



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

Thursday 2 October 2014

[Previous Editions](#)

FRANCHISE COUNCIL UNDERMINES ITS OWN ARGUMENTS ON UNFAIR CONTRACTS

The Franchise Council of Australia, in its submission on the Consultation Paper on unfair contract terms ([Shop Talk 21/8/14](#)), has argued for the exclusion of franchise agreements because these are already regulated by the Franchising Code of Practice. Fair enough. The FCA then undermines its own arguments by also pushing for the inclusion of retail leases. This is despite the fact that retail leases are regulated in every state and territory and the volume of regulation in retail tenancy legislation far exceeds that in the Franchising Code. Why this hypocrisy? The FCA, by rather tortuous logic, argues that shopping centre leases (and supermarket supply contracts) "limit access to a market". Even if this was true – only around half of all retail sales occur in shopping centres and only around 15% occur in higher traffic/higher rent centres – the same dubious logic applies to franchising. For vast numbers of retailers, their entrance to the retailing market is through the purchase of a franchise, i.e. as a franchisee. (The FCA represents only the interests of franchisors. The Franchisees Association of Australia, in its submission, does not support excluding franchise agreements). Incidentally the Australian Small Business Commissioner, in his submission, says that despite the recent review of the Franchising Code his office has "come across a number of 'unfair' franchising terms and even (arguably) fair franchising terms being used in unfair ways". The FCA would have been better off addressing the problems in its own backyard.

JOANNA ZURZOLO, FROM TARGET, IS NRA'S 2014 YOUNG RETAILER OF THE YEAR

Congratulations to Joanna Zurzolo, Store Manager of Sefton Park Target (in Adelaide), who was named the 2014 NRA Young Retailer of the Year. Full details can be seen [here](#). The Shopping Centre Council was a sponsor of these awards.

NEXT STAGE OF REVIEW OF PERSONAL PROPERTY SECURITIES ACT

The next stage of the [review of the Personal Property Securities Act \(Shop Talk 14/08/14\)](#) has commenced with the release of a [consultation paper](#). This addresses the recommendation, made in our July [submission](#), that a lease or bailment of any personal property which relates to a lease of premises or land be exempt from the Act. The Reviewer notes: "I can readily understand why a landlord might prefer to remain outside the Act. I am however not currently persuaded that it would be appropriate to recommend such an exclusion". Of further concern is a proposed recommendation to explore options "to enable fixtures to be brought within the Act". This proposal, which was rejected when the Act was first drafted, would be a fundamental shift in the scope of the Act and may have potential implications for State based land title laws. The SCCA will make a submission on the consultation paper, which is due on 3 November.

NEW SMALL BUSINESS COMMISSIONER IN SOUTH AUSTRALIA

SA Small Business Minister, Tom Koutsantonis, has [announced](#) John Chapman as the new Small Business Commissioner, following the resignation of Mike Sinkunas ([Shop Talk 14/8/14](#)). Mr Chapman is a former CEO of the Motor Trades Association of South Australia, and has held other relevant private and public sector roles.

MINI-GUNS EDITION OF SHOPPING CENTRE NEWS IS OUT NOW

The new Mini-Guns edition of [SCN](#) (*Shopping Centre News*) includes the [Finalists](#) in the SCCA Marketing Awards. Tickets for the *Marketing Awards Dinner* (Wednesday 22 October), at the Ivy Ballroom in Sydney, can be purchased [here](#). Subscriptions to *SCN* can be made via *SCN's* website [here](#).