



SUBMISSION TO GOVERNMENT

CUTTING RED TAPE

RETAIL
[APPENDIX D]

{MAY 2014}

EXECUTIVE SUMMARY

The following document provides specific examples and details of key regulations adversely affecting retailers, and the cost of doing business:

- **Federal Government reforms to enhance retail productivity and competitiveness**
- **Conflicting State regulations and the need to harmonise at best practice**
- **Local Government restrictions and the cost of red tape at a Council level**
- **Other items**

Item	Issue	Cost Impact	Urgency	Page No.
FEDERAL GOVERNMENT				
1	The Modern Retail Award Amend legislation to allow Enterprise Awards to continue to operate	High	Short Term	2
2	The Safe Rates Tribunal Repeal legislation and abolish Tribunal	High	Short Term	2
3	Food Labelling Regime should be subject to full Regulation Impact Statements regime prior to implementation	High	Short Term	3
4	Mandatory reporting of serious illness or injury Amend requirements relating to food products	Medium	Short Term	4
STATE AND FEDERAL GOVERNMENT				
5	Trading Hours	High	Short Term	5
6	Container deposit legislation	High	Short Term	6
7	Food safety regulations	Medium	Short Term	7
8	Quarantine arrangements	High	Short Term	8
9	Tobacco and liquor regulations	High	Short Term	9
10	Sale of knives	Low	Short Term	10
11	Other state-based anomalies	Medium	Short Term	11
12	Transport restrictions	High	Short Term	12
LOCAL GOVERNMENT				
13	Development and planning requirements	High	Short Term	15
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15	Shopping trolleys	High	Short Term	16
16	Noise issues	High	Short Term	17
17	Car parking	High	Short Term	18
OTHER ITEMS				
18	GST on online purchases Current threshold for LVT imports has severe impact on local retailers and employment. Change threshold for online purchases to less than \$1,100	High	Immediate	18
19	Safety regulations	High	Short Term	19
20	Sustainability legislation	Medium	Short Term	20
21	PCI compliance	Medium	Short Term	20

Implementation of the G100's recommendations is estimated to result in cost savings of around \$170m over the time periods suggested.

FEDERAL GOVERNMENT REFORMS

The following areas have been identified as 'quick wins' which the Government can adopt to reduce the regulatory burden within the retail sector.

1. THE MODERN RETAIL AWARD

The abolition of the Enterprise Awards at the end of 2013 will result on the Modern Retail Award being used for the purposes of the Better Off Overall (BOOT) test for future bargaining. At present these Enterprise Awards:

- have higher rates of pay and penalties that are more aligned to actual penalties in our EBAs
- were designed specifically for the needs of retailers and used as the basis for bargaining national EBAs with the SDA to meet the needs of our business and employees.

One of the key impediments that retailers face is that the General Retail Industry Award still relies on the assumption that shopping occurs Monday to Friday between 9am and 5pm. Therefore, the Award provides for penalty rates for work performed outside this period (refer to the table below). This framework does not recognise the changed nature of the industry and the relevant trading patterns which clearly show that weekend trading periods are often the busiest for the retail industry.

Recommendation: amend the legislation to allow Enterprise Awards to continue to operate as they have for many years and allow parties to use them as the basis for the BOOT test in Bargaining.

Cost Impact

High Cost

Urgency

Short Term

Penalty rates under the General Retail Industry Award provide:

Working time	Full time or part time employees	Casual employees
Monday – Friday (after 6pm)	25%	Standard 25% casual loading
Saturday (all hours)	25%	Standard 25% casual loading
Sunday (all hours)	100%	100% (including casual loading)
Public Holidays	150%	150%

2. THE SAFE RATES TRIBUNAL

The TWU lobbied the former Labor Government to establish a Safe Rates Tribunal to adopt minimum awards rates of pay for transport drivers.

The TWU has also pushed for safe rates decisions to apply to all "Supply Chain participants". This would require retailers to be accountable for things it cannot control.

The industry maintains that the RSRT was established on flawed foundations as there is no evidence between remuneration and improved safety in road transport.

The Minister for Employment, Eric Abetz, announced a review of the Safe Rates Tribunal on 20 November 2013. The Review will be completed in the first quarter of 2014. This should be progressed before the Tribunal makes any determinations.

Recommendation: that the RSRT be abolished and the relevant legislation repealed.

Cost Impact

High Cost

Urgency

Short Term



Review of the Road Safety Remuneration System

Wednesday 20 November 2013

[Senator the Hon Eric Abetz](#)

- Minister for Employment
- Minister Assisting the Prime Minister for the Public Service
- Leader of the Government in the Senate

The operation of the Road Safety Remuneration System will be examined under an independent review of safety in the road transport industry, as promised in the Coalition's Policy to Improve the Fair Work Laws.

