement. We absolutely make sure that there is a return to the required level for the grower. That enables them to make capital improvements and so on.

**Senator FERRIS—**To what extent do you demand exclusivity? In other words, if you go to negotiate with a contractor, are you interested in where he is putting the rest of his crop?

**Mr Scott—**To a degree a lot of these growers are very small. Our specifications are based on consumer demand. If the specifications cannot be met, then the product moves to other channels within the network. That might be a central market system. It could be reduced in price and moved through independents.

**Senator FERRIS—**What is your attitude if you find that a tomato grower also has a contract with Woolworths?

**Mr Scott—**We do not demand exclusivity. It is a free market out there. What we look for from a consumer's point of view is quality and whether the value proposition is right from a consumer's point of view—quality, price, the whole network of getting the product in front of the customer. We do not demand exclusivity.

**Mr Williams—**Unilever supply to everybody and there is no reason why any other supplier should not supply. In fact, particularly with a small supplier, when we may be the only large chain stocking their particular product, we are very careful to ensure that that supplier is advised to not be wholly and solely dependent on us as a major account. We actively encourage them to seek out other accounts. That could be Woolworths, Franklins or whomever.

**Mr NAIRN—**Mr Williams, can I ask you some similar questions I asked Woolworths? In regard to your pricing structures between rural and regional stores and city stores, do you have comparable pricing or do you have automatic freight aspects built in, volume and those sorts of things?

**Mr Williams—**We have what we call our base price structure, which is the structure that we need to charge to give us an adequate return in that particular state. I will approach it by state because there are operational differences in our cost structures by state. We have a flat based price structure. For example, in far isolated stores, et cetera, where there are large freight costs, yes, we do add a component to our pricing structures to recover that freight cost.

There were some discussions earlier on today about Tasmania, for example. I think that is a very good example. We walked through this exercise with Jim Bacon, the Premier, just explaining our position and how we arrive at the prices we do in Tasmania. In Tasmania, as with most rural and isolated areas, the turnover we would get out of our stores—and I am talking sales per square metre—is generally less than what it is out of our metropolitan areas because there is simply less population density.

In the case of Tasmania, for example, our average turnover in our stores is about 20 per cent less than it is in the rest of average metropolitan stores. That in itself creates a reverse to the productivity gains you get from volume, so we need to take that into consideration. Overall, our operating costs in Tasmania as a percentage of the sales that we get is higher and therefore we need to recover that.

I think Roger Corbett mentioned freight. That is a component in Tasmania, but we find our biggest component is that the actual turnover coming through our stores is less. That is true of most of our regional stores. In fact, we get a lesser return from our regional and country stores around Australia than we do from our metropolitan stores, and it is quite a considerable difference as a general rule. We do not recover any freight for any of the country stores in Victoria, for example, but we do, as I said, in some of those far flung stores such as Mount Isa, Port Hedland, et cetera. Those other factors are very important.

We also have flexibility at store level for the store managers, if necessary to be competitive, to move prices down. They cannot move a price up. I will just use an example of bananas. If our list price of bananas is $2.99 and an opposition store is selling them at $2.69, we would need to drop that 30c to ensure that we were offering our customers the best possible value we could on those bananas, but our ideal price would be $2.99. That action does explain some of the variations that you may see in some of the price surveys that are published and circulated around Australia.

Overall, the answer to your question is that there is a base price, but there are circumstances where we need to recover additional sell prices to offset some of the additional costs. There are certain conditions where we do take prices down to remain competitive in the local market. We are also very sensitive to ensuring that we have the right value offer there for our consumers because we know once you become even moderately uncompetitive customers will leave you. That can happen in a metropolitan area. It can happen in far flung country stores.

For example, seven or eight months ago we bought the Charlie Carter chain in Western Australia from Wesfarmers. We knew from our research that there were people in Tom Price and Paraburdoo who were travelling to Port Hedland and Karratha to do their grocery shopping—that is about 500 or 600 kilometres—because we knew that the perception was that the prices that were being charged in that town were too dear. So people will leave you. That can happen in country stores and it can happen in metropolitan stores. The way we compete to get a one or two per cent sales increase means we have a real focus on what our sell prices are in every one of our stores.

**Mr NAIRN**—But there would be some price advantages in rural and regional areas as well which you would presumably build in—the cost of real estate, the cost of leasing, the stability of staff. Do you see a lesser cost in human relations in rural and regional areas compared with your urban areas or is that a myth?

**Mr Williams**—It is interesting. I have just done a round of our 25-year club dinners where we induct new members who have been with us for 25 years. It is quite surprising how many of those people have been with us for a long time. They do come from country stores but they also come from city stores. Our turnover figures are pretty stable in regard to what you are talking about. I do not think there is a perceivable difference in country versus city.

**Mr NAIRN**—In relation to the suggestion that government should cap the market share in some way—I guess this inquiry will come to grips with what is really being suggested in that regard—let us assume that the government did look at something along those lines, as suggested by NARGA and others, in fact a potential reduction in the market share of the larger ones, you mentioned before that Coles would find that quite unacceptable. You gave various comments as to what might occur. What would Coles's specific reaction be to something like that? Would it be to reduce the flexibility or reduce the variety of products that you might offer or would it be to decrease your number of outlets? I know it is hypothetical. What would the consequences of either of those actions be?

**Mr Williams**—It is hypothetical. Obviously if that was the case, as we have an obligation to our shareholders, we would have to have a very serious look at what we did as far as investment in the future was concerned. We would have to have a look at each individual site. We would have to have a look at what potential was in each of those sites, and we would have to look at what sort of investment we were putting into each of those sites. The ramifications are quite astronomical.

If we are an innovative company thinking about leading the charge in world's best practice or trying to innovate with our suppliers to go forward, all of that sort of thing would stop because, as I said in my opening address, it would be the status quo. If we have 25 per cent I would not want to go down to 24.5 per cent. I would also be conscious that, if we kept serving the customers well and offering them what they wanted, if we started to go to 25.5 per cent, I would somehow or other divest that 0.5 per cent.

I think it would curtail a lot of the innovation that we are doing. I think it would also curtail a lot of the innovation that is happening in regard to our suppliers and the innovation we are doing together. I think it would have a detrimental effect on a lot of our landlords. I think Roger adequately put it that, for some of the independents who may wish to sell their stores, it would certainly drop the value of those stores quite dramatically. It is only hypothetical, but it is certainly something we would look at.

We have got a huge training program in our stores now. Right now we have got something like 4,000 trainees in our stores. We are moving towards more permanency. We are doing this because we believe that there is a future in the retail industry for them, but we believe also that we are going to needs those resources. That is another thing we would have to consider. If we are not going to be able to grow our business we would have to curtail the intake of trainees and we would have to have a look at what we were doing with the development of our people.

**Mr NAIRN**—I also ask the same question regarding the real estate that you operate from. In rough terms, what percentage do you own?

**Mr Williams**—Zero.

**Mr NAIRN**—It is all leased?

**Mr Williams**—It is all leased. Interestingly, about 75 per cent of the properties that we are in are owned by small landlords, which can be local consortiums or whatever, and 25 per cent are with AMP, Westfield, Lend Lease, et cetera.

**Mr FITZGIBBON**—Mr Williams, I was a little surprised to hear Mr Corbett prepared to say that, as a matter of policy at least, Woolworths never seeks to lower its retail price below that of a small business competitor in order to, I suppose, make life difficult for him or to be more competitive as against him. Are you prepared to say the same?

**Mr Williams**—Basically, yes. As I explained, we have a base price structure. I just come back to the example of the bananas. If our base price that we have set is $2.99 on bananas and somebody else in the marketplace is selling them at $3.29, we could have been perceived as undercutting them. But that is our base price and that would be the price that is in the rest of the chain. That can happen. That happens with a lot of products. I would suggest that if you did a price check of a lot of stores, you would find that overall the supermarket chains could be a lot cheaper than some of the other operators out there. That has been that way for many, many years.

There is only one other time when we would go down on a price. I think this is important too; it gets mixed up in a lot of surveys. Again I use bananas as an example. If you are selling 10 cartons of bananas a day and, for whatever reason, yesterday you only sold three and you have got three cartons left over, you need to move them through. So the store manager does have the flexibility to take them down from $2.99 to $1.99 and declare that stock before it gets thrown out. So that can have an impact on how the prices are perceived. That is particularly so with fruit and vege, because it is a live product. It is almost done on an hourly basis. If something has been out in the cabinet for a little while and it is looking a bit limp, you need to take some action on it. You have got two choices: you mark it down or you throw it out.

**Mr FITZGIBBON—**That is one of the issues with fresh product generally and the weak position of the producer of those fresh goods in terms of its contractual relationship with the big players, but I do not want to dwell on that now. I want to stick with the point I was making. I did not get a chance to pursue this with Mr Corbett. Given that setting your retail price below that of a small business competitor does not represent predatory pricing—that is when you are selling below your cost—why would you not seek to be more competitive and to drive your prices lower than those of a small business competitor?

**Mr Williams—**Every one of our locations really has to stand up on its own two feet. Every store manager is responsible for returning an adequate return. We would not like to operate in any site where we are not getting a reasonable return. The prices we set—our base price structure—give us that return, at even level, of about 3.4. To really go down below that would certainly erode that profit level that is required.

**Mr FITZGIBBON—**But I am not necessarily talking about a small business operator who is in the same building. You might have a very competitive greengrocer down the road. Given that it does not represent predatory pricing and that he is offering strong competition, why would you not, as a matter of course, seek to be more aggressive in your pricing?

**Mr Williams—**As I have already explained, we have a base price structure which we believe offers value to the customer, which is important, and we believe it gives us an adequate return. That is how we would operate. I do not really understand—

**Mr FITZGIBBON—**I will go on. I suppose then you have also already answered the next question. I go back to Mr Corbett's comment. He said it was a matter of policy. I think he was indicating that in such a large retail chain there is sure to be an incident or two where the local manager has chosen to go under a competitor's price. I assume therefore you can see that it might happen within your own chain. The question therefore is: what action would you take if you became aware that it was happening?

**Mr Williams—**If it happened by one of the reasons I have already explained, that would explain it. But if a manager, for whatever reason, took it upon himself to—using your terminology—take on the independent fruit and vege shop down the road, we would view that very seriously and we would take the appropriate action with that store manager.

**Mr FITZGIBBON—**Going back to my question to Woolworths on section 46 of the Trade Practices Act, the Reid committee again quite clearly recommended that the ACCC be given power to take representative action to recover damages. The report quotes the ACCC which said that they think it would be of great benefit to the small business sector if they were able to take damages for the injured party in the case where the big retailer had embarked on some unconscionable conduct. Do you fear in any way that sort of amendment to the Trade Practices Act?

**Mr Williams—**No, we would not fear that. That is the only comment I would make to that. As long as the amendment was made in the spirit in which you have just tabled it, we would not have an issue with that. As long as it could be practically reviewed, we would not have a problem.

**Mr FITZGIBBON—**My next question was on capping; Mr Nairn asked you that. For me the difference between our own Trade Practices Act and the antitrust laws in the United States in terms of divestiture is that, while there are divestiture provisions under our own act, they really have to be utilised at point of acquisition. If that opportunity is missed, so be it and the opportunity does not come again. What it does not do is deal with this phenomenon of creeping acquisitions; where one particular acquisition might not in itself constitute a breach of the spirit of the act, the combined effects of those acquisitions would. Do you think our act is up to speed? Do you think it is good enough to deal with those issues, particularly when you compare them with the antitrust laws in the United States?

**Mr Williams—**I do not think I am really familiar enough to make a comparison with the antitrust laws of the United States, but I certainly know that when our company has been involved in an acquisition we certainly do take it through the ACCC. On that creep, where we have been accused of chequebook market share buying, I will use some hypothetical figures, but one of the figures is correct. If our sales trend last week was 10 per cent up on last year, and we took off the sales of the small businesses that we had bought, our sales trend last week would have been about 9.5, 9.6. So it is a very small component of what has happened with our market share build. Our market share build has been because of the refurbs we have done and because of the concentration we have had and focus on the customer and because of the improvements that we have made. Quite frankly, the chequebook growth really is an insult to a lot of the things that our people have done and a lot of the innovations we have made and the things we have done to go forward.

I do not regard the acquisition of the Charlie Carter chain as an independent takeover. We bought them from a large company, Wesfarmers. Even if you put Charlie Carter in there, it still would not make a significant impact to our overall sales trends. Again, the majority of our sales increases have come from the work we have done within our existing boxes.

**Mr FITZGIBBON—**My final question goes back to a question we put to Woolworths. Putting aside the debate about the current state of play with respect to market concentration, is there a point at which you believe concentration is too great? Can growth become too great in terms of market concentration?

**Mr Williams—**Again, I would suggest that that is hypothetical. It is very difficult to say what is going to happen in the next four to five years. I can say that we firmly believe there is a German competitor coming on the market scene. They are carrying out very serious job interviews at the moment. We know that because we sent some of our people along for those interviews to try to find out a little bit more about them. We have already mentioned that Caltex and IGA are planning to have I think 150 stores in the next few years. With the evolution of all those things, I cannot predict what the market share is going to be of Coles, Woolworths or Franklins in the next four or five years. Again, the growth of the speciality food retailer is quite strong. If you go to the Woden shopping centre, which reopened a couple of weeks ago, there is a Woolworths, a Coles and a stream of very good independent operators in between. They are still surviving. From my observation, they are going very well.

**Senator MURRAY**—Mr Williams, I would like to return to your Bendigo survey on trading hours. In that survey were the respondents asked whether they wanted banks or offices or factories or government offices or dentists or lawyers open on a Sunday?

**Mr Williams**—No, I believe it was essentially retail. That was a provision the Kennett government put into the deregulation of trading hours. If there were sufficient people in a community concerned, they could petition their council. I am not sure of the figures, but there needed to be a percentage of people petition the council. If that percentage was reached, then council needed to run it to a vote.

**Senator MURRAY**—Were the respondents asked whether they worked on Sundays? If not, were they asked whether they would like to work on Sundays?

