

# SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

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## AUSTRALIAN CONSUMER LAW REVIEW: DRAFT EXPOSURE BILL RELEASED FOR CONSULTATION

The Federal Government has released a 24-page [Exposure Draft Bill](#) for consultation, to amend the *Competition and Consumer Act*, and the *Australian Securities and Investments Commission Act*, and associated regulations, to give effect to changes recommended in the final report of the Australian Consumer Law Review ([Shop Talk 21/4/17](#)). Australia's Consumer Affairs Ministers endorsed all of the review proposals at a meeting in August last year, along with other projects to form part of the forward work plan of Consumer Affairs Australia and New Zealand (CAANZ). The proposals include an extension of the unconscionable conduct provisions to publicly listed companies, along with enabling relevant regulators, such as the ACCC and ASIC, to utilise their investigative powers to assess potentially unfair contract terms. The Exposure Draft Bill also clarifies that consumer protections (e.g. unfair contract terms, misleading and deceptive conduct) that apply to financial services also apply to financial products (as defined under the ASIC Act); which can include products such as shopping centre and retailer gift vouchers and cards.

## NSW GOVERNMENT LOOKING TO REMOVE BARRIERS TO ELECTRONIC CONTRACTING

In December 2017, the NSW Minister for Finance, Services and Property, Victor Dominello, released a [discussion paper](#) seeking feedback on how technology can be better utilised to streamline property transactions. In a related [media release](#), the Minister noted that the "paper ...considers some of the complexities involved in electronic transactions such as vendor disclosures, signature requirements and the exchange of contracts". Although the paper is generally focussed on the 'buying and selling' of land, some principles may also have applicability in the context of retail leasing. Recent reforms to the NSW *Retail Leases Act* tightened up requirements regarding the provision of executed copies of leases to tenants, and timeframes within which relevant leases must be lodged for registration ([Shop Talk 23/6/17](#)). Submissions in response to the discussion paper are being welcomed until 16 February.

## LATEST ABS RETAIL TRADE FIGURES INDICATE A SOFT FINISH FOR CONSUMER SPENDING IN 2017

The [latest](#) release (December 2017) of the monthly ABS Retail Trade data indicates that the trend estimate increased by 0.2 per cent on a month-on-month (m-o-m) basis and by 2.0 per cent year-on-year (y-o-y). In seasonally adjusted terms, Retail Turnover decreased by 0.5 per cent in the month of December 2017, significantly down from (a revised) 1.3 per cent in the prior corresponding period (pcp). Given the unusually high result from November 2017 ([Shop Talk 19/1/17](#)), it is evident that there was a 'bringing forward' of Christmas spending leading to a weaker result for December. Indeed, combined figures for November and December 2017 were 2.7 per cent higher than same period in 2016. Seasonally adjusted Retail Turnover was up 2.5 per cent on a y-o-y basis, down from 2.9 per cent in the pcp. The strongest growth was recorded for 'Food' retailing on a m-o-m basis (0.7 per cent), whilst 'Cafes, restaurants and takeaway food services' recorded the strongest growth on a y-o-y basis (3.8 per cent). According to the ABS, online retail turnover contributed 4.8 per cent to total retail turnover (in original terms) in December 2017, down from 5.5 percent in November 2017. This is to be expected given the time required for delivery of goods ordered online. The quarterly Chain Volume Measures increased by 0.9 per cent in December 2017, up from 0.1 per cent in the pcp. Interestingly, Retail Turnover increased by 1.3 per cent in the December 2017 quarter and both Chain Volume Measures and Retail Turnover increased by 2.5 per cent throughout 2017. The strongest jurisdictions in seasonally adjusted terms were Tasmania (up 4.5 per cent to \$4.9 billion) followed by Victoria (up 3.9 per cent to \$79.2 billion) and South Australia (up 3.8 per cent to \$20.5 billion). 'Cafes, restaurants and takeaway food services' retailing continues to drive growth in New South Wales, South Australia, Western Australia and Tasmania. 'Department stores' retailing was the weakest performing category in all jurisdictions except Tasmania (not reported by the ABS), Queensland and Western Australia. Victoria was the only jurisdiction to record positive growth across all six ABS categories.

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