



22<sup>nd</sup> May 2014

## AACS SUBMISSION TO SMALL BUSINESS OMBUDSMAN AND PROCUREMENT UNIT

Manager  
Small Business Ombudsman and Procurement Unit  
Small Business, Competition and Consumer Policy Division  
The Treasury  
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PARKES ACT 2600  
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Re: the Small Business and Family Enterprise Ombudsman

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 Small Business Ombudsman and Procurement Unit regarding the commitment by the Australian Government to establish a Small Business and Family Enterprise Ombudsman.

Small business is often described as the lifeblood of the economy. Politicians love to evoke their support for small business in radio sound bites and newspaper headlines, but when it comes to actual policy and the day-to-day operating environment for small businesses, it's a sector that's often ignored.

In Australia, convenience stores – the majority of which are small businesses often operated under license or franchise agreement - compete against a supermarket duopoly with an unprecedented market share.

The dominant market share enjoyed by the major chains in Australia is not replicated anywhere else in the Western world.

We make this submission on behalf of our many members nationally in the interest of promoting fair competition. We outline numerous specific ways the Ombudsman could support small businesses in Australia and achieve a fairer competitive environment for retailers generally.

Our industry requires Government support now more than ever and as such we are encouraged by the Government's commitment in this regard.

Our industry employs over 40,000 Australians often in family run businesses. We encourage the Small Business Ombudsman and Procurement Unit to recognise and respond to the threats facing our industry and consider the opportunities available to us.

The AACS wishes to thank the Small Business Ombudsman and Procurement Unit for its consideration of our submission. We are available to discuss the points raised at the Unit's earliest convenience.

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## 1. Introduction

The Australasian Association of Convenience Stores (AACS) 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 almost \$16.3 billion in 2013, according to companies contributing to the AACS 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 of the report.

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.

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

## 2. Convenience industry snapshot

- Convenience stores are in the main small businesses that employ many people nationally and represent a significant proportion of the national economy. They are part of the fabric of Australian society and are pillars in the local communities in which they operate.

- The convenience store industry employs over 40,000 people in over 6,000 stores nationally. The majority of stores operate as small, family run businesses.
- The convenience industry represents an important sector of the Australian economy, contributing over \$16.3 billion in sales to the national economy in 2013 according to the AACS State of the Industry report.
- Convenience stores continue to place a high priority on innovation, updating their service offering to better meet changes in consumer behaviours and needs.
- The industry faces significant challenges at present. Convenience stores require Government and policy support more than ever to overcome these challenges, so they may continue to provide the convenient, valuable service offering they have provided to Australians for generations.
- Higher overheads associated with increased labour and training costs, penalty rates, tighter margins, increased administrative costs resulting from tobacco plain packaging and the discussion on measures such as a 'sugar tax' - just to highlight a few areas - all have an impact on the profitability of stores now and potentially in the future.
- This is occurring against the backdrop of an environment of difficult trading conditions for retailers generally.
- Stores are also experiencing worrying levels of channel shift across many product categories as major grocery chains use their unmatched buying power to strengthen their market share.
- The convenience store industry continues to bear the brunt of legislative changes, supply chain inefficiencies, higher utility and labour costs.

### 3. Response to discussion paper

The AACS is encouraged by specific references in the discussion paper, namely the commitment to:

- Establish a highly regarded, independent advocate who can act as a conduit for, and representative of, issues that small businesses are facing at a national level.

It is an unfortunate reality that many issues critical to small business often fail to garner national attention. The AACS is encouraged by the potential for the Small Business and Family Enterprise Ombudsman to elevate small business issues of national importance to drive improved outcomes.

The crime of petrol theft is an issue of particular concern to AACS members. This crime cost Australian convenience stores upwards of \$45 million in 2013, a 16% increase on the prior year. The Federal Government's recent announcement that it will increase tax on fuel will place further burdens on the hip pockets of taxpayers and inevitably lead to an increase in this criminal behaviour.

The AACS has sought to engage State Governments and police around the country to address the spiralling incidence of petrol theft. To date, our efforts have achieved varying degrees of success, with responses ranging from encouraging police/retailer forums on one side, to complete dismissal of the issue on the other.

Petrol theft is a crime, one which requires a national response. The AACS has suggested numerous potential solutions, including heavy fines and loss of license demerit points.

Without fail, pre-paid systems are suggested as the answer. Notwithstanding the fact this shifts the burden of curbing criminal behaviour to retailers – hardly their job – it also demonstrates a complete lack of understanding for the realities of retail trade.

