

13 September 2013

Mr Lyndon Rowe  
Chair  
Economic Regulation Authority  
PO Box 8469  
PERTH WA 6849

Dear Mr Rowe

**An Inquiry into Microeconomic Reform in Western Australia**

In line with the approach outlined in the Economic Regulation Authority's Issues Paper, Woolworths has identified a number of easy to implement microeconomic reforms that have large potential benefits to the community and economy of Western Australia. These reforms have the potential to create thousands of new jobs and could be implemented at no cost to taxpayers.

Woolworths has been an important part of the commercial life of Western Australia since it opened what was only its fourth store in Australia, in Hay Street, in 1928. Today, the company employs more than 14,000 West Australians and has more than 31,000 West Australian shareholders.

Woolworths appreciates the opportunity to participate in this review and proposes the following reforms.

**Deregulation of retail trading hours**

The benefits of allowing consumers and traders to decide for themselves when to shop are well-established. The elimination of anti-competitive regulation in this area produces substantial and immediate benefits and the benefits of reform have been studied and examined exhaustively.

The Productivity Commission considered the regulation of retail trading hours in its 2011 inquiry into the Australian retail industry and recommended that trading hours be fully deregulated. The Productivity Commission highlighted the:

- threat that online retailers, which are unrestricted by trading hours regulation, pose to local bricks and mortars retailers which are subject to trading hours regulation;
- costs imposed on retailers of restricting trade since capital investment is not fully utilised;
- inconvenience caused to consumers by imposing a restriction on their choice of when and where to shop; and
- costs imposed on retail employees who would prefer to work during unregulated trading hours.

Last year's introduction of limited Sunday trading in the Perth metropolitan area has been a major success. Woolworths publicly predicted that it would hire 700 new staff as a result of the Sunday trading reform. I am delighted to confirm that this prediction has been met and that the new

positions have been created across the Woolworths group including the supermarkets, BIG W discount department stores, and Masters Home Improvement stores.

The relaxation of trading hours is clearly a significant micro-economic reform that benefits consumers and promotes efficient and sustainable economic growth. Other states, like Victoria and Tasmania, do not regulate trading hours (beyond Christmas day, Good Friday and ANZAC Day) and this should be adopted as policy in Western Australia.

Earlier this year the Queensland Competition Authority released its *Final Report – Measuring and Reducing the Burden of Regulation* and recommended the deregulation of retail trading hours in Queensland. This report found that the net potential benefit to Queensland of removing the current restrictions was \$200 million per annum which was the largest benefit of any of the priority reform areas proposed by the Queensland Competition Authority.

Woolworths understands that the position of the WA Government is to steadily progress further trading hours reform in a measured manner. Given the experience of the reform process to date, its popularity with consumers and the importance of the employment outcomes that have been secured, the following priority items should be considered in developing the next phase of reform:

1. Extending the trading hours for “General Retail Shops” within the Perth Metropolitan Area. This could involve an earlier opening time of 7am on weekdays; aligning the Saturday hours with those of weekdays; and an extension of the Sunday trading hours.
2. Remedying the regulatory anomaly that currently prevents Masters Home Improvement stores from trading in line with the hours enjoyed by other hardware stores. To be eligible to trade as a “domestic development shop” Masters must only sell those goods which are prescribed by the *Retail Trading Hours Regulations 1988*. The regulation prescribes a list of what a “domestic development shop” can sell which gives rise to all sorts of inconsistencies and anomalies. The regulation:
  - Allows the sale of light bulbs but prohibits the sale of light fittings
  - Allows the sale of outdoor lighting but prohibits the sale of indoor lighting
  - Allows the sale of kitchen sinks but prohibits the sale of dishwashers
  - Allows the sale of wood-fire heaters but prohibits the sale of gas heaters
  - Allows the sale of indoor television antennae but prohibits the sale of outdoor television aerials

The practical effect of the regulation is that Masters Home Improvement stores cannot trade as a “domestic development shop” because it stocks both light bulbs and light fittings. Competitors who stock a smaller range of products are able to open for extended hours – thus placing Masters at a competitive disadvantage. The situation is an inconvenience for customers and an anti-competitive restriction.

