



Inquiry into Microeconomic Reform in Western Australia

RESPONSE TO DRAFT REPORT RETAIL TRADING HOURS

A submission by the IGA State Board of Retailers

May 9, 2014

ABOUT IGA

IGA (Independent Grocers of Australia) was established in Australia in 1988 and is today Australia's leading independent retail grocery chain. The chain has since grown from 10 to over 1400 IGA stores in Australia with more than 260 in Western Australia. The IGA chain is comprised of Supa IGA, IGA and IGA X-press stores, almost all of which are owned and operated by individuals and family companies. IGA stores purchase their goods directly from wholesaler, Metcash Food and Grocery, and from individual growers and food manufacturers.



INTRODUCTION

The IGA State Board of Retailers ("the Board") presents this submission and its recommendations to the Economic Regulation Authority ("the Authority") in response to the Authority's Draft Report which recommends that retail trading hours be deregulated in Western Australia.

In its December 19, 2013 submission to the Authority, the Board noted that there was at that time no evidential basis to support total deregulation or substantial extensions to retail trading hours in metropolitan or regional WA.

The Board's position was based on a number of factors including:

- Significant economic, trading and commercial variances between metropolitan and regional WA
- The historical ad hoc nature of changes to retail trading hours which have been taken without regard to consequential change that might be needed to achieve the greatest net benefit
- The need to quantify and compare the net benefit of the existing and any proposed level of deregulation.

The Board notes that deregulation of retail trading hours is likely to have substantial impacts on retailers in both metropolitan and regional WA. For example there are more than 260 IGA stores in Western Australia employing at least 20,000 people. Although the aggregate value of these businesses has never been precisely determined, our best estimate is that the owners of traditional standard sized IGA¹ stores (estimated to be about 200 in WA) each have an investment of between \$2 million and \$3 million in their businesses. Thus any substantive changes – such as deregulation of retail trading hours - have the potential to seriously devalue or completely wipe out this investment which in most instances has been made by family companies and backed by personal rather than corporate assets.

In light of these and other matters in its previous submission, the Board urged the Authority to undertake a thorough cost benefit analysis to determine all reasonable options and all reasonable benefits and costs before making its recommendations to the State Government.

¹ Excludes Progressive Supa IGA and franchised convenience stores



The Board is disappointed that the Authority has not adopted its proposal and has in its Draft Report made a recommendation which potentially jeopardises hundreds of millions of dollars of investment and private wealth along with the jobs of small business owners, and their employees, in metropolitan and regional Western Australia.

Furthermore, and as noted elsewhere in this submission, the Board is concerned that many of the Authority's justifications for deregulation lack independent empirical support. For example, the Authority claims on P228 that it has not evaluated small business expenditure locally, but that evidence only "suggests" that extended trading hours is unlikely to have a material effect on the proportion of small retail businesses in the retail market. Added to this is the fact that the Authority recognised, but rejected for expenditure reasons, conducting a survey to at least compare prices between regulated and deregulated jurisdictions.

Similarly, the Authority appears to have ignored arguments such as consumer convenience and capital capacity by not recommending that motor vehicle retailer trading hours also be deregulated. Conversely, and without establishing any economic justification, it has proposed to create a new set of restrictions (i.e. 10 employees working at one time) on Christmas Day, Good Friday and the morning of Anzac Day.

In highlighting its concerns, the Board recognises that the Economic Regulation Authority has used its best endeavours, however the Board does not believe that the Authority has adequately supported its policy recommendation with sufficient evidence.

In the following pages, the Board has endeavoured to highlight substantial areas where it believes there is a lack of evidence to sufficiently support its recommendation. This process is not exhaustive and the Board notes that there are other matters in the Report which might also be raised.



KEY AREAS

Costs of Regulation

The thrust of the Authority's argument that current trading hours present consumers with a substantial disadvantage is challenged on the basis of its limited information sources.

In regard to Figures 29 – 33, we question whether the examples truly reflect the breadth of market demographics. For example, are these locations representative of the majority of locations in their respective states? Our investigations indicate they reflect consumer shopping patterns in high income, white-collar, near-city areas. If this is the case, do they genuinely represent general grocery shopping patterns in metropolitan Perth, or for that matter shopping patterns in regional WA?

