



**COMPETITION POLICY REVIEW:  
Draft Report September 2014**

**SUBMISSION FROM THE  
Large Format Retail Association (LFRA)  
17<sup>th</sup> November 2014**

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## 1.0 Large Format Retail Association (LFRA) Overview

The Large Format Retail Association (LFRA) is the national peak industry association whose primary focus is on issues relating to appropriate planning and responsible development of Large Format retail outlets. Retail members of the LFRA consist of some of Australia's largest and most respected Large Format retailers including 61 retail brands as follows:

ABS Automotive Service Centres	Early Settler	PETstock
Adairs	Fantastic Furniture	Pillow Talk
Adairs Kids	Forty Winks	Plush
Amart Sports	Freedom	POCO
Anaconda	Goldcross Cycles	Provincial Home Living
Autopro	Guests Furniture Hire	Ray's Outdoors
Autobarn	Harvey Norman	Rebel
Babies R Us	IKEA	Sleepys
Baby Bunting	JB Hi-Fi	Snooze
Barbeques Galore	JB Hi-Fi Home	Sofas2Go
Bay Leather Republic	Joyce Mayne	SPACE
BCF	Le Cornu	Spotlight
Beacon Lighting	Lincraft	Suite Deals
Bedshed	Masters Home Improvement	Super Amart
Bunnings	Midas Auto Service Experts	Supercheap Auto
Chemist Warehouse	Nick Scali	The Furniture Spot
City Farmers	Officeworks	The Good Guys
Costco	Original Mattress Factory	Toys R Us
Curtain Wonderland	OZ Design Furniture	Urban Home Republic
Dare Gallery	Petbarn	Workout World
Domayne		

The LFRA is supported by its' Patron, PwC, and 60 Associate members who are Large Format Retail developers, investors, owners and service suppliers:

ACTON Commercial	Domain Central	Major Media
ADCO Constructions	DOME Property Group	McMullin Group
ALTIS Property Partners	DD Corporate	Mirvac
Arise Developments	Eureka Home Maker Centre	Newmark Capital Limited
Arkadia	Excel Development Group	Norton Rose Fulbright
AXIMA Logistics	Gadens	Nunn Media
AXIOM Properties Limited	Gibb Group	Primewest
BBRC Property	Gregory Hills Corporate Park	Ray White Retail
BWP Trust	Griffin Group	Realmark Commercial
Blueprint	HLC Constructions	RPS Australia Asia Pacific
Brecknock Insurance Brokers	Humich Nominees	Savills
Burgess Rawson	IZM Properties	Sentinel Property Group
CarbonetIX	Jana Group of Companies	SI Retail
CBRE	JBA Urban Planning Consultants	StarTrack
CEVA Logistics	Lancini Group of Companies	Terrace Tower Group
Colliers International	Lander & Rogers Lawyers	The Belgrave Group
Comac Retail Property Group	La Salle Investments	The Buchan Group
Cornwall Stodart	LEDA Holdings	VALAD
CV Signage Solutions	Leedwell Property	Vaughan Constructions
Dart West Developments	Leffler Simes Architects	Vend Property
Deep End Services		

Our representation is diverse. The LFRA clearly represent the interests of Large Format retailers, but we also represent the interests of small operators as many of our members have franchised businesses.

Deep End Services has recently undertaken an update of key economic data relating to the Large Format retail sector which is summarised in the following table;

State	LFR Sales (\$m)	LFR floorspace (sqm)	LFR Floorspace per person (sqm)	Direct employment (No.)	Direct FTE employment (No.)	Indirect FTE employment (No.)	Total FTE employment (No.)
New South Wales	18,932	5,611,530	0.75	66,207	54,290	67,428	121,718
Victoria	13,872	4,113,928	0.71	49,049	40,220	49,954	90,174
Queensland	12,567	3,778,307	0.79	44,556	36,536	45,378	81,914
Western Australia	7,488	2,290,618	0.88	26,734	21,922	27,227	49,148
South Australia	3,887	1,153,475	0.68	13,808	11,322	14,062	25,384
Tasmania	1,247	371,652	0.72	4,444	3,644	4,526	8,169
Australian Capital Territory	1,168	345,863	0.89	4,099	3,361	4,174	7,535
Northern Territory	644	190,379	0.78	2,248	1,844	2,290	4,133
<b>Total</b>	<b>59,805</b>	<b>17,855,752</b>	<b>0.76</b>	<b>211,145</b>	<b>173,139</b>	<b>215,038</b>	<b>388,177</b>

Source: Deep End Services; LFRA; Australian Bureau of Statistics; Deloitte Access Economics (as at August 2014)

Deep End Services estimates activities of Large Format retailers for the financial year ending 30<sup>th</sup> June 2014 to be **\$59.8 billion** nationally and approximately **21.9%** of all retail sales. Furthermore, it is estimated that Large Format Retailers nationally occupy more than 17.8 million square metres of retail floor space and employ a total of approximately 388,000 (FTE) people both directly and indirectly.

