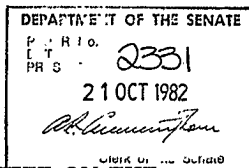


**THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA**



**RETAIL TRADING HOURS IN  
THE ACT**

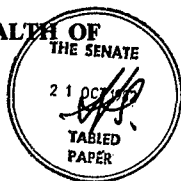


**REPORT OF THE JOINT COMMITTEE ON THE  
AUSTRALIAN CAPITAL TERRITORY**

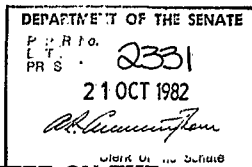
September 1982



**THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA**



**RETAIL TRADING HOURS IN  
THE ACT**



**REPORT OF THE JOINT COMMITTEE ON THE  
AUSTRALIAN CAPITAL TERRITORY**

**September 1982**

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**JOINT COMMITTEE ON THE AUSTRALIAN CAPITAL TERRITORY**

The Joint Committee on the Australian Capital Territory was first appointed by resolution of both Houses of Parliament in 1957 and has been re-appointed in succeeding Parliaments. Both Houses resolved to appoint a Joint Committee on the last sitting day in 1956 but time did not permit the appointment of members. The present Committee was appointed for the life of the 32nd Parliament by resolutions of the Senate and the House of Representatives in December 1980.

The duties of the Committee as specified in its Resolution of Appointment are to inquire into and report on:

- (a) all proposals for modification or variations of the plan of lay-out of the City of Canberra and its environs published in the *Commonwealth of Australia Gazette* on 19 November 1925, as previously modified or varied, which are referred to the committee by the Minister for the Capital Territory, and
- (b) such matters relating to the Australian Capital Territory as may be referred to it by:
  - (i) the Minister for the Capital Territory, or
  - (ii) resolution of either House of the Parliament.

## TERMS OF REFERENCE FOR THE RETAIL TRADING HOURS INQUIRY

The Committee is asked to consider and report on:

'The manner in which deregulation of retail trading hours in the ACT pursuant to Section 90 of the *Commonwealth Functions (Statutes Review) Act* 1981, might be implemented having regard to the effect on retailers, employees and consumers'.

## MEMBERSHIP OF THE COMMITTEE

*Chairman:*

*Deputy Chairman:*

*Members:*

Senator M. E. Reid

Mr K. L. Fry, M.P.

Senator G. Georges

Senator D. J. Hamer, D.S.C.<sup>2</sup>

Senator M. A. Colston<sup>3</sup>

The Hon. J. D. M. Dobie, M.P.

Mr J. M. Bradfield, M.P.

Mr N. J. Hicks, M.P.

Mrs R. J. Kelly, M.P.

Mr W. P. Coleman, M.P.<sup>1</sup>

Mr A. J. Kelly<sup>4</sup>

Mr B. Nordin

*Secretary to the Committee:*

*Secretary to the Inquiry:*

<sup>1</sup> Mr Coleman was appointed member of the Committee on 20.8.81 to replace Mr Dean.

<sup>2</sup> Senator Hamer, D.S.C., was appointed a member of the Committee on 8.9.81.

<sup>3</sup> Senator Colston was appointed a member of the Committee on 9.9.81 to replace Senator Robertson.

<sup>4</sup> Mr Kelly replaced Mr Adamson as Secretary to the Committee on 5.7.82.

## ABBREVIATIONS

AAIB Australian Association of Independent Businesses  
ABEU Australian Bank Employees Union  
ACT Australian Capital Territory  
AMP Australian Mutual Provident Society  
BIE Bureau of Industry Economics  
CBOA Commonwealth Bank Officers Association  
CCDA Canberra Commercial Development Authority  
DCT Department of the Capital Territory  
FCU Federated Clerks Union  
MHA Member of the House of Assembly (ACT)  
MLA Member of the Legislative Assembly  
MLC Mutual Life and Citizens' Assurance Company Ltd  
MP Member of Parliament  
NCDC National Capital Development Commission  
SASA Saturday Afternoon Shopping Association  
SDA Shop, Distributive and Allied Employees' Association

## RECOMMENDATIONS

### Recommendation 1

The Committee recommends that the present *Trading Hours Ordinance 1962* be repealed and replaced by an alternative ordinance.

### Recommendation 2

The Committee recommends that a new Trading Hours Ordinance be drafted to include the following provisions:

the sale of all goods in the ACT be permitted at any time except that a major retailer may not open for business between midnight Saturday to midnight Sunday.

A major retailer is defined as a retailer employing more than 100 people in the ACT or elsewhere in Australia in any number of shops.

As well as these major recommendations the Committee would also like to draw attention to the following points:

- Any proposal to alter the present distribution of retailing outlets should examine the implications of this on the overall supply of retail space on the market. (Paragraph 71)
- In the interests of maintaining opportunities for leisure and religious activities and family life on weekends the Committee notes the assurances given by major retailers and believes there is an obligation on employers to ensure that only voluntary staff be rostered for duty on Saturday afternoons. (Paragraph 196)
- In recognition of the importance of the ACT House of Assembly in matters affecting the ACT it is suggested that any future reviews of trading hours in the ACT be referred to a committee of members of the ACT House of Assembly.

## CHAPTER 1

### Introduction

1. The *Commonwealth Functions (Statutes Review) Act 1981* provides in section 90 for the deregulation of trading hours in the Australian Capital Territory (ACT) by the repeal of the *Trading Hours Ordinance 1962* (as amended). This particular section was the subject of considerable debate in the Senate when the Bill was introduced in that Chamber. Towards the conclusion of the debate, Senator Messner informed the Senate that the Minister for the Capital Territory had agreed to the suggestion made by Senator Reid that the Minister request the Parliamentary Joint Committee on the Australian Capital Territory to report on the proposed process of deregulation and the steps necessary for the implementation of the decision. Senator Messner stated that proclamation of section 90 of the Act would be deferred until the report of the Committee had been tabled and an opportunity for debate had been provided.<sup>1</sup>
2. After initial discussions between the Chairman of the Committee, Senator Reid, and the Minister, the final terms of reference were agreed upon and referred to the Committee on 10 September 1981.<sup>2</sup> The Committee formally accepted the Inquiry at its meeting on the same day.
3. The Inquiry was advertised in the major metropolitan and local regional newspapers and the Committee invited a range of organisations and persons with an interest in the question of deregulation of retail trading hours to make submissions. The public response to the Inquiry was overwhelming. The Committee received about 4000 form letters from individual shoppers, 200 form letters from small retailers, 125 individual letters from shoppers, as well as 50 major submissions from retailers, trade unions and interested organisations and individuals.
4. The Committee held its first public hearing on 2 November 1981 and found it necessary to conduct a further series of hearings to provide an opportunity for interested parties to present their arguments. These hearings were held in Canberra, Sydney and Melbourne. It was also decided, in the concluding stages of the Inquiry, to conduct a series of inspections and informal discussions in the Northern Territory where trading hours (apart from liquor trading) are not subject to Government regulation. In all, 69 witnesses representing 38 organisations and 6 persons, appearing in a private capacity, gave evidence to the Committee. Appendix 1 contains a list of the witnesses who gave evidence. Appendix 11 lists those organisations and individuals who made submissions but were not called to give evidence. The transcript of the evidence taken at the hearings is available from the House of Representatives Committee Office and the National Library.
5. A representative of the ACT House of Assembly Standing Committee on Development appeared before the Committee at a public hearing on 20 November 1981 and outlined the Assembly's views on deregulation, as indicated in Report No. 12 of the Standing Committee on Development, dated October 1981.
6. This Report considers the various aspects of retail trading hours under several different chapter headings: Chapter 2 looks at the historical background to the current legislation in the ACT and its present operation, Chapter 3 examines the development of the retail structure in the ACT and Chapter 4 deals with the broad area of State and Federal Government involvement in determining trading hours.

7. Of the remaining chapters, Chapter 5, 6 and 7 deal, as required by the terms of reference, with the possible effect of deregulation on retailers, employees and consumers in turn and Chapter 8 completes the Report by setting out the options available in the Committee's conclusions and recommendations.

#### Endnotes

1. Senate Debates (10 June 1981) p. 2983.
2. The terms of reference are set out on p. iv.

## CHAPTER 2

### Background to Retailing in the ACT

#### History of Retail Trading Hours in the ACT

8. Prior to 1927, retail trading hours in the ACT were subject to the provisions of the *New South Wales Early Closing Act 1899*. The objective of this legislation was to limit trading hours in order to restrict the number of hours worked by shop employees.

9. The *Trading Hours Ordinance 1926* embodied the objectives of the *New South Wales Act*. The major provisions of the Act which prescribed closing times, employment conditions for shop assistants and the schedule of exempt categories of shops, were incorporated in the Ordinance.

10. By the late 1950s, considerable problems were being experienced with trading hours in the ACT. These problems arose out of the large expansion of retail facilities in Canberra, the development of arbitral machinery providing industrial awards for shop employees prescribing starting and ceasing times and the incompatibility of New South Wales and ACT trading laws.<sup>1</sup> In 1958 the Minister for the Interior requested the Parliamentary Joint Committee on the Australian Capital Territory to examine the problem of trading hours in the ACT and report on—

- (a) whether trading hours should be restricted by legislation.
- (b) if so,
  - (i) what principles should be followed in determining these hours, and
  - (ii) if the principles of specific hours is (sic) recommended by the Committee, what these hours should be.

11. The Committee concluded that both employers and employees should accept regulated trading hours as a necessity of retail trading. The following principles were recommended in determining trading hours;

- (i) the regulation of retail trading hours should aim to protect the interests of employees and employers;
- (ii) retail trading hours prescribed in an ordinance should give adequate opportunity for the provision of the greatest possible service to the public.

12. In giving practical effect to these aims the Committee set out the following preferred opening and closing times:

Monday to Friday—6.00 a.m. to 6.00 p.m.

Saturday—6.00 a.m. to 12 noon

As well, the Committee recommended that on one week night agreed to by employees and their employer, shops remain open until 9.00 p.m. Slightly different hours were prescribed for newsagents and florists. It was also recommended that certain goods should be exempt from the provisions of the Ordinance (primarily those goods needed to meet family meal requirements).

13. The *Trading Hours Ordinance 1962* reflected, with some modifications, the principal recommendations of the Committee. This Ordinance with subsequent amendments is still current in the ACT.

## Trading Hours Ordinance 1962

### (a) Current Trading Hours

14. The Ordinance provides that the sale of goods in shops is prohibited on a Sunday, a gazetted public holiday, a weekday before 6.00 a.m. and after 6.00 p.m. (other than a late shopping day when trading hours are extended to 9.00 p.m.) and on a Saturday that is not a public holiday before 6.00 a.m. or after 12 noon.

15. The schedule to the Ordinance specifies goods and classes of goods which are exempt from the provisions of the Ordinance. This list is quite extensive and includes foodstuffs, flowers, newspapers and hardware. In effect, the only non-exempt goods are furniture, clothing, footwear, electrical and white goods.

16. While the legislation does not exempt goods sold at auctions, it allows such articles to be sold until 6.00 p.m. on a Saturday that is not a public holiday. In addition, the Minister for the Capital Territory may declare that the Ordinance does not apply in a part of the Territory for a specified time by way of a notice in the *Commonwealth Gazette*. The sale of goods outside the times specified in the Ordinance carries a maximum penalty for contravening the Ordinance of \$200.

### (b) Late Night Trading

17. Late night trading is permitted by legislation on one weekday, which in the ACT is Friday. The Ordinance when it was introduced in 1962 included provisions to allow such trading. Late night shopping in Canberra is, in fact, a long established practice. The first *Trading Hours Ordinance* 1926, provided for late night trading on Friday or Saturday evenings. Canberra retailers at the time of the introduction of that Ordinance adopted Friday night shopping. However, in 1939 wartime regulations prohibited late shopping hours and late night trading did not resume until Christmas 1956 and then regularly from March 1957.

18. There have been suggestions made by some Canberra retailers that late night trading should be transferred to Thursday night, primarily because these retailers believe they are losing trade to Queanbeyan retailers on that night. However, representatives of Queanbeyan traders were opposed to such a proposal.

### Public Reviews of the Ordinance

19. There has been a number of public inquiries and reviews of the operation of the Trading Hours Ordinance in the ACT conducted by the House of Assembly and its predecessor, the Legislative Assembly, in recent years. These have been carried out in an attempt to determine whether the Ordinance is adequate to serve community needs and interests.

