



15th April 2015

AACS SUBMISSION TO THE COMPETITION POLICY REVIEW

General Manager
Small Business, Competition and Consumer Policy Division
The Treasury
Langton Crescent
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Re: response to the Competition Policy Review Final Report

To whom it may concern,

On behalf of members of the Australasian Association of Convenience Stores (AACCS), the peak body for the convenience industry in Australia, we make the following submission to the Competition Policy Review Final Report and the recommendations contained therein.

As an Association, we are primarily interested in the recommendations with the potential to impact small business, especially those referring to the challenges and opportunities for small business and their ability to compete with a supermarket duopoly enjoying an unprecedented market share.

The AACCS welcomed the Government's review into Australian competition policy and made a submission to the Draft Report in late 2014.

On behalf of our members we remain very interested in the review and we are hopeful the outcome will be a fairer competitive environment for businesses large and small.

The AACCS has always argued that less – not more – regulation is needed to enable small business to compete on more level ground with the major chains.

It is encouraging to see that the recommendations contained in the Final Report recognise that deregulation as an ideal is necessary to promote competition.

However some of the recommendations have the potential to generate counterproductive impacts, effectively increasing the anti-competitive environment.

For instance, in relation to product categories including packaged alcohol and pharmaceutical products, the recommendations have the potential to actually enhance the unfair advantages enjoyed by the major chains in direct contravention to the purpose of the review.

The potential counterproductive impacts of these recommendations form the focus of this submission. We also reinforce the business case for the sale of packaged alcohol in convenience stores for the Panel's review.

This is a measure with the potential to address the imbalance in the retail sector and enable small businesses access to a market valued at approximately \$16 billion annually but which the two major chains dominate to an unsustainable extent.

The AACS wishes to thank the Competition Policy Review for its consideration of our submission.

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1. Introduction

The Australasian Association of Convenience Stores (AACS) established in 1990, is the peak body for the convenience industry in Australia.

Nationally, our industry employs over 40,000 people in over 6,000 stores. The majority of these stores operate as family run businesses, often under licence or franchise agreement, or independent ownership. They regularly employ family members and people from the local communities in which they operate.

The AACS represents the interests of these small businesses; their owners, staff, suppliers and customers.

The convenience industry in Australia was valued at approximately \$16.7 billion in 2014 according to companies contributing to the *AACS Annual State of the Industry Report*. This report contains the most comprehensive information available on the convenience industry in Australia and we would be happy to provide a copy.

As an Association we enjoy strong ties with our international counterparts including the convenience stores associations in the US, Canada, the UK and New Zealand. We also visit similar stores in South East Asia to keep abreast of changing or emerging trends.

Additionally, we are a member of the Council of Small Businesses of Australia.

2. Response to recommendations in the Final Report

The AACS wishes to specifically address several recommendations contained in the Final Report.

The very first recommendation (Recommendation 1) in the Final Report states that "Competition policies, laws and institutions should promote the long-term interests of consumers."

The AACS agrees with this sentiment entirely yet questions whether other recommendations made jeopardise the potential for this to be achieved. Any recommendation which could serve to increase the competitive advantages already enjoyed by the supermarket duopoly cannot and should not be considered to be in the long-term interest of consumers.

A report in the publication 'SmartCompany' dated 15th April 2015 highlights "*Over 6000 independent hardware stores to close as Bunnings and Masters nail the competition*" - Wednesday, 15 April 2015 Andrew Sadauskas.

The AACS does not wish to see this stranglehold by major retailers exerted over other retail sectors. Those interested in real competition and the genuine interests of consumers should also want this outcome avoided.

Recommendation 8 of the Final Report states: "All Australian governments should review regulations, including local government regulations, in their jurisdictions to ensure that unnecessary restrictions on competition are removed."

Further, Recommendation 9 includes the reference that “state and territory governments should subject restrictions on competition in planning and zoning rules to the public interest test”.

These recommendations refer directly to an issue the AACS has long campaigned for, namely the right for convenience stores to responsibly sell packaged alcohol if they so choose, subject to appropriate staff training and other compliance requirements including set trading hours.

To date, one of the most prominent arguments put forward in opposition to convenience stores having this right centred on the existing access to packaged alcohol in the community from a large number of licensed premises.

However the capacity to obtain a licence has been limited to a select few players, including take away liquor stores, of which approximately 60% are owned by the two major supermarket chains.

The AACS supports these recommendations on the basis that they should lead to the introduction of new legislation enabling the right for convenience stores to sell packaged alcohol if they choose to.

However, elsewhere in the Final Report, there are indications that these recommendations might actually reduce competition in the packaged alcohol market and increase the anti-competitive advantages enjoyed by the two major supermarkets.

In relation to Recommendation 8, the Final Report states: “Trading hours restrictions and restrictions preventing supermarkets from selling liquor impede competition. The Panel recommends that restrictions preventing supermarkets from selling liquor be reviewed as part of a new round of regulation reviews.”

The adoption of such a recommendation would significantly reduce competition in this market. It would lessen the ability of small businesses and independent retailers to compete with the majors.

It would be a reckless move that would contradict the purpose of the review itself.

This extends to the potential for the major supermarkets to gain the ability to sell a broader range of pharmacy products in store, while similarly, convenience stores are prevented from participating in this category.

The AACS vehemently opposes any recommendation that would hand greater power to the two major chains, especially those that come at the expense of small businesses.