Announcing the Review today, Minister for Employment Eric Abetz said the Government understands the vital importance of road safety.

The Review will assess the operation of the *Road Safety Remuneration Act 2012* and the Road Safety Remuneration Tribunal (together - the Road Safety Remuneration System) and advise Government on whether this system represents an effective means of addressing safety concerns in the road transport industry.

"We already have a number of measures in place dealing with road safety in our transport system, including the National Heavy Vehicle Regulator," Senator Abetz said.

"We want to establish whether there is sufficient evidence that a separate additional tribunal and a further level of regulation is the right way to improve safety on our roads. I note that even former transport union employees have spoken out against the Tribunal.

"We are listening to concerns of the road transport industry that the work of the Tribunal could overlap with and undermine other regulation and may also impose onerous and unnecessary compliance burdens."

An independent reviewer, Mr Rex Deighton-Smith of Jaguar Consulting, will conduct the review.

"Rex Deighton-Smith is eminently qualified, with 25 years' experience in public policy and whose expertise include policy research and analysis, regulatory impact assessment, competition policy and stakeholder consultation," Senator Abetz said.

"He has the expertise and experience in dealing with regulatory frameworks to assess the evidence of the impact and effects of the Road Safety Remuneration System on the transport industry and the Australian economy and conducted work on a similar matter for the former government."

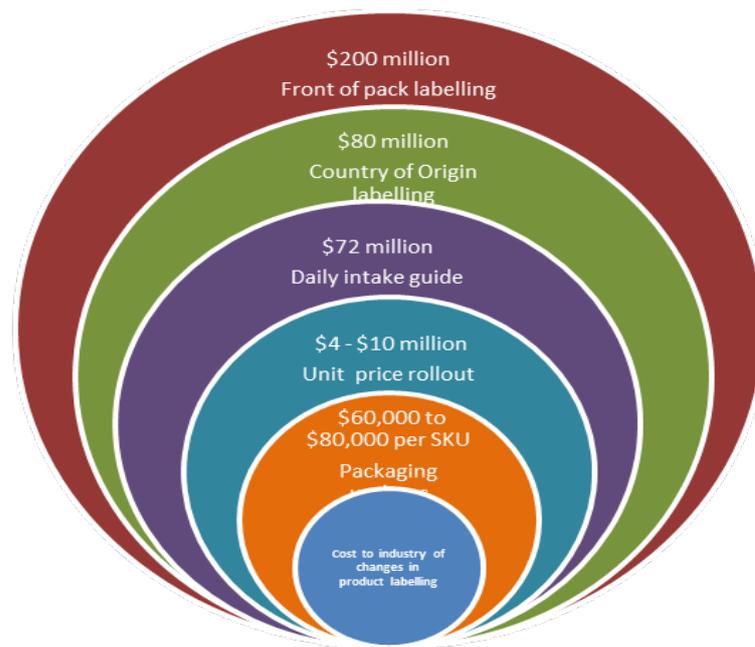
3. FOOD LABELLING

Retailers support a clear, workable food labelling system that enables customers to make informed nutritional choices. It is important to ensure that any new Front of Pack Labelling (FoPL) such as the proposed Health Star system meets these criteria and undergoes a Regulatory Impact Statement (RIS) process before industry commits to making the significant capital investment required.

The introduction of the Health Star FoPL is estimated cost industry \$200 million, with some costs likely to flow through to customers. This cost is additional to the \$72 million already invested by the industry on its current FoPL, the Daily Intake Guide. ¹

As a RIS was not prepared for consultation or the decision, the Office of Best Practice Regulation (OBPR) has assessed the proposal as being non-compliant with the COAG best practice regulation requirements.

The cost of labelling changes for food companies & retailers



Recommendation: A RIS be undertaken following final agreement to the Health Star Rating FoPL – and prior to its implementation - to ensure that the considerable regulatory costs do not exceed the intended benefits.

Cost Impact	High Cost	Urgency	Short Term
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4. MANDATORY REPORTING

When the Australian Consumer Law was introduced, it contained a new provision (s 131) which requires that when a retailer becomes aware of a serious injury or illness associated with a product, it must be reported to the ACCC within two days. A ‘Serious injury or illness’ is basically defined as one where the customer seeks ‘medical supervision’.

A two-day reporting requirement means that a business needs to lodge a report without being able to adequately check the veracity of the claim. Many times the report given to the retailer is found to be either bogus or incorrect.

¹ Deloitte Access Economics *Reforming regulation of the Australian food and grocery sector* 28 October 2013

This occurs after the two days deadline. Because of this short reporting period, a retailer would already spent resources reporting and sourcing information.