20. In March 1976, the then Minister for the Capital Territory, the Hon. A. A. Staley, M.P., sought advice from the Legislative Assembly on the question of trading hours. The Assembly appointed a select committee to examine the matter.

21. The Select Committee recommended, and the Assembly agreed, that

- (i) no legislative action should be taken to regulate the sale of meat and
- (ii) the schedule of exempt goods be extended to include goods for use in the decoration and repair of domestic premises.

The recommendations were accepted by the Minister and in 1977 the schedule to the Ordinance was amended to incorporate the Assembly's suggestions.

22. The most recent inquiry into trading hours was held in 1979 following a request from the Minister, the Hon. Mr R. J. Ellicott, Q.C., M.P., for advice from the Assembly on a proposed extension of trading hours to include Saturday afternoon.

23. The House of Assembly Standing Committee on Development conducted a major inquiry and received twenty-five submissions from several large retailers, trade unions, representatives of small businessmen and consumer groups. All organisations and individuals who provided submissions (both local and interstate) were invited to give evidence to the Standing Committee at public hearings held in the ACT.

24. After having received the major arguments for and against Saturday afternoon trading, the Assembly Committee claimed that a strong case for Saturday afternoon trading existed. However, it was stated that trading hours should not be extended because this would seriously disadvantage many of the smaller retailers. This was claimed to be a result of the prevailing difficult economic climate in conjunction with the excessive amount of retail space available in Canberra.

25. The Committee supported the proposition of the Minister, put forward in his Message to the Assembly, for a licensing system for businesses that would be permitted to trade on Sundays. It also stated that the Department of the Capital Territory (DCT) should enforce the provisions of the Ordinance with respect to the sale of non-exempt goods outside prescribed trading hours.

26. The Committee Report was considered by the Assembly in October 1979 which recommended that:

- (i) there be no amendments made to the Trading Hours Ordinance to allow unrestricted trading on a Saturday afternoon;
- (ii) there be a moratorium of at least 5 years on any plan which would allow for an extension of trading hours beyond those currently authorised;
- (iii) the Minister be asked to explain what he means in relation to Sunday trading by shops servicing local neighbourhood requirements.

27. The Minister after receiving the report directed DCT to pursue further investigatory work as to how a licensing system might be implemented.<sup>2</sup>

28. The DCT indicated in its submission to the Committee that the requirements for a shop licensing system would be quite extensive, involving provision for the appointment by the Minister of a licensing authority, powers of the licensing authority, a Registrar, an appeal body, and appropriate legislation incorporating these powers and functions.

29. This Committee was informed by DCT that policy proposals for a licensing system have not proceeded because, 'it would involve a greater degree of regulation than currently embodied in the legislation and make considerable demand on staff resources'.<sup>3</sup>

### Present Operation of the Ordinance

#### (a) Enforcement of the Ordinance

30. Difficulties with the enforcement of the Ordinance have been repeatedly highlighted at public inquiries. This was the case in the 1979 Inquiry and again during the current Inquiry by this Committee.

31. The DCT admitted in evidence to this Committee that it is not at present enforcing the Ordinance and has no regular inspection program because of a lack of resources necessary for the investigation and prosecution of such breaches.

32. Furthermore, in its submission to the Committee, DCT indicated that in July 1977, following the Minister's acceptance of the Legislative Assembly's recommendations, action was taken to enforce the Ordinance which resulted in strong public reaction and antipathy. Departmental officers indicated to the Committee during the public hearing that 'it has not been the decision of the Minister [to allocate resources for strict enforcement of the Trading Hours Ordinance] recently or for some years'.<sup>4</sup>

33. Inspections are required to obtain evidence of retailers breaching the Ordinance. If inspectors were to offer to purchase non-exempt goods outside permitted hours in order to obtain evidence they could be accused of inducing the commission of the offence. It was claimed in evidence that such a practice of entrapment may be unacceptable to the public.<sup>1</sup>

*(b) Definition of Exempt Goods*

34. With respect to the exempt items on the schedule of the Ordinance, legal advice suggests that a Court would attribute to them their everyday meaning. Whenever doubt exists as to whether given goods are exempt, a defendant may be given the benefit. The schedule contains some anomalies, a light fitting, for example, could be considered an electrical good (non-exempt) or a good for use in the decoration or repair of domestic premises (exempt).

**The Decision of the Federal Government to Deregulate Trading Hours**

35. On 30 April 1981 the Prime Minister, the Rt Hon. J. M. Fraser, C.H., M.P., in his statement to the Parliament on the Review of Commonwealth Functions, announced the Government's decision to deregulate trading hours in the ACT. A special clause to achieve this was included in the *Commonwealth Functions (Statutes Review) Act 1981*.

36. Following the announcement of the decision to deregulate trading hours there was an immediate reaction from interested groups in the ACT. The Department of the Capital Territory, at the request of the Minister, held a series of meetings with interested local groups to discuss implementation of the decision. The Minister also agreed that the Department would coordinate consultations to establish a committee to monitor the effects of deregulation. It was expected that this committee would consist of representatives of the Australian Association of Independent Businesses, the ACT House of Assembly, the Shop, Distributive and Allied Employees Association, the Trades and Labour Council and the Canberra Chamber of Commerce. This proposal was, however, overtaken by the reference to the Joint Committee.

**Deregulation of Trading Hours**

37. In numerous submissions to this Committee deregulation is regarded as being synonymous with an extension of trading hours. Many proponents and opponents of deregulation fail to consider the full implications of unlimited trading hours, preferring instead to concentrate on the implications of Saturday afternoon or weekend trading. The Committee believes this limited approach is not adequate and that, more precisely, deregulation of trading hours is the removal of all legislative restrictions upon the hours of trading so that traders may conduct their business during such hours as they themselves are free to determine.

**Endnotes**

1. The 1899 Act was superseded in New South Wales by the *Factories & Shops Act, 1936* (not adopted in the ACT).
2. Transcript of Evidence, p. 16.
3. Transcript of Evidence, p. 21.
4. Transcript of Evidence, p. 34.
5. Transcript of Evidence, p. 18.

**CHAPTER 3**

**The Retail Structure in the ACT**

**Development of the Retail Structure**

38. Prior to 1958 and the establishment of the National Capital Development Commission (NCDC) the retail industry in the ACT had developed a simple structure based on convenience shopping at local centres, as well as larger centralised trading in Civic, Kingston and Manuka. In 1958 there were 40 000 square metres of retail space in the city, serving a population of 39 000. The major local centres at that time were Narabundah, Griffith, Yarralumla, Ainslie and O'Connor as well as the then Braddon Industrial Area. Queanbeyan also represented a significant retail centre with approximately 6000 square metres of retail space.

39. With the advent of the NCDC, planning decisions for future growth and development were able to be made within a broad philosophical framework which could encompass physical, social and economic objectives. From a centralised retailing system prior to 1958, the retail industry moved through to a decentralised system by the implementation of a policy of hierarchical planning. The initial plan was for a two-tier level of retailing: neighbourhood centres which would be close to residents and provide convenience goods and personal services and town centres which would provide comparison goods and services for a larger catchment population. (Convenience goods are everyday items purchased at the nearest store while comparison goods are items less frequently purchased and on which price or quality comparisons are made before purchase.)

40. At the local level, the suburban neighbourhood of 4000 residents was chosen as the basic unit, with neighbourhood shops located at the centre of the suburb to satisfy the need for accessibility and convenience. The Commission also decided at an early stage to promote Civic Centre as the predominant metropolitan retail area serving both specialist needs and providing a base for tourism and tourists.

41. As a result of the construction of the Monaro Mall and Garama Place in the early 1960s, Civic emerged as the major shopping area in the ACT with almost 50% of the available retail space. Kingston and Manuka retained approximately one third of retail space and the balance was equally distributed between Braddon and the five local centres. Civic remained the dominant retail area until the completion of the Woden Town Centre in 1972. Since then Civic has declined even further in relative terms with the development of the Belconnen Town Centre. Today Civic Centre has less than 20% of total retail space.

42. While the general pattern of retailing, prior to 1958, influenced the subsequent development of trading elsewhere in the ACT, the planning authorities assumed the predominant role in shaping retail growth in Canberra after that time to the present day.

**Role of the Planning Authorities**

43. Retail planning after 1958 was carried out under planning controls exercised by the NCDC and the approach adopted was one of integrated planning and development by both the public and private sectors. Within this integrated planning framework, the

location and distribution of retail centres was determined by factors such as employment opportunities, location of entertainment and other community services and facilities and travel patterns.

44. The planning functions of the NCDC have to date been complemented by the Department of the Capital Territory which is responsible for the implementation of the Commission's planning policies. After having carried out the physical construction work to create the servicing necessary for release of new development sites, these are handed over to DCT for disposal. This system enables the Government through the NCDC and DCT to direct land use in a specific way at a chosen time to have a direct influence on the shape and substance of new town and retail centres. With retail operations, the land management functions of DCT enable it to determine pricing policies covering land disposal and the management and enforcement of leases. The ultimate decision on retail investment, however, is made by the private sector whereby judgements are made about the development of new sites.

45. At present it is not known whether this system will continue to operate in the same way, as the Government is considering a change in the procedures relating to land servicing and marketing. However, this will not directly affect the general planning philosophy which has been reassessed in light of the results of a major retail survey undertaken by the NCDC in 1979 and completed in 1981.<sup>1</sup>

46. Prior to the review of retailing, the Commission's planning policies were acknowledged to reflect 'a quite high degree of intervention in the market through specifying, sometimes in considerable detail, the size of individual shops and total amounts of floor space in centres, their location, their timing for release, the functions to be included, the levels of the catchments and the viability'.<sup>2</sup> Subsequently it has been realised that Canberra is now a more mature market and that policies need to reflect this change.

47. The recognition of the dynamic nature of the retail industry has persuaded the Commission to adopt policies which allow the market more freedom to operate than has previously been the case. This means that policies are emerging, for 'a more flexible approach to retail uses in areas like Civic where concepts of preferred use and a flexible attitude towards ways in which development sites may be committed, and what kind of floor space goes into them, will replace much more deterministic attitudes and planning policies which have prevailed in the past'.<sup>3</sup>

#### Description of Retail Planning Models

48. According to the aims expressed by the NCDC in its report 'Retailing in Canberra',

'The general objective for the development of Canberra has been to direct growth into a series of distinct and separate new towns each having a high degree of self-sufficiency in facilities and employment opportunities taking into consideration topography, transportation capacity and the way people wished to live. At the same time a dominant City Centre was a major objective.'<sup>4</sup>

49. Within the general metropolitan structure, a system of shopping facilities in the form of a hierarchy of centres was developed. Using this model a proposed retail structure was published by the NCDC in its 1971 report entitled 'Tomorrow's Canberra'.<sup>5</sup> This model described a dominant centre (City) at the apex of the hierarchy with subordinate town centres and group and local centres serving neighbourhood convenience needs. The actual retail system, as it has evolved, consists of the dominant town centres of Woden and Belconnen at the apex and other centres such as Civic, Fyshwick and Queanbeyan situated above the group and neighbourhood centres in the hierarchical

structure. (A diagrammatic representation of retail hierarchy is found on p. 9 of NCDC report 'Retailing in Canberra'.)

#### Geographical Location of Retail Outlets

50. As mentioned previously, the initial metropolitan planning strategy defined Civic Centre as the apex of the retailing hierarchy in the ACT. The primacy of Civic Centre in this regard was challenged by the release and development of the Woden and Belconnen town centres. The rapid growth of Canberra in the 1960s and early 1970s which led to the construction of these new town centres delayed development in the metropolitan centre and this, coupled with declining populations in Civic's catchment in North and South Canberra, reduced the relative role of Civic Centre.

51. However, it should be noted that Civic retains its intended functions as the primary commercial centre in Canberra and is unchallenged in terms of the number and size of administrative, financial and commercial services located there.

52. Initial planning for Woden and the newer areas of North Canberra was based on the previously established model of small neighbourhoods of 4000 residents relating to the increasing hierarchy of retailing facilities referred to earlier. The Woden structure, as it developed, resulted in a 3-tier pyramid with the town centre at the apex, supported by group centres at Curtin and Southlands/Mawson and with its base formed by discrete neighbourhood or suburban shopping centres (e.g. Hughes, Garran, and Lyons). In this way it was intended that neighbourhood centres would cater for approximately 4000 residents, group centres for between 14 000 to 20 000 people and town centres for approximately 50 000.