**Mr Williams**—No, they were not. When we opened our stores in Victoria on Sunday, which was a couple of years ago now, we put up notices on our staff noticeboards asking for volunteers to work on Sunday, and we had absolutely no problem staffing our stores. In fact, we still only run our stores on Sundays now with staff who volunteer.

**Senator MURRAY**—Your head office is in Sydney, is it not?

**Mr Williams**—No, Melbourne.

**Senator MURRAY**—Is your head office open on a Sunday?

**Mr Williams**—Parts of it are, such as customer liaison. Our Victorian state office works on Sunday, as does our New South Wales state office. I probably work every second or third Sunday.

**Senator MURRAY**—But, by and large, the administrative staff and the bosses do not work on Sundays. Is that true?

**Mr Williams**—No, that is not correct. The majority of our administrative staff and bosses, as you call them, are out in our staff operations, and they work. Our state managers of New South Wales and Victoria work a very similar roster to what our store managers work.

**Senator MURRAY**—You can see the point, can you not, that if one sector of Australians have to work on Sunday there is surely a good case for all Australians having to work on Sunday?

**Mr Williams**—I agree. We agree to pay a penalty rate for Sunday, and we have stated both to our staff and to the SDA, our union, that we certainly recognise at the moment in

Australia that Sunday is still regarded as a special day. We pay an additional rate for all people who work on a Sunday.

**Senator FERRIS**—But they are always staff who volunteer.

**Mr Williams**—Yes. There is nobody forced to work on a Sunday.

**Senator MURRAY**—Sometimes you can be forced by economic circumstances. You would appreciate that.

**Mr Williams**—I am not sure—

**Senator MURRAY**—A job is a job, is it not?

**Mr Williams**—If you are offered a job on a Sunday and you accept a job on a Sunday—again, if we were not open on a Sunday, it could be that job is not on offer for you too.

**Senator MURRAY**—I have an article here which I have photocopied but, unfortunately, it does not tell me where it is from. It is either the *BRW* or the *Bulletin*, and they have just changed their format. The article is written by Debra Light. Is she from the *Bulletin*?

**Mr Williams**—Yes.

**Senator MURRAY**—So it is the *Bulletin*. The article is dated 6 April 1999 and is entitled 'Business: Store Wars'. A person called Paco Underhill, who is regarded as an expert in shopping and retailing, says this:

> What I am fascinated by in Australia is that the retailer has, in effect, wrestled control from the consumer products manufacturer. In the United States market, for example, Procter and Gamble, a major grocery manufacture, has muscle with the retailer. The Procter and Gamble of Australia has a hell of a lot less muscle. They can attempt to play off Woolies and Coles, but ultimately Woolies and Coles have the power to look them in the eye and say, 'Go stuff it.' So the manufacturers are much better behaved.

That is a comment from an international analyst. It is also true I think that our market is characterised by backward vertical integration. In other words, Coles and Woolworths both own substantial slices of the wholesale market.

**Mr Williams**—We do not own any of the wholesale market.

**Senator MURRAY**—You do not do any wholesaling yourselves?

**Mr Williams**—Sorry, in Western Australia we provide two stevedoring companies with some product. I think it is less than $20,000 or $30,000 a week, but that is all.

**Senator MURRAY**—So that massive redistribution warehouse in Western Australia is not a wholesale operation?

**Mr Williams**—No. That provides product to our supermarket chain, and it also provides product to our Kmarts.

**Senator MURRAY**—One of the mechanisms that the Americans have used in some industries to restrain market power is the three tiered system, which is to prevent ownership of one sector by another—in other words, to prevent backward and forward vertical integration. Do you think that introducing such a condition in Australian food retailing would enhance competition—in other words, by making wholesalers truly independent of the retailers and manufacturers and providing an independent basis of supply?

**Mr Williams**—In fairness to me, I do not profess to understand the American scene as well as some. The comments you made from that magazine article—I think you said tell the supplier to get stuffed.

**Senator MURRAY**—No, he said that. He said, 'Go stuff it.'

**Mr Williams**—Yes. For us to tell a supplier to do that would have to be an absolute extreme circumstance. To say that Procter and Gamble have no influence in the way we go to market is, in my view, totally misrepresenting what happens. We sit down with companies like Procter and Gamble once every 12 months. We have a business plan in place. We mutually agree on what we need to do to go forward. In fact, Procter and Gamble were in last week. I am meeting with their chief in another couple of weeks to bed down and sign off the agreements that both companies have. So I do not agree with those comments. The suppliers certainly have a lot of impact in the directional way we go to market. I have read that article. I have never heard of that person before, but what I can say to you is that we work with our suppliers—and that is important; 'with our suppliers'.

**Senator MURRAY**—Dr Abraham, are you an economist, a lawyer, or both?

**Dr Abraham**—I am an economist.

**Senator MURRAY**—Do you specialise in competition theory or practice?

**Dr Abraham**—My specialty is price regulation and competition policy.

**Senator MURRAY**—You would be familiar with the international literature on pricing practice and competition policy?

**Dr Abraham**—Yes.

**Senator MURRAY**—Isn't it true that, regardless of what you look at in what country, size always underpins competition policy; regardless of whether it is the United States, France, Germany, Canada or Australia, size is the trigger for regulatory activity?

**Dr Abraham**—Size is the prima facie evidence that there may be an abuse of market power. It is unlikely that you would see problems with abuse of market power, or market dominance as a source of market failure, unless there is a large market share dominated by one or a few firms. But, as I have said before, size by itself will not necessarily suggest that that is the case.

**Senator MURRAY**—But a number of countries which do not use capping have an automatic trigger for the regulator to look at a company or an industry when they reach a certain size. That is true, isn’t it?

**Dr Abraham**—That is right, and that is the sensible way to go; to say that, once a certain level of size has been reached, it would be sensible to inquire as to whether other factors have led to, or potentially would lead to, market failure.

**Senator MURRAY**—In the Coles submission—and I concur with the chair in that it is very well presented—on page 6 are listed nine OECD countries. That indicates the international grocery retailer share of the packaged goods market. It shows Australia as having 80.4 per cent of the top three. However, if you added those percentages and crudely divided them by nine, because nine countries are shown, you would arrive at an average of 58 per cent. Australia is at 80 per cent, Switzerland is at 90 per cent and Sweden is at 84 per cent. But the next below that is Canada at 60 per cent, and it goes all the way down to the United States.

**Mr Williams**—Excuse me; we put those there as an example.

**Senator MURRAY**—Please let me just finish. It goes all the way down to the United States at 23 per cent, and you make the point that that is growing. On the face of it—and I understand that these are indicative figures, and you have to be careful of making crude averages—that indicates that Australia is much more concentrated in this sector, in your own submission, than those other countries.

The question we face is: at what stage should the regulators in our country get concerned? It is for that guidance we are looking to you: at what stage does a regulator do a detailed appraisal and say, ‘That’s all right for that particular industry,’ or ‘It’s not all right’? When would you think our competition policy should lock in?

**Dr Abraham**—I have no opinion about what particular level a particular market share should reach before the taking place of competition inquiry. I would say that inquiries such as this one are probably a reflection of the political or community concern that the level of concentration in Australia has possibly reached the point at which a deeper inquiry is required.

But, as I have said before, the level of concentration per se is not the important factor. The point that comes out of table 1.2 of the Coles summary submission is that there are many other factors. We put population and market size there as part of the story that other factors are at least as important as concentration in determining the efficiency or the competency of the market.

**Senator MURRAY**—I asked you this question about your own reading and understanding because the difficulty we face is that our own law does not deal with a trigger point at which time this should be in place.

**Dr Abraham**—No, because potentially that is quite right in the sense that the law concentrates on the effect in the market, whether there has been abuse of market power, whether there are abuses or other forms of inappropriate market behaviour. As long as legislation exists to protect against those actions, and as long as the market itself is well-behaved and operates well, I do not believe it is appropriate to set a target beyond which any group or individual firm should surpass its market share.

**CHAIR—**So you are saying that it is okay if the three majors own 100 per cent of the market?

**Dr Abraham—**Potentially, yes.

**Senator BOSWELL—**What about two majors?

**Mr Williams—**I do not think there being two majors is ever going to happen. Hypothetically, I could say that there will be four majors in the next 15 years; if this German company comes along and gets a foothold in the same way as it has in, say, the United States, there could be four majors.

Coming back to Senator Murray: we put those figures down there as an indication. We could have dropped a couple of those lower ones off and very easily put Norway and Finland in there; they have in excess of 80 per cent in the top three.

**Senator MURRAY—**Or Italy which has around about 20 per cent. There are others who weigh lower, aren't there?

**Mr Williams—**Yes, the United States. But then again, if you flip over the page, there are regional areas in the United States such as Los Angeles with seven million people and nearly 70 per cent owned by the top three. I think there are a lot of conclusions you can draw out of that. I think you have to look at the size of the population and the size of the country as well. I think, as a general rule, the market concentration appears to be greater in countries with smaller populations.

**Senator MURRAY—**You would appreciate that an interpretation of the way that you have answered your questions, or the questions put to you, would be that you believe it appropriate for there to be no limits on market power or acquisition whatsoever in your industry.

**Mr Williams—**I did not say there should not be any limits on market power; I said where market power differed from market share.

**Senator MURRAY—**You do not believe that there is a link between the two?

**Mr Williams—**Again, it is how you go to market. If you are not abusing your power, if there is value there for the supply chain or if there is value there for the consumers, that is a different issue from I think perhaps the spirit of your question.

**Senator MURRAY—**But the difficulty for us is this: if a regulatory authority were to look at your industry, they could go to your books; they could test all your propositions and the propositions of those who put the counterargument. This committee is unable to do that.

So, in other words, we have to weigh up one set of perspectives versus the majors set of perspectives. Therefore, we have to be guided by principle in terms of international precedent and how competition policy should be addressed.

If majors such as you were to fail to provide us with a framework in which you think that market power or market share should be addressed with regard to international precedent, they would be putting us in the position of having to do it for them. You would appreciate the danger I am putting to you. All other countries, in fact, have some trigger point at which they become alarmed by market size, market concentration or backward and forward vertical integration. Please say yes or no, because *Hansard* does not record nods.

**Mr Williams**—I understand what are you saying; that is what my nod signified. You are asking me to disagree with you—which, in principle, I think I do. But I can understand your concerns about wanting a trigger in there that could be activated.

**Senator BOSWELL**—Mr Williams, on page 8 of your submission, you deal with various figures of market share on branded dry packaged goods. You can see that the blue line is going down like a rock. It has gone down from 50 per cent to 20 per cent in the last 10 or 12 years.

In your opening submission, you suggested that people wanted to punish you. Speaking for my colleagues here, no-one wants to punish you here. I think we all recognise that Coles, Franklins and Woolworths do a job. We are coming from a different point of view in that we believe there has to be some sort of market power or a balance of market power out there.

In my previous incarnation I was one of the gentlemen who sat at your table and negotiated prices, and I can assure you that you had all the aces—it was that, whilst there were negotiations, you did not have a lot of room to move. What I am suggesting is that we want, and I think the Australian public wants, an independent sector outlet. At what point can that sector survive? At what percentage of the market can that sector survive? Is it at 15 per cent or at 10 per cent where they can survive, to get their critical mass? How do we establish what it is? You and the previous people should be able to tell us what is the critical mass at which an independent can operate.

**Mr Williams**—First of all, I would have to say that I cannot give you a definitive answer. I cannot say that it is 20 per cent or 15 per cent—I do not know. I do not have the full understanding of their operations to be able to say that. Again, this is an observation from me, but it would seem to me that if the independent sector in Australia is going to be successful it needs the infrastructure behind it to do that. It needs a good wholesaler, good advice, good counsel, advice on how to go to market and advice on how to read its customer research—it needs all of that infrastructure. I know Roger Corbett spoke about Advantage and Action but, if you have a look at Western Australia, I do not think that independent wholesaler there has been through anywhere near the trauma that has happened along the eastern seaboard. If you have a look at that sector there, you can see that the independent is not in bad nick. So I think a lot of that needs to be taken into consideration.

**Senator BOSWELL**—He could have been in terrible shape, because it was only the intervention of the Senate that prevented Foodland being taken over by Coles.

**Mr Williams**—I understand that was quite a few years ago. But I am talking about recent times, about the last four or five years.

**Senator BOSWELL**—Are they successful because one of the majors is not over there—Franklins is not competing?

**Mr Williams**—You have Action discount barns, which add a third major player over there.

**Senator BOSWELL**—Who owns them?

**Mr Williams**—They are owned by FAL.

**Senator BOSWELL**—Getting back to predatory pricing, you were not as forthcoming as Mr Corbett. Mr Corbett said that they would not undercut any of their competitors—that they would match the competitors but they would not undercut them in terms of bananas and so forth. You would not go into a price-cutting exercise?

**Mr Williams**—No. I am sorry; I thought I was quite clear with what our position was. If you perceived it as not being as forthright as previously stated, the answer is to that is, no, we would not instigate a price-cutting campaign with a small operator.

**Senator BOSWELL**—You were a bit offhand on what we call 'creeping acquisitions'. Creeping acquisitions have taken 2½ per cent of the market, which is a considerable percentage if you are down to 20 per cent and you lose another 2½ per cent. I do not think you can completely write it off as being of no consequence.

**Mr Williams**—I did not say it was of no consequence; I said it was only a small proportion of our growth. I am talking only about Coles supermarkets.

**Senator BOSWELL**—But 2½ per cent or 2.85 per cent, I think, over the last couple of years, is a very significant shift in percentage, particularly when you are down to what I would consider to be very near a critical mass for the independents.

**Mr Williams**—That is also included in the acquisition of Charlie Carter, which I have made comments on.

**Senator BOSWELL**—That is including all the acquisitions, not particularly across the chains—Franklins, Woolworths and yourselves. You seem to have a major disagreement with your major competitor on what is actually the share of the market.