With one report a day, the resources and time spent on the above process is significant, both for retailers and for regulators.

Recommendation: we believe the application of s131 to food products is problematic and that mandatory reporting should be limited to non-food products

Cost Impact

Medium Cost

Urgency

Short Term

A NATIONALLY CONSISTENT AND HARMONISED APPROACH

State-based regulation is often inconsistently applied, particularly in relation to trading hours, age restrictions on the sale of products and other labelling or display restrictions. For retailers operating in the national trading marketplace, complying with these regulations which differ from State to State adds a significant and costly regulatory burden.

5. TRADING HOURS

Regulation of trading hours, particularly restrictive trading days on public holidays, is inconsistent across State jurisdictions, causing added complexity and cost and lost income for retailers.

Retail store trading hours are regulated through legislation by the States and Territories which specify when retailers can trade. There are inconsistencies between States and Territories on:

- extended weekday trading (i.e. past 5pm)
- Sunday trading
- Public holiday trading
- Restricted trading days (which may or may not be a public holiday).

For each of these trading times, there may be an additional layer of restriction on the:

- maximum number of employees staffed at any one time,
- floor size of the shop, and
- type of goods sold.

Secondly, in addition to differences between States/Territories there are also restrictions within States/Territories on when retailers are permitted to trade.

Thirdly, in some States/Territories trading hours are regulated by multiple legislative instruments. For example, in New South Wales retailers must comply with the trading restrictions prescribed in both the Liquor Act 2007 and the Shop Trading Act 2008. South Australia has 11 closed trading days, the most of any State, and compares unfavourably with Victoria which has adopted best practice of 2.5 days closed for public holidays a year.

Trading hour regulations prevent customers from shopping at a time best suited to their needs and limit store preparedness to trade immediately after a closed day.

The impact of physical trading hour restrictions is increasingly frustrating given consumers can purchase products online at any time.

The complexity that national retailers faced while operating over the 2013 Easter/ANZAC Day period are outlined in the following table.

Recommendation: the Federal Government take the lead in harmonising and streamlining State and Territory trading hours at best practice levels across the Commonwealth.

Cost Impact

High Cost

Urgency

Short Term

Overly prescriptive trading hour restrictions – Easter and ANZAC Day 2013

In table below, the following key has been used: **Normal** = Normal trading ability state wide. **P/H trade** = Stores may trade on a declared Public Holiday – Public Holiday rates of pay apply **Restricted** = Stores may trade only in some areas of the state or for restricted hours – see notes below and/or check with relevant government authorities

	GOOD FRIDAY 29 March	EASTER SATURDAY 30 March	EASTER SUNDAY 31 March	EASTER MONDAY 1 April	ANZAC DAY Thursday 25 April
VIC	Public Holiday	Public Holiday	Not a Public holiday	Public Holiday	Public holiday
Trade	Closed	P/H Trade	Normal	P/H Trade	Closed until 1.00pm
NSW	Public Holiday	Public Holiday	Public holiday	Public Holiday	Public Holiday
Trade	Closed	P/H Trade	Restricted	P/H Trade	Closed until 1.00pm
ACT	Public Holiday	Public Holiday	Not a Public holiday	Public Holiday	P/H Trade (Recommend Closed until 1.00pm)
Trade	P/H Trade (Recommend Closed)	P/H Trade	Normal	P/H Trade	Closed until 1.00pm
QLD	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
Trade	Closed	P/H Trade	Restricted	P/H Trade	Closed
****SA	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
Trade	Closed	Restricted	Restricted	Restricted	Closed
NT	Public Holiday	Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
Trade	P/H Trade (Recommend Closed)	P/H Trade	Normal	P/H Trade	P/H Trade (Recommend Closed until 1.00pm)
WA	Public Holiday	*Refer to note below	Not a Public Holiday	Public Holiday	Public Holiday
Trade	Closed	Normal	Restricted	Restricted	Closed
TAS	Public Holiday	Not a Public Holiday	Not a Public Holiday	Public Holiday	Public Holiday
Trade	Closed	Normal	Normal	P/H Trade	Restricted - Closed until 12.00 noon

6. CONTAINER DEPOSIT LEGISLATION

Container Deposit Schemes (CDS) exist in South Australia and (pending) in Northern Territory with other States reportedly considering their options. The Victorian Premier recently publicly supported the introduction of a CDS.

A wider CDS would impose a huge cost on the economy, estimated to add at least \$300 to an average shopping basket per annum (or equivalent to twice the inflationary impact of the carbon tax). The deposit is only part of the story – infrastructure and running costs also need to be incurred. COAG analysis shows a CDS is 28 times more expensive than industry alternatives capable of delivering the same environmental outcome.