53. This hierarchical arrangement was continued in the planning for Belconnen where, with the benefit of hindsight, certain changes were made to the basic structure and location of shops. In South Belconnen, neighbourhood and group centres were centralised within their geographic catchment, as for Woden. However, in North Belconnen shopping centres were located at the junction of neighbourhoods adjacent to peripheral roads and the local primary school served as the central point of the neighbourhood area. In this way, the shopping centre and school-oriented neighbourhoods overlapped.

54. Additionally, due to concern about the intrusion of traffic into residential areas, group centres in North Belconnen were not located at the geographic centre of the catchment population but placed at traffic entry and exit points on arterial roads. (The role of group centres extends beyond providing services of an exclusively retail nature and includes many non retail commercial and community services such as banks, post offices, libraries, health services and service stations which generally cannot be supported on a suburban basis.)

#### 'Unintended' Retail Operations

55. Retail development in service trades areas occurred in response to a shortage of retail space in planned centres during a period of high growth expectations and demand in the late 1960s to mid 1970s. Lease purposes, while allowing a certain limited degree of retail operations (e.g. automotive parts), did not allow for the sale of a wider range of goods for which there was consumer demand. Therefore, in order to correct the imbalance between the sites that were available in the planned centres and the space required by retailers to meet anticipated consumer needs, the limited leases were extended to take in other retail operations. The result was the development of a section of Canberra's retail market which has been classified as 'unintended' retail space.

56. The major area under this heading is Fyshwick but also included in this category are the service trades areas of Phillip, Belconnen and Braddon. Taken together, these

provide about 25% of all metropolitan retail space. This retail space is subject to fewer controls than more conventional retail areas and generally operates with lower costs (e.g. rentals). Certain types of retail operations were proposed for these areas, such as motor vehicles and accessories, building materials and hardware goods. A much wider range of retailing developed in response to demand and the extension of the range of operations reflected the demands of a rapidly growing market. Retail performance in these areas is now slowing down as the market readjusts to developments in the late 1970s.

57. Another factor in considering the availability of retail services to Canberra residents is the influence exerted by Queanbeyan. Queanbeyan has about 10% of the floor space and population of the region and is also expanding its range of shopping facilities.

58. The interrelationship between the areas just referred to and developments proposed in Tuggeranong together with conflicting evidence concerning the availability or oversupply of retail space makes it necessary to examine the current position in relation to floor space availability and its implications for the future.

#### Availability of Retail Space

59. After 1975 when there was a marked decline in population growth in the ACT and a resultant lessening of demand for additional retail space, some imbalance was experienced which resulted in increased retail vacancies. This situation had been exacerbated by the development of the Woden and Belconnen town centres and the provision of further commercial and retail outlets in those centres, the planning for which had been undertaken during an expansionary period.

60. An indication of the extent to which the amount of available retail space increased over the last few years is provided by the NCDC in the following figures of square metres of retail space per capita:

1958—1.1m<sup>2</sup>/pop.  
1978—1.2m<sup>2</sup>/pop.  
1979—1.6m<sup>2</sup>/pop.<sup>a</sup>

61. To counter repeated claims that there is an oversupply of retail space in the ACT, the NCDC produced figures provided by the Australian Bureau of Statistics which compare average retail space per capita of the States and Territories.

State	Space (m <sup>2</sup> /pop.)
Northern Territory	2.2
South Australia	1.6
Victoria	1.5
Western Australia	1.5
Australian Capital Territory	1.4
Tasmania	1.4
New South Wales	1.3
Queensland	1.3
Australian average	1.42 <sup>b</sup>

62. These figures, according to the NCDC, do not support the contention that the ratio of retail space per capita constitutes a dramatic oversupply in the ACT. According to the Commission the optimum range for retail space should fall between 1.2m<sup>2</sup>/pop. and 1.6m<sup>2</sup>/pop., depending on local conditions.

63. A review of retail services in the ACT carried out by the NCDC<sup>a</sup>, begun in 1979 and published in 1981, revealed the following:

1. decline in retail sales/square metre of floor space from \$1700/m<sup>2</sup> in 1975 to \$1280/m<sup>2</sup> in 1980;
2. increasing evidence of vacant retail premises, peaking in June 1979 and now declining (partly due to take-up by non-retail functions);
3. significant reduction between 1975 and 1981 of unintended retail space in Fyshwick;
4. loss of predominance of Civic due to Belconnen Mall and Woden Shopping Square development from 61% of the total retail market in 1975 to 31% in 1980.<sup>b</sup>

64. Other information relating to retailing in Canberra indicates that there is a general trend in the industry towards substituting floor space for labour. This is particularly the case in supermarkets where the average floor space has increased from 1500m<sup>2</sup> in 1970 to 2500m<sup>2</sup> in 1980. The NCDC claims that the industry minimum requirement for profitability in supermarkets is now 3000m<sup>2</sup>. As far as floor space per employee is concerned, this has increased from 17m<sup>2</sup> in 1971 to 32m<sup>2</sup> in 1980.<sup>10</sup>

65. Using these statistics and applying them to the present retail environment it can be made to appear that Canberra is adequately supplied with retail space for its present requirements. What the figures do not reveal is the uneven geographic spread of shopping locations. In Belconnen, for example, there is an adequate supply of shops at the town centre, group centre and neighbourhood centre levels serving the local population, whereas in the newly developed area of Tuggeranong, there is a serious lack of such facilities.

66. It is important to stress this disparity in the supply of floor space per head of population in different areas of Canberra. Whereas the ratio of floor space per head of population is 1.2m<sup>2</sup>/pop in Belconnen the figure in Tuggeranong is currently 0.2m<sup>2</sup>/pop. The lack of available shopping space in certain areas indicates that planning policies have not been responsive to demand. The Committee recognises that the NCDC did intend to proceed with the development of the Tuggeranong area but had to modify its plans due to the curtailment of population growth.

67. The lack of response to the needs of Tuggeranong residents for access to local retailing facilities has meant that residents in the southern end of this development have to travel great distances to purchase goods. In recognition of this the Commission is now proposing to develop retailing in the Erindale Centre. According to figures supplied by the NCDC the amount of floor space to be made available for retail purposes is 14 000m<sup>2</sup>. This floor space will service a population estimated at 38 000 by the time it is operational in 1984. The Committee is concerned at the initial destabilising effect this may have on traders already operating in Woden.

68. The question of the adequacy of retail space is further complicated by the exclusion of vacant and unintended floorspace from official statistics. According to the NCDC, the reason vacant space is not included in per capita figures is that '... functions are changing. If you include it as retail space in the three-month period, it goes into a non-retail function and you give bias to your figures'.<sup>11</sup> Similarly, because of problems related to the clear definition of retail use, the greater diversity of functions by retailers and the practice of retailing from non-retail leases in certain areas and the consequent difficulty of enforcement of leases, estimates of 'unintended' or 'illegal' retail space 'would be somewhat grey'.<sup>12</sup>

69. Therefore in order to arrive at a realistic ratio of retail space per head of population the official figures would have to be added to the two other categories mentioned above. It is apparent that the method adopted in regulating the release of retail space has been a factor in the structural imbalances which have existed in Canberra's retail sector and to which the NCDC must address itself without delay.

70. Witnesses appearing before the Committee have also made reference to the oversupply of retail space in Canberra and the pressures this has placed on the market. Mr

Harold Hird, MHA representing the House of Assembly Standing Committee on Development, which inquired into trading hours in the ACT in 1979, stated that 'There is an oversupply of retail space in the ACT . . . . We now have a city of 250 000 and yet the city has been planned for 350 000 people, or around that figure, and we are short of 100 000 people. We have to take up that slack'.<sup>13</sup> The matter of the oversupply of retail space was 'a major factor which influenced the [House of Assembly] Committee in recommending that the Trading Hours Ordinance be retained and enforced for a period of at least five years to enable the serious imbalance of excess retail space and population in Canberra to stabilise'.<sup>14</sup> This point has also been made by several other representatives of small retail businesses in the ACT.

71. Therefore any proposals to alter the present distribution of retailing outlets should examine the implications of this on the overall supply of retail space on the market.

#### Future Planning

72. Among factors influencing the drop in Civic's share of the retail trade is stated to be the lack of large supermarkets and large retailers. The floor space in Civic represents 17% of that available in Canberra and this, coupled with the decline in turnover in Civic from \$100 million in 1977 to \$74 million in 1980,<sup>15</sup> indicates that some degree of realignment of functions has to occur for Civic Centre to become revitalised.

73. The attitude of the NCDC has changed from that of specifying details of shop size, floor space, location and release to allowing for the needs of consumers and the market more freedom to operate. This has resulted in a renewed commitment by NCDC to boost retailing in Civic, the deferment of a group centre at Kaleen, the further expansion of Dickson and the development of group centres at Erindale and Tuggeranong.

74. The importance of retailing as an employer in the ACT is demonstrated by figures which show that within the private sector it provides employment for twice as many people as any other industry. (The retail industry employed some 11 000 people in 1980, about half of whom were women.)<sup>16</sup> It is also the main area of corporate private sector investment in Canberra.<sup>17</sup>

75. Therefore, within the context of the future development of Canberra, several of the problems and trends relating to location and availability of retail outlets referred to previously will have to be addressed by the planning authorities whose policies continue to have a profound effect on the commercial viability of the city.

76. The Committee recognises, however, that future development depends on support and initiative from the private sector. It is for this reason that a flexible approach to future planning is a welcome development. The broadening by the NCDC of its approach to the planning framework to take account of other factors such as consumer behaviour and attractiveness of location recognises the dynamic nature of the market and acknowledges the necessity of changing policy to enable growth where there is a demand for increased facilities. In this way the market, aided by the planning authorities, will correct the imbalance and realign itself to respond to changes in a more direct and effective way.

#### Endnotes

1. NCDC Technical Paper 31, May 1981, 'Retailing in Canberra'.
2. Transcript of Evidence p. 537.
3. Transcript of Evidence p. 539.
4. op. cit. p. 7.
5. NCDC 'Tomorrow's Canberra' 1971, p. 68.
6. Transcript of Evidence pp. 530-531.
7. Transcript of Evidence p. 534.
8. op. cit.
9. Transcript of Evidence p. 535.
10. Transcript of Evidence pp. 536-537.
11. Transcript of Evidence p. 547.
12. Transcript of Evidence p. 557.
13. Transcript of Evidence p. 503.
14. Transcript of Evidence p. 470.
15. NCDC Civic Centre Development Plan, February 1982, p. 12.
16. 'Retailing in Canberra', op. cit. p. 81.
17. Transcript of Evidence p. 531.

## The Role of Government in the Regulation of Retail Trading Hours

### Legislative Basis for Regulation

77. Government regulation of trading hours in Australia is a long-standing practice. State Governments introduced legislation regulating retail trading hours as early as the turn of the last Century. The New South Wales Government pioneered such legislation with the Early Closing Act in 1899. The following year Queensland and South Australia passed similar legislation.<sup>1</sup>

78. The initial purpose of the legislation was to protect employees from having to work unreasonably long hours. The various colonial governments of the time therefore prescribed trading hours and hours of work which broadly corresponded to what were then regarded as 'normal' business hours. This nexus between working hours and trading hours has continued to the present day.

79. Available hours for trading under the legislation of 1900 were still considerable. For instance, both the South Australian and Queensland Acts only prescribed closing times 6.00 p.m. four nights of the week, 9.00 p.m. or 10.00 p.m. on the remaining week night and 1.00 p.m. Saturday. It was therefore possible for shops to trade approximately 53-56 hours per week which meant that shop assistants could have been required to work those hours.

80. In subsequent years the States progressively reduced the total number of trading and working hours. (The introduction of the 40 hour working week in the immediate postwar years was part of this process.) This was achieved in one of two ways: The first was that particular legislation to achieve shorter hours was passed by the various Parliaments.<sup>2</sup> The alternative to this was to effect amendments to relevant industrial awards where a particular State Parliament had devolved part of its power over trading hours to industrial courts.

81. The trend towards shorter trading and hence working hours continued until the late 1960s. Early in the next decade, major retailers began to lobby for the introduction of late night trading, although late night trading, as mentioned in Chapter 2, was a long standing practice in the ACT. The New South Wales and Victorian Governments agreed to permit late night trading on one night per week in 1971-72 and a consequent provision was made in the appropriate awards. It was a while, however, before it was followed up in the other States. Late night trading was adopted in Tasmania in 1977. The remaining States followed suit, with Queensland being the last State to introduce late night shopping in December 1979.