Secondly, the Authority implies that consumers are being disadvantaged and are thus dissatisfied with the current retail trading hours regime. In this respect IGA retailers commissioned two independent surveys² to assess consumer satisfaction/dissatisfaction with the current Sunday and general trading hours arrangements.

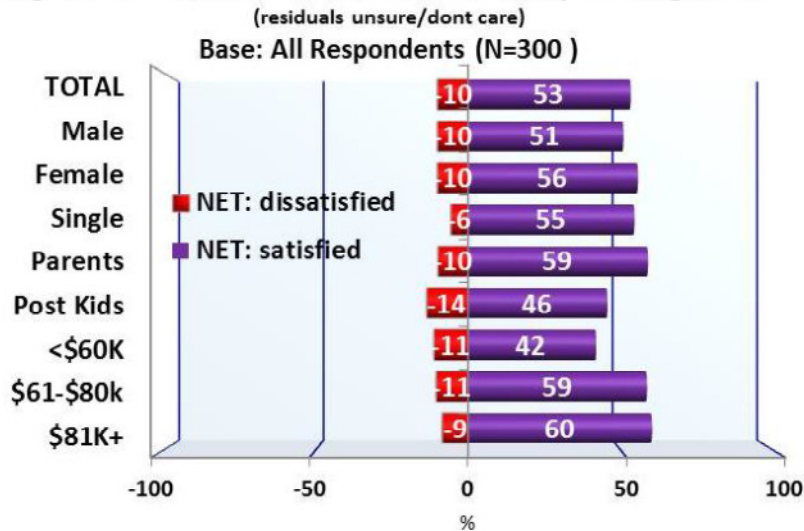
FlashPoll Survey - August 2013:

Q. "How satisfied or dissatisfied are you currently with Sunday trading hours in Perth?"

² Patterson Research Group FlashPoll Report August 2013; April 2014 – N=300 adults



Figure 2 Overall Satisfaction with Sunday Trading hours



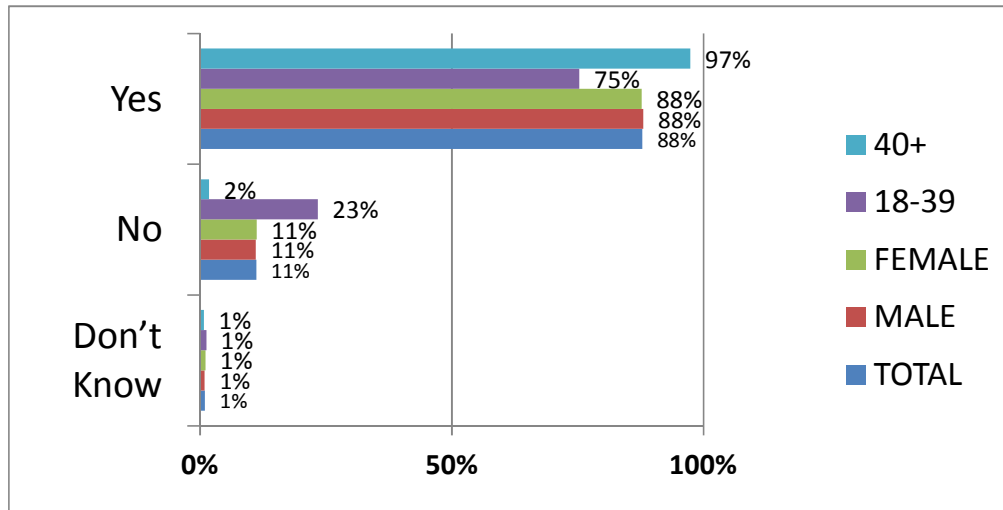
The results of this survey show that the majority of Perth adults are satisfied with the current availability of Sunday shopping hours. 53% overall, 51% of males and 56% of females are satisfied. Lower income households and those in the post-children life stages are the least likely to be satisfied, but even amongst these groups the weight of sentiment is towards the satisfied response.

Following this survey and in April this year, the same research company was asked to re-survey consumers in respect of general shopping hours in Perth. The results of this survey were even more conclusive with 88% believing that current shopping hours were adequate for their needs.