Over 97% of Australian households already recycle through kerbside bins and many local governments will suffer a financial loss if a CDS was to be introduced. The following table analyses the financial impact of the introduction of a CDS on Victorian Councils.

Overall impact of a CDS on kerbside recycling in Victoria².

Grouping of Councils	Annual change per year (AU\$)	Change 2015 to 2035 (AU\$ millions)
All Metropolitan	-\$514,900 to -\$ 1,519,600	-\$22.8
All Regional	\$2,500 to \$7,500	\$0.112
All Rural	\$226,900 to \$669,600	\$10.0
Victoria Total	-\$285,518 to -\$842,500	-\$12.6

Recommendation: the Federal Government take the lead in resisting States' action on Container Deposit Schemes, acknowledging that CDS are another unnecessary tax on consumers when more effective recycling programs exist.

Cost Impact

High Cost

Urgency

Short Term

7. FOOD SAFETY REGULATORS

As outlined by Deloitte in their analysis for the AFGC, there is roughly one special purpose national regulator for each aisle of a typical supermarket (and that is not including State based regulators). In several cases, there is overlap that causes some products to be regulated by several of these bodies. The following table lists those regulatory bodies, along with the type of products they cover and the number of SKUs they impact.

² The financial impacts of Container Deposit Legislation to local governments in Victoria, Prepared for: Sustainability Victoria in Partnership with the Municipal Association of Victoria. 8 November 2012

Regulator	Product Coverage	Estimated number of SKUs impacted
FSNAZ	packaged food, ingredients, labelling, chemical residues in food (in combination with APVMA)	20,000+
ACCC	country of origin, labelling, mandatory reporting of incidents (as well as some broad-based regulation)	20,000+
APVMA	some pet supplies, chemical residues in food (with FSANZ), fly spray, insect candles, pool and spa chemicals, some garden supplies	2,000+
NICNAS	chemicals such as detergents, cleaners and some personal care products)	3,000+
NTC	transport of dangerous goods	5,000+
Biosecurity	inspects imported food items on behalf of FSANZ	500+
TGA	vitamin supplements, over-the-counter medicines	1,000+
NMI	weights and measures, across both food and grocery	20,000+

There are several instances where retailers need to engage with multiple regulators whose different timeframes result in unnecessary time delays and cost for businesses.

For example, the APVMA and FSANZ must both approve new MRLs (Maximum Residue Levels for agrochemicals). There is normally a delay of a number of weeks between the approval received from one organisation and that received from another organisation, or indeed a case of when FSANZ will allow an MRL for imported product, but the chemical may not be approved by the APVMA for farm use.

Recommendation: the streamlining of regulation where it must cover multiple regulatory organisations would relieve business of considerable red tape regulatory burden.

Cost Impact

Medium Cost

Urgency

Short Term

8. REVIEW OF QUARANTINE ARRANGEMENTS

A number of Australian jurisdictions have state or region-based quarantine rules which limit the ability to move food between zones. For example:

- only honey which is produced in WA can be sold in WA
- only Australian rice which is produced in the Riverina district can be sold in the Riverina district
- only fin fish, which is caught in Tasmania, can be sold in Tasmania.

National retailers incur significant administrative and compliance costs in order to comply with these restrictions.

As an example of the challenges for a national supermarket retailer, the following table from Quarantine Tasmania illustrates the restrictions on bringing food products into Tasmania.

What you can't bring into Tasmania: these items are either fully prohibited, need specific certification or require treatment.

Items entering Tasmania	From all Australian States and Territories
Abalone and abalone products (all) including fresh, frozen, dried, vacuum sealed etc.	No
Apple/pear trees, cuttings and fruit	No
Capsicum fruit, plants and seed	No
Fin Fish (Boney Fish, Sharks etc.)	Ask
Other Fish & Fish Products - includes Fin Fish, Crustaceans and live Molluscs	Ask
Fruit and vegetables	No
Leafy vegetables	No
Maize, corn seed	No
Molluscs (live) including mussels, oysters etc.	Ask
Peas in the pod and seed	No
Potatoes	No
Salmon	No
Tomato plants and seeds	No
Yabbies (Freshwater Crayfish)	No

Recommendation: an independent review of all quarantine rules be completed and that only those which provide positive economic impacts (benefit vs cost, including an estimate of consumer health) are continued. The rules between States should also be justified by the Federal Quarantine Service before being applied.

Cost Impact	High Cost	Urgency	Short Term
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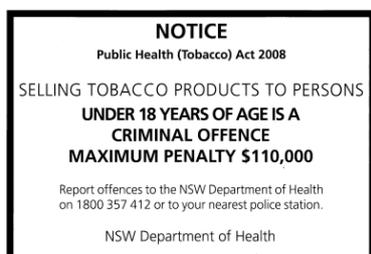
9. TOBACCO AND LIQUOR REGULATIONS

While the Commonwealth, State and Territory Governments have had a national policy for addressing alcohol, tobacco and other drugs since 1985, there is no national agreement on how to achieve the objectives in this policy.