**Mr Williams**—That is on page 10 of our submission. We put three charts there. We have the 'Total food market' chart, which excludes hotels and clubs. That market share has a value of about $54.6 billion and includes specialty stores, takeaways, et cetera. On that particular chart, Coles, Woolworths and Franklins have 58 per cent of the market.

**CHAIR**—Where are restaurants? Are they under specialty food or takeaway—where do they come in?

**Mr Williams**—No. Specialty food—that is, Lenard's Poultry, the independent butcher shops—

**CHAIR**—So this graph does not include them?

**Mr Williams**—No.

**CHAIR**—They are part of the 'Share of the stomach' sales chart.

**Mr Williams**—Yes. The source for that data is from the ABS retail turnover and there is also some information from Nielsen. The next one which has been the most quoted is dry packaged goods, and we have quoted from Brandscan and, again, reports in *Retail World*. That is the one that is being used a lot. That is 80 per cent. The total market there is $37 billion. The last chart we have in there is what we have classified as the 'Share of stomach' sales. That includes all product that is sold that people consume. On the figures we have calculated there, the big three—as were put—occupy 40 per cent of that particular market share, but that includes cafes, specialty foods, hotels, clubs, takeaway, et cetera.

So if you are having 'chicken tonight', I guess what we are looking at there is: is it chicken you have bought from the store and cooked at home; is it chicken you have bought from a takeaway; or you are going to go out and sit down at a chicken restaurant and eat it? We have put those in there as an example of some of the variations happening in the marketplace and how they can be perceived differently, and also to try to bring the perspective of the value of the market which is outside of that dry grocery area.

**Senator BOSWELL**—So as far as the packaged dry groceries, you and Woolworths have no major difference there?

**Mr Williams**—No, I am not sure—

**Senator BOSWELL**—Mr Corbett was adamant that 'dry groceries' was a very narrow definition.

**Mr Williams**—Yes. We say that is a very narrow definition, too. That is packaged dry groceries that are sold in supermarkets. It does not include a lot of the health and beauty products that are sold in stores like Priceline and chemists, et cetera. We estimate that our percentage of non-food dry groceries is around 15 per cent to 16 per cent of the total market because of the volume that goes through some of those other outlets.

**Senator BOSWELL**—I have one final question. Milk was deregulated in Queensland at around Christmas. Yesterday, or a couple of days ago, it went up by 7c a litre. The dairy farmers, I think, did not get much—they may have got 1c. I presume the reason that it went up is that there was a demand for further discounts and that the discounts would have been passed on?

**Mr Williams**—I will hand that over to Peter. He was up there last week and had a meeting with the Queensland agricultural minister about that.

**Mr Scott—**The actual increase at retail was 6c a litre. So for one litre it went up by 6c, for three litres it went up by 18c. The market is partially deregulated but it is not deregulated at the farm gate, so when you talk about milk you need to put it in the context that only the processor and the retail pricing component of the value chain are deregulated. What happened was that the processors came to us, particularly Parmalat-Pauls. Pre-deregulation they had constructed their distribution zones on a certain volume and geographic spread. Post-deregulation the volume mix did not meet their initial forecast and they had to move product further than they had initially factored in. They had a lot of distributors that, they said, were going broke, and they lobbied us for more than a month for an increase.

**Senator BOSWELL—**An increase in price?

**Mr Scott—**An increase in price from processor to retailer, which ultimately goes to the consumer. We had a meeting with the state agriculture minister in Queensland and explained the situation. He was comfortable with that situation, and the process in terms of price increase went through, effective this week.

**Senator BOSWELL—**That shows you what an imperfect market it is.

**Mr Scott—**It is in the context of a partially deregulated market and the processors trying to drive for volume, for new brands in the market, and trying to drive their brands into new regions at a cost—and they could not sustain that cost.

**Senator BOSWELL—**So the cost is passed on to the consumer.

**Mr Scott—**That is correct.

**Senator BOSWELL—**Because we have deregulated the milk industry. The farmer does not get anything. I suppose you could consider this commercial-in-confidence, but what percentage of that 6c did the retailers get?

**Mr Scott—**None at all. All we did was maintain our margin. We had no increase in profitability; in fact we lost. On a calculation basis at 6c per litre, on a three-litre pack it would have needed to go up 8c a litre to maintain the same percentage margin, but we held the 6c per litre relative.

**Mr JENKINS—**Is Bi-Lo part of the Coles Myer group?

**Mr Williams—**Yes, it is. Actually Bi-Lo runs as a separate business, but I can comment on Bi-Lo.

**Mr JENKINS—**What would you say to the proposition that, in the discussion of Coles, we should be discussing Coles Myer and adding all those blue slivers of every pie chart to—

**Mr Williams—**The figures I have been quoting include Bi-Lo, and when we talk about Coles's market share we are automatically including Bi-Lo in that. I am sorry; that is something I should have explained earlier. That is how that works.

**Mr JENKINS**—Thank you for that clarification. Bi-Lo operates separately to Coles supermarket?

**Mr Williams**—That is right. It has its own managing director.

**Mr JENKINS**—What sorts of decisions are made about strategic purchases of market share? That is done by the Coles Myer board, so what decisions are made about what Coles is doing and what Bi-Lo should be doing?

**Mr Williams**—We sit down at a yearly planning meeting, look at the various options we have to drive our market and make a decision on what location Coles would be in and what location Bi-Lo would be in. But they run their own marketing programs, as we run our own marketing programs.

**Mr JENKINS**—With the smaller overlap that there would be for other parts of the group—Kmart, Target—it strikes me that, when we try to have some definition of what business you are in, it starts to blur at the edges even when we look at just your group and some of the product lines that are taken by different members of that group.

**Mr Williams**—I think it is only Bi-Lo that you could say there would be any blur with. Again, any figures that we quote as far as market share goes—profitability, sales and so on—include Bi-Lo.

**Mr JENKINS**—On a different subject, one of the other things that was put to the fair trading inquiry of the House of Representatives Industry, Science and Technology Committee relating to section 46 of the Trade Practices Act was a notion that, as it presently stands, there is an emphasis that there has to be intent; there has to be purpose. There was a proposition put that if there were an effect test, that might be more appropriate in finding a definition of a balance between aggressive competitiveness and dodgy practices. What comment would you have about a change towards an effect test of section 46?

**Mr Williams**—I do not profess to be an expert on that, but if the spirit of that was to put a cover over the market, and if anybody was practising the wrong practices it was going to be able to pull them back in line, in principle we would not have any concerns about that.

**CHAIR**—Are there any further questions?

**Mr FITZGIBBON**—I just have one question which requires a specific answer from Dr Abraham.

**CHAIR**—We have five minutes to go.

**Mr FITZGIBBON**—Quite simply, would you describe the retail market in Australia as an oligopoly?

**Dr Abraham**—Technically, by share, yes, but not by effect.

**Senator FERRIS**—You will never catch him.

**Mr NAIRN**—I also have a question for Dr Abraham. Lots of figures have just been thrown around and you have gone into the overseas experience in quite some detail. There have been all sorts of comparisons made, and I think the biggest problem we have is knowing whether we are comparing apples with oranges or what they are, and that is probably your difficulty as well. I would just like to get your clarification on one thing. Senator Murray talked about the averages of the figures that were in the main body of the report, and he used an average to come up with 58.7 per cent.

If you do a separate average in each of the three columns, the average population is 58 million, the average market size is $110 billion, and the average percentage is 58.7—which is not dissimilar to the country that comes closest to that, which is England. Does that tell us something about the corollary between population and market size? In trying to analyse some of your stuff internationally, is that the biggest influencing factor? I know every country is very different, but would you say that is the most influential aspect of it?

**Dr Abraham**—We had hoped, when we were approached to prepare the supporting submission, that we could gather enough data to isolate the primary determinants of concentration by whatever measure, and that proved not to be possible. Through the data we have seen, we have observed that population size—within the developed nations—correlates very closely to market size and is a good indicator of the level of concentration. This is simply by virtue of the fact that you can say there is a particular scale, an efficient scale, of a retail organisation of the size of Coles or Woolworths, and you will see them reproducing themselves within a market until that market is filled. That is the explanation of the figures in table 5-3 of our submission.

When you reproduce that scale of organisation within a city, or within a state within the United States, you see far higher levels of concentration, just by virtue of putting the same size organisation into a smaller market. So it is not surprising that, in Australia, you see three or four very large, efficient scale retailing organisations taking, in this case, 80 per cent of the dry goods market. The size of the market is a very strong indicator—given the international or worldwide spread of the same retail technology—of the number of firms you will see in that particular market. Hence the level of concentration.

**Senator BOSWELL**—Wouldn't a cap mean that if you had to vacate a particular market, an independent or someone else—the fourth sector—would come in and fill that market vacancy?

**Mr Williams**—That could be one of the dangers of a cap, too, because if Woolworths, Franklins and Coles are capped it could mean that another major competitor could come in and basically expand unchecked because it would be very difficult for us to counter that particular competitor. So that can work the other way. If we have a new competitor coming in, obviously—as with any of our major competitors—we would be competing pretty aggressively with them. If we are at a stage where, by competing aggressively, it is going to take us over our cap, to a degree we would be shackled or hobbled.

**CHAIR**—Thank you very much. Mr Williams, would you like to make a final brief statement?

**Mr Williams—**I would like to say thanks for the opportunity. You did make a comment earlier about the number of submissions that you have had.

**CHAIR—**And they are not all here.

**Mr Williams—**I know they are not all there. I, too, spent many hours looking at them. I think I have read close to 70 of the submissions. In fact, I have read all the ones that were available to me as of Thursday night. I certainly concur that there are concerns being raised from various sectors and it is something that would obviously be a concern to the committee. It is a concern to all of us.

However, I just refer to our opening statements. We believe a cap would be detrimental not only to ourselves but to all the people that we deal with. I really would like the opportunity to be able to return at a later date, maybe in May after the rest of the submissions and the rest of the evidence has been taken, because I feel that there probably will be more questions that the committee members would like to ask. Also, I think it would give us a chance to put our point of view over to some of the comments that have been made.

**CHAIR—**Thank you very much, Mr Williams, Mr Scott and Dr Abraham. We appreciate your submission and the professionalism of it and the fact that you have been around and making yourself available to people in parliament, answering queries, owning up to past wrongs where they may have occurred. We look forward to interesting submissions this afternoon by some of your opponents. Thank you for being here today. We really appreciate it.

**Proceedings suspended from 1.02 p.m. to 1.46 p.m.**

**BARNETT, Mr Guy, Consultant, National Association of Retail Grocers of Australia Pty Ltd**

**KOVAS, Mr Michael, President, Food Retailers Association of New South Wales**

**McKENZIE, Mr Alan John, Director/National Spokesman, National Association of Retail Grocers of Australia Pty Ltd**

**RICHARDSON, Mr Lionel James (Sam), NARGA Director, General Manager TIW**

**CHAIR—**Welcome, ladies and gentlemen, to this afternoon's session. Particularly I welcome Mr Alan McKenzie, Mr Sam Richardson, Mr Michael Kovas and Mr Guy Barnett.

**Mr McKenzie—**Thank you very much, Mr Chairman. On behalf of NARGA we certainly welcome the opportunity to appear before you today and present our evidence formally to you.

**CHAIR—**The committee prefers all evidence to be given in public, but you may at any time request that your evidence, part of your evidence or answers to specific questions be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate.

The committee has before it submission No. 201 dated March 1999. Are there any alterations or additions that you wish to make at this point?

**Mr McKenzie—**In view of our examination of the ACCC evidence and further deliberation, we would like to make some additional remarks in terms of our recommendations as we get to that part of our presentation.

**CHAIR—**Certainly. If you want to make further submissions following the discussions today, that is appropriate as well. We have made that similar invitation to both Coles and Woolworths to do so. I now invite you, Mr McKenzie, to make an opening statement and, following that, we will have questions.

**Mr McKenzie—**Thank you. First of all, as set out on page 22 of our submission, NARGA is a confederation of state-based independent retailer organisations covering all states and the ACT. NARGA's membership covers some 7,300 small and independent retailers. We employ some 97,500 people. The bulk of NARGA's retail constituency falls within the supermarkets and grocery stores sector. In this regard, NARGA represents 4,850 stores who buy their groceries through wholesalers, and they employ some 77,000 persons.

We see this inquiry as a watershed in respect of the future of independent grocery retailers in this market, and especially in the grocery retail market. The fact that this inquiry received cross-party support is acknowledgment that there is a major problem and that something needs to be done. Once again, we thank the committee for the opportunity to talk to you today about it.

In relation to the retail market, we refer you to table 1, page 28 of our submission. There has been a lot said about the market today and no doubt there will be more before we leave the stand today. But our analysis of the market shows that the three major chains control almost 31 per cent of every dollar spent on retail goods in Australia, with the combined share of Woolworths and Coles being almost 28 per cent.

In relation to total food retailing, as defined by the ABS and including takeaway food, the three chains account for over 55 per cent of all sales. Coles and Woolworths together account for 47½ per cent. For the supermarkets and grocery stores subgroup, the three chains' total food and liquor divisions account for in excess of 80 per cent of all sales with Coles and Woolworths having a combined share again of almost 70 per cent.

Our evidence to this inquiry will relate primarily to the supermarkets and grocery store segment and in particular to the retail grocery market as researched and reported by AC Nielsen.

I will refer you to page 31 of our submission in relation to the retail grocery market. We believe that the purpose of our evidence to this inquiry is that the relevant market is that supplied by grocery stores and supermarkets, because these stores are the prime source of take-home food, whether packaged groceries or fresh food, and including pre-prepared meals. The value of this market according to the ABS was over $37 billion in 1997-98, representing 68½ per cent of all retail food sales and almost 28 per cent of all retail sales as measured by the ABS.

The material we are presenting refers specifically to the retail grocery market, because this is acknowledged and widely accepted as the best source of data on supermarket industry market shares based on research by AC Nielsen and published twice annually in *Retail World*.

Table 3 on page 16 shows that the chains' market share already exceeds 80 per cent, having doubled its share since 1975 and, if nothing is done to halt their growing stranglehold, we believe their share will exceed 85 per cent by the year 2000, with Coles and Woolworths having in excess of 70 per cent.

