



Australian National Retailers Association (ANRA)

**SUBMISSION TO
The New South Wales Government
Better Regulation Office**

on

Reform of Shop Trading Hours in NSW

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1. Introduction

The Australian National Retailers Association (ANRA) welcomes the government review of NSW trading hours to cut red tape and maximise benefit to the community.

ANRA is a membership-based organisation established in 2006 to represent the interests of large national retailers across Australia generating annual sales in excess of \$70 billion and employing around 600,000 Australians. The founding board members of the ANRA include Coles Group, Woolworths, Bunnings, David Jones and Best and Less.

Retail plays a central part in the Australian economy and ANRA welcomes moves by the NSW Government to increase the efficiency of regulation and minimise the regulatory burden. The retail sector:

- contributes 6 per cent to Australia's economic output
- is twice the size of the agriculture, forestry and fishing industries and is larger than mining, transport and storage and communications
- is the largest employer in the country providing over 15 per cent of all jobs

ANRA's members, who are all large retailers on a national scale, agree with the views expressed in the Independent Pricing and Regulatory Tribunal (IPART) that the current regulation of trading hours are inconsistent and restrictive, imposing an unnecessary burden on retail businesses. ANRA urges the NSW Government to simplify and the current system, which is confusing for business owners, employees and customers.

ANRA is particularly concerned with regulations which limit consumers' choice by allowing a select group of smaller businesses to trade freely, while larger businesses face restrictions which impact on revenue and customer satisfaction. Other small retailers also suffer adversely, such as those co-located in shopping centres which suffer a drop in customer numbers when their larger neighbours are forced to close. In addition, the complexity in relation to trading on Sundays and public holidays is a source of ongoing frustration for shoppers and retail staff alike.

NSW, which once led the nation in terms of trading hours reform in response to consumer expectations, now has less liberal trading hours than most other states and territories. Sydney, as the state's capital, positions itself as a global city yet has more limited trading hours than its smaller counterparts Darwin and Hobart.

ANRA supports the development of a new, streamlined regulatory framework, such as the system successfully implemented in Tasmania, to foster greater efficiency and productivity in the all-important retail sector in NSW. Shedding the current outdated and inefficient system will allow business to be more flexible and thus more responsive to consumers.

2. Sunday trading

Retailing in Australia is now considered to be a seven-days-a-week business since the introduction of Sunday trading some 15 years ago. Customers in NSW fully expect their stores of choice to be available to them on Sundays, and indeed most of them are. ANRA's members report that between 12 and 20 per cent of their weekly trading volume occurs on Sunday, indicating consumers regard Sunday trading as a normal and important part of their weekly shopping requirements. However, larger retailers of products required on an every day basis are forced to apply for an exemption to trade on Sundays under an outdated system which imposes an artificial and unnecessary cost and compliance burden.

ANRA members are concerned that imposed restrictions on opening hours on Sundays negatively impacts their businesses, particularly during daylight savings when customers expect stores to be open later. These restrictions only benefit those smaller retailers who are able to trade longer and often charge a premium for everyday goods.

ANRA supports the removal of the prohibition so that all shops would be free to trade 24 hours a day, seven days a week, with the exception of specified public holidays (such as Christmas Day, Good Friday and the morning of Anzac Day).

Similar systems already introduced in other states and territories have allowed retailers to determine their own opening hours in response to business and consumer needs, while providing greater choice for shoppers.

Deregulated trading will benefit a majority of small retailers, particularly those located within shopping centres. At times when the major 'anchor' tenant is closed (such as a supermarket or department store) the patronage to the overall shopping centre drops. Anchor tenants are major attractions for shoppers and draw customers into a shopping centre while open through ongoing promotional activity and range of product choice. Smaller retailers, especially in food, often provide a complimentary range to larger retailers and need the major store to be open for customers to shop.

Issues paper questions:

Does the regulation of Sunday trading continue to provide benefits to retail employees and small shop owners?

The vast majority of ANRA's members employ staff under enterprise bargaining agreements with Sunday loading, so removing regulation would have little or no effect. In fact removing restrictions would allow those employees working on Sundays to increase their hours should that suit their circumstances.

As previously stated, ANRA is of the view that Sunday is regarded by consumers as any other day of the week so far as having access to the choice of retail outlets on all other days. Consequently, regulated Sunday trading serves only to benefit a select group of smaller businesses, resulting in consumers often paying higher prices.

Deregulating Sunday trading will bring benefits to retailers large and small.

Do the costs of the restrictions outweigh the benefits?

Yes. Retailers are forced to apply for exemptions that are rarely, if ever, refused, in order to trade on Sundays. The regulations are complex, confusing and costly.

What would be the implications of removing the Sunday trading prohibition altogether?

ANRA supports the concept of allowing retailers to determine when to trade. Consumers would be the major beneficiaries of such a move, with greater choice in terms of type of shop and prices. Customers could themselves determine which shops to visit rather than having their options curtailed by regulation.

Retailers would benefit from reduced compliance costs and improved ability to respond to customer expectations. For example, Sunday trading figures 'spike' in December as consumers try to fit in all their Christmas shopping. Removing the prohibition would allow retailers to meet demand by extending trading hours leading up to Christmas and other peak periods, such as Easter.