### Industrial and Arbitral Courts

82. Industrial tribunals created by statute with power over industrial matters have existed at a State and Federal level since the beginning of this Century. The first industrial tribunal was a Wages Board established in Victoria in 1896. The Commonwealth passed the Conciliation and Arbitration Act in 1904 establishing a federal court to prevent and resolve industrial disputes.

83. New South Wales and South Australia have a dual tribunal system, incorporating elements of both compulsory arbitration and wages boards. Queensland and Western Australia have conciliation and arbitration tribunals, while Victoria and Tasmania have wages and industrial boards. All these tribunals have considerable industrial powers (more so than the Arbitration Commission). For instance, they possess power to determine standard working hours for employees, rates of pay, award provisions, penalty rates, annual leave entitlements and similar conditions of employment.

84. In Queensland the hours of work for employees and retail trading hours are determined concurrently in the industrial court in the setting of awards.<sup>3</sup> In the remaining States, trading hours are indirectly influenced by industrial courts in the setting of awards.

85. While Government involvement in determining shop trading hours is a longstanding practice, the extent of that involvement has been of a limited character being either to alter legislation intermittently or to transfer some legislative power to an industrial tribunal capable of quickly responding to community demands. Thus Government action permitting or encouraging alterations in trading hours has in the past been in response to changing economic and social conditions and community demands. In this way, Governments have responded to changing dynamics in the retail industry.

### Retail Trading Hours in the States

#### NEW SOUTH WALES

86. Shop trading hours are prescribed in the *Factories, Shops and Industries Act* 1962 (as amended) and the Regulations made under that Act. Under these provisions certain shops have unrestricted hours and may trade at any time. These shops include garden nurseries, newsagencies, vehicle shops, flower shops, pet shops, souvenir shops, chemists, takeaway food shops, bookshops, confectioners and small shops. (These shops are defined in the legislation as those with no more than two owners and two employees.)

87. General shops such as major retailers, electrical stores, jewellers must close by 6.00 p.m. on Monday, Tuesday, Wednesday and Friday, 9.00 p.m. Thursday and 12 noon Saturday. Butchers' shops may trade from 6.30 a.m. to 5.30 p.m. Monday to Friday and 6.30 a.m. to 11.30 a.m. Saturday. Hairdressers may open between 8.30 a.m. and 5.45 p.m. Monday to Friday, and on Saturday between 8.00 a.m. and 12 noon for men's salons and 8.00 a.m. to 12.45 p.m. for women's salons.

88. There are some minor exemptions; night trading is permitted in the shires of Gosford and Wyong on Friday nights and in Tweed Heads the closing time is 5.30 p.m. Monday to Saturday.

89. In New South Wales trading hours are determined by regulations under the Act.

#### QUEENSLAND

90. Retail trading hours are determined by Part VIII of the *Factories and Shops Act* 1960-1975. However, section 61 of the Act enables the hours of business to be determined by the Full Bench of the Industrial Commission in accordance with Part VIIA of the *Industrial Conciliation and Arbitration Act* 1961-1981.

91. Certain types of shops have unrestricted hours of trading, viz; chemists, confectioners, takeaway food shops, grocers, restaurants, flower shops, bookshops, bread and cake shops. For all other shops the closing times are 5.30 p.m. Monday, Tuesday, Wednesday, Thursday or Friday, 9.00 p.m. Thursday or Friday according to the region in the State and 12 noon Saturday as determined by orders of the Industrial Commission.

(Exemptions are provided for shops trading on the Gold Coast and other tourist locations.)

#### VICTORIA

92. The trading hours provisions in Victoria are determined by the *Labour and Industry Act 1958* (as amended). The legislation permits trading from midnight on Sunday through to 1.00 p.m. on the following Saturday afternoon. Trading is permitted at any time during that period and certain types of shops are permitted to trade outside that period. Municipalities may also apply to be designated tourist centres so that stores may trade during hours not otherwise permitted under the Act.

93. The Wages Boards of Victoria make determinations for approximately fifteen different types of shop and in so doing determine the spread of ordinary hours for shops in which the employees can work without attracting penalty rates. Shops generally open on Friday nights until 9.00 p.m.

#### TASMANIA

94. The *Shop Trading Hours Act 1981* provides that retailing firms, involving one or more shops, in which more than 100 persons are employed between Monday and Friday in each week, may not open between 12 noon Saturday and midnight Sunday. There are no restrictions whatsoever outside these hours and no restrictions on smaller businesses.

#### WESTERN AUSTRALIA

95. The legislation controlling trading hours in Western Australia is the *Factories and Shops Act 1963* and Regulations made thereunder. Section 85 of the Act provides that trading may take place between 8.00 a.m. and 6.00 p.m. on four week days, until 9.00 p.m. on one night of each week and 1.00 p.m. Saturday. The Act stipulates there shall be no Sunday trading. The Shop Exempt Goods Regulations prescribe a list of goods which are exempt from the provisions of the Act. These goods are mainly daily requisites such as foodstuffs. Section 88 of the Act enables small shops to apply for registration to sell additional items to those on the exempt list (e.g. toys, sporting goods and gifts).

#### SOUTH AUSTRALIA

96. The trading hours for shops are controlled by the *Shop Trading Hours Act 1977-1981*, which provides that ordinary shops must close at 6.00 p.m. on four week days. Late night trading (until 9.00 p.m.) is conducted on Friday night in the City Central District and on Thursday night in the outer metropolitan area. The Statute provides that certain types of shops, for example newsagents, florists, plant nurseries, pet shops, food shops and those shops of a size no greater than approximately 300 m<sup>2</sup> (including storerooms) where no more than three people are present at any one time, are exempt from its provisions.

#### NORTHERN TERRITORY

97. The *Early Closing Act 1912-1980* provides for unrestricted trading hours, although some shops must be closed no later than 12.00 midnight for not less than four hours (e.g. newsagents, restaurants and public houses).

98. This review of trading hours on a State by State basis provides an indication of current trading hour practice throughout Australia. It is evident from this overview that the degree of flexibility of trading hours varies greatly between States but that certain categories of shops may open or certain classes of goods may be sold at any time.

Without attributing any greater significance to this point, it would appear that State Governments have through their respective administrative machinery acknowledged and responded to consumer demand for access to a certain level of goods at times convenient to the general community.

#### Recent Reviews of Trading Hours

99. In recent years there have been many reviews and inquiries into retail trading hours mainly instituted by the various State Governments.

100. In 1977 the New South Wales Government appointed a Committee of Inquiry into Retail Trading Hours to examine the need to alter the retail trading hours existing at that time and to report to the Minister for Industrial Relations. That Committee received a number of submissions in favour of extending trading hours and an even larger number opposed to any such extension. Many individuals and organisations also appeared before the Committee and the arguments presented were the same as those heard by the Joint Committee in its present Inquiry.

101. The New South Wales Committee recommended that:

1. legislative regulation of trading hours should be continued,
2. the definition of small shops should be broadened, and
3. certain specialist shops should be exempt from any restrictions on retail hours.

The New South Wales Committee reported that it did not believe there was a demand for general trading on Saturday afternoon or on any other week night. A considerable number of these recommendations were incorporated by the New South Wales Government when it introduced the present trading hours in June 1979.

102. Also in 1977, the South Australian Government appointed a Royal Commission to inquire into 'The Law Relating to Shop Trading Hours and Ancillary Matters' to determine whether or not shop trading laws should be amended or modified. The report considered in some detail the arguments of the Shop Distributive and Allied Employees Association and those of small traders and commented upon their validity. The Commissioner recommended that the laws be altered to permit one late trading night per week but that there be no extension to include Saturday afternoon.

103. In 1978 the Queensland Government issued an Order in Council creating a Committee to inquire into 'All Aspects of Hours of Business in Shops in Queensland'. The Committee received approximately 200 submissions from a variety of interested groups and held public hearings in various major cities in the State. The Committee recommended that the trading hours of non-exempted shops be extended to 9.00 p.m. on one weeknight.

104. In Victoria, the 1978 report of the Committee of Review of the *Labour and Industry Act 1958* was the product of a three year inquiry into the Act. The Act itself covers a considerable range of industrial concerns, such as industrial relations and industrial safety. Trading hours is only a small part of the Act. The report stated:

'It will never be possible to find an answer to the shop trading hours question that would please everyone, because different groups have different interests.'

It recommended that trading hours should not be altered and these are still in force today.

105. The most recent inquiry into trading hours was conducted by the Full Bench of the Queensland Industrial Conciliation and Arbitration Commission under its powers granted by statute. It is therefore the only recent inquiry not instituted by Government. It was in May of this year that the Full Bench handed down its decision on an application by the Housewives Association of Queensland for an extension of trading hours to include Saturday afternoon.

106. The Full Bench under its industrial powers conducted an extensive investigation into the matter. It received a great deal of evidence from those in favour of extended hours, including Myer Queensland Stores Ltd, Woolworths (Queensland) Ltd, Target Queensland Pty Ltd and G. J. Coles & Co. Ltd and those groups opposed to an extension of hours, which included small business groups and various trade unions as well as David Jones (Australia) Pty Ltd.

107. Based upon the qualitative evidence presented to it the Full Bench rejected the application to extend trading hours on Saturday and made several observations including the following:

'we reach the conclusion that the granting of the application will lead to a further loss of full-time employment . . . (and) . . . there is no tangible evidence before the Commission which would enable us to reach a conclusion that there is any appreciable proportion of the population which could not reasonably find time to shop within the existing trading hours'.

108. The question of trading hours has therefore been the subject of considerable scrutiny and investigation in recent years. It reflects the great amount of pressure that has been and is continuing to be exerted on Governments by the various interest groups to effect changes to the legislative regulation of trading hours.

#### Government Intervention

109. Throughout the numerous inquiries, questions have arisen about the role of Government in the regulation of trading hours. Government intervention in the market place is generally justified on the grounds of public interest and this proposition applies to the regulation of trading hours. The public interest theory maintains that regulation by Government is in response to public demand for the correction of inefficient or inequitable market practices.<sup>5</sup> Therefore, as a consequence of the difference in relative trading power of the small and major retailers, regulation of trading hours enables the small traders to continue to operate profitably in a competitive market.

110. A more pragmatic explanation for continuing Government intervention in the market place by regulating shopping hours is that Government concern for the public interest is no longer the major determining factor but that the main consideration now is the protection of a particular private interest or specific economic group. Particular groups with significant political influence will use their lobbying power with Government to evade economic pressures that threaten their interests or profitability at the expense of others. Thus regulation by Government can be seen to be supporting the interests of a particular group and is not concerned with the public interest.<sup>6</sup>

111. These alternative explanations of Government regulation are relevant in the current debate and provide a framework in which to examine the arguments for and against continued Government regulation of trading hours.

112. There are several arguments against continued Government regulation of retail trading hours and these are described as follows:

- (a) The initial reason for the existence of the legislation (to protect employees) no longer exists since the various state industrial tribunals and the Commonwealth Conciliation and Arbitration Commission, in association with the trade unions, are responsible for the protection of the working conditions of employees.<sup>7</sup>
- (b) The existence of regulations imposed by Government have imposed costs on retailers and distort the economic market (for example, such regulations lead to the inefficient use of capital investment).<sup>8</sup>
- (c) The continued existence of legislation favours particular interest groups, at the expense of the remainder of the community.

(d) Trading hours should be determined by the prevailing forces in the market so that hours would reflect retailing conditions and consumer desires rather than arbitrary Government intervention.

113. The arguments in support of continued Government regulation include:

- (a) The necessity to protect smaller groups in the industry who would be disadvantaged by any such change.
- (b) Regulation in the public interest corrects market imperfections so that smaller retailers can compete with the major retailers on a more equitable basis.
- (c) Some members of the community believe that existing trading hours are adequate.
- (d) Removal of Government regulation may lead to
  - (i) a diminution in the number of full-time employment positions in the retail industry;
  - (ii) the possibility of increases in the price of goods to consumers; and
  - (iii) serious disruption to the family and social life of shop assistants and employees in the retail industry.