Table 3 on page 16 shows that the chains' market share already exceeds 80 per cent in Queensland where it is 87.2 per cent and in New South Wales where it is 84 per cent. Coles and Woolworths already have a market share of 70 per cent or greater in Tasmania where it is almost 78 per cent, and in Queensland and Victoria where it is around 71 per cent. The level of market dominance is very high compared to other developed countries, even after recent merger activity in North America and Europe. Our information shows that the top three supermarket operators in the UK hold about 45 per cent of the market, and less than 28 per cent in the United States, while in Japan the top five hold 17½ per cent.

We are firmly convinced that the retail chains' oligopoly is anticompetitive, unhealthy and destructive to small business and jobs, as well as in rural and regional communities. As they eliminate their competition, choice is reduced and the scope for opportunistic pricing is being increased.

We say that the government does have a role to play in ensuring there is a level playing field and fair competition and has a responsibility to act wherever there is clear evidence of market failure to ensure that those imbalances are countered. The government intervenes in the media and banking sectors to ensure that there is competition and choice. The recognition in the banking sector that four pillars are necessary for a competitive market we believe has significance for grocery retailing.

The inexorable rise to market dominance by the chains has been built on an aggressive program of acquisitions of successful independent stores and chain operations, with little or no intervention by the ACCC and its predecessor the Trade Practices Commission. These acquisitions are set out in appendix 8 where we show the large acquisitions that have occurred in the period 1980 to 1995 and in appendix 5 where we detail the chequebook losses that we have tabled for the period 1995 through to the present day. Some 80-odd stores have been bought by the chains in the four-year period comprising over $1 billion of retail turnover.

**Senator FERRIS**—What page was that?

**Mr McKenzie**—That was appendix 5 of our submission. That is the chequebook losses.

**CHAIR**—What was that market figure again that you are claiming? The buy-out figure. How many supermarkets were lost?

**Mr McKenzie**—There were over 80 independent stores over a four-year period and over $1 billion worth of retail turnover. As was mentioned previously, that is almost three per cent of our belief of the national grocery and supermarket sector. Of the recent approvals granted by the commission, that which caused most concern and alarm was the 1996 acquisition of Cannons Supermarkets by Woolworths and my colleague, Mr Kovas, will talk about that particular matter later on.

We believe that this level of market dominance that the three major chains have is unhealthy. In our executive summary on page 9 we have detailed that it is antijobs because of COSBOA research showing that for every job that a major chain creates, 1.7 jobs are lost in the independent sector. The smaller grocers are job rich and that same COSBOA research also shows that every time there is a one per cent shift in market share to the chains, there is a net loss of 1,800 full and part-time jobs.

We also believe that the chains' dominance is anti small business and they are the silent engine room of our economy. Research published in *Retail World* showed that in the seven years to 1997, 844 small and independent retailers left the market. We also believe that the dominance is antirural and regional community because the chains are pushing more and more into rural and regional Australia in their desire for increased market share, and they are impacting seriously on small business. Some of that was discussed earlier in previous evidence.

We believe that small business underpins the infrastructure of local communities and that they buy, invest and employ locally. As a result, they are a vital part of each of those local communities' infrastructure. We also say it is antifamilies, because small business grocers are predominantly family owned operations. It is antichoice because the chains are eliminating choice through their steady acquisition of retailers and driving others out of business. We believe that at the end of the day that is bad news for the consumer, because it will affect the provision of services in country towns where we have the elderly, the disadvantaged and low income earners who often do not have the mobility to travel to major centres. In some cases they will lose their local shopping and the convenience that that local shopping provides.

We also submit that it is bad news for prices and consumers generally, because the evidence shows that the prices of the two major grocery chains in Australia—and we have detailed the *BRW* report in appendix 4—

**Senator FERRIS**—I am having trouble finding these things. Can you tell us exactly which submission they are in?

**Mr McKenzie**—The things I am mentioning are covered in the body of our submission.

**Senator FERRIS**—I simply cannot find appendix 9 and I was interested in some figures.

**Mr McKenzie**—This particular section starts on page 59 that I am referring to.

**Senator FERRIS**—It would be helpful if you could say what page it is, because we are having trouble keeping up, or at least I am.

**Mr McKenzie**—What we have here is a section on market domination and why it is unhealthy in part 10 of our submission. That is on page 59.

**Senator FERRIS**—Where was appendix 9 which you referred to?

**Mr McKenzie**—Appendix 9 is in this set of documents. We have two sets of appendices.

**CHAIR**—This is a good example of not overkilling in terms of submissions. This pile of documents is what we have had to absorb this weekend. It all reality, as parliamentarians—and you have put this other document in as well—this is a good example of having something more concise that is easily accessible. I would just make that point, but please go on.

**Mr Barnett**—We have an executive summary, which is six pages, the submission is 163 pages and the appendix is in two parts, I understand, being part 1 and part 2.

**CHAIR**—This applies equally to Woolworths and Coles, I should say.

**Mr FITZGIBBON**—Yours is a very well organised submission.

**Mr Barnett**—Thank you.

**Senator FERRIS**—So are you saying all of that is actually in these, or is this in addition?

**Mr Barnett**—Yes, absolutely—100 per cent.

**Mr McKenzie**—All of those appendices are referred to in the body of the submission.

**Senator FERRIS**—Yes. But, when you suddenly talk about appendix 9 and I hear some figures I would like to have a look at, I have no hope of finding them before you are on another appendix.

**Mr Barnett**—Appendix 9 would be in your section 1.

**Mr McKenzie**—Would you like me to go back to any particular points?

**Senator FERRIS**—In appendix 9, I think, you talked about a number of stores that sold to major retailers.

**Mr Barnett**—That was in appendix 5. That has a little '5' at the top.

**Senator FERRIS**—So it is the stuff in my hand?

**Mr Barnett**—Yes, that is right. It is the tenth page in from there. It has 'Chequebook losses—national register' at the top.

**Senator FERRIS**—I think you get my point, Mr Barnett, don't you?

**Mr Barnett**—Thank you, Senator.

**CHAIR**—This equally applies to the other submissions from the majors, I have to say. This does not apply only to you.

**Mr McKenzie**—I appreciate what you are saying.

**CHAIR**—Please proceed now that we are right.

**Mr McKenzie**—If I can just repeat what I said about the chequebook losses.

**Senator FERRIS**—Yes, that would be helpful.

**Mr McKenzie**—We have been tabulating chequebook losses since 1995. We believe, based on what we have presented there, that there have been over 80 independent stores purchased by the major chains in the period from 1995 through to the present and that the total retail turnover of those stores amounts to in excess of $1 billion, based on estimates that we have made in talking to our members. We believe that $1 billion is almost three per cent of the national supermarket and grocery stores sector in total.

The other acquisitions that I referred to were in appendix 8 of the report. They refer to large acquisitions that occurred in the period from 1980 through to 1995. So in essence, if you put the two together, what we have is basically a history of acquisitions by the chains over almost the last 20 years in total. If I could just press on, I am on page 9 of our executive summary.

**CHAIR—**What was that total? Was it over 10 years?

**Mr McKenzie—**No, it was over four years—$1 billion in retail turnover.

**CHAIR—**The same as the figure you had before?

**Mr McKenzie—**Yes.

**Senator BOSWELL—**Which is three per cent of the market?

**Mr McKenzie—**Almost three per cent of the national market.

**Senator BOSWELL—**Can you help me, Alan? What page are you on?

**Senator FERRIS—**We are on page 13.

**Mr McKenzie—**We are on page 9 of the executive summary.

**Mr Barnett—**Can I interrupt here and say all of this is summarised in the executive summary, which goes from page 8 through to page 13. Everything that Alan is saying is in those six pages.

**Senator FERRIS—**Which begs the question—

**Mr Barnett—**Alan is expanding on it for your further edification.

**CHAIR—**Thank you, Mr Barnett.

**Mr Barnett—**We are at page 9.

**Mr McKenzie—**I must say that we do not seek to confuse or obfuscate. We are happy to slow down at any time. We are now on page 9 of the executive summary. I was referring to price as being an issue and the fact that competition restrains prices. The report in *BRW* that I referred to, which is in appendix 4 of our submission, talked about the fact that it had found that the prices in Australia's two biggest grocery chains depended mainly on the presence of one other competitor, rather than on the location of the supermarket. We believe that, without a viable independent sector to compete against the large supermarket chains to keep them honest, there will be greater scope for the chains to raise prices due to there being less competition.

Finally, we say that the chains' increasing dominance is against the public interest, that oligopolies are naturally destructive and pursue monopoly profits and that is bad news for consumers, small business and producers, who are being disadvantaged as the chains' dominance grows. That concludes my opening remarks. I would like to pass over to Sam Richardson, who will continue to take you through the executive summary.

**Mr Richardson**—Mr Chair, I will not refer to any appendices. It will be plain, simple and straight from the mouth.

**CHAIR**—All right.

**Mr Richardson**—One of the other concerns that we have is national competition policy. For too long reforms have been driven, we believe, by a bureaucracy dominated by economic rationalists. As a result, the broader spectrum of the social and community impact of the reforms has been ignored, with devastating results. I must say, with due reference to Dr Abraham, that his evidence merely confirmed my belief in that regard.

These results are particularly devastating in rural and regional areas. All the evidence shows a trend of job losses and small business closure with resultant losses in family and community income and the loss of infrastructure in rural and regional communities, which is so vital to the fabric that holds those communities together. Without that vital fabric, those communities will wither and die.

The negative impacts of national competition policy in rural and regional areas are compounded by the fact that household incomes are demonstrably and substantially lower in rural and regional townships. Evidence from the ABS, the Australian Bureau of Statistics, is provided in support of these views. I will not refer you to the appendix!

Because of lower household incomes, people and families in these areas are more vulnerable to harsh economic rationalist policies. In addition to the above, unemployment is higher in these areas, which adds to the cycle of lower incomes and makes townships more vulnerable to the effect of small business closures. Loss of business to the 'big box' supermarket in the neighbouring township means loss of employment and income to more than one generation, their spouses and families.

I was sitting here today listening to the other people putting their submission, and their definitive view of a country town is certainly not mine. I am talking about real grassroots rural and regional towns, not large populated centres that these people are only interested in. I do make that quite clear.

We say enough is enough. It is time for the politicians to regain control of the NCP agenda from the bureaucrats and place a moratorium on NCP reform as it affects the retail sector. This moratorium should apply until the recommendations flowing from the Senate committee of inquiry—into the social and economic effects of national competition policy—and the Productivity Commission inquiry—into national competition policy and its impact on regional Australia—are implemented. The Reid report of May 1997, *Finding a balance: towards fair trading in Australia*, stated:

> There needs to be a recognition that the Australian commercial environment is no longer conducive to fair competition because of high levels of concentration in many industries—including retailing. It is naive to expect small business to

survive unrestrained 'competition' without some form of protection from the worst excesses of the exercise of economic power.

. . . . . . . . .

After detailed investigation, the Committee has concluded that concerns about unfair business conduct towards small business are justified and should be addressed urgently.

That was from the Reid report, *Finding a balance*. The Reid report further acknowledged that the current legislative regime in Australia was inadequate.

**CHAIR**—Mr Richardson, can I just ask you whether you continue to plan to read the submission?

**Mr Richardson**—No. I finish at the end of this sentence.

**CHAIR**—I think you have the good fortune that most of us have read your submission on the weekend.

**Mr Richardson**—Thank you. I just wanted to make it nice and simple without going to appendixes.

**CHAIR**—Thank you. We appreciate that.

**Mr Richardson**—So the current legislative regime in Australia was inadequate and the Trade Practices Act required special attention. We do acknowledge that some of the report's recommendations have been implemented but further needs to be done. Michael, if you would like to make some comments.

**Mr Kovas**—Thank you. I run an independent supermarket in Camperdown, Sydney, and I am currently President of the Food Retailers Association of New South Wales. The ongoing decline in the market share of independent retailers is irrefutable proof that the independents cannot compete fairly in the retail grocery market.

**CHAIR**—Mr Kovas, this is also part of the written submission.

**Mr Kovas**—Yes.

**CHAIR**—Do you want to make some comments independent of what is written here?

**Mr Kovas**—Yes, I will just finish this article here, and I will go on to something else.

**CHAIR**—We do have the advantage of having that in front of us and most of us have read it on the weekend.

**Mr Kovas**—The other points I want to make refer to the cost of capital, which is outlined here. The chains can borrow at approximately three per cent below that available to small and independent retail grocers, which is causing a lot of concern for independents. Also outlined are the business risks and the acquisition of stores.

I would like to refer to a recent article. Of recent particular concern was the approval of the Woolworths-Cannons acquisition. We estimate this acquisition gave Woolworths 70 per cent of the retail grocery market in the Valley and in Canberra. In Cooma, it gave Woolworths the two supermarkets, with no competition in the one town. Mr Gary Nairn made reference to this fact in his electorate earlier today. The same situation now exists in Batemans Bay, New South Wales, where we have two Woolworths stores because the third store, an independent, recently went out of business.

What competition exists in these two towns is beyond me. How can this be allowed to happen? These are not isolated cases. Similar things are happening in other parts of Australia. It is widely known in the Sydney and ACT retail grocery industry that Woolworths are trying to sell one of their two stores in Cooma. What is more, it is widely known that Woolworths are offering rock bottom prices. I suggest this is because Woolworths are embarrassed, and the situation proves our point that this is an anticompetitive arrangement and should never have been allowed. The other point is the wholesale sales tax, and I will pass on to Mr Barnett to make reference to that. Thank you.

**Mr Barnett**—Thank you. I appreciate the level of reading that you have to do, and I appreciate your forbearance. The wholesale sales tax is another issue which has been acknowledged by the ACCC in their submission on page 12 and 13 as being a reason for having an unlevel playing field between the independents and the major chains.