The lack of national agreement on the approach to regulating the sale of tobacco means that national retailers have to comply with each State and Territory's interpretation - resulting in differing policies in regard to signage, display, licensing, ticketing, definitions of tobacco products and sales to minors for each jurisdiction. This situation applies equally to liquor regulation.

The following images illustrate the different mandatory signage required by various Australian jurisdictions:

New South Wales



Western Australia



South Australia



Queensland



Victoria



Northern Territory



Recommendation: regulations concerning tobacco and liquor products be uniformly applied across all Australian jurisdictions. Consistency benefits both consumers and enforcers of regulation.

Cost Impact	High Cost	Urgency	Short Term
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10. REGULATIONS ON THE SALE OF KNIVES

Victoria, New South Wales, the ACT and South Australia have banned the sale of knives to minors.

However the regulations in the four jurisdictions differ in the age above which retailers may sell a knife, in the extent of the knife ban, signage required and in the penalty imposed for a prohibited sale.

	Victoria	NSW	ACT	South Australia
Age under which ban applies	18	16	16	16
Extent of ban	All knives, including plastic* <i>*The Victorian Govt has announced its intention to remove restrictions on the sale of plastic knives</i>	All knives, does not include plastic	All knives, does not include plastic Signage of a regulated size and font is also required at point of sale	All knives, does not include plastic
Means of monitoring	Same ID as tobacco laws	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds	Difficult to monitor as there is no acceptable recognised forms of ID for 16 year olds
Penalty for prohibited sale	12 penalty units (approx \$2,389)	Up to \$5,500	6 months and/or 10 penalty units	Up to \$20,000 and two years imprisonment

Recommendation: the regulation of retail knife bans be reviewed and uniformly applied across all Australian jurisdictions

Cost Impact

Low Cost

Urgency

Short Term

11. FURTHER STATE BASED ANOMALIES

- Western Australian potatoes**

In Western Australia, the marketing of Potatoes Act of 1946, regulates the growing and marketing of potatoes. There is no regulation of potato markets in other States. WA's potato industry regulations mean potato growers in WA operate under rigid controls. Potatoes can only be sold in the domestic market by licensed growers. The regulator, Western Potatoes, controls the production, prices and methods of sale by licensed farmers.

This is the only potato growing regulation in Australia – the other States have moved decisively away from this type of agricultural controls. The WA potato arrangements are reform targets in the NCP and are part of an unfinished agenda for competition policy and the deregulation program.

- **South Australian bread**

Under the South Australian Prices Regulation 2001, South Australia is the only State that prohibits commercial arrangements between the manufacturers and retailers of bread for the practice of 'sale or return'.

In all other States, out-of-date bread is returned to manufacturers who process it for other bread products, such as breadcrumbs or croutons. Some of the bread also re-enters the food chain as animal feed. In contrast, in South Australia, most of the bread is simply dumped as waste at landfills. Strangely, this regulation only applies to leavened breads. It does not apply to non-leavened breads such as crumpets and muffins which are supplied on a sale or return basis in all States.

Recommendation: that these State based regulations be abolished to allow for a nationally consistent trading environment.

Cost Impact	Medium Cost	Urgency	Short Term
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12. TRANSPORT RESTRICTIONS

Retailers rely heavily on an efficient logistics network where third-party road carriers, shipping and airfreight operators undertake the majority of their product transportation. The operational efficiency and cost effectiveness of a retailer's logistics network are diminished by two key State-based transportation restrictions on the:

- type of transportation; and
- time of transportation to retail outlets is restricted by local council regulation.

Restrictions on the time of transportation are aimed at reducing noise and light disturbances at night for local residents. Time of transportation restrictions can differ between local areas but are generally imposed from 6pm to 7am.

Type of transportation to retail outlets is restricted by the freight capacity of delivery trucks. State-based regulation limits the size of vehicles used for store deliveries and line haul operations.

Australian retailers are unable to transport goods using Super B-Doubles or B-Triples and, in the absence of competitive rail infrastructure, existing trailers are limited to moving a maximum of 36 pallets per vehicle.

Time of transportation and type of transportation regulations restrict a retailer's ability to efficiently move products around and between States and Territories, a challenge that is exacerbated by remote locations, long distances, climate fluctuations and the topographical challenges of Australia. Consequently, the operational efficiency of retailers is restricted which increases the price of products and often prevents stock from being available when stores first open.