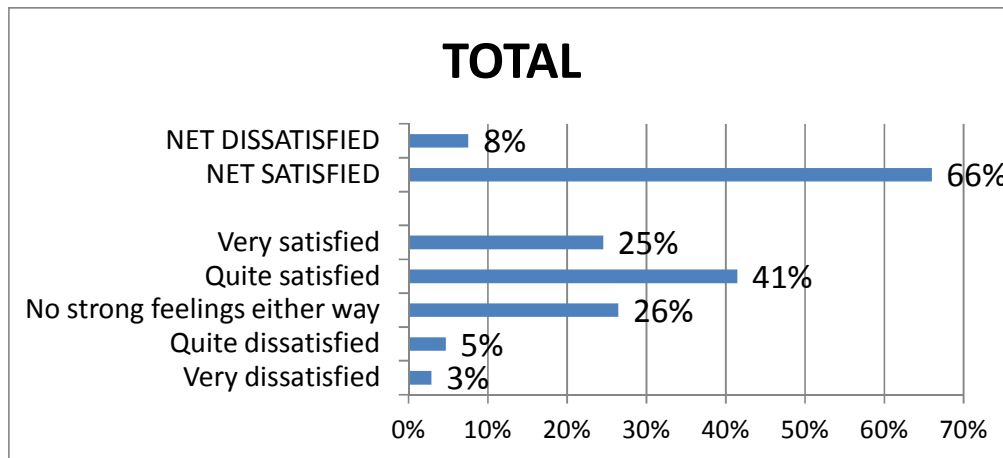
FlashPoll Survey - April 2014:

Q. “Can you now think of all shopping activity, including clothing, white goods, furniture and personal services like haircuts. Do you find that the current range of shopping hours is adequate for your shopping activities?”



Consumers were also asked about their satisfaction with the extent of trading hours available in Perth.

Q. “Overall can you tell me how satisfied or dissatisfied you are with the extent of trading hours now available in Perth?”



As the graph indicates, and in line with the adequacy response, only a very small minority were unhappy with current arrangements.



Thirdly, and apparently not considered in the Draft Report are the causes of store congestion. In this respect, congestion can be attributed to a range of factors singularly and in combination - local population, store and centre design, general store location, traffic management, proximity to competitors and promotional offers.

Potentially Higher Prices

The Board is very concerned by what appears to be an attempt to singularly link deregulation to retail prices.

As mentioned in the introduction, the Report offers virtually no proof that retail trading hours have any impact on prices. In fact it notes that "*the evidence is mixed*" while also citing the ACCC inquiry finding that retail trading hours were not identified as a possible cause of price differentials across the two major national grocery chains.

The Board also queries the link between "increased consumer welfare" and higher prices and the tenuous notion that removal of retail trading hours will somehow be supported by consumers wanting to pay higher prices which in turn may result in them being better off. As experienced retailers, we can testify that the vast majority of consumers are focused on lower rather than higher prices even when it comes to higher quality products. This view is further supported by our own and our competitors' promotional campaigns which focus weekly on discounted prices.

BENEFITS OF REGULATION

Greater Social Engagement

The ERA's position does not appear to be based on any empirical or qualitative study, but rather on an opinion, namely that it "*considers*" deregulation is "*likely to have a positive rather than negative effect on participation in family and social events*".



Retailers – Cost of Regulation

The Board disagrees with the general thrust and in a number of instances, the broad arguments, opposing the current retail trading hours regime in the context of:

- Ability to compete with other retailers and on-line platforms
- Excess capital capacity
- Distorted business decisions.

Firstly, our experience is that 'restricted' retailers are entirely able to compete with 'non-restricted' retailers. The fact that they have increased their marketshare substantially over the last 35 years clearly contradicts this statement. Possibly, the author was referring to the concept of a 'level playing field' in which case it appears that he or she is not aware of some retailers' advantages in terms of like-for-like purchasing, utility prices and leasing discounts. Superficially, it may appear that some retailers are at some disadvantage, however, in any assessment, we would have thought that all factors need to be considered in aggregate rather than isolation.

In the case of on-line retailing we note that both Coles and Woolworths stores are already offering consumers the option of purchasing goods on-line. In light of this, it would appear that these businesses are already countering any adverse impacts and in doing so are providing consumers with the option of 24-7 shopping. In light of this, why then has the Authority not investigated this aspect, in particular the success of this service or the prime motivators for consumers?

