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Our response to the Harper Competition Policy review Panel report released 22<sup>nd</sup> September 2014

Marks Supa IGA is a family owned and operated full range supermarket servicing Mansfield and district for the past 65 years.

We employ 140+ staff primarily sourced from the local community. We heavily support our schools, hospital, fire brigades together with the local sporting clubs, primary producers and our limited light industry.

A major point of difference between our operation and that of the chains is that we utilize the services of local support people: Viz transport, cleaning, legal and a variety of trades people to backup our daily operations. This local business engagement is extremely important to the prosperity and wellbeing of our local economy, our activities help to maximise local innovation, investment and streamline efficiencies and productivity, vital ingredients in the sustainability of our community.

As a significant hub in our local community we make a serious contribution in the area. The increasing market power and dominance of the two chains is putting at risk robust competition, consumer choice and retail diversity, that is why major competition law reform is so important. We support the Harper Review recommendation to introduce an "effects test". The 'effects test' will protect competition and long term consumer choice, by deterring big businesses from crowding out and destroying small businesses, by misusing their market power, that substantially lessens competition. However, we would like the original wording in S 46 to remain unchanged so that anti-competitive behaviours, irrespective of whether they substantially lessen competition in the market or not, are clearly captured. Anti-competitive behaviours can include predatory pricing, predatory capacity and anti-competitive price discrimination and must be prohibited.

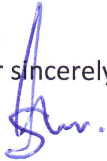
We acknowledge the Harper Competition Policy Review Panel's findings, that state planning and zoning legislation and processes lack effective economic objectives and proper consideration for competition. However, we disagree with the principle that more floor space and more entrants in a market equals more competition, this is simply not sustainable. Businesses (Coles, Woolworths, Costco, Aldi) with the deepest pockets (unlimited resources), will crowd out family owned businesses, who have limited resources, thus reducing consumer choice and lessening competition. There must be state planning and zoning controls put in place to protect competition and consumers.

At present, it is completely cost prohibitive for an independent supermarket or liquor store owner to bring an action in the Federal Court seeking relief from anticompetitive behaviours without the threat of having to pay the other party's costs, in the event that the application is unsuccessful. Many independent supermarkets and liquor store owners have genuine claims to misuses of market power, but the costs of litigation are far too high, resulting in a reluctance to lodge potentially successful claims. Therefore there should be "no cost orders".

There is no mention of a Supermarket and Liquor store Code of Conduct in the Harper Competition Policy Review report. To protect competition and the consumer and to assist the ACCC, it is vital that anti-competitive behaviours can be dealt with through a mandatory enforceable code.

Thank you for the opportunity to make a response. The future prosperity of all Australian small businesses and families concerns, including our own, is very much dependent upon the strong recommendations for Competition Law reform, as recommended by the Harper Competition Policy Review Panel and the will of our politicians to recognise that Australia is not just about Big Businesses – it's about a balance between large and small businesses all competing on a level playing field.

Your sincerely



Stephen Marks