The retail sector, and large national retailers in particular, are the largest employer of young people aged 15-19 and also of part-time workers. Retail is also one of the leading employers of married women. Both groups are well-represented during Sunday trading as it allows staff to work around their other commitments, such as further education, family and sporting commitments. Deregulating Sunday trading would provide these employees with greater certainty and choice, and increased employment opportunities generally. The example of the Bendigo region, where the number of retail jobs rose 33 per cent in the first year after trading hours were deregulated in Victoria, is a case in point.

If the restriction is retained, can the exemption process be streamlined or simplified?

The consensus among ANRA members is that the exemption process is essentially a 'rubber-stamping' exercise which only imposes additional compliance costs on retailers, and thus should be abandoned.

3. Public holidays

Regulation of trading hours on and around public holidays is a vexed issue for ANRA's members. ANRA congratulates the NSW Government for acknowledging the current regulatory framework does not appear to reflect current policy or practice. Again, ANRA is supportive of a far more simple system that will allow the market to determine trading hours while protecting specific public holidays.

Issues paper questions:

Which particular public holidays should be subject to shop trading prohibitions, if any?

Retail trading has been regulated on a year-by-year basis by the Minister since 1995. This ad-hoc approach has made the planning of public holiday trading more complex for both retailers and their employees.

The current system creates confusion for shoppers, staff and retailers alike. The Easter period, for example, causes uncertainty among customers as to which days they can shop, for employees as to which days attract public holiday penalty rates and for retailers who are trying to set business and marketing plans and rosters for what is a peak trading period.

ANRA supports the reduction of shop trading prohibitions on public holidays to Good Friday, Christmas Day and the morning of Anzac Day. Should certain retailers wish

to close on other significant days they would be free to do so without affecting the wider retailer community.

If the public holidays for those particular occasions are observed on the following closest weekday, should that weekday also be subject to shop trading prohibitions?

No. When this approach is taken under the current system it is confusing for employers, employees and customers. While shopping is a necessary domestic task it is also considered to be a recreational activity, and the public now expect to be able to shop on public holidays. ANRA's members report a surge in consumer complaints in relation to restricted trading days in NSW - such as Boxing Day and New Year's Day – as shoppers vent their frustration that their venue of choice is not open.

Such restrictions reduce employment opportunities for New South Wales residents. ANRA members report a significantly higher expenditure on wages on Boxing Day than in Victoria, where trading is unrestricted. While not required by most employers to work on these days, many retail employees look forward to the additional income earned over Easter, Christmas and New Year, but restriction of trade on public holidays limits these opportunities.

ANRA's view is that trading prohibitions should be reduced to 2 ½ days per year (Good Friday, Christmas Day, and the morning of Anzac Day), observed on the day in question, thus removing the need for a Ministerial announcement in relation to public holidays.

What would be the implications of removing the public holiday trading prohibition altogether?

Unrestricted trade for all public holidays currently exists in the ACT, and the majority of stores do not trade on Good Friday, Christmas Day and before 1pm on Anzac Day.

4. Coverage of the regulation

The current legislation includes a considerable number of exemptions for different shop types. Given that the list of scheduled shops entitled to unrestricted trading is intended to meet everyday consumer demand, there are some anachronistic and unjustified exclusions such as supermarkets, discount department and hardware stores.

The issues paper also notes coverage is inconsistent with its purpose and may be capturing businesses not intended to be covered. The legislation also effectively serves to exclude large retailers from trading at times when their smaller counterparts can. However, should the NSW Government remove restrictions from Sunday trading and reduce trading prohibitions to 2 ½ days per year, the schedule becomes far less restrictive as retailers will be able to determine their own opening hours on all other days.

Similarly, ANRA supports the removal of exemptions for tourist areas and CBD locations, instead allowing retailers to trade at times suited to their particular area.

Issues paper questions:

Can the definition of small shop be improved to more accurately achieve its intended coverage?

As the intention of the coverage is not clear, it would be difficult to suggest a revised definition. The impact of the scheduled shops list on other retailers would be much reduced should trading hours be deregulated.

Does the list of scheduled shops and otherwise exempt shops appropriately target its intended coverage?

While the intended coverage is unclear, retailers such as supermarkets, hardware outlets and some department stores could arguably be included in a list of shops which meet everyday consumer demand.

Could the definitional categories within the Act be reformed so as to simplify its future operation?

As above.

Conclusion

As previously stated, ANRA welcomes the efforts of the Better Regulation Office in moving towards reform of shop trading hours in NSW. It is high time the unwieldy legislation was unravelled and simplified to provide consumers with better choices, employees with greater opportunities and retailers with an even playing field.

ANRA urges the NSW Government to deregulate trading hours by taking the following steps:

- ❑ Remove exemptions and restrictions on Sunday trading
- ❑ Reduce trading prohibitions on public holidays to Good Friday, Christmas Day and the morning of Anzac Day
- ❑ Remove the requirement for exemptions for tourist resort areas and CBD classifications
- ❑ Clarify the intention of the of scheduled stores and simplify the definitions

By implementing these measures, the NSW Government will reduce the red tape burden on retailers, and allow the retail sector to respond more effectively to consumer expectations. The state of New South Wales stands to benefit from greater choice, improved employment opportunities and increased productivity within the retail sector.