#### Options for Recommendation

114. The Committee, before reaching its final conclusions considered several approaches to arrive at a workable solution to the problems posed by the present trading hours in the ACT. The possible alternatives included:

1. Recommend proclamation of s. 90 *Commonwealth Functions (Statutes Review) Act 1981* whereby the current Trading Hours Ordinance would no longer be applied
2. Recommend maintenance and enforcement of the present Trading Hours Ordinance
3. Recommend that an alternative ordinance be drafted.

#### Endnotes

1. *Early Closing Act 1900* (South Australia)  
*Factories and Shops Act 1900* (Queensland).
2. For instance:  
*Factories and Shops Act 1936* (New South Wales)  
*Factories and Shops Act 1962* (New South Wales)  
*Early Closing Act 1945* (South Australia)  
*Factories and Shops Act 1960* (Queensland).
3. Bureau of Industry Economics Working Paper No. 21 'Regulation of Retail Services, Retail Trading Hours', R. S. Bennett, March 1981, p. 1.
4. Report of the Committee of Review of the Labour and Industry Act, p. 38
5. Posner, R., 'Theories of Economic Regulation', *The Bell Journal of Economics and Management Science*, Autumn 1974, Vol. 5 (2), p. 335.
6. BIE Working Paper No. 21, op. cit., p. 20.
7. Address to the Committee by the Hon. P. A. Everingham, MLA, Chief Minister for the Northern Territory, dated 17 June 1982.
8. Transcript of Evidence, p. 653.

## CHAPTER 5

### The Effect of Deregulation on Retailers

**115.** In evidence to the Committee several claims have been made by large and small traders and organisations representing trading interests concerning the likely consequences of the deregulation proposal. After examining the evidence it is apparent that there is very little factual data to support many of the contentions made.

**116.** Throughout the public hearings, information has been provided by one group of traders which has then been contradicted by another group. It is recognised that the interests of large retailers are not always shared by small traders and that this is inherent in the nature of a competitive market. However, the debate has been characterised by a shortage of reliable statistics or readily observable trends and this is in large part due to the lack of precedents and practical experience of deregulation in other areas of Australia.

**117.** The Committee, in the final phase of its investigation undertook a series of inspections and informal discussions in the Northern Territory, where the Government does not regulate retail trading hours. The Northern Territory experience will be elaborated on later in this Chapter.

**118.** It is useful to examine the possible effect of deregulation by referring to the arguments presented by major stores, small shops and organisations representing retailing interests. For the purposes of this Report, major traders are defined as retailers employing more than one hundred people in the ACT or elsewhere in Australia in any number of shops.

#### Summary of Arguments Presented by Major Retailers

**119.** When the Inquiry into Retail Trading Hours in the ACT commenced and submissions were sought, the following major retailers wrote to the Committee and subsequently appeared to give further evidence at public hearings in Canberra: G. J. Coles and Co. Ltd (Coles), David Jones (Australia) Pty Ltd (David Jones), Myer Belconnen (ACT) (Myer), Waltons Ltd (Waltons), Woolworths Ltd (Woolworths) and J. B. Young Ltd (Youngs). Of these, Waltons and David Jones opposed the principle of deregulation whereas the others gave it qualified support. The following is a description of the arguments advanced in support of the respective positions of these retailers. It should be noted here that the majority of retailers do not differentiate between deregulation and an extension of trading hours but view these terms as being synonymous. A further point is that all major retailers have rejected the notion of Sunday trading at the present time or in the immediate future.<sup>1</sup>

**120.** The debate in this Chapter centres around the possible inflationary effect of deregulation brought about by increased operating costs associated with extended hours. The major traders in favour of Saturday afternoon trading, which is seen as the practical end result of deregulation, refer to savings ratio trends. These are used to demonstrate that the increased opportunity for shopping provided by an extension of present hours would result in additional sales and that this increased turnover would offset any added costs.

**121.** The available figures do indicate that savings as a percentage of disposable income in Australia have risen from 8.2% in 1969 to 13.4% in 1980.<sup>2</sup> Whether or not these

increased savings would be spent on retail goods if stores were open at more 'convenient' times to the consumer is debatable. The level of consumer spending is difficult to predict and is dependent on a number of factors. That the level of savings is one of these factors is a supposition which remains untested.

**122.** A claim made by traders who oppose deregulation is that the price of goods will have to increase with the greater overheads and labour costs generated by extended hours. David Jones for example has estimated that in a static market, trading on Saturday afternoon would result in an increase in the price of goods of around 1.5%.<sup>3</sup> Similarly, Waltons has calculated a 13.3% increase in payroll costs associated with Saturday afternoon trading.<sup>4</sup> This fails to take account of the competitive nature of the large retail market and the extent to which any trader can adjust to changing market conditions. The underlying assumption made appears to be that any increase in additional sales will not cover these additional costs. If increased sales do not result from the change in opening hours it may be that the degree of market competition will limit the extent to which increased costs can be passed on through higher prices.

**123.** The response of consumers to different trading hours will influence how any increased costs will be offset by retailers. According to the evidence provided by David Jones:

'we have to assume that we would through increased efficiency somehow absorb as much as possible because the market-place will demand that we do, of course'.<sup>5</sup>

#### Time-Costs

**124.** Another consideration to be taken into account when looking at increased costs and prices is the economic analysis of time-costs associated with shopping. One assumption made is that each consumer has a limited number of hours in any given time period to be allocated between work and other activities. Therefore time spent shopping is at the expense of other activities and foregone leisure pursuits. This time-cost will vary between individuals and households but it is claimed that the cost influences the demand for weekend trading.<sup>6</sup>

**125.** The Bureau of Industry Economics in a working paper published in 1981<sup>7</sup> and Mr Hogbin, a witness before the Committee, develop this idea and discuss the various components of the cost of time to the consumer and retailers. Another cost factor for consumers is stated to be travel time. The point is made that if shops were open during non standard working hours (e.g. Saturday afternoon) then the time-cost of items purchased could be reduced by arranging shopping excursions of longer duration.<sup>8</sup> It would also have the added benefit of enabling shopping to be done at a more leisurely pace and with more regard to comparing prices and would improve access to shopping centres from carparks which would not be subject to overcrowding at certain times.<sup>9</sup>

**126.** In the same way, the time-cost analysis can be applied to retailers who experience peak demands and congestion at certain times (e.g. Saturday morning) and an underutilisation of services at other times. The uneven load which results from regulated hours means that the capital and labour resources, including retail outlets, which are necessary to handle peak periods are not put to the most efficient use at other times. 'More flexible trading hours, it has been shown, would by reducing the peaks in demand and congestion costs, also reduce the optimum capacity per unit of retail output'.<sup>10</sup>

**127.** In other words, by staggering demand through a more even flow of trade it would be possible for a retailer to make better use of existing capacity, reducing unit costs (e.g. by operating fewer counters) and thereby creating potential price reductions. The extent to which these reductions would be passed on to consumers would depend on the

level of excess capacity and the market structure. Considerations such as these do indicate, however, that there are many factors to be accounted for in any analysis of possible trends resulting from deregulation.

### Employment in the Retail Sector

128. Much information has been received on the likely consequences of deregulation as far as employment is concerned. The evidence supports the argument of a shift away from full-time to part-time and casual labour. There is a full discussion of employment trends and opportunities in Chapter 6. The question of disruption to family life and leisure activities resulting from extended weekend hours of trading is also discussed in that Chapter.

### The Small Traders

129. As indicated earlier, small traders fall into the category of retailers in the ACT or elsewhere employing less than 100 staff. Most of the evidence presented by small traders has been made by organisations representing their interest in large shopping complexes. These include the Woden Shopping Square Merchants Association, the Belconnen Mall Traders Association, the Monaro Mall Merchants Association and the Kippax Fair Merchants Association. While these associations speak on behalf of all retailers, including major retailers in large shopping complexes, the majority of their membership derives from the small traders who outnumber the major traders by a large percentage. In the Belconnen Shopping Mall for example the ratio of small to large traders is 9 to 1.<sup>11</sup>

130. The other major organisation to appear before the Committee to speak on behalf of small business interests was the Australian Association of Independent Businesses (AAIB). Although this is a national organisation, the submission made to the Committee was on behalf of the Canberra/Queanbeyan Regional Group of the Association. Evidence was also taken from the Canberra and Southern Districts Pharmacists Merchandising Company Ltd, trading under the name 'Marchem', which is an organisation specifically involved in pharmaceutical retailing.

131. Based on the evidence provided to the Committee by representatives of small traders, the unanimous view was that of complete opposition to the deregulation of trading hours. The reasons advanced for this point of view included those referred to by some of the major retailers such as increased costs and an erosion of employment opportunities but small merchants also expressed particular concerns whereby they would be disadvantaged. A major consideration for small traders was stated to be the implications of increased competition from major retailers on weekends. Another problem area was that of restrictive leases in large shopping centres.

### Redistribution of Sales

132. Reference is made throughout the submissions to the likely effects on small businesses of trading outside present hours. It is predicted that the large retailers operating from town and group centres would attract trade away from small, local operators and that this would result in the closing down of small neighbourhood shops. In their submission to the Inquiry the Belconnen Mall Tenants Association stated:

'If the situation developed . . . with the major shopping centres open until 9.00 p.m. three nights a week and all day Saturday and Sunday there would be dire consequences for many of the neighbourhood shops, particularly the small supermarkets which rely heavily on trade during those times when the large shopping complexes are closed.'<sup>12</sup>

133. The situation is stated even more dramatically by the Shop, Distributive and Allied Employees Association in their submission, in the following terms:

'Even assuming that sales are maintained, many small businesses will be caught between rising costs and constant sales and will be forced into bankruptcy as a consequence.'<sup>13</sup>

134. Such claims are made on the assumption that large retailers will choose to open for periods much greater than present opening hours (including Sunday) and that the benefits provided by small traders will no longer be valued by consumers. Local shops are seen as providing convenience, ease of access and personal service to a much greater extent than do major traders.

135. The Saturday Afternoon Shopping Association of the ACT (SASA), a group which claimed to represent 'a cross-section of large and small retailers, independent businesses and individuals'<sup>14</sup> stated in its submission to the Committee that:

'No evidence exists to show that extended shopping hours have caused business failure. No evidence exists to show that late night shopping has of itself adversely affected any business.'<sup>15</sup>

136. The Retail Traders Association of NSW in evidence, supported this position when they were asked whether extended trading by large retailers would force small traders out of business. The Executive Director of the Association, Mr R. Lawrence, replied:

'No I do not believe so. Those types of entrepreneur retailers (small shops) will survive with an extension of that nature. There will be no problems to them, in my view.'<sup>16</sup>

137. The absence of reliable studies makes it difficult to support or reject the proposition that a more competitive market brought about by deregulation would seriously threaten the viability of small traders. In the retail industry in the ACT there have been progressive changes in the structure of the retail market (as dealt with in Chapter 3) and the oversupply of retail space has, at various times, subjected small traders to strong market pressures. The pressures associated with market competition are, however, unavoidable and are not unique to the ACT. It is the Committee's view that a change in current hours of operation would not have a significant detrimental impact on small business and that, although some realignment of shopping may occur with such a change, the market will adjust to meet new demands and functions to the benefit of the whole community.

### Leases

138. The major shopping centres in the ACT, with the exception of the Belconnen Shopping Mall, are owned and/or managed by large insurance and investment companies. For example, in the town centres, the Woden Shopping Square is owned by the Mutual Life and Citizens' Assurance Co. Ltd (MLC) and managed by Lend Lease Investments Pty Ltd and the Monaro Mall is owned jointly by MLC and the Australian Mutual Provident Society (AMP) and managed by Lend Lease.<sup>17</sup> The Belconnen Mall, on the other hand, is owned by the Australian Government and managed by the Canberra Commercial Development Authority (CCDA).

