

27th October 2014

Members of the Harper review

Response to the Harper Competition Policy review Panel report released 22nd September 2014

We are a Family grocery Business directly employing over 60 people within the local community. We actively promote locally produced products and help keep our income within the local community.

We see ourselves as a vital cog in delivering local economic prosperity. Within our business operations we are mindful of doing the right thing for our local interests. It's not about exerting maximum value out of this nation and transferring its wealth to another. We are not just about cutting out competition by integrating ourselves into a complete lateral business model. We utilise our local resources, we provide small business like ours an opportunity to access greater markets by assisting them to gain economic scale to help nurture growth and help provide real competition within industries.

The independent sector provides the consumer a choice. Without this ever present choice the corporate market will become complacent and superior to the consumer itself. The exponential growth of any monopoly, duopoly or any restrictive market will be doom for any economic market that it may exist within.

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 action, irrespective of whether it would substantially lessen competition in the market or not.

Eg. Anti-competitive behaviours such as predatory pricing, predatory capacity and anti-competitive price discrimination must be prohibited.

We acknowledge the Harper Competition Policy Review Panel's findings, that 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 & 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

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consumer choice and lessening competition. There must be 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 anticompetitive behaviours can be dealt with through a mandatory enforceable code.

We believe if any deregulation discussions are to occur that there must be robust discussion on what small to medium industries can negotiate with to ensure that they are provided every opportunity to survive. The South Australian independent supermarket industry is the strongest in Australia; our State has one of the most restrictive trading hour's legislation in Australia.

Thank you for the opportunity to make a response. The future prosperity of all Australian small businesses and families concerns, including my 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.

Yours Sincerely

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