The LFRA is a key stakeholder in planning and zoning laws and Government regulations in this market sector. Consequently, we are actively involved across Australia in numerous reviews of planning policy and planning regulations that affect our industry.

- We are a keen observer of the recent findings of the Productivity Commission's Inquiry into: *'Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments'*;
- *'The Market for Retail Tenancy Leases in Australia'*
- *'Economic Structure and Performance of the Australian Retail Industry'*; and
- *'Relative Costs of Doing Business in Australia: Retail Trade'*.

Additionally, we note the Australian Competition & Consumer Commission Grocery Price Inquiry into *'The Competitiveness of Retail Prices for Standard Groceries'*.

These five (5) inquiries all noted the need to review planning and zoning laws across all jurisdictions in Australia to increase competition and improve productivity.

## 2.0 Response to Draft Report (September 2014)

### 2.1 Introduction

This Competition Policy Review covers a wide range of issues relating to competition laws and policy across the Australian economy. The LFRA made a submission in response to the *'Issues Paper'* dated 14<sup>th</sup> April 2014, in relation to specific areas of interest. We are particularly focused on issues associated with planning and zoning and other regulations that have the effect of stifling, or restricting business activity in our sector.

As outlined in our original submission, the LFRA's key areas of interest in relation to this Competition Policy Review are broadly summarised as follows:

- The current restrictions on trading hours in a number of States, most notably Western Australia, which are anti-competitive and contribute to a significant loss of productivity in the retail sector of the economy.
- The inconsistent planning and zoning regulations across the various States and Territories of Australia that contributes to increased establishment; occupancy and compliance costs to retailers.
- The slow progress being made in most States and Territories of Australia in relation to the key recommendations of the Productivity Commission arising from its 2011 report.
- The fact that competitive impacts on existing business are still being considered as part of the planning system, when they should be excluded from planning altogether.

We have undertaken a review of the *'Draft Report'* dated September 2014 and are supportive of the vast majority of views and recommendations contained therein. We believe the Panel has undertaken an extensive and thorough review of all the relevant issues and information available and produced an excellent report to guide future policy in this area.

Arising from our key areas of interest, the LFRA will provide a response to some specific panel views and draft recommendations contained in the Draft Report in the following section of the submission.

## 2.2 Response to Draft Report – Planning and Zoning

In our original submission to the ‘Issues Paper’ dated 14<sup>th</sup> April 2014, the LFRA advocated the following key issues should be addressed as part of this Competition Policy Review;

- There is a common theme throughout Australia, to reduce the quantum and impact of restrictions that are in place within planning legislation. The removal of restrictions can generally be supported on the basis that by doing so, the planning system will be more efficient, competitive and ultimately more productive.
- There is also a need for periodic review of planning policy to ensure that, the policies and regulations in place are relevant in our economy and society that are constantly evolving. This is particularly relevant in the past few years where retailing has been under pressure from adverse economic conditions; changes in consumer behaviour; price harmonisation; globalisation and the increasing market share of internet based retailing. There has never been a greater need for planning to keep pace with the market it seeks to regulate.
- The LFRA strongly advocated that there is a need to standardise planning regulations and specifically - land use definitions, across Australia to provide certainty to our industry and remove the current complications that directly result in increased time and cost to businesses and ultimately consumers.
- In relation to anti-competitive policies the LFRA believe the planning systems in most States do not go far enough to actively encourage competition in the marketplace. This has resulted in an ‘*in-balance*’ in favour of regulating and constraining development rather than actively encouraging appropriate development.
- In relation to strategic planning policy, the LFRA has made submissions to all State and Territory Governments over the past 9 years, calling for the removal of planning policies that are designed to discourage certain types of development or overly constrain development in certain locations.

In summary, the LFRA concluded that the current Competition Policy Review presents a perfect opportunity to implement positive change in relation to the removal of anti-competitive policies in the planning and zoning regulations throughout Australia.

#### **The Panel's view— Planning and Zoning**

Effective economic objectives and proper consideration of competition are lacking from planning and zoning legislation and therefore processes. Planning and zoning requirements are a significant source of barriers to entry, particularly in the retail sector. They are overly complex, geared towards very local issues and can place undue weight on the impact on incumbents. This is producing poor outcomes for consumers.

In response to the Panel's view on planning and zoning in the *'Draft Report'*, we believe this view provides an accurate and succinct summary of the current system; its processes and outcomes. We strongly concur with all comments made in the Panel's view.

#### **Draft Recommendation 10 — Planning and Zoning**

All Governments should include competition principles in the objectives of planning and zoning legislation so that they are given due weight in decision-making.

