

Response to the Harper Competition Report released 22/9/14

My wife and I have been retailers for almost 30 years in the NSW South Coast town of Batemans Bay, including the last 13 years as owners of Surf Beach IGA. We employ 17 locals and also work in our business. Over the years we have supported many local sporting associations, clubs and community organizations through monetary donations, goods donation and support of charity events. To date we have provided around \$25000 in monetary donations and much more by way of discounted goods supplied to organizations such as St Vincent de Paul.

Unlike the big 2 chains we also use local people for support services e.g. cleaning, waste disposal, refrigeration supply and maintenance, electrical maintenance, mechanical services, accountancy and legal to name a few. These services benefit from our support to the tune of many tens of thousands of dollars per year. By investing in our local community we are helping to maintain the sustainability of the local community.

The increasing market power and dominance of the two chains puts at risk robust competition and retail diversity, which is why we need to overhaul Competition law.

We support the Harper Review recommendation to introduce an “effects test” which will protect competition and long-term consumer choice by deterring big business from crowding out and ultimately destroying small business by misusing their market power. We would like the original wording of **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 Panels’ findings that state planning and zoning legislation and processes lack effective economic objectives and proper consideration for competition. However we disagree with the principal that more floor space

and more entrants in a market equals more competition, this is simply not sustainable. Big business (Coles, Woolworths, Aldi, Costco) has the deepest pockets and will crowd out family owned businesses who have limited resources, leading to reduced consumer choice and less competition. There **must** be state planning and zoning controls put in place to protect competition and consumers.

At the moment it is not possible for an independent supermarket 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 if the application is unsuccessful. Many independent Supermarkets would have legitimate claims to misuse of market power but the cost of litigation are far too high, resulting in a reluctance to lodge potentially successful claims. Therefore there should be "no cost orders".

The Harper Report doesn't mention a Supermarket and Liquor Store Code of Conduct. To protect competition and the consumer and to assist the ACCC it is vital that anti-competitive behaviour is able to be dealt with through **a mandatory and enforceable code**.

Thank you for the opportunity to make a response. The future of Australian small business (**one of the country's major employers**) is very much dependent upon competition law reform. The recommendations of the Harper Competition Policy Review Panel recognizes that Australia is not just about Big Business, it's about a fair balance between large and small business all competing **on a level playing field**.

Yours Sincerely

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