



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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COMPETITION POLICY REVIEW DRAFT REPORT RELEASED FOR COMMENT

The Competition Policy Review Panel, chaired by Professor Ian Harper, released the [Competition Policy Review Draft Report](#) this week. The Shopping Centre Council of Australia made a comprehensive [submission](#) to the review's Issues Paper in June ([Shop Talk 19/6/14](#)). This contained 16 recommendations on issues including retail tenancy regulation, trading hours, real estate licensing, planning, and provisions of the *Competition and Consumer Act*. The Draft Report has a very strong retail focus. In terms of headline issues, it is proposed that 'remaining restrictions on retail trading be removed', with exceptions proposed for Christmas Day, Good Friday and the morning of ANZAC Day (i.e. the Victorian and Tasmanian model). This may be an opportunity to push lagging jurisdictions, principally SA, but also WA and QLD, across the line (although this recommendation has been made before and politics always seems to get in the way). The powerful shop assistants union in South Australia has already come out opposed to the recommendations. The Draft Report also proposes that all governments include 'competition principles' in their planning and zoning systems, including the removal of any arrangements that 'explicitly or implicitly favour incumbent operators' and the introduction of internal review processes for the benefit of 'new entrants to a local market'. This recommendation does not come as a surprise as it broadly reflects the outcomes of previous inquiries. The Draft Report also covers a range of issues well beyond the headlines of trading hours and land use planning. The regulation of pharmacies, the sale of alcohol and occupational licensing also feature in the Draft Report, alongside legislative issues surrounding unconscionable conduct, market power and joint ventures. We will be preparing a comprehensive submission in response to the Draft Report, which is due by 17 November. It is expected the Panel's final report will be provided to Government by March next year.

SYDNEY'S RETAIL APARTHEID CONTINUES ON BOXING DAY

In a truly bizarre exercise of public policy, particularly given the Competition Policy Review's recommendations to deregulate trading hours (see previous story) the NSW Government has remade the [Retail Trading Regulation 2014](#), which continues the cumbersome (and virtually impossible) processes for retailers to apply to open on 'restricted trading days'. The regulation also defines (and maps) the 'Sydney Trading Precinct', which is permitted (under section 4(3) of the [Retail Trading Act 2008](#)) to trade on Boxing Day ([Shop Talk 26/4/12](#)). Under these archaic retail apartheid rules, a small portion of Sydney-siders are permitted to shop on Boxing Day (one of the best days of the year for retailers) while the vast majority who live outside this area are denied this privilege. A map of the 'Sydney Trading Precinct' is included in the Regulation. The next time you hear someone refer to Sydney as 'Australia's only truly international city', ask them how Sydney's trading hours laws compare to Melbourne's.

REVIEW OF MANDATORY ENERGY EFFICIENCY DISCLOSURE PROGRAM

The Federal Department of Industry has issued [Terms of Reference](#) for an independent review of the Commercial Building Disclosure (CBD) Program ([Shop Talk 7/5/2010](#)). The CBD Program, introduced in 2011, requires building owners to disclose energy efficiency information to prospective tenants or purchasers of space in a commercial office over 2,000m². The Terms of Reference seek advice on 'the lessons for assessing possible extension of mandatory disclosure to other building types'. To date we have held off suggestions that disclosure requirements be extended to retail and we will continue to make this case to the independent reviewers. Early review findings are expected in November, with final recommendations to the Minister expected by March 2015.