We want to draw the committee’s attention to the creeping chequebook acquisitions and the policy to grow their market share for the major chains. That policy stems back many years, including back to September 1994, when the managing director of Woolworths said, ‘The company is aiming for a 40 per cent share of Australia’s grocery market in 5½ years, up from its current 31 per cent as the company grows.’ More recently, on 28 August 1997, the *Australian* newspaper reported Mr Clairs as saying, ‘Woolworths market share should stabilise at about 37 per cent by then’—meaning the year 2000—‘with main rivals Coles, climbing to about 33 per cent.’ We believe these figures are very conservative.

We also believe that these quotes help rebut any argument that Woolworths has about the market, the definition of the market and the fact that it is not dominant. With Woolworths’ figure approaching 40 per cent and there is Coles and the third retailer, it is clearly an acknowledgment of the 80 per cent retail grocery market figure which we use. At least on one point we agree with Coles—that the 80 per cent figure is the appropriate figure for determining the retail grocery market.

We also note that the ACCC acknowledge that many of these purchases of independent grocery stores are above market value. They say that in their submission at page 34: ‘The stores being purchased are often the largest and the closest competitors to the chains.’ Also, the ACCC said, ‘The issue may not be so much the effect on a particular localised marketing region or catchment area but the longer term effect on the viability of the independent wholesaler.’ They imply that there may be merit in a special study on these concerns. This is one of the additional recommendations we would like to make to the committee today.

With respect to monopolies and oligopolies, they have been recognised for a long time as being anticompetitive. They serve to set commodity and other prices at artificial levels.

Without going into too much detail, we had liaison with the United States and received correspondence from the Federal Trade Commission. They said in their letter that the fact that the FTC sees merit in keeping the market structurally disposed towards competition is of vital importance. So that underpins our view that there needs to be that level. It would appear our competitors—Coles and Woolworths—are unwilling to say at what level it becomes anticompetitive or uncompetitive, and we are surprised that they do not even acknowledge that there is some level where it becomes anticompetitive.

In the United States, they have what is called the HHI factor. Not being an expert in this area but just based on the information they have provided to us, clearly the Australian retail grocery market fits within the very highly concentrated range based on the US examples. We looked at two case studies, and they were very recent, only the end of last year. They were the Giant retail grocery store merger with another retail grocery store and the Buttrey retail grocery store merger. The FTC stepped in and said, 'Thirty-five per cent in this instance is enough market power and enough market share. That is it.' They forced divestiture of, in one case, 10 stores and, in another case, 15 stores. They forced that divestiture within four months of the consent order being signed and agreed with the FTC. I know there may be questions regarding the timing for divestiture later in the inquiry, but that is a good example where divestiture was required quite quickly. Even the ACCC notes those two particular cases I have referred to, and that is in its submission at page 52 and 53.

We looked at the threshold figures in other countries and we discovered that, in the United Kingdom, the threshold trigger is 25 per cent; in France, it is 25 per cent; and, in Germany, it is 33 per cent for one entity, 50 per cent for three entities and a maximum of 66 per cent for five or more entities. Based on this analysis and the above, Australia has what appears to be one of the most concentrated retail grocery oligopolies in the world.

Special note should be given to the ACCC's review of overseas legislation restricting the establishment of large stores—particularly in Japan, France, Italy, Belgium and Spain—primarily through local and regional planning laws. This is, again, one of the minor but additional recommendations we would like to make to the committee today—that further consideration be given to that review by the ACCC and to those laws, where large stores are specifically restricted from establishing in local and regional communities.

We say that there is an urgent need to substantially upgrade our Trade Practices Act and to incorporate new sections similar to the antitrust provisions in the US and perhaps other countries. Failing that, or in the alternative, we need to create a new retail industries anticoncentration act. This act would need to contain within its provisions antitrust style sanctions including forced divestiture, stiff punitive damages and other sanctions which would include the option of direct prosecution against relevant company directors, public apologies from the company listing the names of the directors and, where appropriate, criminal prosecution and prison sentences. Legislation should be structured to ensure that small business and others adversely affected by any illegal action would be fairly compensated.

Before we focus on the recommendations and answer any questions, I will just respond to two points made earlier this morning, if that is appropriate to the committee. Firstly, Woolworths referred to the excellent example of their contribution in the town of Warwick in Queensland. We have on record at appendix 21, dare I say it—please do not refer to it if you do not need to—a letter of support. It is a letter of support, entire support, for NARGA's submission to the Productivity Commission, which includes the recommendations for capping.

**CHAIR—**It is support from whom?

**Mr Barnett—**From the Shire of Warwick, from the mayor of Warwick, in fact.

**Senator BOSWELL—**The mayor of Warwick was just on the video there.

**Mr Barnett—**Yes, we have been advised today that he specifically requested that that not be used in the retailing inquiry but, putting that to one side, we have in writing a letter at appendix 21 supporting our submission. So we just raise that.

**CHAIR—**So he was featured in the Woolworths video and he asked specifically not to be used; is that right?

**Mr Barnett—**That is what we have been advised.

**CHAIR—**Why did he ask not to be used? Was it because he was unhappy with what he had said?

**Mr Barnett—**I am not familiar. We would have to ask him that question.

**CHAIR—**Perhaps the Woolworths people might like to advise us whether the mayor of Warwick wishes to listen to his comments or not.

**Mr Barnett—**The second point regarding Woolworths' contribution is that Mr Corbett did not give a professional presentation but specifically referred to how large and significant the company was in Australia and its relationship with suppliers and farmers. That really supports in our view our position that a company can get too big and too powerful, and dangerously so. Again, they seem to be unwilling to say what is the threshold or at what point they become too big.

**Mr McKenzie—**If I could just add a couple of points to the evidence we have heard today, if I could have your indulgence.

**CHAIR—**That is what you are here for, so please do so.

**Mr McKenzie—**Thank you. I think it was Mr Corbett but certainly Woolworths' evidence made the point that the success of the Advantage supermarket operation in Western Australia was a good example of the free market at work. What they did not say is that they have tried to buy that business and have been unsuccessful.

**CHAIR—**I think it was raised that they had tried, was it not?

**Mr McKenzie—**Was it? Sorry, I might have missed that.

**CHAIR—**I thought one of the people on the panel had raised that.

**Senator BOSWELL—**Yes, it was raised by me.

**Mr McKenzie—**If that is the case, I am sorry about that. I did not hear that. It was certainly unsuccessful, but it would have been added to the list of chequebook acquisitions had it been successful. Further on in the Coles evidence, Alan Williams made mention of Deniliquin as being a good case study of the benefit that Coles can bring to a town. We have heard some different stories in terms of Deniliquin. In fact, the major supermarket operator there has been in litigation with Coles over a predatory activity. To be honest, I cannot explain to what point that litigation is at, but it is in train and we did bring it to the attention of the ACCC. But certainly there is one small business in Deniliquin who is not a happy camper.

**Mr Richardson—**Mr Chairman, a lot has been said today with regard to the Tasmanian experience, the Tasmanian case study. Having been involved in small business in Tasmania for 44 years, I have a direct knowledge of that part of the industry. In the late 1970s, Woolworths had only seven per cent of the market. There were two quite large independent chains, one either end of the island, which were purchased by Woolworths, which gave them a further 35 per cent of the market, bringing that up to 42 per cent. In the proceeding years, they also purchased the three largest independents in Tasmania, which took them to over 45 to 46 per cent. So I would suggest to you that, in today's enlightened age, the ACCC would not have allowed that to happen.

Also there has been mention of the 23 per cent price difference, and Mr Fitzgibbon's colleague in Hobart has been doing a price watch on prices in major chains. That is where the 23 per cent variance between Hobart and Mackay came into account. The real reason that there is a price difference is not so much the transport. I tend to agree possibly more so with Coles that, in a small island state with fewer than 470,000 people, the major chains, with their major nomination of 78 per cent, have overcapitalised. Therefore, they are paying the price for going too far, firstly, with their chequebook acquisitions and, secondly, with building new stores and hastily gobbling up as much market share as they can. That is the reason for the price variance. I just wanted to clarify that issue, Mr Chairman.

**CHAIR—**Further comment?

**Mr McKenzie—**Yes. If I could just close off with what our key recommendations are. As we have explained in our introductory comments, we believe that the Trade Practices Act has failed this industry and that the Trade Practices Commission and its successor have allowed totally unrestrained acquisitions of independent stores and chain operators in this industry. We believe that some of the decisions are of concern, and we have already raised the issue of the Canons acquisition and the monopoly that has created in the towns of Cooma and Batemans Bay.

The commission openly admits that it is unable to stem the tide of chequebook acquisitions, and that has been discussed already in this forum. We believe that there has to be a new way forward. We need either to dramatically strengthen the Trade Practices Act so it provides fair competition in this market or to go in another direction, as already explained, in terms of going down the path of a new act which we call, for want of a better title, the Retail Industries Anti-Concentration Act. That would embrace what we are calling our pillars of retail equity into law, and it would be capable, we believe, over time of providing an orderly retail grocery market capable of delivering a truly competitive environment in which we can all compete and compete fairly. We believe that that would have to contain divestment provisions, punitive damages and other sanctions against perpetrators of market abuse.

Our key recommendations, therefore, and consistent with our pillars of retail equity doctrine, are to immediately place a cap of 80 per cent on the retail market of the major grocery chains, to reduce that 80 per cent cap to 75 per cent within five years with no major chain thereafter being allowed to have more than 25 per cent of the total retail market. Allied to that, we believe there should be mandatory social, economic and community impact statements prepared whenever applications to local councils are made for new shopping centres or major retail developments. That is in line with one of the recommendations that was in the Reid report, which has not been picked up. We have other recommendations.

**Senator MURRAY**—Mr Chairman, one thing that is worrying me about this is that we have all read and absorbed the submission and we are going to be left with too little time for questions.

**Senator FERRIS**—Nearly an hour has gone by.

**CHAIR**—Okay.

**Mr Barnett**—We have two minor additions to the recommendations, which we would like to put to the committee, in light of recent considerations we have had over the last week or so. The first is to recommendation 3, and it reads as follows:

> . . . to carefully consider the views of the ACCC regarding overseas legislation restricting the establishment of large stores, particularly in Japan, France, Italy, Belgium and Spain, primarily through local and regional planning.

We believe there is merit in that recommendation.

**Senator FERRIS**—Does that replace number 3?

**Mr Barnett**—No, it is an addition that fits with recommendation 3. It is a further part of recommendation 3, which we will confirm in writing to you. The second is a fourth dot point in relation to recommendation 9. There are three dot points under recommendation 9(a), which is on page 161 of our submission. The fourth dot point will read as follows:

> . ensure that for every purchase by a major chain it is mandatory for that chain to notify the ACCC of its intention to purchase and to gain authorisation from the ACCC to ensure it is within the cap.

**CHAIR**—Is that every store?

**Mr Barnett**—It is every single store. There must be notification and then there must be authorisation from the ACCC.

**Mr NAIRN**—What exactly do you see a cap being put on? Are you talking about dry grocery retail generally? Are you talking about different caps for different parts? Do you see that actually being embodied in legislation?

**Mr McKenzie**—That is what we are seeking. We are seeking a cap, and we believe it should be applied to the national grocery market share.

**Mr NAIRN**—The dry grocery—

**Mr McKenzie**—It is not just dry grocery; it also includes perishable—

**Mr NAIRN**—Or packaged goods?

**Mr McKenzie**—Yes, it includes packaged groceries, which includes perishables and frozen products. And these are the figures that are reported by Neilson and published in *Retail World* twice a year.

**Mr NAIRN**—Would that be embodied in legislation?

**Mr McKenzie**—Yes.

**Mr NAIRN**—That would be a first internationally, wouldn't it?

**Mr McKenzie**—It would be. There are threshold triggers, which have been mentioned before. But, as we understand it, on the evidence that we have seen, there are no caps in place. Having said that, I should point out that there is a cap of eight per cent on the packaged liquor licences that can be owned by any one entity in the Victorian market. So there is a precedent for capping in Australia. But, yes, we take the point that we are talking, based on what we understand of the international experience, about breaking new ground.

**Senator MURRAY**—There are caps in WA as well.

**Mr NAIRN**—One of the misconceptions that seems to be out there being thrown around in the public debate is that, quite loosely, the top three in the United States only have 20-something per cent and that is because they have antitrust legislation that caps them. That is not the case, is it?

**Mr McKenzie**—We have never said that.

**Mr NAIRN**—I am not saying that you have. But that is part of the debate that seems to take place. We have had discussions with the ACCC and with somebody from America who is working with the ACCC at the moment. He, in fact, commented that you can grow organically to get 100 per cent of the market in America under the current regulations. Throughout your submission and in a lot of your comments you drew comparisons with America. I just wonder whether that is a good example to really get your case across, because it is really comparing apples with oranges, is it not? The markets are just so different, and theirs is huge compared with Australia's. Have you done any comparisons at all of market share in like markets in geographic regions of the United States?

**Mr McKenzie**—We have not, because we have not been able to get the information. We were hoping that the ACCC, in fact, would be asked to provide that sort of evidence. We know that they have got a section on the international experience. They are the experts. We believe that they have the resources to get that information. We, unfortunately, do not have the resources. We have certainly done our best to scan the international experience as best we can, but all along we have said that the ACCC needs to be given a comprehensive reference to advise the committee in the areas that you are talking about. I think they have done a good job in the evidence that they have presented, but I do believe that it would be appropriate for this committee to go back to the ACCC to get that type of information, because we just do not have it.

**Mr NAIRN**—It is a matter that the committee is looking at. I just wondered whether you may have had similar organisations from other countries who could have provided you with a bit more information in that respect. I want to ask—I know that everybody wants to ask many questions—about the variety of arguments that you are putting forward about overconcentration, which is not necessarily just price oriented, in aspects of small business. As somebody who has been in small business all of my life, I understand those things. I am a great supporter of small business. One aspect is obviously the price to the consumer, and that is something that just cannot be put to one side.

I noticed that in one of the submissions—and I cannot remember which one—some ABS figures were provided showing that over a 25-year period food prices have, in fact, come down by 25 per cent in real terms. How do you balance that with some of the arguments that are being put forward? Because at the end of the day, if there really is a major problem with market concentration, it presumably is ultimately spelled out in increased prices to the consumer because they have got to take what they are given.

