

20 November 2014

Professor Ian Harper
Competition Policy Review
The Treasury
Canberra ACT 2600

Dear Professor Harper

Thank you for the opportunity to provide a submission to the Competition Policy Review into barriers to competitiveness in Australia.

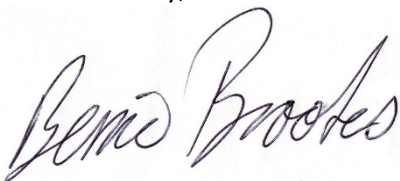
Retail is the biggest employer of Australians, and Myer Holdings Ltd is Australia's largest full-line department store with 67 stores across the country and more than 13,000 employees.

In this submission, we have focused on the Competition Policy Review's draft recommendation in regard to trading hours. We have taken the opportunity to outline our experiences with the complex and burdensome regulatory regime and the reasons we support your draft recommendation for deregulation. There is an urgent need for a consistent regime across Australia to allow retailers to trade in line with consumer demands: we believe this is in the interests of business, employees and our customers.

Inconsistent trading regimes across the country are a key barrier to a competitive and prosperous Australian retail sector, which is a critical part of the overall economy.

I would be pleased to provide any further information required by the panel as it comes to its final deliberations over the coming months. Please don't hesitate to contact me to further discuss any aspect of this submission, or contact Jo Lynch, Myer General Manager Corporate Affairs and Media on 03 8667 7571.

Yours sincerely,



Bernie Brookes
Chief Executive Officer
Myer Pty Ltd

Submission to the Competition Policy Review

Myer Holdings Ltd.

Myer welcomes the Federal Government's Competition Policy review of barriers to competitiveness and welcomes the opportunity to make a submission to the inquiry.

Our submission focuses on retail trading hours and the need for a consistent regime across Australia to allow retailers to trade in line with consumer demands.

Myer fully supports the Competition Policy Panel's recommendation No. 51:

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.

We set out our views on the current trading regime as it stands nationally, and in each State below.

Background

Myer is Australia's largest full-line department store group, currently operating 67 stores around Australia and generating total sales of over \$3.1 billion in FY2014. With more than 13,000 team members across the country, Myer is a significant employer and has had a long history of philanthropy and local community engagement.

Myer is committed to providing our customers with excellent service at all times, whether they wish to shop with us in our stores or online. We are focused on becoming an omni-channel retailer to reflect customer habits as work patterns change, and as rapidly changing technology increasingly empowers consumers.

Myer has had an online offer for many years through our website. We are focused on enhancing our online presence as more customers shop online, and our online sales doubled over the last year. We use social media to promote our products and services and this is an increasingly popular way to engage with our customers and promote the Myer brand.

Customers increasingly seek convenience, choosing to shop at weekends and after hours, and viewing products online before visiting stores, or viewing products in store and then ordering them online. We have rolled out a 'Click and Collect' service to all our stores, allowing customers to order online and pick up in-store to suit their needs. Our team members use iPads in our stores to allow customers access to a greater range of Myer products than may be ranged in any one store.

Given customers' strong take-up of online services in recent years, and the blurring of the lines between trading online and in stores, we believe there is an urgent need to deregulate trading hours to allow retailers to trade in line with consumer demands. Public holiday trading restrictions should be uniform nationally and limited to Christmas Day, Good Friday and ANZAC day morning. Arbitrary differentiation between retailers who can or cannot trade on any day should be removed.

We agree with the Federal Government's Competition Policy Panel that a consistent national trading regime that is easily understood by consumers is a key component of economic prosperity and jobs growth.

Inconsistent State Laws

In Australia, retail trading hours are currently governed by numerous state regulations that vary greatly both between and within states. State-based trading hour restrictions have a significant impact across the retail industry, adding unnecessary costs and complexity, and limiting consumer choice.

Trading hour regulations have not progressed in line with the changing patterns of shopping and technological advancements that allow consumers to shop online anytime. Domestic 'bricks and mortar' retailers are required to comply with inconsistent legislation that restricts them from competing effectively with domestic or international online-only retailers operating on a 24 hour, 7 day a week basis.

The Productivity Commission's recent report on the Relative Cost of Doing Business in Australia: Retail Trade, published in October 2014, argues that the deregulation of trading hours would stimulate the retail industry across the board, even among smaller retailers the restrictions are aimed at protecting.