Local council restrictions represent an additional layer of regulatory burden faced by retailers. One example of a local council restriction that, in this case, places a restriction on transportation are curfews on night-time deliveries. A number of local councils apply curfews and restrict deliveries times which limits the ability of retailers to remove vehicles from the roads during peak times and move stock efficiently. This is further exacerbated by the need to have additional vehicles in a fleet to meet tighter delivery windows. In addition, delivery runs are organised according to curfew restrictions rather than the preferred geographical groupings.

Extended time deliveries are a practical example of how retailers could maximise benefits and reduce costs related to time of transportation restrictions. This would ultimately increase the operational efficiency of their transport and logistics networks.

The benefits from moving towards extended deliveries include the following:

- decreased transit time due to less congestion on roads;
- faster unloading because of less congestion at stores and streamline paperwork process;
- lower kilometres travelled; smaller fleet requirement due to better scheduling as deliveries are spread out through the day and evening; and
- increased capacity of the distribution centre by allowing the distribution centres to operate over a 24 hour period (i.e. retailers would not need to keep trucks and trailers idle at distribution centres during curfew restriction times).

Lifting the curfews on deliveries would allow retailers to increase their operational efficiency and deliver products to consumers at a lower cost.

Recommendation: the regulation of retail transport arrangements be uniformly applied at best practice levels across all Australian jurisdictions.

Cost Impact	High Cost	Urgency	Short Term
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A Case Study of Red Tape and Inconsistent State Regulation

Proposed price board regulations in NSW based on NRMA surveys which indicate that motorists are confused about fuel prices on price boards.

The NSW Government commissioned a departmental survey which mirrored this and introduced legislation in September 2012 requiring price boards to have 5 fuel prices to be shown but no discounted fuel price. There were to be prescriptive rules around size of prices, order of prices (volumetric by site), colour of prices and a very short time to make this happen.

Industry said they were happy to have a national standard and offered to get together and agree on them. This was never seriously considered by the States.

Instead, NSW implemented regulation that eventually came into effect in September 2013. South Australia has drafted different standards which come in effect 1 January 2014. Queensland and WA have also flagged similar Bills for 2014. At the same time, the Federal Government has confirmed it will work up a proposal to put to State and Territory ministers for a vote in 2014.

Ultimately, these 'consumer protection' regulations simply ban the display of a discounted price on fuel price boards, however they also require service stations to display 3-5 fuel prices (depending in which State) and keep records so that the fuel prices reflect, in descending order, the volumes of fuel sold by type.

The issue is not a national price board, but that the solution to customer 'confusion' was dressed up as something it wasn't, imposed by States trying to demonstrate their "reform" credentials and adding more red tape that varies from State to State.

LOCAL GOVERNMENT RESTRICTIONS

National retailers can work in conjunction with over 500 local Councils on a wide range of compliance matters including food safety, delivery and trading hours restrictions, trolleys regulation, noise and other environmental issues.

Municipal Government is responsible for the administration and enforcement of much legislation enacted by State and Federal Authorities. However, local Councils are often left to interpret requirements and resolve disputes independently. As there is no co-ordinating system for determining precedent, different jurisdictions will often apply the same rules in different ways.

The significant regulatory burden arising from local government legislation is not just the action required to comply with a regulatory requirement itself. The cost of monitoring the different regulatory instruments and maintaining arrangements to vary standard operating procedures for specific operations is onerous. There can also be a significant cost just for participating and providing advice when consultation occurs. Even though the advice offered to municipal consultation is consistent, it must be tailored on each occasion to the specific circumstances of the location.

13. ONEROUS DEVELOPMENT AND PLANNING REQUIREMENTS

Planning systems and development consent conditions vary between States and Local Governments, each with different focuses on factors such as design, noise, signs, trading hours/delivery hours, trolley management etc.

In New South Wales, supermarkets of a member operate in approximately 90 Councils where each Council can set prescriptive conditions in development consents. A specific example is the plastic bag conditions imposed by Manly Council in the Stockland Balgowlah and Coles Balgowlah consents. In this consent, councils sought to ban plastic bags and other plastic materials, but existing stores were not required to meet the same conditions and the Manly Council could not retrospectively impose those conditions on existing stores creating competition issues. The outcome was that the Land and Environment Court determined that the council's planning controls did not require that plastic bags be prohibited and the condition banning plastic bags would result in competitive disadvantage compared to other retailing centres in the LGA.

Again in NSW, noise restrictions are often included in the development consent and based on the relevant EPA Act, which has mandatory requirements for design and construction. However, it is not uncommon for councils to order additional acoustic requirements or require reports to investigate an alleged issue which could be investigated in a more timely and efficient way.