**Mr McKenzie**—I think that these comparisons of grocery baskets showing what has happened over time in terms of the reducing real cost of grocery baskets has as much to do with the increasing productivity and efficiency of the suppliers and the producers who are supplying the retail grocery sector—both supermarkets and grocery stores. There has also been a lot of concentration in the supplier ranks. Through aggregation, no doubt, there have been efficiencies achieved which have helped to keep down the cost of the raw inputs in real terms.

So I think the argument that supermarkets and grocery stores are alone in controlling pricing is a bit of a misnomer. I think the role that our producers play in that regard is also very, very significant.

**CHAIR**—I take it then that you do accept that prices have fallen, because it is claimed by the majors to have fallen by 25 per cent.

**Mr McKenzie**—Yes. We do not have any problem with comparisons of grocery baskets worldwide, and we have no problem with evidence showing that in real dollars the price of goods has gone down. All we are saying is that there are other factors to be considered when you are looking at that type of information.

The other thing I would add in terms of whether we have a competitive market is that the EBIT margins of the major chains are increasing. Woolworths have been increasing their EBIT margins in their food and liquor division right throughout the nineties. Coles since about 1993, when they bottomed out, have been increasing their EBIT margins as well. We believe that is evidence that they are getting additional benefits through scale and volume from their increasing market share. The *BRW* report we referred to earlier shows that it is competition which keeps prices down. Where there is a third and fourth competitor out there keeping the big Coles and Woolworths honest, that is when we have competitive prices.

**Senator FERRIS**—Mr McKenzie, can you substantiate that claim about Coles? Have you done some work on that?

**Mr McKenzie**—In terms of—

**Senator FERRIS**—In terms of their increasing profits and their increasing margins.

**Mr McKenzie**—I hesitate to say this but if you refer to appendix 27 we have detailed financial information provided by JB Were which shows that those margins have increased over time.

**Mr NAIRN**—Are there figures for the independent sector at all?

**Mr McKenzie**—No.

**Mr NAIRN**—Anecdotally—

**Mr McKenzie**—I might ask Michael to answer that question because he is a retailer.

**Mr NAIRN**—What is your similar figure?

**Mr Kovas**—It is a very difficult one because we have not collated any data whatsoever in that area. We quite possibly could do something and bring it back.

**Mr McKenzie**—It is not something we have. To my knowledge, there has never been a study of independent retail margins. What we have here is published data, which is available to the Stock Exchange.

**CHAIR**—Could you take us through that chart just out of interest? At first blush it does not necessarily support what you are saying.

**Mr McKenzie**—This is appendix 27 we are talking about. We are talking about the food and liquor operations of Coles Myer and Woolworths. We are not talking about the total business.

**CHAIR**—Hang on a minute. You made the claim but you did not qualify it before.

**Mr McKenzie**—We are talking about supermarkets and grocery stores.

**CHAIR**—The supermarket figures indicate that the EBIT margin has actually gone down. In 1990 it was 5.1 per cent. It has gone down in 1998 to 3.3 per cent. They are the figures you have supplied.

**Mr McKenzie**—I did say that Coles had bottomed out in 1993.

**CHAIR**—You said that their margin had gone up.

**Mr McKenzie**—Yes, I said Coles bottomed out in 1993 and have been increasing their margin every year since.

**CHAIR**—That does not even show that.

**Mr McKenzie**—This is food and liquor. It has gone from 2.9 per cent to 3.1 per cent to 3.2 per cent to 3.3 per cent and now at 3.4 per cent.

**Senator FERRIS**—But in 1990 it was 3.6 per cent.

**Mr McKenzie**—I did not argue that point. I said that they bottomed out in 1993 and since that time their margin has grown.

**CHAIR**—If you check *Hansard*, that is not what you told the committee.

**Mr McKenzie**—What I said was that Woolworths have grown steadily through the 1990s but that Coles, after bottoming out in 1993, have also grown their EBIT shares steadily.

**CHAIR**—But it is still a lesser figure than 1990, whichever criteria you use. Whether it is total sales or food and liquor, it is still less.

**Mr McKenzie**—I do not argue with that. All I am saying is that there is a trend. Sure, Coles have been up and down. Woolworths have been steadily growing their EBIT. We believe that there is evidence that as they increase their economies of scale and volumes they are generating more profitability.

**CHAIR**—Sorry, Mr Nairn. We kind of hijacked your question.

**Mr NAIRN**—I think Mr Richardson wanted to comment on my question. Presumably those sorts of figures must be provided to prospective buyers of businesses. If I wanted to buy your grocery shop, I would like to see some of those sorts of figures.

**Mr Richardson**—Mr Nairn, I would like to answer your question. Part of my job is to set the retail margins for our banner stores and therefore the viability of those stores. Because of the lesser margin that they are able to generate because of the lesser buying power, they have to take a lesser margin. If they are able to have 1½c in every dollar discretionary spend, they are doing quite well. Does that answer your question?

**Mr NAIRN**—It gives me an idea, yes.

**Mr JENKINS**—I am now getting it clear what your definition of what would be capping, and I will take that on board. Nielsen have made a submission. Have you seen that?

**Mr McKenzie**—Yes, I have.

**Mr JENKINS**—Have you any comment on the submission?

**Mr McKenzie**—I might make a comment and then perhaps my colleagues might like to add to it. We have always supported the Nielsen figures because they were relate to the supermarket and grocery store segment. They do relate only to packaged groceries, and we appreciate that, but they are widely accepted and acknowledged by the community as a whole, who are interested in such information, as the barometer of market shares in the supermarket industry. We understand that they are not complete data, and we appreciate that, but they do represent the bulk of the grocery retail market.

There are 105 categories that they research, and they represent the great majority. The ones they do not represent are areas where there is non-comparable data—things like milk and bread, snack foods and biscuits which go direct into store and are not trapped in the warehouse withdrawal data. So they exclude those components which in themselves are very large. It is our view that the Nielsen data has validity, it is representative, and it is the accepted barometer of grocery market shares in our industry. We were quite interested in Nielsen, having for years published this information, suddenly going to great lengths to perhaps not undermine their own information but certainly cast doubts upon the credibility of that data by seeking a very broad definition of the market which I have never seen before.

**CHAIR**—Why do you think they did that?

**Mr McKenzie**—I do not know. It came out of the blue. We had no real appreciation that they were going to do that.

**Senator MURRAY**—Who pays most of their fees?

**Mr McKenzie**—Manufacturers buy the data. They pay the chains and the wholesalers for that information. That information is then sold to manufacturers. So to answer your question, I do not know why Nielsen have gone for the very broad definition. We have a lot of confidence in that retail package grocery definition.

**Mr Barnett**—I have two additional points. The first is the two quotes from the Woolworths former managing director accepting the retail grocery figures going back to 1994 and 1997. He accepted it then and now suddenly there is a change today. The second is that the ACCC use those market share figures when they do an assessment of what is the market. Those figures are used by the ACCC in the various takeovers or mergers that have taken place over the last decade or so. They have been used again and again. They are published in *Retail World*, *Food Week* and so forth. They are further pieces of evidence in support of our view.

**Mr JENKINS**—If we were to accept that there was a need for this capping device, what effect would it really have on the examples of local market problems that you have put to the committee? How would it affect Tasmania? How would it affect Batemans Bay?

**Mr Richardson**—The economies of scale are no different to an independent warehouse. You have to have critical mass to be able to support independent retailers out in the bush, out in the rural and regional areas. You have to have that critical mass to be able to engender support from the manufacturers in promoting their products through these stores.

If we do not have that critical mass, we are history. We are already in jeopardy of going down the gurgler. If we do not have that critical mass, we will not be able to support the wholesalers that are still left, and there are only three independent wholesalers left in Australia who are able to support independents all around Australia. My colleague reminds me that we have AIW. I might add that our colleague Michael Kovas is a member of AIW, and it may seem a contradiction for him to be here supporting this. But without that critical mass, we just are not able to be competitive. We cannot service our stores in a manner that allows them to be competitive against an ever increasing market domination.

I refer once again to the variance between my definition of a country store, a country town, and that of our opponents. They are only interested in major populated towns. They are not going out into rural and regional areas, per se. What happens is that they set up in a major populated centre within a rural region and then all that trade comes from those other country towns into that centre and we lose that vital infrastructure that allows those towns to survive. That is the real critical problem that is out there right now in Australia. The rural towns are struggling to survive. They have already lost all their other facilities, such as banks and other government facilities. I hope that answers your question.

**CHAIR**—Can you tell us the current number of people employed in the retail sector in country towns and what that figure was, say, five or 10 years ago?

**Mr Richardson**—I could not give you that answer off the top of my head, but I will take it on board and get back to you. In Tasmania I can tell you that 71 per cent of business generated by our retailer owned cooperative comes from rural and regional areas.

**CHAIR**—That is in terms of the institution, the organisations. What you have mentioned is employment. I think that that is a very valid point and I would like you to get back to us on that. We will also ask the ABS to come back to us with the information they have on the retail sector and what has happened in the retail sector overall.

**Mr Richardson**—Just as an aside, we have 534 retail members and they employ 3,614 people in Tasmania. But I will endeavour to get those figures for you.

**CHAIR**—Obviously employment is a pretty important issue for us.

**Mr Richardson**—Yes.

**Mr JENKINS**—Do the independent retailers carry the same breadth of range of product or are they moving towards having a narrower range to stay in competition?

**Mr Richardson**—It is a different range of products, especially in rural and regional areas and also in sizes of packaging. In the main we are looked upon as convenience outlets where people—pensioners and less well to do people—are able to come and purchase in smaller quantities, in generics and smaller parcel buys to maintain their standard of living. As to the range of products we would have, we have 10,700 lines available to our members out of our co-owned warehouse. Our competitors do not pull that many lines out of that warehouse.

**Mr JENKINS**—There is a suggestion about this German Aldi group coming in, who seem to specialise in a narrower range of lines. Even under a capped system, it could be that this group could come in to gobble up independents?

**Mr McKenzie**—We do not have a problem with new entries into the market. All we are concerned about is the amount of market power that the big chains have and the need to curb their dominance. New entrants are welcome to come into the market. There have not been too many in the last 20 years. There was talk today about Caltex coming into convenience supermarket retailing. That is pretty much a trial exercise. It is not a done deal in terms of their long-term commitment. They are going to come in and have a look at it and see if it makes sense to them. Aldi—I will put a question mark there. Sure, they will come in. If they do come in, that is great. Whether they will succeed is another issue, because Australians have been traditionally used to a very wide range of grocery products. As to whether they can come in with 600 or 800 lines and try to do a cut price job on those, I would say the jury is out on that one. If they come in, that is terrific; we have got no problem with that.

If you look at the history of the industry it has not had many new entrants. The Pick and Pay chain had a go back in the 1980s. Subsequently it got sold to Coles; it could not make a go of it. The Giant supermarket group, which is in our list of large acquisitions, had big plans to expand in Queensland and northern New South Wales. It got to five stores, could not make a go of it, and sold out to Franklins.

I think it is a good thing to have new competition. It gets everybody sharp. We have no problem with that. We are not asking for protection. We have never asked for protection. What we are saying is that we want to be able to compete fairly. If there are new entrants coming into the market, we have no problem with that.

**Mr Richardson**—We do have a company in Tasmania called Chickenfeed. They run a similar operation to what Alan is describing as the Aldi offer. They still have to rely on the very cheap end of the product lines to make that a worthwhile concern. They have dabbled in grocery national lines to a degree but not to any great extent, because people are still conditioned to look for a major product range availability.

**Senator BOSWELL**—Michael, what would your shop owners' views be on the ACCC tightening up on creeping acquisitions to the effect that they would not be able to sell out to Coles or Franklins or anyone else? How would they react? I have tried it on a few of them and I did not get the response that I thought I would get.

**Mr Kovas**—Thank you for the question. It is a very good question. In most cases, judging from experience, I do not think they have a problem there. There are isolated situations where a chain will offer huge amounts of money to buy out an independent. In a lot of cases, they take it. If the children do not want to follow in their steps in the business, they are forced to take the offer. But generally they try to stay within the business because the children come up in the business and follow them.

**Senator BOSWELL—**If someone offers you an amount which in your estimates is worth 10 times the value of the store, it would seem to me that it would be like winning the lottery?

**Mr Kovas—**Yes, that is a very good point. But when you have a successful business, whether it is a small independent or a large independent grocery supermarket, quite often that offer may only represent two years trading—two or three years profits. So in most cases they try to hang on to the business.

**Senator BOSWELL—**What I am asking is that, if Coles offered an independent 16 times more than the store is worth and we prevented it by changing the Trade Practices Act, what would be the reaction of small business?

**Mr McKenzie—**We must make it very clear that we are not here to stop chequebook acquisitions. We cannot stop our independents from selling out.

**Senator BOSWELL—**Well, you can.

**Mr McKenzie—**Yes, we can but our independents generally would not support us on that issue.

**Senator BOSWELL—**That is the answer I am after.

**Mr McKenzie—**All we have ever said is that they need to operate within a cap. In other words, if they buy something, they have to divest something.

**CHAIR—**That is hardly likely to help your members. What is really critical—and this is the core of the issue—is whether you have the full support of your members. According to your submission, in Western Australia they are being paid an astronomical price over and above their value. If someone comes to me and Woolworths want to buy, according to the processes you have instituted, they have to divest themselves. They may say, ‘Sorry, we don’t want to do that. The deal is off.’ Are you sure all your members would support that approach? It is Senator Boswell’s question, but it is an extremely good one. It is critical to the issue.

**Mr Richardson—**I would have been most disappointed if somebody had not asked that question. I thought it may have been you, Sir.

**CHAIR—**I am a simple chairman.

**Mr Richardson—**We have no intention of attempting to stop our members from selling.

**Senator FERRIS—**Presumably some of your members already have sold in the past.

**Mr Richardson**—That is correct. Since our meeting with you, Mr Chairman, we have gone back to all our members of NARGA, occasioned by your comments when we met with you, because our credibility was on the line. We were able to confirm that we were representing our members. In this regard, each and every one of our members have been issued with our recommendations to this committee, and there has been no comment to the contrary.