The principles should include:

- a focus on the long-term interests of consumers generally (beyond purely local concerns);
- ensuring arrangements do not explicitly or implicitly favour incumbent operators;
- internal review processes that can be triggered by new entrants to a local market; and reducing the cost, complexity and time taken to challenge existing regulations.

In relation to the *'Draft Recommendation 10 - Planning and Zoning'*, the LFRA supports this recommendation in its entirety. We support the need to include competition principles in the objectives of planning and zoning regulations in a positive sense to encourage competition. Including positive reinforcement of the need to actively encourage competition, will address the current in-balance which seems to treat competition in a negative sense i.e. currently seeking to protect existing businesses and incumbents from competitive impacts.

We also support the specific provision in the draft recommendation, to enable a process for new market entrants to access the market in a more efficient manner. This is most important as the retail sector is experiencing increased activity from international businesses that have recently established flagship operations in Australia, and will seek to expand in the coming years. It is obviously equally important to allow future new market entrants an opportunity to enter the Australian market in a fair, open and efficient manner.

## 2.3 Response to Draft Report – Retail Trading Hours

In our original submission to the *'Issues Paper'* dated 14<sup>th</sup> April 2014, the LFRA advocated the following key issues should be addressed as part of this Competition Policy Review;

- The LFRA strongly advocates for the de-regulation of restricted trading hours across Australia on a nationally consistent basis, in line with the recommendations of the Productivity Commission in its 2011 report - *'Economic Structure and Performance of the Australian Retail Industry'*
- As highlighted in the June 2014 interim report by the Productivity Commission *'Relative Costs of Doing Business in Australia: Retail Trade'* there are restrictions on trading hours with varying levels of intensity in Queensland, Western Australia and South Australia.
- Restrictions on trading hours result in a loss of productivity for retailers as well as an additional compliance and operational cost to the business. It is a most inefficient use of the significant capital investment made to establish a retail business, when it is restricted from operating to its full potential. This is most relevant and concerning with the Australian retail sector facing increased competition from global online retail businesses.
- Restricted trading hours are also becoming increasingly out of touch with consumer's expectations.
- The LFRA considers the current trading hour's restrictions in Western Australia to be most problematic. The current regulations in Western Australia are overly complicated; anti-competitive and are stifling economic activity and economic growth in the retail sector.
- There are significant benefits to be derived from the de-regulation of restricted trading hours including increased employment and benefit to the community in terms of increased choice, competition and convenience. The perceived disadvantages of increased trading hours are far outweighed by the advantages.

In summary, the LFRA concluded that the current Competition Policy Review presents a perfect opportunity to recommend the complete de-regulation of restrictive trading hours and provide an implementation timeframe for this to occur.

#### **The Panel's view**

Shop trading hours have been progressively deregulated across Australia. However, trading hours in Queensland, South Australia and Western Australia remain regulated to some degree.

The remaining restrictions create a regulatory impediment to competition by raising barriers to expansion and distorting market signals. Consumer preferences are the best driver of business offerings, including in relation to trading hours.

The Panel notes that the growing use of the internet for retail purchases is undermining the intent of the retail trading hours restrictions, while disadvantaging *'bricks and mortar'* retailers. This provides strong grounds for abandoning remaining limits on trading hours.

Noting the divergence of views, the Panel appreciates the concern of some independent retailers about their ability to compete in a deregulated environment. However, the Panel notes the ability of independent and small businesses to differentiate their offerings to fulfil consumer demands and compete in the face of deregulated trading hours. The Panel also notes that, where restrictions apply to a particular sector or type of business, this can result in consumers having less flexibility and choice.

In response to the Panel's View on Retail Trading Hours in the *'Draft Report'*, we believe this view provides an accurate and balanced summary of the current system in operation across Australia; its strong negative effects and impacts on business and consumers. We strongly concur with all comments made in the Panel's view.

#### **Draft Recommendation 51 — Retail Trading Hours**

The Panel notes the generally beneficial effect for consumers of deregulation of retail trading hours to date and the growth of online competition in some retail markets. The Panel recommends that remaining restrictions on retail trading hours be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day.

In relation to the *'Draft Recommendation 51 – Retail Trading Hours'*, the LFRA supports this recommendation in its entirety. We support the recommendation to remove all remaining restrictions on retail trading hours across the country to establish a nationally consistent platform.

We also support the specific three days listed in the draft recommendation as exceptions where restrictions could be considered appropriate.

### 3.0 Conclusion

The LFRA welcomes this opportunity to contribute to this ongoing process to finalise the Competition Policy Review.

The LFRA would be pleased to discuss any issues raised in further detail with the Panel at a future time.

Please contact the undersigned regarding any aspect of this submission.



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