



# **Competition Policy Review Submission to the Panel**

**17 November 2014**

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## BACKGROUND

1. Unions NSW is the peak body for trade unions and union members in NSW. It has over 65 affiliated unions and trades and labour councils, representing approximately 600 000 workers across NSW.
2. Unions NSW has a number of affiliated unions who cover employees who work in or support the retail sector.

## INTRODUCTION

3. Unions NSW welcomes the opportunity to make a submission to the Federal Government's review of Australia's competition laws and in particular the Draft Report released in September 2014. Unions NSW notes the key objective of the review is to *"identify regulations and impediments that restrict competition and reduce productivity which is not in the broader public interest"*.
4. Unions NSW acknowledges there has been considerable change in the Australian economy since the Hilmer Report of the early 1990s and the boost in productivity that underpinned the growth in living standards over the past two decades.
5. Unions NSW believes it is paramount that any reforms arising from the inquiry should continue to improve the living standards of working people.

## DRAFT REPORT RECOMMENDATION 51

6. While the Draft Report contains a number of key findings, Unions NSW submission in regard to Recommendation 51 which provides:

*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.*

7. Unions NSW believes Recommendation 51 has been made in the absence of any substantive evidence in relation to how the deregulation of trading hours would increase competition, productivity or be in the broader public interest.
8. Further any implementation of Recommendation 51 in conjunction with the current calls by business for cuts to penalty rates then there would be no improvement the living standards of working people and in fact, such policy changes would have a deleterious effect on current living standards for retail workers.

## CURRENT STATUS OF RETAIL HOURS IN NSW

9. Unions NSW believes retail trading hours are largely deregulated around the country, with few exceptions. All NSW retailers can open for trade on almost ninety nine percent of days in any year. Many retailers, including 'small shops', petrol stations, fast food outlets and retailers situated in various 'tourist resort areas' are entitled to open for trade every day of the year.
  
10. In New South Wales there are only 4.5 days, Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day, where retail workers have the right to refuse to work on these days in those shops which are exempt to trade. Further, NSW does not permit retailers to require retail workers to work behind closed doors in shops which must remain closed on these special days.
  
11. Every one of these days (Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day) is a day of social, cultural or religious significance observed by the Australian community. The current protections ensure hard working retail employees and small retailers have the right to insist that they can take the time with family and friends to celebrate these occasions just like the vast majority of the Australian population.
  
12. A number of recent reviews provide strong evidence to support the protection and recognition of public holidays for the commemoration and celebration of significant social and cultural occasions.

13. In a 2009 review of the *Banks and Bank Holidays Act 1912 (NSW) 2009*<sup>1</sup> Dr Joellen Riley found:

*“Australians have traditionally celebrated days of particular national significance... public holidays provide the opportunity for shared commemoration and celebration of significant events and occasions in our common heritage”.*

14. In other words there is a growing public perception that public holidays are seen as invaluable days to share with family and friends away from work, providing all Australia workers to have the same level of community involvement as other Australian workers.

## **EXTENDING TRADING HOURS AND INCREASE EMPLOYMENT OPPORTUNITIES**

15. Unions NSW does not believe there is any reliable evidence to suggest that extended retail trading hours will have any impact with regard to increasing employment across the sector.

16. In 2006, the South Australian State Government<sup>2</sup> conducted a review into changing retail trading hours and as part of the review investigated whether extending the hours would increase employment.

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<sup>1</sup> Dr Joellen Riley; Review of the *Banks and Bank Holidays Act 1912 (NSW) 2009*

17. The review drew upon the findings of an independent report from the South Australian Centre for Economic Studies, which concluded:

*“ABS data on retail turnover provides no evidence of a benefit, in that there has been no apparent increase in rate of growth of retail employment in South Australia [since further liberalisation of trading hours]”.*

18. The experience of most retail workers has been that previous extensions of retail trading hours has not increased the total number of hours of work available but rather these hours are simply redistributed due to the sales made during the new extended trading hours cannibalise sales at other times of the week. That is, consumers don't spend more because of the increased trading hours rather, they simply spend the same amount across a wider range of hours within any week.

19. Such changes result in retailers changing rosters and cutting hours at other times and shifting the opportunity to work from 'normal' working hours toward unsociable working hours coupled with a deterioration of permanent employment in the industry.

20. Over the past 30 years extended trading hours has contributed to a decrease in full-time employment, increase in casual employment, less available work during

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<sup>2</sup> Report Of The 2006/07 Review Of The *Shop Trading Hours Act 1977*

normal working hours (Monday to Friday, 9 to 5), more work during unsociable times (nights, weekends and public holidays) and less rostering certainty.

## ARE CONSUMERS SEEKING THE TOTAL DEREGULATION OF TRADING HOURS

21. Unions NSW believes there is no genuine “high consumer demand” from consumers for further extended trading hours.

22. The most recent survey regarding whether retail trading hours should be further deregulated was conducted in Western Australia in 2005. Of the million plus people who voted on whether retail trading hours should be liberalised in the evenings and on Sundays:

- over 57% of voters opposed extended late night trading; and
- over 59% of voters opposed Sunday trading.

23. The South Australian State Government<sup>3</sup> found “*there is no clear evidence of public demand for further extension of shopping hours*” and concluded that deregulation of shopping hours would further erode the leisure time of families and quality of life of small retail businesses.

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<sup>3</sup> Report Of The 2006/07 Review Of The *Shop Trading Hours Act 1977*

24. Further, in 2012 the McKell Institute published a report<sup>4</sup> looking at the relationship between trading restrictions and retail turnover over the Easter trading in Victoria. The report concluded that the data simply refutes the theory that an extension of trading hours lead to any sustainable economic benefit. Further the report found that in Victoria it could be argued that deregulation “*has encouraged even greater levels of concentration as major retailers compete through loss-leader promotions for an even greater cut of market share, resulting in even less competition*”.

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<sup>4</sup> McKell Institute; “Does our Spending Increase? The relationship between trading restrictions and retail turnover” May 2012

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## CONCLUSION

25. Unions NSW does not support Recommendation 51 of the Panel which seeks to remove the remaining restrictions on retail trading hours be removed principally because:

- (i) there is no evidence the further deregulation of trading hours will improve productivity;
- (ii) there is no evidence the further deregulation of trading hours will increase competition
- (iii) there is no evidence the further deregulation it will not contribute to a growth in living standards for the broader population or retail workers; and
- (iv) there is no evidence that the further deregulation is in the broader public interest.