Productivity Commissioner Patricia Scott said in her release, and Myer fully agrees: "Restrictions on bricks and mortar retailers' trading hours are increasingly out of step with consumer expectations and the rapid growth of online retailing. While these restrictions aim to protect smaller retailers, removing trading hour restrictions does not appear to have a material impact on the structure of the retail sector. Retaining restrictions also ignores the potential for more than offsetting gains for retailers through lowering costs and increasing their ability to compete with online retailers, and greater choice and convenience for consumers."¹

Economic environment

The current economic conditions in Australia, with relatively weak consumer sentiment and growing unemployment, make the Federal Government's competition policy review timely. A more flexible approach to trading hours would benefit consumers, employers, employees and the broader economy.

The Westpac Melbourne Institute Index of Consumer Sentiment, in its most recently published figures, reported the ninth consecutive month in which 'pessimists' outnumbered 'optimists'.²

While the Westpac Index rose by 1.9% in November (from 94.8 in October to 96.6 in November) this is still 12.5% below the level of a year ago and 3.6% below the level before the lead-up period to the Commonwealth budget in May. This is the longest run of pessimists outnumbering optimists since the Global Financial Crisis and before that, the recession of the early 1990s. Discretionary retailers have reported relatively flat or patchy demand over the recent trading period.

The retail industry is a significant employer of Australia's youth. Labour force figures for October 2014 show unemployment remaining at 6.2% on average, however the data also shows that the number of 15 to 24 year olds out of work is at a much higher 14%.³

From a national perspective, harmonisation of trading hours to ensure conformity and consistency would provide clarity to the general community and employers and employees. Myer seeks alignment with the Victorian regulation regime, which we believe is among the most conducive to successful trade, employee needs and consumer demands.

Examples of Myer's experience with inconsistent retail trading hour regulation is detailed below by State:

New South Wales

Department stores are the principle focus of Boxing Day trade across Australia and this is traditionally the biggest trading day for most department stores, with the commencement of stocktake or clearance sales. The *Retail Trading Act 2008* (NSW) restricts department stores from trading on a number of public holidays, namely Good Friday, Easter Sunday, the morning of Anzac Day, Christmas Day and Boxing Day (with some exemptions). Myer is deeply concerned by the inability to trade on Boxing Day, other than in two stores within what is known as the Sydney Trading Precinct or the three regional

¹ Release available at: <http://www.pc.gov.au/projects/study/business-costs/retail-trade/report/media-release>

² Publication can be viewed at: <https://melbourneinstitute.com/miaesr/publications/indicators/csi.html>

³ ABS Labour Force data at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0>

stores located in an exempted local government area. Only 5 out of our 25 NSW stores are able to trade on this biggest trading day of the year in Australia's most populous state.

Boxing Day holds no recognised religious significance. NSW has been one of the worst performing states for retail trade in Australia over the last 4 years. Myer applies each year to the NSW government for an exemption on the trading ban, with no success to date. . Allowing Myer to trade on Boxing Day would benefit many other businesses, even those not involved in the Myer supply chain. Where Myer is the anchor tenant located in a shopping centre it is often the major drawcard for consumers and, as a result, other retailers in the centre experience increased foot traffic when Myer is open.

The two Sydney metropolitan area stores allowed to trade on Boxing Day (the Sydney city store and the Bondi Junction store) experience enormous volumes of foot traffic. Volumes have been near ten times greater than the normal average daily trade. Store traffic figures for Boxing Day 2013 indicated that approximately 487,000 customers shopped at one of the five Myer stores allowed to open – most of them in the city store or Bondi. These volumes create inherent safety and security risks which Myer manages through intensive planning and extra team members. Myer's ability to manage the safety and security of its customers and employees would be improved with the ability to trade out of additional stores.

Customers in the growth areas of greater western Sydney, and those in regional areas, face long travel times to attend the Myer stocktake sale on Boxing Day. Such adverse conditions are not in the public's interest and on occasion, customer demand in the Myer Sydney City store has forced the store to close its doors due to safety concerns. The volumes also cause unreasonable levels of consumer frustration which can create a very difficult working environment for employees and other customers.