As noted previously, local governments can also impose restrictions on the time during which goods can be transported and offloaded which can have a significant impact on business costs and operational efficiencies. In addition, some councils specify allowable truck length, axles etc and others only allow rigid or semi-rigid vehicles etc. Such restrictions increase truck numbers and thereby add to traffic congestion in a local government area. We believe businesses are best placed to assess individual sites for vehicle types in keeping with the road rules and Australian standards.

Other council requirements vary in relation to height limits, operating hours, delivery hours, parking ratios etc. In some cases, no weekend deliveries are stipulated in the development consent.

Recommendation: that operational issues not be included by local government in either a planning permit or development consent due to the fact that they are fundamentally not building or planning issues.

Cost Impact

High Cost

Urgency

Short Term

14. FOOD SAFETY

Despite progress at the Federal and State level to improve consistency of food policy, there are still differences in the interpretation of regulation between those responsible for developing it and those responsible for enforcing it. (For example, between FSANZ/Food Authorities and Environmental Health Officers (EHOs) on issues such as food safety and food borne illness.

As an example, supermarkets have received mixed directives from Councils about the regulatory requirements for open fish displays. In Brisbane, a supermarket can display fish fillets but not in Cairns where only the whole fish is permitted. Similar inconsistencies have also occurred around the regulation of 'naked' bread, salad and olive bars. A supermarket in the ACT has been directed to bag all naked bread due to their belief the bread is not adequately supervised. However in another store, the same EHO has deemed no issue with their naked bread offering. The only variance is the minor design difference in the design of the unit being one tier in the first store and two tiers in the second.

In many cases, supermarkets are treated differently to others who operate to the same standards – for example, with the fish displays, to fish markets and wholesalers. While independent food safety data has been provided on open fish display on ice demonstrating food safety compliance, certain councils have still opposed the displays on the basis of risk that smaller retailers who may not have the same robust procedures and controls may copy. The overall objective should be to ensure that any retailer who offers the concept is doing so in a safe manner.

There are also widespread differences in the number of food safety visits or inspections across councils nationally (e.g. annual or bi-annual store inspections) and the frequency and cost of audits and inspections can differ markedly depending on jurisdiction. In addition, a number of councils may charge for initial inspections, whilst others may only charge for follow-ups after an identified breach. In Queensland, one council charges an administration fee and expects documentation for all sites in a single manner, while another may require a food business with multiple premises within the same municipality to process each site separately, creating unnecessary burden.

Recommendation: consistent advice and procedures across all Local Governments would significantly reduce regulatory burden and unnecessary cost impositions upon retailers.

Cost Impact

Medium Cost

Urgency

Short Term

15. MISAPPROPRIATED AND ABANDONED TROLLEYS

Shopping trolleys provide an essential service for millions of customers every day in shops and shopping centres throughout Australia. The retailers who provide shopping trolleys have millions of dollars invested; in the provision of trolley services, in maintenance, replacement and upgrading of trolleys, and in the collection and return of trolleys to stores.

Retailers take their shopping trolley management responsibilities seriously and are committed to taking action to deal with any problems. Retailers understand the difficulties that Council officers can experience when supermarket trolleys are misappropriated and abandoned in residential streets and have implemented a range of measures to assist and work cooperatively with Councils to identify and retrieve abandoned trolleys in a timely manner.

However, some Councils have chosen to introduce legislation imposing penalties or requiring investment by retailers in specific technology such as coin deposit systems, which are not customer friendly nor welcomed by many elderly customers or parents. Retailers believe that there should be flexibility in the local laws to allow for new technologies (such as wheel lock systems) to be installed that would benefit customers. There also needs to be a more consistent approach in terms of enforcement as approaches and fees can vary significantly.

The business of trolley fleet management remains a labour intensive, manual activity. Even using the best available trolley management systems retailers engage contractors or employ service assistants to recover and return abandoned trolleys.

We note that some Councils have reported significant improvements where they have worked collectively with retailers and other stakeholders on trolley management issues, thus reducing the burden on local councils, as well as enforcing local by-laws around dumping.

Recommendation: we believe local government should be provided with specific guidance for legislative responses to issues around misappropriated and abandoned trolleys to ensure national consistency across LGAs.

Cost Impact	High Cost	Urgency	Short Term
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16. NOISE ISSUES

Local Councils are responsible for administration of State Environment Protection Policies, noise control guidelines and other environmental regulations relating to residential amenity. Underpinning these rules is a general requirement for commercial activity to be non-intrusive at night. Night is defined as the period from 10pm to 7am (9am on Sundays and Public Holidays). This definition is outdated, having not been reviewed since it formed part of superseded legislation which regulated commercial hours and prohibited Sunday trading.

Many jurisdictions have legislated to codify the guidelines and specify penalties for breaches of these standards. In some cases the resulting local laws apply, and impose restrictions, regardless of whether the prescribed activity is in fact intrusive or obnoxious.