**CHAIR**—So they all know that under your proposals it would become much tougher to sell one of their supermarkets.

**Mr Richardson**—They have received the copy. They are business people. They would understand the implications of what we are putting forward.

**Senator BOSWELL**—Alan, you were very critical of the National Competition Council or their policies. Apart from trading hours, is there any other way they have affected you until now?

**Mr McKenzie**—That would be the major effect on us. What we do not understand in terms of the operation of the National Competition Council is that we have all these inquiries going on. We have Senate inquiries, a joint parliamentary inquiry and the Productivity Commission inquiry all looking at different aspects but all impacting on retail, and we have the NCC charging away trying to strip away the very laws that provide independent retailers with an opportunity to compete on a more level playing field.

That is the real concern that we have. We cannot understand how that can be allowed to happen when the Reid committee identified all of this in their report in 1997. They said that unrestrained competition was creating major problems and they acknowledged the level of dominance, yet we have the NCC operating almost independently of this trying to rip away independent protections.

**Senator BOSWELL**—But is it only trading hours?

**Mr McKenzie**—Shop trading hours is the major one.

**Senator BOSWELL**—Is there any other one?

**Mr McKenzie**—In Victoria I mentioned the example about the cap on packaged liquor licences. They are probably after that as well. They probably want that to go as well, because that is a competitive restraint in their view.

**Mr Richardson**—Further to that, Senator Boswell, there are also the mergers and the closing down of rural and regional councils and shires that impact on country and rural towns. That is also part of the national competition policy.

**Senator BOSWELL**—I understand the national competition policy well, but I cannot see how apart from trading hours it has impacted on you. I was just asking the question where, apart from trading hours, it has impacted upon you.

**Mr Barnett—**I have one additional comment. The evidence we could find in the last six years is that it has all gone backwards since the implementation of the national competition policy in rural and regional communities. There has been a higher concentration in the retail grocery sector.

**Senator BOSWELL—**But it has nothing to do with the national competition policy. I think the national competition policy has it faults, and I have been one of the most vigorous opponents of it, but I cannot see how it is affecting you guys. I cannot see how it is affecting the stores. Sure it does those things to the councils that you mention, but we are not investigating the councils. We are looking at market domination. I can see how it could in the future if they were to deregulate the pharmacies, the newsagents and so on. I could see it having a tremendous impact on you, but I cannot see that it has done anything to you at the moment.

**Mr Richardson—**The major impact would be retail trading hours and the pressure that would undoubtedly be on state governments to accede to national competition policy guidelines because of the amount of funding that would be forthcoming.

**Senator BOSWELL—**So it is more in the future. Why can you not keep up with the big stores? Is it a question of finance? Can you not match the deals? Do Davids get a less competitive deal than Woolworths or Coles from the manufacturers? Is it that you cannot get access to finance and therefore you cannot put in the big shops, the bright lights and big refrigerators?

**Mr Richardson—**Senator, I suggest you keep going because you are answering your question in that regard. That is the real reason we have the problem, because it costs anything up to three points more for finance for small business. If you can give them the guarantees they want, you really do not need their money anyway. We also have a wholesale sales tax problem which puts us behind the eight ball.

**Mr FITZGIBBON—**The GST is going to make it worse.

**Senator BOSWELL—**No, it will not. It will wash it out actually. It fixes it to a large degree.

**CHAIR—**That is right.

**Mr FITZGIBBON—**Read their submission.

**CHAIR—**Thank you for your contribution.

**Mr Richardson—**Mr Chairman, would you like us to put a submission to the GST while we are here?

**Mr FITZGIBBON—**I have read the relevant section that makes it quite clear the GST will make it worse.

**Mr McKenzie**—I would like to answer that question. We have set out as best we can the key areas where we find it difficult to compete and the fact that there is no level playing field. It is in section 15 of our submission starting on page 87. There are a number of issues, such as capital, the business risk that is involved when you are competing against chains that can sustain losses for long periods of time, the acquisitions of stores that are going on. We cannot compete fairly in those areas.

There is also access to new sites. The chains have very close relationships with major developers. We do not get a look-in when a major centre goes in. One of the concerns that we have become aware of recently is that Coles can—and have been able to for some time with their Bi-Lo entity—effectively lock up a centre with a Coles at one end at a Bi-Lo at the other so there is no other competing supermarket in that centre. This is what is happening out there. It is not a level playing field. We cannot compete in the current environment, and we have tried to outline that very clearly in that section.

Apart from the wholesale sales tax issue, the other major issue is that there is no wholesale pricing structure in the retail grocery market. We are lucky—when I say ‘we’, I am speaking of the major wholesalers—if we buy at the same price as the chains. Despite the fact that we have a totally different operation to support in which we have to offer credit to our customers, we get no recognition in supplier trading terms for the role that we perform in supporting our independent customer base as well as the different characteristics of dealing with and servicing independents compared with a chain, which buys into a centralised distribution centre, transfers goods to its stores and gets instant cash money when those goods are sold.

We just do not have a level playing field, the reason being that the chains are so dominant that they have forced manufacturers to give them wholesale prices even though they are not in the wholesale business. They are retailers; they are vertically integrated retailers.

**Senator BOSWELL**—But wholesalers went out—and I think I was the last of the Mohicans, in a sense—in the sixties; I think that was when wholesalers went out.

**Mr McKenzie**—Yes, the game was lost in the sixties.

**Senator BOSWELL**—It was all over in the sixties.

**Mr Richardson**—All over, yes.

**Senator BOSWELL**—I do not think we can wind the clock back, but are you receiving the same discounts, the same settlement terms—

**Mr McKenzie**—Yes.

**Senator BOSWELL**—the same shelf space terms?

**Mr Richardson**—You never know the bottom line.

**Mr McKenzie—**What we do get are the base terms; that is, basically, a list price, less settlement, less quantity discounts. What happens over and above that so-called discretionary spending, you would never know.

**Senator BOSWELL—**Can you explain 'discretionary spending'?

**Mr McKenzie—**Discretionary spending is how much is spent in promotional activity, how much is spent in shelf space management and support—things that are not published information. These are areas where suppliers have a lot of discretion in dealing with retailers. You can never be certain whether we are getting the best deal. Sure, we buy fundamentally at the same list or net list price, if you like, as the chains. But, beyond that, we have no idea whether we are getting the best deal. We try to make sure that we do. But then we have to charge our retailers a service fee for supplying them with goods. So, again, there is no level playing field.

As wholesalers, we have to make a profit. Then we have to sell to the independent, who then has to make his own profit. So, if he is going to be able to compete with the chains, he has to take a lower margin than the chains to sell at the same price. That is the nature of competition in this industry.

**Mr FITZGIBBON—**This all comes under the banner of price transparency, particularly where the big chains are vertically integrated.

**Mr McKenzie—**Yes, exactly. It is just another example of there being no level playing field in this marketplace. All the factors we have talked about are the reasons why the independents are suffering major erosion in their market share and why the chains are growing their market share at our expense—and, to add insult to injury, buying our best stores.

**Senator BOSWELL—**Just hypothetically, Mr Richardson, if you were a cooperative—

**Mr McKenzie—**He is a cooperative.

**Senator BOSWELL—**If you are a cooperative, you do not have to make a profit; you are there to service your members.

**Mr Richardson—**We are there as a service to our members. We are owned by our retail members.

**Senator BOSWELL—**Therefore, you do not have to make a profit. If you went down that track as cooperatives, wouldn't that put you more at a level with the Coles and the Woolworths?

**Mr Richardson—**If we had the volume, that could be our situation. But, as you are very much aware, we are in a co-own situation with Woolworths in Tasmania and, therefore, we also pay a service fee for our product. Critical mass in Tasmania is not an avenue for independents because we lost the game in late 1979, when Woolworths bought 35 per cent of our independent trade.

**Senator BOSWELL**—I know that you are always concerned about sales tax. I do not want to get into the rights and wrongs of the GST, because at the moment we are all one happy family, and that might spoil it.

**CHAIR**—Slightly dysfunctional.

**Senator BOSWELL**—Could you tell us whether the GST will wash the sales tax anomaly out of the system?

**Mr Richardson**—We are sort of broadening out here, Mr Chairman.

**Senator BOSWELL**—We are looking for alternatives.

**Mr Richardson**—My answer to you is that it will only be of an advantage to independent retailers, especially small independent retailers of $40,000 and less, if there is due compensation for the setting up and also for compliance. That would overcome it.

**Senator BOSWELL**—You misunderstand me.

**CHAIR**—I need to rule that question out of order because the GST is subject to inquiry in another area.

**Mr Richardson**—In answer to your question, not entirely.

**Senator BOSWELL**—If this cap is to work, what happens when you get a fourth player in? Say that Aldi, or whatever their names is, come in. Are they considered then as part of an overall cap, are they part of the 75 per cent, or are they interpreted as being independents?

**Mr McKenzie**—They can, through their own efforts, rise to 25 per cent of the market. If they are successful, there would be nothing to stop them from moving up to 25 per cent of the market. That would obviously force everybody else back through competition, not by the imposition of a cap. We do not see there being a problem in the requirement.

**CHAIR**—So you are in favour of competition?

**Mr McKenzie**—We are in favour of competition, as long as it is fair competition; that is all we are saying.

**Mr Richardson**—Also, with their offering such a limited product range, we do not see them as competition in rural and regional areas.

**Senator MURRAY**—I am interested in Senator Boswell's remarks. During your oral submission and in your written submission, you have commented on economic rationalism, trading hours, competition policy and deregulation. They are all things which have been established by federal and state governments—federal and state governments of the National Party, the Liberal Party or the Labor Party. Research into voting patterns indicates that small businesses predominantly vote for those three parties.

Are you telling us that small businesses only oppose these things when it hurts them, but that they support them otherwise? Why would they vote for policies that they say they do not like?

**Mr McKenzie**—I am not sure that they understand them, to be honest. I am not sure that they understand what impact—

**Senator MURRAY**—One of my colleagues has just intimated that this is a political debate. This is not a political debate because I am establishing here that the National Party, the Liberal Party and the Labor Party have been very clear and open about their policies, very up-front. They have passed the laws and said, 'This is what we are going to do.' Small businesses support them. What I am concerned about is whether this is a NIMBY debate; in other words, they like these policies until they hurt them.

**Mr McKenzie**—I do not think they understand them. I do not think they understand the operation of the National Competition Council. We have done a lot of work on it through our various submissions, so we would like to think that we know a bit about it. But I do not think the average small business knows much about national competition policy, other than when they see their own state government legislating or trying to change trading hours or laws.

**Senator MURRAY**—But, if you answer like that, you get to the chairman's question, which is: do they know that the policy you are recommending may, in fact, result in the resale value of their businesses going down? The answer we got from Mr Richardson was that they are smart business people; they know it. The answer you have just given me is that perhaps they are not so smart.

**Mr McKenzie**—Right from the very beginning, our core position on the National Competition Council and the national competition policy has not changed. We have fought and opposed national competition policy because of the damage it causes to our sector of the market. Our position has been up-front right from last year.

**CHAIR**—So are you opposed to national competition policy in globo or just in how it affects you?

**Mr McKenzie**—We are not experts on the global implications, but we do know how it hurts our industry.

**Senator MURRAY**—Let me move on because the chairman has given me very little time. The next area I want to ask you about is Sam Walton of Wal-Mart. How many of you have read his book about he created his chain?

**Mr Barnett**—I have had a brief perusal of it. I obtained that book in light of this inquiry but, unfortunately, due to time factors, I have not had a full read of it.

**Senator MURRAY**—Let me briefly recap for you: Sam Walton was 48 years old. He had two stores. He started off in Arkansas, I think it was, and he began by attacking regional and rural markets and moving in on the cities where the majors had control. At the time he began K-Mart had a $15 billion industry, and he took them from behind and wiped them out. Woolworths and Coles have said to us that that is still possible in Australia—that an energetic, entrepreneurial independent is still capable in this marketplace of doing that. Why would that not be so?

**Mr McKenzie**—I think they would probably get an offer from the chains fairly quickly if they were successful. It would then be up to that operator to decide whether he was going to press on and grow to a Wal-Mart position or sell out. That is a very difficult question to answer. Hypothetically, it is possible for somebody to come in and build a chain, and we do have small independent chains within the NARGA membership, but we do not have anything approaching a Sam Walton.

**Senator MURRAY**—The top 100 companies in the world, half of them are now companies, and I think Wal-Mart is one of the top half, are now being described as the corporate, bureaucratic capitalists. In other words, they are not people who ever owned a business; they are just bureaucrats who run these major corporations, in contrast to your members who are what is known as entrepreneurial capitalists. What you are asking us to do is swing the pendulum back towards the entrepreneurial capitalists. Why would you think that? Why would you think that Australia is better off with lots of entrepreneurial capitalists rather than four major chains?

**Mr Richardson**—Basically because no matter where you live in Australia you need to have the quality of service to allow you to live in those areas. We believe it is vital that we have a four pillars policy within the retail industry so that independents are able to fulfil the true role of providing that service. We do not believe a major corporate company is able to provide that service in exactly the same way as an independent structure can.

**Senator MURRAY**—Isn't the answer that you need a vibrant independent sector to generate fresh blood, fresh ideas and fresh thinking?

**Mr Richardson**—We did have that in Tasmania, but they were bought out. They had between them 35 per cent of the market, but they were bought out.

**Mr Barnett**—Small business is the seabed of entrepreneurialism in Australia, and that has been found as such in a number of reports which support the view that you hold, apart from the fact that it is the vital infrastructure in the rural and regional communities around Australia.