Opposition to deregulating trade on Boxing Day in NSW on implied grounds that employees would be employed against their will on that day are flawed and inaccurate. Section 13 of the *Retail Trading Act 2008* (NSW) clearly identifies that 'any employee of a shop granted an exemption to trade on a restricted day must freely elect to work on a restricted day without any coercion, harassment, threat or intimidation by or on behalf of the shop owner'. Myer supports retaining legislation which protects the rights of employees to decide whether or not they wish to work on Boxing Day. In our experience there is no shortage of volunteers among team members for work on this day due to the attractive penalty rates. We know from our experience that many casual workers such as students look forward to the extra income from Boxing Day employment. Deregulated Boxing Day trade would ensure an economic contribution to the State through the payment of wages to those team members who volunteer to work on Boxing Day, as well as a contribution to government through the payment of various taxes.

Shopping at Myer is an important leisure activity for residents and tourists alike. NSW, and Sydney in particular, are among the top Australian tourist destinations. Myer believes that restoring the opportunity for stores to trade on Boxing Day throughout NSW will increase tourist expenditure.

We cannot see the logic of a continuation of such artificial restraints on the sectors of the retail industry that generate significant employment and where interstate and international experience show that consumers want the option to shop on Boxing Day.

We note that the NSW Government introduced legislation in 2012 to permit trading on Boxing Day throughout NSW, before it stalled in the Legislative Council and was subsequently withdrawn.

South Australia

South Australia currently has the most prohibitive public holiday trading hours regime in the nation, where non-exempt stores outside the CBD are unreasonably restricted from trading on 11 days per year. Myer recommends, at a minimum, changing the restrictive legislation to allow non-CBD stores the same trading hours as stores within the Adelaide CBD Tourist Precinct, which can now trade on all public holidays from 11am to 5pm (except Good Friday, Christmas Day and the morning of Anzac Day).

Queensland

Queensland divides its trading regulations across 11 different zones. Myer supports harmonising the current trading restrictions which apply in the *Trading (Allowable Hours) Act 1990* (QLD). The trading regime remains confusing for both retailers and customers. For example, most South-East Queensland

shops can only trade from 8am - 5pm on Saturdays, while inner city shops up the freeway can trade until 5.30 pm. The major tourist hub of South-East Queensland stores cannot trade on Easter Sunday, Labour Day or for the entirety of Anzac Day. The Queensland Competition Authority's report on '*Measuring and Reducing the Burden of Regulation*' from February 2013, supported a review of the restrictions but nothing has yet been achieved. Reliance on the state industrial relations authority (Queensland Industrial Relations Commission) to determine 'appropriate' shop trading hours is also unusual, compared with other States. The process of seeking exceptions to trade or extended hours through the Queensland Industrial Relations Commission is a significantly onerous and costly process.

Western Australia

Myer acknowledges the recent steps that the Western Australian government has taken to modernise its trading regime for the Christmas period. The government now allows all general retail stores in the Perth metropolitan area to trade as early as 7am on weekdays and Saturdays, and from 8am on Sundays, with openings until 6pm on weekends. Shopping hours for Boxing Day and New Year's Day have also been extended. While there are still restrictions, Myer believes the WA initiatives are a sensible development which give retailers the flexibility to decide how to best meet their customers' needs, as well as provide additional employment opportunities for their workforce.

Australian Capital Territory

Whilst trading hours are not regulated in the Territory, Myer elects not to trade on Good Friday, Christmas Day and the morning of Anzac Day in line with our practices across Australia.

Victoria

Trading hours in Victoria are regulated under the *Public Holidays & Shop Trading Act 2010* (Vic). This Act specifies that there are two and a half restricted trading days each year. These are: Good Friday, Christmas Day, and before 1pm on Anzac Day. On these particular days, only exempt stores are permitted to open.

Tasmania

Tasmania largely follows Victoria's approach to trading hours.

Penalty Rates of Pay

It is important to note that Myer has a federally registered Enterprise Agreement which applies to all its store team members, the Myer Stores Agreement 2010, which operates nationally. Under the Agreement, significant penalty rates apply to late nights, Sundays and Public Holidays.

Summary

Myer supports the Competition Policy Review's draft recommendation for State governments to lift restrictions on trading hours in order to assist our nation's economy and employment.

We believe that the most direct and immediate way to support economic growth and higher employment rates across Australia is through deregulation of the current retail trading regime.

Removing trading hour restrictions to allow business to trade on all public holidays (other than Christmas Day, Good Friday and Anzac Day morning) will assist in generating sales and provide employment opportunities. Most significantly, removing restrictions from trade on Boxing Day throughout NSW would generate a significant benefit to business, employees and consumers, as well as the State.

Thank you again for the opportunity to respond to the review.