Secondly and in respect of **excess capital capacity** in general retailing, it should be noted that walk-throughs of shopping centres and prominent retail centres (e.g. Hay and Murray Street Malls and shopping centres) clearly show that most stores have shuttered their businesses by 6.30pm or 7.00pm on weeknights. Our experience is that retailers will not voluntarily close their doors with customers queuing out front to spend their money. Certainly, not Australia's two largest department store chains – Myer and David Jones close their Perth CBD flagship stores at 6.00pm and 7.00pm on weeknights (excluding Thursdays).



Additional to this are the results of an informal survey released by the Council of Small Business Organisations of Australia (COSBOA) in December 2013. In this survey, visits were made to 16 Perth metropolitan shopping centres in the first week of December between 9.00am and 11.00am and after 4.00pm. During these times, all stores were permitted to open between 8.00am and 6.00pm. It should be noted that although this survey was conducted in the lead-up to one of the busiest shopping periods of time it was apparent from observations and retailer comments that consumers had little interest in shopping during the extra trading hours granted by the State Government.

As noted by COSBOA Chief Executive Officer, Peter Strong:

"The fact that even major centres like Carousel, Garden City and Karrinyup opened their doors at 9.00am and closed at 5.00pm sends a clear message from the big end of the market, and that is there is no need for 8.00am to 6.00pm trading in the first two Sundays in December."

In light of the above, it would appear that further investigation is required in respect of consumer preference and thus whether current trading hours are restricting retailers' ability to compete.

Other Factors

The Board also notes that the Authority has not investigated the effects of wage and penalty rates on retailers' support for existing retail trading hours. Had it done so, it may have found that smaller stores are reluctant to trade to the full extent of available hours as they do not have access to the agreements that major national retailers like Coles and Woolworths have made with the Shop Distributive and Allied Employees Association. For these types of retailers, the agreements limit and reduce the rates of pay for Saturday, Sunday and public holidays by paying a little more for the weekly rate. Smaller retailers however, have to pay hourly rates contained in the Fair Work Act which can be up to twice what the larger retailers pay per hour for some shifts on a public holiday.



In conjunction with the above, it does not appear that the Authority has given any specific consideration to the implications of deregulation on non-metropolitan retail markets. For example, was there any investigation as to whether deregulation would broaden the range of goods stocked or reduce prices offered, particularly in competition with on-line retailers? Equally so, is there any evidence to show that by deregulating regional trading hours would retailers in regional WA ever be able to stock the breadth of goods offered by their on-line competitors? And finally, what are the downstream implications for local suppliers of grocery stocks, as well as business goods and services provided to not only grocery stores, but other small retail outlets as a consequence of deregulation?

Distorted Business Decisions

The State Board concurs with the Authority in regard to regulations stipulating staffing numbers in retail outlets. Indeed and although the need for additional staff declines noticeably after 6.30pm across the week, the Report fails to canvas the impact of the current requirement that enforces the 18 staff rule at all times, rather than during hours during which only small retail shops can trade.

Compliance Costs

The Board queries the substance of the general assertion that deregulating retail trading hours in WA will reduce compliance costs. No direct or comparative evidence of the actual costs is provided other than broad-brush national figures submitted by a strongly pro-deregulation proponent to a Productivity Submission Inquiry.

Benefits of Regulation

Although the Board agrees with the Authority's implied proposition that small retailers are not inherently more preferable to large retail businesses – both have an important role to play in the economy – the fact is that even today's biggest retailers were at some point small businesses.

A key question therefore is who will benefit from deregulation and what will those benefits be?



Deregulation is a viable concept in a world where retailers compete on a level playing field in terms of equal or near-equal cost inputs such as rent, utilities and prices paid for goods, etc. This is not, however, the case in the real world and particularly in Australia with a relatively small population where markets like the grocery sector are increasingly dominated by large players. In this respect we refer to the following table.

