

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

Dear Mr Rowe

**Inquiry into Microeconomic Reform in Western Australia
Discussion Paper**

Woolworths welcomes the decision detailed in the Economic Regulation Authority's Discussion Paper to list both the regulation of retail trading hours and the licensing of liquor sales as key issues that provide opportunities for reform. Reforming these areas has large potential benefits to the community and economy of Western Australia. It is important to note that these reforms have the potential to create thousands of new jobs and could be implemented at no cost to taxpayers.

Woolworths provides the following response to the questions posed in the Discussion Paper:

Product Markets in Western Australia

2. Should the State's current Liquor Licensing framework be maintained? What are the costs and benefits of the current system and of any alternatives?

Red tape

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:

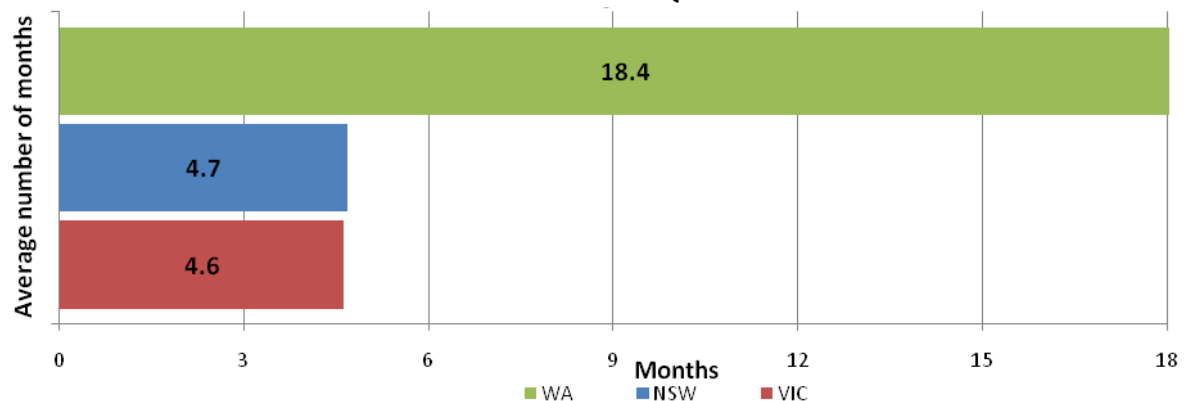
- 18 February 2010 – Woolworths lodged an application with WA Licensing Authority
- 4 May 2011 - the Director of Liquor Licensing referred the application to the Liquor Commission for hearing and determination
- 7 September 2011 - Liquor Commission hearing conducted
- 12 January 2012 - Decision handed 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".

The present application timeframes and associated high costs limit the choice, convenience and improved service that come from healthy competition.

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 product.

Woolworths would like to see non-metropolitan consumers afforded the same choice that those in metropolitan areas enjoy by allowing them to shop in liquor stores 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 clearly deny consumers choice and convenience. Specialist packaged liquor stores are prevented from opening and providing consumers with choice and convenience despite being in a similar location to hotel licences which are able to open. Even though they serve the same community and offer many of the same products, one type of business is able to open while another is denied the opportunity. It should be noted that both businesses are responsible retailers of alcoholic beverages.

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.

Woolworths estimates that such a change would immediately lead to increased employment in its regional stores. This additional employment would generate flow on benefits to the community from the wages being spent within the community and to the State Government in the form of additional payroll taxes.

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

5. Would there be any benefits in further deregulating the State's retail-trading legislation? If so, what are the costs and benefits of moving to a more deregulated environment?

Benefits of reform

The benefits of allowing consumers and traders to decide for themselves when to shop are well-established. The elimination of restrictive regulation in this area produces substantial and immediate positives 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.

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 liberalising 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.

The relaxation of trading hours 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 permanent 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.

Liberalising 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 restrictive 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.