139. Trading in large shopping complexes in town centre areas is carried out under the provisions of leasing arrangements entered into between the tenants and managers of these shopping malls. The leases under which the tenants conduct their business specify certain conditions of operation including a clause which determines the standard hours of opening of the particular shopping mall. This means that all tenants are

bound by the overall hours of operation of the centre. In a letter from Lend Lease, setting out the Company's official policy as manager of several shopping centres in Canberra it is stated:

'It is not our intention to endeavour to dictate trading hours in our managed centres, other than what is considered to be normal business hours. It is a matter for the retailers themselves to determine the hours they would wish to trade under to satisfy the needs of their customers'.<sup>18</sup>

**140.** The same letter sets out the condition of trading as specified in the relevant lease clause as follows:

'The Lessee will at all times during the term of the Lease keep the demised premises open for trade during the usual business hours operating in the Centre'.<sup>19</sup>

**141.** In the same way the CCDA determines the trading hours of the Belconnen Shopping Mall:

'The time at which they have to open are built into their leases at the present time . . . The leases, in fact, require the tenants to open during those hours in which the Mall is open'.<sup>20</sup>

**142.** Criticism has been levelled at the restrictive nature of these leases and the extent to which individual traders are unable to trade outside the standard hours of the centre even though the goods being sold may be on the list of exempt goods under the current Trading Hours Ordinance. When questioned about any changes in shopping centre trading hours resulting from deregulation, both Lend Lease and CCDA made reference to a voting system whereby lessees could express their preferences for opening and closing times. It was at the same time acknowledged, however, that in determining the voting power of large traders over small retailers it was not a clear case of equal voting. According to CCDA:

'We do not have any guidelines in our organisation to arrange that sort of weighted voting power'.<sup>21</sup>

**143.** Lend Lease also discussed this problem by highlighting the drawing power of major stores and the influence this exerted over the whole shopping complex. When asked how much influence single traders had in determining trading hours the Managing Director of Lend Lease, Mr Revell, replied:

'I think the reality of it, though, is that if all majors (major traders) were in fact going to open you would find that the majority of the small shops did open. . . . you would probably find that those traders who did not open would in fact at some stage or another change their hours to suit a majority of merchants'.<sup>22</sup>

**144.** Special arrangements have been made in certain shopping malls, such as the Woden Shopping Square, for a limited area of operation outside the standard hours of the centre. In this case, the area concerned is self-contained with its own entry and exit points and only trades in exempt goods. There would be problems in extending this to other individual traders elsewhere in the centre according to Lend Lease:

'due to increased costs for air-conditioning, security, cleaning, lighting . . . . As a result of that there would be additional costs borne by the merchants in some instances and in other instances borne by us in the way of overheads'.<sup>23</sup>

**145.** Other charges have been made in evidence to the Committee in relation to unfair rental formulae applying to small traders in such centres. The Committee is not in a position to adjudicate in this area and has therefore restricted its examination of leases to the provisions concerning hours of operation of the centres.

**146.** It is likely from the information received that the managing authorities in the large shopping centres will respond to a change in trading hours as they would respond

to any other changes in market conditions. The nature of this response will be determined by negotiation between the managers and tenants of the particular centre concerned. Although the Committee has not been provided with details regarding the precise nature of these negotiations or the voting power of small traders it must be concluded that the leases, although not allowing total freedom to trade are, within administrative and economic constraints, able to be varied to suit the conditions of the centre in question.

### Organisations Representing Retailing Interests

**147.** As already referred to, several groups have made representations to the Committee on behalf of retailing interests. These groups, such as the SASA, the Australian Association of Independent Businesses and the Retail Traders Association of New South Wales, representing different sections of the retailing industry, have made competing claims regarding other issues raised in the general debate on trading hours.

**148.** One of the points at issue is tourist trading potential. The SASA claims that extended shopping time on Saturday would have the effect of 'increasing Canberra's tourism attraction and potential'<sup>24</sup> whereas the AAIB state in their submission that 'the present legal trading ordinance, with its list of exempt foods, caters very well for tourists. Those people do, in fact, have lots of time for general shopping'.<sup>25</sup>

**149.** It would be difficult to dispute that shopping is a tourist activity. The possibility of trading Saturday afternoon or Sunday would be an incentive for tourists and also family groups to travel to shopping centres and to regard this as a leisure option on weekends. Comparative shopping, whereby individuals and families spend time comparing prices of items other than daily household goods (e.g. clothing and shoes) would also be enhanced by longer opening hours.

**150.** The success of the Canberra Showground Markets on weekends is further evidence of consumer response to this opportunity. It is the view of the Committee that the tourist potential of deregulation, particularly the possibility of weekend trading, should not be overlooked.

### Trading Hours in the Northern Territory

**151.** During the Committee's investigations, references were made to the trading position in the Northern Territory where, with the exception of liquor trading, there are no restrictions on hours of opening. It was decided that the Committee in the final stage of the Inquiry should conduct a series of inspections and informal discussions to gain first hand information about the situation in the Northern Territory.

**152.** In discussions with representatives of small and large traders, trading associations, the shop assistants union, the Chief Minister, the Hon. P. A. Everingham, M.L.A., and the Federal Member for the Northern Territory, Mr G. E. J. Tambling, M.P., it became evident that trading hours had fallen into a fixed pattern which in many respects was very similar to that operating in the rest of Australia. The potential to trade at any time must be tempered by market conditions, consumer demand and profitability. The exception to trading by major stores on Sundays was Coles New World Supermarket and Woolworths Supermarket in Alice Springs.

**153.** Another supermarket in Alice Springs, Eggar Beavers Supermarket Pty Ltd, which had opened Sundays, is now closed on that day because the increased trade and profit generated did not sufficiently offset the increased overheads and loss of leisure time for the owner.

**154.** The discussion on trading hours in the Northern Territory centres around Sunday trading and the entry of large retailers into the market on that day. It does not

appear that this is a likely occurrence at the present time and the large retailers have given an undertaking to the Northern Territory Government to give six months notice of such an intention.

155. Other than the threat of increased competition resulting from the possible trading by large retailers on Sunday and the social impact discussed in Chapter 6, the Committee was not provided with any information regarding adverse economic effects experienced by small traders as a result of deregulated hours.

#### Conclusions

156. On the balance of available evidence, the Committee accepts that the introduction of deregulation would mean that large and small traders would have to make internal adjustments to new conditions.

157. In its consideration of these consequences, the Committee has had to make allowances for certain information deficiencies. As well as the lack of reliable data referred to earlier, most retailers have failed to consider the full implications of deregulation, preferring instead to discuss extended trading hours. The point which has been overlooked is that any retailer, once in a deregulated environment, will be free to open or close at such times as will maximise profits. Under deregulation retailers will not be forced to remain open and incur losses indefinitely. Deregulated hours will enable consumers, through the market, to signal preferences for shopping hours. The traders are then simply free to open or close, depending on their judgement as to whether the revenue gained by opening the extra hours is greater than the associated cost.

158. While this principle can operate in an ideal market it is recognised that certain constraints apply in practical terms in the ACT. One of these constraints is the nature of leases in large shopping complexes which prohibit individual retailers from opening or closing at times which they are free to determine. The Committee acknowledges this limitation but considers that this is an area for consultation and negotiation between individual traders and managers in any one particular shopping mall.

159. No evidence has been given to the Committee to support claims that deregulation will in itself contribute to high levels of bankruptcy on the part of small traders. However, small traders are more vulnerable to sudden changes in legislation affecting their hours of operation than are major retailers. For this reason equity demands that small shops be given time to adjust to a change towards more flexible hours. Consequently, the interests of small traders have been taken into account in the Committee's final recommendations.

#### Endnotes

1. Transcript of Evidence, pp. 99, 42, 152, 131, 166, 301.
2. Transcript of Evidence, p. 127.
3. Transcript of Evidence, p. 275.
4. Transcript of Evidence, p. 317.
5. Transcript of Evidence, p. 309.
6. Transcript of Evidence, p. 659.
7. BIE Working Paper No. 21, op. cit.
8. Transcript of Evidence, p. 660.
9. Transcript of Evidence, p. 661.
10. BIE Working Paper No. 21, op. cit., p. 36.
11. Transcript of Evidence, p. 1314.
12. Transcript of Evidence, p. 601.
13. Transcript of Evidence, p. 1064.
14. Transcript of Evidence, p. 957.
15. Transcript of Evidence, p. 966.
16. Transcript of Evidence, p. 736.
17. Transcript of Evidence, p. 409.
18. Transcript of Evidence, p. 591.
19. *ibid.*
20. Transcript of Evidence, p. 1313.
21. Transcript of Evidence, p. 1315.
22. Transcript of Evidence, pp. 882-3.
23. Transcript of Evidence, p. 892.
24. Transcript of Evidence, p. 959.
25. Transcript of Evidence, p. 336.

## The Effect of Deregulation on Employees

160. In examining the likely effects of the proposed deregulation of retail trading hours on employees, the Committee has taken into account evidence provided by the various trade union organisations and retailers who made submissions to the Inquiry. The Committee received submissions from five trade unions including a comprehensive submission from the Shop Distributive and Allied Employees' Association (SDA), on behalf of its 150 000 members in the retail industry. The major retailers who support deregulation have also discussed this matter in their submissions. This Chapter will consider in some detail the arguments of both groups, commencing with the trade union position.

161. One group of trade unions that has given evidence to the Committee is not directly concerned with retailing. It is, however, important to note their arguments before considering the claims of the SDA, which directly represents the interests of employees in the retailing industry.

162. The Australian Bank Employees Union (ABEU) and the Commonwealth Bank Officers Association (CBOA) both provided submissions to the Inquiry and appeared before the Committee at public hearings in Sydney and Melbourne. The representatives of these unions submitted that deregulation of trading hours represented a threat to the working conditions of bank employees because of the nexus between the banking industry and the retail industry. Mr P. Mahony, Victorian Secretary of the CBOA, stated:

'I would see that there would be mounting pressure for banking services to be provided in parallel with the extension of trading hours.'<sup>1</sup>

163. The bank employees unions believed that if shopping hours were deregulated the major retailers would extend their trading hours, and this would exert considerable pressure upon the banks to trade on Saturdays.

164. It should be noted that banks already provide a limited service outside regular business hours. The recent introduction of automated teller machines enables some clients to withdraw and deposit money at any time. The banks have therefore responded to market pressure by extending the availability of certain services.

165. The SDA and Federated Clerks Union (FCU) both provided major submissions not limited to discussing the effects upon employees. The unions incorporated in their submission most of the arguments already presented in Chapter 5 (for instance, that deregulation would have an inflationary effect).

166. The trade unions were concerned about the possible deleterious effects of deregulation on their members. The SDA, in particular, acknowledged that deregulation of trading hours would theoretically permit stores to trade at any time.<sup>2</sup> However the concern of the union was that if deregulation were to be introduced in the ACT it would in practical terms simply result in extended hours. Major retailers have indicated to the Committee that they were at the moment only interested in extending their trading hours to include Saturday afternoons. Thus, for the SDA deregulation was perceived as being synonymous with extended hours. Further, the unions believed that deregulation of retail trading hours in the ACT would have a 'How-on' effect to the States. The increase in trading hours would in turn lead to increased full-time unemployment as permanent employees would be gradually replaced by part-time and casual staff. This trend it was claimed would severely restrict the family and social life of

employees. It could also lead to an attack by the major retailers on the existing industrial award provisions which could result in industrial disputation regarding overtime rates of payment.

### Employment Trends and Opportunities

167. The SDA believed that the extended trading hours associated with the introduction of deregulation would inevitably lead to a further decline in the number of full-time permanent jobs for shop assistants, in favour of part-time and casual jobs.

168. The basis for this argument was the fundamental change in the nature of employment in the retail industry that has followed the introduction of late night trading. The SDA stated in its submission that the introduction of late night trading in New South Wales and Victoria during 1971-72 coincided with the introduction of a five day working week for shop assistants. These two events led to an explosion in the number of part-time and casual employees used to staff shops during late night trading hours and on Saturday mornings. This resulted in an increase in labour costs and consequently the number of full-time employees was trimmed to reduce total labour costs.