3. Introducing Sunday trading into those areas where it is still prohibited. Woolworths has 10 supermarkets that, by law, must remain closed on Sunday. These stores are: Albany, Albany – Brooks Garden, Albany – Bayonet Head, Collie, Esperance, Geraldton, Kalgoorlie, Kambalda, Katanning and Manjimup. Allowing these stores to trade would immediately create new employment opportunities in these towns and extend the convenience of Sunday trading currently being enjoyed elsewhere to these communities.
4. While Woolworths petrol stations can open at any time, the *Retail Trading Hours Regulation 1988* limits what goods can be sold in the petrol station shop at different times. The

regulation means that Woolworths petrol stations are restricted in what they can sell outside general hours. The original point of these restrictions is lost and the regulations are now quite redundant and create all sorts of inconsistencies and inconvenience. For example, a Woolworths petrol station:

- Can sell film and flash bulbs on Sundays before 11.00am – but it is illegal to sell a memory card for a digital camera at this time
- Can sell cigarettes before 8.00am on Mondays – but it is illegal to sell nicotine patches at this time
- Can sell pantyhose after 9.00pm on Thursdays – but it is illegal to sell underpants at this time
- Can sell needles before 8.00am on Tuesdays – but it is illegal to sell wool at this time

The relaxation of trading hours is clearly a significant micro-economic reform that would benefit consumers and promote efficient and sustainable economic growth. Reform at this time is particularly important as the retail sector is responding to the structural changes brought about by the advent of on-line retailing.

The benefits to the community include the additional wages paid to employees as a result of an increase in employment opportunities. This would represent millions of dollars in increased wages flowing, every week, into local communities. A consequence of this would also be an increase in the amount of payroll tax paid to the WA Government and income tax paid to the Commonwealth Government.

The reform of retail trading hours would enhance productivity in a major sector of the economy. It would generate employment and benefit consumers by allowing retailers to provide convenience and choice. Repealing these anti-competitive restrictions will allow retailers to provide consumers with goods and services at times that are convenient and suited to modern lifestyles. Their repeal will also remove an obstacle to innovation in the retail sector.

Importantly, the reforms have a large potential benefit, are easy to implement at no cost to taxpayers and the benefits of reform could be secured immediately.

### **Removing red tape for liquor retailers**

Woolworths believes that the WA liquor licensing application process is confusing, inconsistent and lacks clarity as to the role of different agencies and the various consent authorities. The system is cumbersome and time consuming, results in significant financial costs for applicants, discourages investment and inconveniences consumers.

Liquor applications in WA have, on average, taken longer to resolve than in any other state. Currently, the average time it takes Woolworths to secure a licence application in WA is over 18 months. This is up to four times longer than the average in Victoria and New South Wales (see Figure 1 below).

An example of the sort of delays being experienced is Woolworths' application for a Dan Murphy's store at Canning Vale:

- 18 February 2010 – Woolworths lodged an application with WA Licensing Authority
- 4 May 2011 - the Director of Liquor Licensing referred the application to the Liquor Commission for hearing and determination
- 7 September 2011 - Liquor Commission hearing conducted

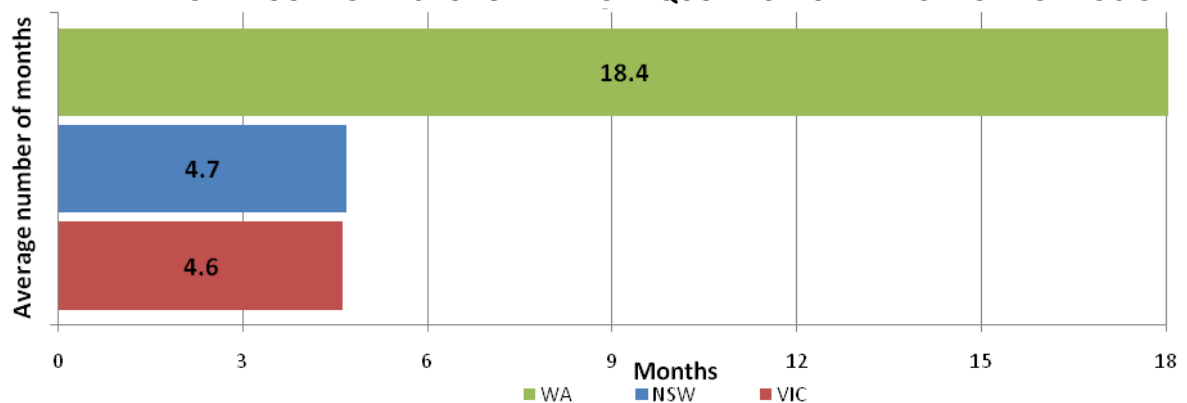
- 12 January 2012 - Decision handed down and licence approved

Holding on to commercial property for such extended periods incurs substantial holding costs. This is in addition to the costs of the liquor licence application process itself which are extremely high compared to other states, with legal fees costing nine times the NSW average and 49 times the Victorian average.