Fig. 1 Comparison of international grocery marketshares

Country	Top 2	Top 5	Major Grocery Retailers
Australia	80%	98%	Woolworths, Coles, IGA, Foodworks
UK	48%	83%	Tesco, Asda, Sainsbury, Morrisons, Co-op Group
USA	20%	42%	Walmart, Kroger, Target, Walgreens, Costco

Euromonitor and Planet Retail, NARGA, The Challenge to Feed a Growing Nation Nov 2010

In light of the above the following questions are posed:

1. Were there any investigations to prove or disprove that retail trading hours would result in a loss of marketshare for small retailers? That data was supplied but the Authority's belief that "it is not clear" should at least require further investigation to confirm or disprove the initial proposition.
2. To what extent did the Report consider whether deregulation might in fact lead to a lessening of competition by increasing the marketshare and hence dominance of existing large retail businesses? If 95% of businesses in WA can already open longer hours or in fact around the clock – but choose not to for economic reasons - what will be the impacts on the viability and hence competitiveness of smaller competitors if their larger counterparts begin opening for even longer hours?



By way of example and since the introduction of weeknight and Sunday trading in Perth, anecdotal reports from our IGA colleagues and other grocers indicate a shift in marketshare in a number of areas of up to 10 percent to either or both Coles and Woolworths. Therefore, and as the current weeknight and Sunday trading hours have provided our two main competitors with a total of 16 additional trading hours per week, what will be the impact of further deregulation on not just grocery retailers, but retailers in markets serviced by companies such as Officeworks, Target and Kmart? The Board particularly notes in this respect that reduced marketshare impacts on retailers' ability to purchase goods at competitive prices, thus their ability to offer these goods to consumers at competitive prices.

As a guide to this outcome, we are advised that in New South Wales the packaged grocery marketshare³ of the two major retailers increased from about 40% to 70% between 1980 and 1995. This growth in marketshare approximates independently collected national marketshare data⁴ which shows an increase from about 37% to almost 60% over the same period.

3. Was there any consideration of the impact of deregulation on the formation and viability of other types of retailers? For example, was any analysis undertaken on the impact on small hardware businesses and competition as a consequence of the growth of the Bunnings hardware group? And are there now fewer, the same or more businesses competing in the hardware marketplace?
4. Was specific consideration of the benefits or drawbacks of deregulation for consumers and commerce in regional WA undertaken? Considering the smaller size of these markets, what are the likely impacts and outcomes for local small retailers and their suppliers as a result of permitting large retail corporations with massive economies of scale to trade longer hours?

In view of the high stakes and consequences of deregulation, the Board believes that as the proponent of deregulation, it is ultimately the Authority's responsibility to clearly disprove the arguments against the benefits of retail trading hours.

³ Excludes takeaway, fast food and café sales

⁴ December 19, 2013 submission by IGA State Board of Retailers to the Inquiry into Microeconomic Reform in WA – Page 6 Fig. 1



RETAIL EMPLOYEES

Less Flexible Trading Hours

Although the Board broadly agrees with the Report's view that vacancies will be filled by those who prefer to work such hours, it would appear that the question of costs in terms of the impact on those who are already working in the sector and whose existing rosters may be adversely impacted by employers' re-rostering does not appear to have been considered.

Synchronised Leisure Time

The Report appears to adopt the same rationalisation in respect of the social benefits to retail employees as it did in regard to the impact on small regional retailers. In contrast to this is the FlashPoll research of August 2013 and April 2014 which indicates that consumers are overwhelmingly satisfied with the current trading hours regime, in which case the Board asks what is the Report's evidence that the benefits to families and communities from deregulation will outweigh the benefits to employees of general retail shops?



IN CONCLUSION

The Board believes that the Draft Report does not currently contain sufficient independent empirical evidence to conclusively prove that the deregulation of retail trading hours will be more beneficial than the current trading hours regime, or even incremental changes to trading hours.

In this respect there is a noticeable lack of quantitative data showing that deregulation will result in, for example:

- An appreciable net increase in the sale of goods beyond existing trends in WA
- Increases in employment exceeding current projected growth rates
- Substantive increases in retail business formation or growth
- Noticeable benefits to upstream suppliers
- Quantifiable benefits to consumers.

Western Australia's isolation and relatively small population is unlikely to ever provide the retail market opportunities observed in Europe, Asia and North America. Although many of the jurisdictions in these mega markets have processes to manage the potential market dominance, the fact is that Australia has virtually no similar safeguards. Accordingly, the responsibility falls to individual regulators and their policy advisors to ensure that any reform initiatives are strongly evidence-based.

In light of the above, the IGA State Board urges the Economic Regulation Authority to delay its recommendations until a comprehensive and independent cost benefit analysis into deregulation of retail trading hours in metropolitan and regional WA is undertaken.