169. It was further argued by the SDA that the introduction of late night shopping did not lead to an increase in sales, but merely to an extension of the period available for shoppers to purchase the same quantity of goods. So the number of full-time staff required during the day tended to decline as more shopping was done on the late trading night.<sup>3</sup>

170. This point was then elaborated on by the SDA in its submission:

'As a consequence of these changes in the nature of employment in the retail industry, the number of man-hours worked increased. However, the number of man-hours worked by full-time employees declined while the number of hours worked by part-time and casual employees greatly increased.'<sup>4</sup> The SDA believed evidence to support this was reflected in the distinctive change in the nature of its membership during the past decade. Mr de Bruyn (the National Secretary-Treasurer of SDA) informed the Committee during its Melbourne hearing that approximately 70% of its current membership were part-time or casual employees and only one-third of its members were full-timers and that this proportion was decreasing. Ten years ago, however, these figures were reversed.<sup>5</sup>

171. Furthermore, the SDA quoted evidence given by one of the major retailers to the Queensland Industrial Commission during its inquiry into late night trading in 1977 to support its argument. The Controller of Industrial Relations for Coles, Mr D. E. Wilkinson said:

'The 1971-1973 comparative percentages reveal the transition of staffing requirements towards an increase in the proportion of staff working less than a 40 hour week relative to full-time staff, to cover more concentrated 'peaks' of customer volume at the latter part of the trading week . . . . A five day working week coupled with the extension of trading hours has brought the following results . . . . part-time casual employees have increased substantially in proportion to full-time staff.'<sup>6</sup>

172. Employment figures released by the Australian Bureau of Statistics show that between 1972 and 1979 full-time employment in the wholesale and retail sector declined from 997 600 to 958 200. This represents a loss of 39 400 full-time jobs in seven years.<sup>7</sup>

173. To underscore this position, the SDA in its submission compared employment levels in Coles New World Supermarkets in Queensland, trading six days a week (Monday to Saturday inclusive) to those trading five and a half days a week.<sup>8</sup>

# Coles Supermarkets—Queensland

	Number of employees				
Location	Full-time	Part-time	Casuals	Night fillers	Total
6-day trading					
Noosa Heads	29	2	128	36	195
Maroochydoore	14	4	84	22	124
Nambour	27	0	66	24	117
Caloundra	27	0	63	15	105
Southport	29	0	64	13	106
Broadbeach	16	3	167	29	215
Redcliffe	17	0	61	32	110
Total	159	9	633	171	972
Proportion	16.4%	0.9%	65.1%	17.6%	100%
5½-day trading					
Total	776	9	2202	629	3616
Proportion	21.5%	0.2%	60.9%	17.4%	100%

174. The table shows there is a larger proportion of casual employment in stores that trade six days compared with stores that trade five and a half days.

175. Thus the SDA claimed that the deregulation of trading hours would increase the number of part-time and casual employees that would be required to staff the shops during the extended trading period at the expense of permanent staff.

176. Mr de Bruyn summarised the SDA case when he stated at the Melbourne hearing:

... if you extend trading hours it leads to a shift in the trade to the weekend, that in turn means less trade during the week and therefore ... a lesser need to have full-timers working from Monday to Friday. So there is a reduction in full-time employment ...

177. The SDA was also concerned, despite assurances from the major retailers, that working on Saturday afternoon may become a condition of employment and those employees who do not meet this condition may lose their jobs.

## The Employers' Perspective

178. The major retailers in favour of deregulation have disputed the arguments put forward by the trade unions, principally the points made by the SDA.

179. Several major retailers mentioned the staffing difficulties experienced in the industry including the transient nature of the workforce, the difficulty in attracting suitable staff and the lack of specialist staff. They claimed problems of recruiting permanent staff were attributable to the already long trading hours which many people are increasingly unwilling to work. However, it was pointed out that the retailers have few problems in obtaining casual labour.

180. The abundant supply of casual labour was referred to by Woolworths in its submission:

'The company does not advertise for casual staff. There are always more people wanting part-time jobs than there are positions to be filled.'

181. It is this casual labour that is presently used to staff those Coles and Woolworths supermarkets trading on Saturday afternoons in the ACT. Casual positions are mainly

filled by married women and students who do not wish to work full-time. This employment provides an important second source of income to the family.

182. David Jones argued that deregulation would favour the large supermarkets and self-service stores which rely on a smaller number of staff. It was claimed that it could lead to a reduction in the number of permanent staff and a decline in the quality of service upon which David Jones prided itself.<sup>11</sup>

183. Myer actively supported deregulation, and like Coles and Woolworths argued that it would actually increase employment opportunities in the retail industry, mainly for part-time and casual employees.

184. In response to the claims of the unions that late night trading has resulted in a decline in the number of full-time permanent positions in the retail industry, Woolworths argued that this was not the case. According to Woolworths reductions in the number of permanent staff since 1971 were attributable to the increasing cost of labour, reduced growth in the industry and inadequate trading hours.<sup>12</sup>

185. Assurances were given in evidence by major retailers that no permanent employee would be retrenched because of any increase in hours or because of reluctance to work during the extended hours.

186. As might be expected, the respective positions adopted by the major retailers and small traders about the likely effects of deregulation upon employees were also at variance.

187. The small traders agreed with the trade unions that deregulation was likely to lead to a reduced requirement for experienced staff by the major retailers.<sup>13</sup> The small traders also stated that deregulation could lead to the retrenchment of some permanent staff.<sup>14</sup> The employment of either casual or permanent staff by small traders on Saturday afternoons would result in an approximate 21% increase in wages to each such employee per week.<sup>15</sup> In addition, some staff employed by small business have indicated they do not wish to work Saturday afternoon. Since they do not have the staffing, flexibility or resources of the major retailers, the small retailers have stated that they would be forced to use their own family to staff the shop during this period.<sup>16</sup> It therefore appears that few employment positions would be generated within the small business sector.

## Industrial Awards

188. The present ACT Retail and Wholesale Shop Employees Award (1968) stipulates that the ordinary hours of work of employees shall not exceed forty per week, Monday to Saturday inclusive.

189. The award prescribes a number of rosters available to employees so that hours do not exceed an average of forty per week. According to these rosters an employee may work Friday evening and Saturday morning one week and have the following Saturday morning and Monday free. For those employees, Friday night and Saturday morning are included within normal hours with a special 25% loading factor to compensate for the time worked during the late night/Saturday morning period. An employee may also complete the 40 working hours within the five working week days Monday to Friday.

190. At present all work on a Saturday afternoon is regarded as overtime. Full-time and part-time employees are paid time and a half for the first two hours and double time thereafter. For a casual employee, Saturday afternoon work is paid at time and a half the casual rate.

191. One of the principal reasons for the unions' opposition to deregulation of trading hours is the likelihood of consequent applications from the major retailers to changes in

the award provisions to include Saturday afternoons as normal hours. This would mean that penalty rates would not apply to this period.<sup>17</sup>

192. The major retailers have admitted to the Committee that with deregulation there is a likelihood that moves would be made so that penalty rates would have to be abandoned.

193. The SDA argued that in order to protect the working conditions of their members they would have to contest any such attack on penalty rates which may result in some industrial disputes.

#### Social Impact of Deregulation

194. The trade unions argued that if deregulation were to be introduced it would inevitably mean extended hours and therefore employees in the retail industry would be required to work for longer periods outside standard business hours. An extension of present hours would, it was claimed, result in less leisure time for retail employees. Thus they would have less time for private relaxation, participation in sports and it would seriously disrupt family and social life. In particular, since a large proportion of the retail industry workforce is composed of married women, they would not be able to be home with their children. A further problem was stated to be that by rostering staff off during the week some parents would be home at a time when their children were at school.

195. The ACT Sports Council Inc. argued that since 15% of sports participants are employed in retail services, their absence on Saturday afternoons could seriously disrupt local sporting activities.<sup>18</sup> Representatives of church groups have voiced similar concerns about the disruptive effect of Sunday trading. The Archbishop of the Canberra and Goulburn diocese the Reverend P. Clancy and the Reformed Church of Canberra Inc. expressed concern in their submissions that deregulation of retail trading hours would lead to general trading on Sundays. This was a development which they were both strongly opposed to on religious as well as social grounds. As Archbishop Clancy stated:

"The introduction of retailing on Sundays would be an assault on the rights of those who wish to worship no less than on the rights of those who wish simply to relax."<sup>19</sup>

196. The major retailers who favour deregulation have sought to allay such fears by repeatedly emphasising in both their written submissions and their public evidence that no permanent staff would be required to work on Saturday afternoon. They have also stated, as referred to in Chapter 5, that they are not at the present time considering Sunday trading.

"No staff members, permanent or part-time, will be forced to work on Saturday afternoon."<sup>20</sup> (Woolworths)

"Current full-time staff need only work Saturday afternoon if they choose to do so."<sup>21</sup> (Myer)

197. The retailers pointed out that there were numerous people in the community who would welcome the opportunity to work on a casual basis.

#### Conclusions

198. Conflicting evidence has been presented to the Committee by the trade unions and between the large retailers, in support of their respective positions. There is, however, strong support for the claim that in light of the experience of late night trading, deregulation with its concomitant increase in trading hours will contribute to a further decline in the number of full-time permanent positions. The major retailers did not

effectively refute this proposition. Indeed their claims that any new position would be part-time or casual, rather than full-time, implicitly supports the unions' contention about declining full-time positions in the industry.

199. It must be pointed out that in both its submission and public evidence, the SDA referred mainly to permanent employees and little information was given about the interests of part-time and casual shop assistants with respect to deregulation.

200. The concern of the unions about the likelihood of an attack upon penalty rates for Saturday afternoon work is also justified since the major retailers have indicated their intention to include and consider Saturday as an ordinary working day. However, such an issue is a matter for negotiation between the parties concerned.

201. Finally, the SDA argument that deregulation would lead to the disruption of family life is based on the assumption that full-time employees as well as part-time employees will be required to work on Saturday afternoons and at other than normal business hours. The retailers, however, have stated that only staff who volunteer for work on Saturday afternoon would be used at such times. That is, only those wanting to work at times beyond 'normal trading hours' would staff the stores.

202. Thus most of the possible effects of the deregulation of trading hours upon employees would not be serious. However, it would most probably accelerate or at least continue the trend to structural readjustment in employment in the industry, away from full-time to part-time and casual employment.

#### Endnotes

1. Transcript of Evidence, p. 1203.
2. Transcript of Evidence, p. 1122.
3. Transcript of Evidence, pp. 1073-4.
4. Transcript of Evidence, p. 1074.
5. Transcript of Evidence, p. 1141.
6. Transcript of Evidence, p. 1076.
7. Transcript of Evidence, p. 1077.
8. Transcript of Evidence, p. 1091.
9. Transcript of Evidence, p. 1136.
10. Transcript of Evidence, p. 58.
11. Transcript of Evidence, p. 275.
12. Transcript of Evidence, p. 50.
13. Transcript of Evidence, p. 398.
14. Transcript of Evidence, p. 447.
15. Transcript of Evidence, p. 334.
16. *ibid.*
17. Transcript of Evidence, p. 1150.
18. Transcript of Evidence, p. 1427.
19. Transcript of Evidence, p. 268.
20. Transcript of Evidence, p. 57.
21. Transcript of Evidence, p. 131.

## CHAPTER 7

### The Effect of Deregulation on Consumers

203. The terms of reference for the Inquiry into Retail Trading Hours in the ACT were announced in September 1981. In just over a month, the Committee received approximately 4000 proforma slips from individual shoppers and 200 proforma letters from small retailers opposing deregulation, as well as further individual letters from small retailers and shoppers opposed to and in favour of deregulation. A full breakdown of this correspondence is at Appendix III.

204. This response highlights a major problem for the Committee, one that was not resolved by evidence obtained at public hearings. That is to determine the extent of consumer support for deregulation and/or extended trading hours.

#### Surveys

205. Several organisations, including the Australian Association for Independent Businesses and the SDA, quoted the results of several surveys in evidence to the Committee and claimed that such surveys showed people were satisfied with the present trading hours and were opposed to any extension of these hours.<sup>1</sup> A summary of the survey material received as evidence by the Committee is included at Appendix IV.

206. The Committee has some reservations about the usefulness of these surveys, since questions have been raised about the methodology employed<sup>2</sup>, as well as the fact that most were conducted interstate and hence have limited application in the ACT. The AAIB actually referred in its evidence to the only recent methodologically rigorous survey conducted in the ACT on the question of shopping hours, which was conducted by the NCDC as part of its review of the operation of retailing in Canberra.<sup>3</sup> The survey showed 29% of consumers wanted a change in shopping hours.

207. Mr M. Latham, an Assistant Commissioner at the NCDC, in evidence to this Committee referred specifically to this survey and said,

'this survey was not directed towards trying to establish consumer attitudes'.<sup>4</sup>

208. Thus the Committee is of the opinion that the surveys referred to in the public evidence by various witnesses are of limited assistance in determining support for or opposition to deregulation or extension of trading hours.

209. The Committee also received a great deal of conflicting evidence about the likely effects of deregulation upon consumers. The arguments put forward by the various consumer groups have been strenuously opposed by individual consumers and others opposed to deregulation, such as the trade unions.