Arbitrary specification of curfews unreasonably limits retailers' ability to operate efficiently and provides no direct benefit to residential neighbours who are rarely affected. Curfews limit the time windows available to roster deliveries, so overlaps occur, causing unnecessary noise and disturbance.

Recommendation: The 'night time' hours during which commercial businesses must be entirely silent should be redefined to midnight to 6am. Noise standards could be provided for business operations during sensitive 'evening' and 'morning' periods.

Cost Impact

High Cost

Urgency

Short Term

17. CAR PARKING

Most supermarkets have associated car parks where customers typically park, free of charge, when they shop. Many drivers occupy these parking spaces for other reasons. At many sites car parks become full, and customers are prevented from parking. This causes significant inconvenience to customers and loss to retailers.

Local government is the responsible authority for regulating public parking spaces, some of who derive significant revenue from the activity. For example, Stonnington City Council in Victoria collected \$16.58m in revenue from infringements and penalties in 2012, which represented 12.2% of their revenue.

However, there are significant differences in the way in which car parking is enforced by councils. For example, time limits are enforced indiscriminately which means some customers are compelled to shorten their shopping trips to avoid penalties which impacts on retail businesses. If councils applied appropriate resources they could implement systems to identify wrongdoers (ie parkers who are not shoppers occupying customer car parks).

We believe that municipal regulation of car parking could be much better managed. The management of car parking in large freehold shopping centres such as Chadstone in Melbourne provides a more effective model for the management of public parking resources.

Recommendation: local governments should be provided with legislative support at the State Government level to facilitate the introduction of new technology and systems for better management of existing car parking resources in the public domain.

Cost Impact

High Cost

Urgency

Short Term

OTHER CONSIDERATIONS

18. LOW VALUE THRESHOLD (LVT): GST ON ONLINE PURCHASES UNDER \$1000, (FEDERAL)

The retail sector is a major source of employment in Australia and accounts for around 1.3 million full time and part time jobs.

The sector is undergoing transformation, driven by a range of pressures including the growth of online retailing, overseas competition, and a tougher retail environment characterised by slowing sales growth. Industry employment has fallen in relative terms from 13.6% to 10.7% of all jobs in the Australian economy between 2001 and 2011.

With the rapid growth of online and retail and the bulk of this growth expected to accrue to overseas retailers, around 118,700 traditional retail jobs in Australia could be lost to the online sector by 2015. This equates to a loss of one in 11 jobs in the traditional retail sector.

Of the 118,000 jobs lost, up to 33,400 of the job losses can be directly related to retail sales going to overseas online providers as a result of the continued operation of the LVT as people shift more of their spending towards overseas retailers and away from domestic (online and traditional) retailers. This loss is avoidable if the LVT is abolished. Regardless of the LVT, the remaining 84,600 jobs would be lost to the traditional sector due to the structural changes and competition caused by the growth of online retailing.

While the LVT does not explain the entire price difference between Australian and overseas online retailers, it is still a significant component (equating to 14% of the sale price on average). These price distortions ultimately lead to significant patterns of consumption, production, investment and resource use in Australian retail.

Under the current regime LVT imports are exempt from GST legislation and associated duties, which presents a significant price advantage to non-domiciled online retailers.

It has been estimated by a study undertaken by the National Retail Association that unless the LVT is abolished:

- Up to 33,400 jobs would be lost in retail as people shift spending towards overseas retailers.
- GDP of between \$3.9b and \$6.5b would be forgone.

Recommend the application of GST on online purchases under \$1000

Cost Impact

High Cost

Urgency

Immediate

19. SAFETY REGULATIONS HARMONISATION

Work Health and Safety Act 2011, National and Australia Standards, Codes of Practice, and state-based safety legislations

For FY13 Myer Limited estimated that it cost them \$2.5m per annum to administer the different state legislation.

Recommend that the state legislations be harmonised.

Cost Impact

High Cost

Urgency

Short Term

20. SUSTAINABILITY LEGISLATION (FEDERAL)

Extra reporting and regulatory burden is due to different environment reporting regimes such as Energy Efficiency Opportunities (EEO) and National Greenhouse and Energy Reporting (NGER).

Cost Impact

Medium Cost

Urgency

Short Term

21. PCI COMPLIANCE (FUTURE FEDERAL GOVERNMENT REGULATION)

Though this is not current legislation in Australia, it is legislation in the United States and there has been discussion in Australia to implement similar law here.

Estimated cost: Annual assessment cost is approximately \$100,000 plus correction of any identified system deficiency need to prior to certification which will result in costs well over \$250,000 for system changes.

Cost Impact

Medium Cost

Urgency

Short Term