**Senator MURRAY**—They have a value in themselves over and above the economics; that is what I was searching for.

**Mr Richardson**—It is not just the products that they sell, either.

**Senator MURRAY**—My third set of questions is this: the major costs for retailers are staff and space. Staff costs are well known because they are established on the basic award system and you know what the going rate is, but in any particular shopping centre your retail cost per square metre is unknown because it is secret—there may be 50 retailers, but nobody knows what anybody else is paying. However, Coles might be in there with a Coles at one end and a Bi-Lo at the other, and a few of their other specialist stores like Liquorland and so on, and they can cross-compare and get the best prices they like. Isn't it true that your members are landowners, quite frequently? Is that true, Mr Kovas?

**Mr Kovas**—Yes.

**Senator MURRAY**—We heard Coles say earlier that they own no land—in other words, they lease. The reason is that they can get it at a great price, whereas to get your price down you have to own the land. The problem for the two-thirds who do not own land—and you will need to say yes or no as I go through—is that they are forced to pay very high rental costs. So, if your major costs as retailers are staff and space and one of them is on the basis of a secret pricing market and you are forced to pay a much higher price than the majors, that puts you at a major disadvantage. Surely that is one reason why this committee should be looking at retail tenancy costs as well as the concentration of power arguments you are outlining; can you respond on that?

**CHAIR**—Senator Murray, we have already had the Reid inquiry, and I do not propose to allow us to move into retail tenancy arrangements, but I think a brief reply is appropriate.

**Mr FITZGIBBON**—On that matter, Mr Chairman, at our very first meeting I think there was a general agreement that we did not need to embark upon inquiries into retail tenancy because much of that work had been done by the Reid committee. My interpretation of that was not to exclude our discussing or moving on it, rather it was not to put us through the whole process of investigation again.

**Senator MURRAY**—You are quite right, Mr Fitzgibbon. My purpose, Mr Chairman, is to say that, if you look at the cost structure of independent supermarkets and compare that against the cost structure of the majors, it is relevant to pick on the particular instances, and we have already done that.

**CHAIR**—It is relevant as a background, but I agree with your comment, Joel, that we will start reinventing the wheel.

**Mr Richardson**—To briefly answer, I would agree with what you are saying, Senator.

**Senator MURRAY**—Thank you. You can be sure that if I am forced to write a minority report I will deal with the issue, regardless of the chair's words.

**CHAIR**—Thank you, Senator Murray.

**Mr FITZGIBBON**—Gentlemen, you have all had extensive business experience, and I suppose successful business is all about growing; I think you would all agree with that. What do you do to the growth prospects of a major retailer, particularly one like Woolworths, which is publicly listed and has a diverse base of shareholders, if you suddenly cap them?

**Mr McKenzie**—We would probably force them to look overseas for growth opportunities. But there are many other businesses that the chains are in—both Coles and Woolworths—and they are pushing more and more into different parts of the market. So I do not see them as being at saturation point at all. Certainly we hope that they will not get to saturation point in the retail grocery market, but there are so many other markets they are moving into—banking services and photo labs, and pharmaceutical and newsagency lines that they would love to get into as well—that I do not think we can say that they are at saturation point.

There are other opportunities in the retail market they can pursue. If they run out of those opportunities, then perhaps they should start looking overseas for expansion. So I do not think we are going to cripple them if we cap them on their retail grocery share because I am sure they will pursue, as they are, other opportunities. For example, Coles is experimenting with so many different formats of store at the moment, and Woolworths is also looking at other opportunities. So I think it would be an exaggeration to say that they would be severely damaged.

**Mr Barnett—**The presentation this morning by Coles made it abundantly clear that the chequebook acquisitions that have taken place over the last few years were negligible as far as they are concerned. It is vitally important as far as the independents are concerned, but for them it is just a very minor pinprick. So those few percentage points are vital for our survival, but for them it is no big deal.

**Mr FITZGIBBON—**But you are not talking about a cap on numbers. You are talking about a cap on retail share, and that retail share could come from growth from within the existing structure.

**Mr Barnett—**Yes, on the retail grocery market.

**Mr FITZGIBBON—**Given that entry to the market is fairly difficult—and I was playing the devil's advocate in a sense—if my contention were true and you had an impact, for example, on Woolworths' share price, you could make them more vulnerable to entry by an overseas player rather than Aldi, couldn't you? Rather than entering into their own structure, they might care to make a takeover bid for Woolworths, for example.

**Mr McKenzie—**Those things are always possible, but our position is that surely the public interest must be greater than the interests of corporations and their shareholders. If this committee believes there is a major problem in this industry that must be addressed—in the public interest and in the interests of competition—surely that should prevail over vested interests.

**Mr Barnett—**We are really asking the committee to say at what point enough is enough. We have put our recommendations in that regard.

**Mr FITZGIBBON—**I agree that the public interest is the bottom line. What has been irrefutable throughout this inquiry so far is that the share of the big chains is growing larger at the expense of the smaller retailers. I think our challenge as a committee is to determine whether that is a good thing or a bad thing. Is it driving retail prices up or down? Is it driving employment levels, particularly in the regions, up or down? Is it making the market more or less competitive? Is it killing country and regional towns?

If the answers to those questions are: prices are up, employment is down, the market is less competitive and it is killing our country towns, then we have to work out what we are going to do about it. The way I see it, there are two options. One is to reconstruct the playing field, which I suppose includes capping or even divestiture, and one is to simply ensure that all the players on the existing field are playing fairly.

It appears to me that reconstruction is fairly radical, given the lack of international experience and so on, and given the questions today about the support from your own members for capping and how it might impact upon their ability to sell. It would seem to me that it is more realistic and more achievable to talk about ensuring that all the players on the existing field are playing fairly. That of course would mean amendments to the existing Trade Practices Act. I am talking about amendments to strengthen section 46, the representative actions for damages I was talking about earlier, and maybe bringing in, as grounds for the current divestiture, provisions for not only acquisitions but misuse of market power. I am also talking about giving the ACCC additional resources—more money, for example—but, just as importantly, small business commissioners. Surely we can achieve your aims by those means—

**CHAIR**—Is this a policy speech?

**Mr FITZGIBBON**—No, this is an important question. It goes to the very heart of the inquiry and gives the committee some direction. Surely we can achieve your goals and surely we can meet the public interest needs down that path rather than with this radical reconstruction of the playing field itself. Do you agree? If not, what are your concerns? Where will we fall short if we take what I might describe as an easier path?

**Mr Barnett**—In response to that, we believe that it has gone too far already. We say that the dominance by the major chains and their market power have become so significant that we need radical action. That is why we are sitting here, that is why we are having an inquiry. Our submission is full of evidence which says it is bad for jobs, it is bad for small business, it is detrimental for rural and regional communities, and it is bad for choice.

One of the big things put up this morning by Woolworths and Coles was: 'Let's have choice.' If you buy out your competition, you do not have choice. They talked about the impact on price. We have had three supermarket inquiries with references regarding price. We say that when competition does not exist, prices tend to rise, and the evidence supports that. We say that the time has come to draw a line in the sand. Enough is enough. Eighty per cent is too much. It is anticompetitive and unhealthy, and we need immediate and urgent action to redress it. A few minor amendments to the Trade Practices Act will not ensure the viability of an independent sector or ensure competition in the marketplace. It has become anticompetitive, unhealthy, and it is certainly against the public interest.

**Mr FITZGIBBON**—Section 82 provides for a divestiture now—in terms of acquisitions, at least. I am talking about possibly extending that to other breaches of power.

**CHAIR**—Could I just follow that up, because I think there is a genesis of something significant. To me, what you are talking about is something very draconian. You have a couple of things that seem to be against you. One is that consumers are not complaining. In general terms, they are pretty happy. We talked about the public interest.

Secondly, out of the supermarket owners who are selling, nobody has written us a letter saying, ‘I had this arm tied behind my back and they forced me to sell.’ This is the free market. One moment you are saying that prices are going to be too high around Australia and the next moment you are talking about predatory prices. Those two do not fit together. I understand the concern, as the son of a small shopkeeper in Cronulla who probably would have been forced to the wall by the Myers complex in Miranda.

It seems to me that you have a harsh approach to this, with your suggestions of a cap and divestment. These submissions indicate that there are some problems out there. There is no doubt there are problems, but is this the right approach? These are early days—day one—and everyone is going to have their various solutions. It sounds like a lot of the submissions are mirrored, from what you are saying, but it would appear to me that the approach you are suggesting would have all types of ramifications. With the establishment of a cap, anybody who wants to sell has problems. If one supermarket wants to expand, they have problems. If they want to take over one, it is difficult. Mr Fitzgibbon, please go on. I have had my share.

**Mr FITZGIBBON**—We are all about meeting the same objective. I think we might just have to have a look at how we go about it. I have one last question, and I will just throw it in, in case it is relative. My other concern is that capping by retail share could possibly lead to a situation where the major chains will focus on the more profitable areas of their business—metropolitan and city, for example, with their high turnover—and exit the more marginal areas, which are rural and regional Australia. In other words, isn’t there a risk that the major chains will just withdraw from rural and regional Australia and leave it to the independents to worry about themselves?

**Mr Richardson**—That is already happening. They are divesting in Tasmania at the moment. They divested themselves of a supermarket on the west coast because it became unprofitable.

**CHAIR**—Who is ‘they’?

**Mr Richardson**—Woolworths. I believe they will also divest themselves of another store in Launceston when they have built another supermarket complex which they are currently planning.

**Mr FITZGIBBON**—Isn’t this capping and divestiture by natural attrition now?

**Mr Richardson**—It really is, because there is nowhere else in Tasmania where they can really set up. We appreciate your task is very onerous, but we are asking you to strike a fair balance. It is not going to be easy; we recognise that. We will be coming back with supplementary submissions, with your permission.

**CHAIR**—I think it is being suggested that you have a think through. You have perhaps put an ambit claim in, and maybe you should—

**Mr Richardson—**I can assure you it is not an ambit claim. It is in no way an ambit claim.

**CHAIR—**To our last and not the least important question of the day: Senator Ferris.

**Senator FERRIS—**Thank you, Chair. I will try to speak quickly. Mr Barnett, could I ask you a question as, presumably, the legal adviser to NARGA? You have talked a lot this afternoon about the Trade Practices Act and in particular section 46—the misuse of market power. But, from your material that I have read, there has not ever been a test, that I could see, by NARGA or any of NARGA's members of the current provisions of the Trade Practices Act. As a lawyer, can you tell me how you know that section 46 is insufficient? Have you got any legal cases that have tested that power as it currently stands, and would you consider testing it in the course of this inquiry to see whether it does fall as short as you claim it does?

**Mr McKenzie—**I probably mentioned before that we provided some information to the ACCC in relation to Deniliquin. That, to me, prima facie, appeared to be a fairly blatant example of predatory activity. But because it is in litigation there are issues and complications. That is the only one that personally I have tried to bring forward. The difficult thing is getting hard evidence. You hear a lot of anecdotal evidence about predatory activity, but the hard thing is getting someone to stand up and give the commission the evidence because the commission will not undertake cases unless they believe they are on very strong grounds. That is the difficulty, getting that hard evidence which they will then accept and go and test. It is also very difficult for people to come forward; they are reluctant to come forward.

**Senator FERRIS—**But my question still stands—that is, in the view of Mr Barnett, how do you know that this is ineffective and insufficient?

**Mr Barnett—**I certainly support Alan's views that it is very hard to obtain the evidence. If you are in a supplier or manufacturer relationship with the major chains, and that is currently existing, it is difficult to come forward and provide that evidence unless it is in camera or in confidence. Your future is certainly at stake if that evidence ever gets public. In Tasmania, for example, I have already written on behalf of a client where I have offered to present to the committee in confidence a very substantial retailer who is prepared to step forward and give evidence to this committee. I am hoping that in the course of that discussion your eyelids will open and you will see some of the things that have been happening down there. I am looking forward to that opportunity.

**Senator FERRIS—**That would probably be helpful. We are almost out of time, but you have also talked about the US antitrust laws. In looking at those US antitrust laws, I find that in 1980 the market concentration in the slaughter heifer market—which is agribusiness that I am interested in—was 38 per cent, made up of three companies. In the US two years ago, which is the latest time for the statistics, those three companies now own 87 per cent of the market and effectively control the price of beef. That is with the existing US antitrust laws. The person who has supplied me with this information in the United States says that the US antitrust laws have not helped at all. When we suggest having a look at the US antitrust laws, we have to be aware that the United States has also got some pretty difficult monopolies still working despite those laws.

**Mr Barnett—**We would agree. Can I respond by saying that I am not expert on US antitrust laws; we have only looked at what evidence is available. In those two recent retail grocery cases where there were mergers, they were forced to divest within four months—10 stores and 15-odd stores respectively—so there is evidence there. Indeed, there is no doubt there is room for improvement.

**Senator FERRIS—**The Chair is requesting that I do not ask any more questions, so I will save them until you come back.

**CHAIR—**I think it is appropriate we should finish. Gentlemen, thank you for coming. We hope that we see you back here. This is stage one. We appreciate your input. I think it was a worthwhile discussion. There is a lot of sympathy for your position and, obviously, in terms of the submissions that are here there is a lot of real concern across the country about what has happened to small retailers as they see actions by the majors. We have heard your opening response. I think it is appropriate that you consider some of the input that came through today and that we meet again. But thank you for that. We realise that you do not have the resources that the majors have, so thank you for the submission, long though it may be. It was also very much appreciated.

**Mr McKenzie—**Thank you, Mr Chairman. On behalf of the group we very much appreciate the courtesy that has been extended to us today, and the questions. We will take all this away and have a look at it and come back to you in the best way we possibly can. If there are things that you want to put to us we are more than happy to take that on board as well.

In closing, I would like to go back to a point that I made earlier on—that is, I see the ACCC as a major resource in this area. Their submission, while very helpful, raised issues and concerns but no solutions. I really think that they have to be asked for their expertise in that area.

**Mr Barnett—**Mr Chairman, there is one final question. The Woolworths submission was given in confidence this morning and then it was agreed that it would be made available publicly. We have attempted to obtain it, but that still has not been made available.

**CHAIR—**There is a problem with the distribution. It should be ready; sorry about that. It is not Woolworths; it is our own administration. It is there and available.

**Committee adjourned at 3.46 p.m.**