Examples of red tape and anti-competitive regulation

Retailers in WA must contend with a number of regulations that should be reformed, for example:

- North of the 26th parallel of south latitude, trading hours are deregulated. South of this line there are a range of restrictions. Within the Perth Metropolitan Area trading hours for “General Retail Shops” are restricted to 8am to 9pm on weekdays, 8am to 5pm on Saturdays and 11am to 5pm on Sundays. Reform in this area should eventually see trading hours south of the 26th parallel of latitude deregulated as they are north of the line.
- Regulations prevent 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.

- In some parts of WA Sunday trading 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.
- 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. For example, a Woolworths petrol station:
 - Can sell film and flash bulbs on Sundays before 11.00am – but it is illegal to sell a digital camera’s memory card 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

Benefits: Jobs created by freeing up trading hours

Woolworths understands that the position of the WA Government is to steadily progress further trading hours reform in a measured manner.

Last year’s introduction of limited Sunday trading in the Perth metropolitan area was a major success. Woolworths publicly predicted that it would hire 700 new staff as a result of the reform. This

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

Further reforms will create more jobs and employ more people. It is clear that the employment benefits of regulatory reform are significant and could be easily achieved. Woolworths has estimated the number of jobs generated by further reforms in the examples below. It is important to note that these estimates are based only on Woolworths supermarkets and do not include additional jobs created in logistics, distribution, support (eg human resources) or other stores operated by Woolworths such as BIG W and Masters Home Improvement. Hundreds of additional jobs would be created in these activities and areas, and by other retailers, so the numbers given below should be considered as conservative estimates that only hint at the employment opportunities that would be created by reform.

- *Reform 1: Extending the trading hours for “General Retail Shops” within the Perth Metropolitan Area. This could involve an extension of opening times from 6am-10pm on Monday- Saturday hours; and an extension of the Sunday trading hours from 10am-10pm.*

Woolworths has calculated that for its supermarkets alone, this would involve 171 additional staff hours per store per week. Across 50 stores in the Perth Metropolitan Area, this would involve a total of 8,550 hours per week which is equivalent to 225 full time positions or approximately 430 part time positions.

- *Reform 2: 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 to these communities.

Woolworths has calculated that for its supermarkets alone, this would involve 209 additional staff hours per store per week. Across 10 stores, this would mean a total of 2,090 hours per week which is equivalent to 55 full time positions created in regional WA. In practice, this would probably mean approximately 100 part time positions.

Part time work opportunities are very important for different sections of the labour force. For younger people, part time work is an opportunity to enter the workforce and earn income while also continuing with their study or training. Part time work is also important to people at different stages of their lives. For example, it can be valued by parents who can balance earning an income with caring after their children, and for older workers who no longer wish to work full time as they initiate a transition to retirement.

Costs: Identified by the Productivity Commission

The Productivity Commission in its 2011 inquiry identified a number of costs created by the existing regulation of retail trading hours. These included:

- Costs on retailers: these include efficiency costs arising from investments not being fully utilised; from the need to manage stocks of perishable goods such as flowers and fruit; compliance costs across jurisdictions and sales lost to competitors – including international on-line retailers – that are not restricted by trading hours regulations.

- Costs on consumers: these include opportunity costs created by imposing inconvenience on consumers and the creation of congestion costs as all shoppers are forced to shop during the same restricted hours.
- Costs on employees: regulated hours impose costs on employees who would prefer to work during the hours that are prohibited by regulation.

Conclusion

Woolworths welcomes the decision detailed in the Economic Regulation Authority's Discussion Paper to list both the licensing of liquor sales and the regulation of retail trading hours as areas that provide important opportunities for reform.

Woolworths believes that reforming these areas has large potential benefits to the community and economy of Western Australia. It is important to note that these reforms would create thousands of new jobs and could be implemented immediately at no cost to taxpayers.

For WA retailers, the removal of regulations that obstruct productivity and restrict consumer choice would be a significant micro-economic reform at a time when the sector is responding to the permanent structural changes of increased competition from international on-line competitors.

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 _____ or _____

Yours sincerely

Michael Samaras
Government Relations Manager

13 December 2013