The delays mean that prospective landlords are reluctant to be involved in a process so uncertain and fraught with regulatory risk. This results in applicants being forced to pay holding rent for lengthy periods with no guarantee of a favourable outcome.

**FIGURE 1**

**TIME TAKEN FROM WOOLWORTHS LODGEMENT OF LIQUOR LICENCE APPLICATION TO DECISION**



These delays and costs are compounded by a lack of transparency and certainty in the decision making process. Currently the Director General of Racing, Gaming and Liquor has the power to either determine the application or refer the decision to the Liquor Commission. To date, all new licence applications for Dan Murphy stores have resulted in the Director General referring the application to the Liquor Commission. This has occurred despite the applications involved being for significantly different locations, varying socio-demographics and different levels of community objection.

For example, the application for a Dan Murphy store at Cannington did not draw a single objection from a member of the public, yet the matter was still referred to the Liquor Commission for determination. None of referrals had reasons attached, nor were there any published criteria which would allow an applicant to determine whether a matter will be referred to the Liquor Commission.

This approach contrasts with that in other jurisdictions, where there is either a single body (NSW) or individual (VIC) responsible for the decision. In Victoria the matter is only referred to a hearing if there are objections. In NSW all applications are determined by the Casino, Liquor and Gaming Control Authority.

The process is made more complicated by local councils requiring licence applicants to address the same sets of issues involved in the licence application process in their development consents. There have been two instances where local councils have refused development consents for Dan Murphy's liquor stores (at Currambine and Bicton) and both were overturned following appeals to the State Administrative Tribunal. These refusals and consequent appeals resulted in additional costs amounting to hundreds of thousands of dollars.

Woolworths' view is that there should be a fundamental review of the liquor licensing application process with the aim of streamlining the system. Key elements of a reformed system would include:

- The consolidation of the licence application process to a single consent authority
- The introduction of a 'deemed approval' mechanism if no decision has been taken within specified timeframes
- Defining the grounds upon which local councils can refuse development applications to eliminate regulatory duplication
- Enhanced transparency with the publication of internal policies and guidelines used in decision-making processes. Regulatory decisions should also be supported by the publication of a statement of reasons.

The aim of the fundamental review should be to bring the administration of the Act into line with one of its secondary objects - "to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act".

### **Allowing non-metropolitan liquor stores to trade on Sundays**

Section 98D of the *Liquor Control Act 1988* prevents liquor stores in non-metropolitan areas from opening on Sundays. In contrast, packaged liquor sales are allowed to be made in regional areas by hotel licence holders.

This is clearly an anti-competitive provision. In the same regional town, a hotel licence holder can sell packaged liquor but a liquor store is prevented from selling the identical packaged liquor.

Woolworths would like to see non-metropolitan consumers afforded the same choice that those in metropolitan areas enjoy by allowing them access to liquor store sales on a Sunday. It is unclear why one consumer is afforded the convenience and choice of being able to purchase on a Sunday from a liquor store while another consumer, living in another part of the state, is denied this option.

The existing regulations are unambiguously anti-competitive and obstruct customer choice and convenience.

The ban on liquor stores opening on Sundays in non-metropolitan areas should be removed from the legislation and consumers in regional centres should be afforded the opportunity to purchase from a packaged liquor store on a Sunday if they, as responsible adults, wish to do so.

It is important that in implementing such reforms, provisions are maintained that allow special consideration for areas that are faced with particular alcohol problems.

I trust that you will be able to give these reform priorities your earliest consideration. If your office requires further detail or clarification on any point please contact me on 0481 002 349 or [msamaras@woolworths.com.au](mailto:msamaras@woolworths.com.au)

Yours sincerely

Michael Samaras  
**Government Relations Manager**