We have explained why pre-paid systems are unsuitable as a blanket solution, namely that they are inconvenient, punish honest customers who do the right thing and reduce impulse purchases which are so critical to the bottom lines of convenience stores.

The establishment of the Ombudsman will ideally assist our members and all small businesses in bridging the gap in understanding of the retail sector between those at the coal face and those who make the law.

- Provide a single entry point for small businesses to access information and have their voices heard.

Small businesses do not have the financial capacity, time or resources to undertake lobbying activities to compete with the major supermarket chains. It is therefore imperative that small businesses have convenient access to services that enable them to provide feedback and real life experience about existing or potential areas that impacts their operating environment.

Too often the perspective of small business is ignored in the formulation of Government policy, the plain packaging of tobacco a recent obvious example.

Only with a coal face perspective can Government ascertain the likely success of such policies. The flawed nature of plain packaging, in both its failure to reduce the incidence of smoking but also in the financial burden it has imposed on small businesses, owes much to Government's refusal to consult with small business ahead of its introduction.

- Ensure that Commonwealth legislation and regulations are small business friendly, and assist the Australian Government in achieving its broader deregulation agenda.

The AACS has long argued for the deregulation of the retail sector as a means of levelling the playing field for retailers in Australia. As it currently stands, the two major supermarket chains benefit from competitive advantages across a range of product categories, including groceries, fuel, liquor, pharmaceuticals and hardware.

#### *Securing the right for convenience stores to sell packaged alcohol if they choose*

Specifically, the AACS is pursuing permission for convenience stores to participate in the packaged alcohol market, as convenience stores around the world are permitted to do.

We have submitted the business case for the sale of packaged alcohol through convenience stores to the Council of Australian Governments and await the Council's response.

The business case, focused on the fact and considered without emotion, is compelling.

By restricting the convenience industry from selling alcohol, Government is preventing a significant proportion of the retail market from exposure to a potentially crucial revenue stream at a time when the dominance of the major chains has never been greater and retail trading conditions are tough.

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.

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 our 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.

A national approach to this issue is urgently required. Through an authority such as the Small Business and Family Enterprise Ombudsman proposed, with greater efficiency and power, we now have the potential to consider the business case from an impartial perspective, free from political concerns and emotional responses.

The AACS welcomes the opportunity to discuss this significant economic opportunity further.

#### *Tobacco regulations and the imposts on small business*

The impacts of Government regulations on the sale of legal tobacco are typically felt most significantly at the small business level.

Regular tobacco excise increases and failed experiments like plain packaging have a direct impact on the increase in trade of illegal black market tobacco, robbing honest retailers of legal tobacco sales, while also robbing the Government of tax revenue it would have otherwise collected.

This aside, it's the additional cost burden of tobacco regulations that create a serious impost on small businesses, in some cases putting the viability of these businesses at risk.

Tobacco excise increases drive consumers to bulk tobacco purchases from the major supermarket chains. This has been proven time and time again and the evidence on this score is clear. The major chains have the buying power and market share to offset higher excises against their many other product categories and small businesses suffer from a loss of trade as a result.

Plain packaging has exacerbated the anti-competitive landscape. This policy has driven shifts in consumer behaviour to cheaper tobacco brands, as brand loyalty has been eroded, with the result being increased channel shift to supermarkets. All the while, the policy has resulted in no reduction in incidence of smoking in the short term despite the imposts on small business.

Education remains the most important measure in reducing the incidence of smoking in Australia and we encourage the Ombudsman to support Government's recognition that convenience stores have a role to play in the education process. Our industry is more than willing to be involved.

The AACS is hopeful the Small Business and Family Enterprise Ombudsman will provide a platform for all the issues critical to small business to be considered by Government in the formulation of policy, not after the fact.

## 4. Conclusion

The issues of petrol theft, the lack of a level playing field in the retail sector, lack of consultation and consideration of the small business perspective when it comes to tobacco regulations and the inability for convenience stores to compete in the packaged alcohol market are just a few areas of critical concern to our members and the convenience industry.

We are hopeful that the establishment of the Small Business and Family Enterprise Ombudsman, and its capacity to extend the activities of the Australian Small Business Commissioner to create a more purposeful, empowered and effective role, will support these businesses – owners and employees – into the future.

Thus, the AACS supports the establishment of the Ombudsman and is positive about the outlook for small businesses in Australia.

We thank the Small Business Ombudsman and Procurement Unit for its consideration of our submission and extend an invitation for the Unit to contact the AACS directly for further information.

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