3. The AACS position on packaged alcohol in supermarkets explained

Opening the door for the major supermarkets to sell alcohol in store, while continuing to prevent convenience stores from participating in this category, would not only represent a missed opportunity, it would undermine the intended purpose of the Competition Review.

It is inconceivable for the Final Report’s recommendations to have the capacity to increase, not temper, the competitive advantages enjoyed by the major supermarkets while at the same time ignoring the interests of small retailers and the convenience of consumers.

Between them, the two major supermarket chains control approximately 60% of the packaged alcohol market in Australia. The anti-competitive impacts of these chains being able to sell alcohol in their supermarkets as well, while continuing to deny the right for convenience stores to compete in this category, are obvious.

It makes no sense for a review designed to improve the competitive landscape in Australia to hand the most dominant two forces even greater power.

We strongly urge the Panel and the Government, in its consideration of the next round of submissions, to recognise the anti-competitive landscape already in existence in the Australian retail market and prevent the balance from skewing further away from small businesses and independent retailers.

The AACS has long argued for deregulation in the packaged alcohol sector to enable convenience stores to have the right to responsibly sell these products if they choose to, subject to normal staff training and age regulations. We do not seek 24 hour access to be able to sell alcohol and would do so in line with other appropriate retail trading hours.

Consumer purchasing habits when it comes to packaged alcohol aligns perfectly with the convenience store model.

When purchasing packaged alcohol, consumers desire convenience and quick service while being influenced by store display, layout and product specials. These behaviours directly align with the competitive advantages of convenience stores.

For the review to put consumer interests first, as per its stated intention, then this is an obvious and necessary place to start. It would unlock significant revenue potential for small businesses and added convenience and choice for consumers.

In addition, there would be new employment opportunities created in the convenience sector in catering to this category.

4. The business case for packaged alcohol in convenience stores

Permitting convenience stores to sell packaged alcohol products has the potential to improve the capacity for small businesses to compete with the major chains. There is no credible reason why convenience stores should not be permitted to sell alcohol products. Likely objections typically come from an emotional – not business or commercial – perspective.

From a business perspective, there are numerous compelling reasons for Government to permit the convenience industry in Australia to sell packaged alcohol:

- The two main supermarket chains have successfully used the existing regulatory framework to dominate alcohol sales to a level that has become unsustainable.
- According to the IBISWorld Industry Report: *Liquor Retailing in Australia*: “The major supermarkets, Woolworths and Coles, dominate the industry, with a combined market share estimated at 57.5% of industry revenue in 2013-14. As such, the industry has a moderate level of market share concentration. Overall industry concentration has increased in the past five years

due to the entry and the growing power of Woolworths and Coles through acquisitions and strategic expansions.”

- The supermarkets use their dominant market share to negotiate favourable agreements with alcohol producers while exploiting their market position to promote the sale of their own, higher-margin private labelled products.
- IBISWorld expects revenue from liquor retailing to grow at an annualised 3.1% over the five years through to 2018-19. This growth will largely be fuelled by the two major chains as more independent bottle shops are forced out of the market.
- The convenience store model naturally aligns with consumers’ preferences when they make alcohol purchases.
- According to IBISWorld, consumers shopping for alcohol “have been found to be very much impulse buyers who can be influenced by store display, layout and specials as to what they purchase.” These specific behaviours directly align with the convenience industry’s few remaining competitive advantages and reinforce the revenue potential for small businesses.
- Internationally, convenience stores around the world are permitted to participate in this category. Packaged alcohol is an important category for small businesses in their endeavours to compete against larger grocery chains.
- An analysis of packaged alcohol sales in overseas convenience industries provides a glimpse of the potential revenue accessible for stores in Australia.
- If the US contribution of beer sales in convenience stores of 7.9% in 2013 was translated to the Australian convenience store market, this would represent around \$489 million of additional sales to the Australian convenience industry.
- In the UK convenience industry, sales of beers, wines and spirits represent 12.5% of total sales for the channel in 2013. This percentage translated to sales in Australian convenience stores would represent an additional \$775 million in sales on an annual basis.
- Convenience stores are able to sell age restricted products such as tobacco responsibly and would sell alcohol in line with agreed trading hours for these products as determined at the local level.
- Preventing convenience stores from selling alcohol is not slowing the growth of the industry. “Woolworths has grown its share of the packaged liquor market from 29 per cent to 48 per cent since 2007, while Coles’ share has grown from around 18 per cent to 20 per cent.” - Sue Mitchell, *The Australian Financial Review* March 11th 2014.
- The introduction of this category to convenience stores would open up job opportunities at both a corporate and individual store level, as well as provide suppliers with an alternative distribution channel.

5. Conclusion

The AACS acknowledges the extensive work done by the Panel to date in formulating the Final Report and the recommendations therein.

We believe the recommendations in the report are encouraging and have the potential to generate improved competition outcomes for Australian businesses.

However we also wish to raise concerns regarding some of the recommendations which our experience tells us could lead to outcomes that actually reduce competition.

The two major supermarkets have historically demonstrated exceptional capacity to use existing regulatory frameworks to maximise the competitive advantages available to them, usually at the expense of smaller, independent retailers.

We urge the Panel to recognise and review any recommendation with the potential to result in outcomes such as this.

The AACS welcomes the opportunity to assist the Panel in its ongoing work as part of the Competition Review. Feel free to contact me at any time to discuss this submission, and the implications for small business, further.

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