210. The two consumer organisations which gave evidence to the Committee, Canberra Consumers Inc. and the Consumer Affairs Council of the ACT<sup>5</sup>, both favoured the deregulation of trading hours. They claimed that it would increase competition between retailers and that this was unlikely to result in higher prices to the consumers. Deregulation would mitigate the severe trading peaks that occur with the present hours and it would enable more efficient utilisation of the capacity and resources of the stores.<sup>6</sup> These two local organisations also believed consumers would benefit from the greater convenience of being able to shop at more flexible times.

211. Other representative bodies, such as the various merchants' associations and the SDA and two individual consumers who made lengthy personal submissions to the

Committee countered these arguments by reference to the deleterious effect of deregulation on prices and employment.<sup>7</sup> As mentioned in Chapter 5 the discussion about the effect of deregulation has highlighted the limitations of factual evidence in support of competing points of view.

212. Canberra Consumers Inc., in particular, referred to the great deal of confusion and conflicting claims about the likely effects of deregulation. It stated in its submission in an attempt to resolve this confusion:

'let consumers vote with their feet and dollars . . . the only way consumers can adequately and equitably express their desires is in the market place'.<sup>8</sup>

#### Conclusion

213. Given the attempts by the various interest groups to commission surveys to reinforce their own positions it is not possible to determine the wishes of the majority of consumers in any reliable way. Therefore the Committee is impressed by the argument that consumer desires with respect to trading hours should be determined in the market place. Consumer preference, expressed through sales, will determine the extent to which deregulated hours differ from regulated hours. This is the best, if not the only way, to assess consumer demand.

#### Endnotes.

1. Transcript of Evidence, pp. 335 and 1110.
2. Transcript of Evidence, p. 136.
3. 'Retailing in Canberra', op. cit., p. 42.
4. Transcript of Evidence, p. 540.
5. A description of the organisational structure and membership of these bodies is contained in the Transcript of Evidence, pp. 220, 992 and 993.
6. Transcript of Evidence, pp. 212-217 and 985.
7. Transcript of Evidence, pp. 1367-1374 and 1411-1413.
8. Transcript of Evidence, p. 215.

## Summary and Recommendations

**214.** The terms of reference for the Committee's Inquiry require consideration to be given to the manner in which deregulation of retail trading hours in the ACT might be implemented, having regard to the possible effects of deregulation on retailers, employees and consumers. A discussion of the likely implications of a change in present trading hours on the groups referred to has been provided in the three preceding chapters of the Report.

**215.** During the course of the Inquiry it became apparent that most witnesses who appeared before the Committee were not prepared to examine the full potential of deregulation. Retailers preferred to equate deregulation with extended trading hours and, in particular, extended weekend trading. This reluctance by retailers to examine the possibility of opening during profitable periods and to close when the volume of trade did not justify remaining open, means that these traders have not given full consideration to all the implications of deregulation. Nevertheless, the Committee must adopt the broader definition of deregulation which allows unlimited trading during hours determined by individual retailers.

**216.** The Committee, while favouring the general principle of deregulation, recognises that the nature of the marketplace in the ACT makes it difficult to recommend the immediate repeal of existing legislative provisions governing trading hours. As stated in Chapters 4 and 5, small traders may be adversely affected by such a dramatic change in market conditions, particularly in view of the uneven geographic distribution and over-supply of retail space in the ACT which was discussed in Chapter 3.

**217.** In examining the impact of deregulation on employees the Committee did not find that the claims concerning disruption to family and social life to be as serious in their impact as presented by the unions. (This is discussed in Chapter 6.) Retailers have stated that only voluntary staff would be required to work weekends and that the opportunity for part-time work during this period would be increased. The trend towards part-time and casual employment is increasing and reflects a more general change away from full-time work in the industry. This trend is not solely related to extended trading hours. It is also the product of factors such as changed marketing practices (e.g. the widespread change to self service). The question of penalty rates is one which must be resolved by negotiation between the parties concerned.

**218.** While not totally discounting information obtained from surveys regarding consumer preference for trading hours, the Committee questions the validity and reliability of these studies. It would seem that as far as consumers are concerned, convenience is an important factor and trading during non standard hours would improve access to shops. The only practical way of determining consumer behaviour is to allow shoppers to decide for themselves when it is convenient for purchases to be made. In this way retailers could stagger their hours to suit the needs of their customers.

**219.** It is impossible to forecast the effects of deregulation because of the number of variables involved. There appears to be a lack of information in certain vital areas which makes it difficult to adjudicate on the various claims which have been made. The effect of deregulation on competition and prices is not able to be precisely determined. Similarly, it is not known how any increased costs which may be associated with a change in present operating hours could be offset. Certain assumptions have been made

by the various interest groups to argue their respective positions but a large amount of the anxiety engendered seems to be based on a lack of experience of deregulation elsewhere.

**220.** In reaching its final conclusions, the Committee wanted to arrive at a formula which would enable a move towards greater flexibility in trading hours while not implementing full deregulation. The options referred to in Chapter 4 are as follows:

1. Recommend proclamation of s.90 of the *Commonwealth Functions (Statutes Review) Act 1981* whereby the present *Trading Hours Ordinance 1962* would be repealed
2. Recommend maintenance and enforcement of the present Ordinance
3. Recommend that an alternative ordinance be drafted

The position in the ACT is that many retailers open on Saturday afternoon. Due to the lack of enforcement of the Ordinance it is not known whether this trade involves non-exempt goods. However, there is no justification for excluding certain retailers from trading on Saturday afternoon, if that is their wish.

**221.** The first of these alternatives is rejected for reasons already given in Chapters 4 and 5 and Paragraph 216. In relation to the second option, the Committee is aware that the Trading Hours Ordinance is difficult to enforce in its present form and that a change in the legislation is necessary. This is discussed in Chapter 2.

**222.** The last option allows increased flexibility of trading hours but not full deregulation. In an effort to arrive at a workable solution which would take account of any problems associated with a new ordinance, an examination was made of trading hour legislation in other States. As discussed in Chapter 4, different States employ different legislative controls over retailing operations. Very few of these are appropriate in the ACT.

**223.** It was considered that applying too many exclusionary categories to shops or goods would create problems of definition and legal interpretation and that therefore a single provision was preferable to a series of constraints. For this reason it was decided to base the determination on the number of staff employed by any one retailer, which may involve one or more shops, in one week.

**224.** The Committee supports unlimited trading Monday to Saturday. This means that in addition to the hours presently allowed under the Ordinance, all retailers will be free to determine their own hours of operation between midnight Sunday to midnight Saturday. Sunday trading will be based on the exclusionary principle of number of staff employed, as referred to above. This will enable unlimited trading for most retailers while excluding very large retailers from opening on Sundays.

**225.** Therefore the Committee recommends that:

1. the present *Trading Hours Ordinance 1962* be repealed and replaced by an alternative ordinance
2. a new Trading Hours Ordinance be drafted to include the following provisions:  
the sale of all goods in the ACT be permitted at any time except that a major retailer may not open for business between midnight Saturday and midnight Sunday.  
A major retailer is defined as a retailer employing more than 100 people in the ACT or elsewhere in Australia in any number of shops.

**226.** As well as these major recommendations the Committee would also like to draw attention to the following points:

- Any proposals to alter the present distribution of retailing outlets should examine the implications of this on the overall supply of retail space on the market. (Para 71)
- In the interests of maintaining opportunities for leisure and religious activities and family life on weekends the Committee notes the assurances given by major retailers and believes there is an obligation on employers to ensure that only voluntary staff be rostered for duty on Saturday afternoons. (Para 196)

- In recognition of the importance of the ACT House of Assembly in matters affecting the ACT it is suggested that any future reviews of trading hours in the ACT be referred to a committee of members of the ACT House of Assembly.

September 1982



M. E. REID  
Chairman

## DISSENTING REPORTS

Pursuant to clause 17 of the Committee's Resolution of Appointment, the following dissents to the report of the Committee have been lodged by:

1. Mrs R. J. Kelly, Mr K. L. Fry, and Senator M. Colston
2. Senator G. Georges

1. We dissent from the recommendations in paragraph 225 of the Committee's report. We consider these recommendations to be contrary to the evidence presented to the Committee. The evidence did not establish any demand for changing the present Ordinance; rather it overwhelmingly opposed deregulation.
2. An indication of general opposition to deregulation of trading hours is contained in Appendix III of the Committee's report. Approximately 4000 shoppers, 200 small traders, the Australian Association of Independent Businesses and the Shop Distributive and Allied Employees Union wrote to the Committee to register their total opposition to deregulation.
3. Retailing is the ACT's largest private sector industry. It employs twice as many people as any other industry, and consequently Canberra's commercial viability is heavily dependent on this industry. Because of the importance of the retail industry it is irresponsible to ignore the wishes of the great majority of retailers and others who presented evidence opposing deregulation. Apart from curbs on major retailers, the Committee has, in effect, recommended deregulation of trading hours.
4. In contrast with the strong opposition to deregulation, there has been no public demand for a change in Canberra's trading hours. It may be that an influencing factor in this lack of demand is that Canberra residents already enjoy the convenience of seven days a week shopping and extended hours at their small neighbourhood shopping centres.
5. Extensive reviews of trading hours in other States, New South Wales (1977), South Australia (1977), Queensland (1978 and 1982) and Victoria (1978), resulted in recommendations that trading hours not be extended other than on one week night. Accordingly, we reject the Committee's finding in Chapter 5, para. 115, that 'there is very little factual data to support many of the contentions made'.
6. Of particular relevance to this Inquiry was the inquiry into trading hours conducted by the ACT House of Assembly Standing Committee on Development in 1979. We hold that the Joint Committee on the Australian Capital Territory should have given considerable weight to the findings of the ACT House of Assembly Standing Committee. The House of Assembly inquiry recommended that trading hours not be extended because this would seriously disadvantage many of the small retailers. It also cited the prevailing difficult economic climate in conjunction with the excessive amount of retail space in Canberra as reasons for recommending no change in trading hours.
7. Since the House of Assembly brought down its report, there has been a worsening of the economic climate in the ACT. Accordingly, we hold that this is the worst possible time to be considering measures that would cause serious disruption to Canberra's major private sector industry and which would threaten commercial viability and the confidence of investors.
8. We consider that the evidence indicated that the cost of goods to consumers will rise if trading hours are extended. David Jones provided evidence that Saturday afternoon trading would result in an increase in the price of goods of around 1.5%. Waltons has calculated a 13.3% increase in payroll costs associated with Saturday afternoon trading. Such an increase would put pressure on prices. As well, small traders argued strongly that increased overheads as a result of increased trading hours would inevitably result in higher prices to consumers.

9. There is no evidence to support an argument that increased sales would result if people had more flexible shopping hours. Thus, if the same volume of sales is made over a longer period, the extra costs to the retailer will be passed on in the form of increased prices.

10. We are concerned at the lack of real choice that would be available to small traders in shopping complexes in the event of an extension of trading hours. Five out of six Canberra shopping plazas are controlled by Lend Lease and there has been a long history of disputes between small traders and Lend Lease. We are concerned that in a deregulated environment there would be very little effective choice on hours of trading for the owners of small businesses, their families and their employees.

11. The Committee Report recognises that Government regulation of trading hours to protect employees' interests is a long standing practice. Therefore, we reject the Committee's dismissal of submissions by employee organisations outlining the adverse effect of deregulation on employees. We also reject the Committee's statement that the effects on employees 'would not be serious'.

12. We support the major arguments raised by traders, the Shop Distributive and Allied Employees Association as well as religious and community groups who have appeared before the Committee and who stated that deregulated retail trading hours would:

- (a) reduce opportunities for full-time employment;
- (b) increase the price of goods to the consumer;
- (c) seriously disadvantage and threaten the viability of small traders; and
- (d) cause disruption to family life of employees and reduce opportunities for sporting and religious pastimes on weekends.

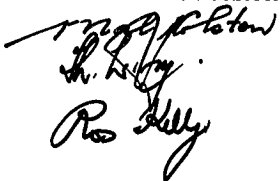
13. Any change in present hours of retail operation in the ACT would seriously disadvantage traders in surrounding areas of New South Wales, particularly in Queanbeyan. We consider that deregulation would cause disharmony between retailers in the ACT and surrounding areas of New South Wales.

14. Despite noting that there have been insufficient resources provided to enforce the current Ordinance (30) and despite declaring that it has insufficient information available to judge the effects of deregulation (219), the Committee is nevertheless prepared to recommend the deregulation of trading hours in the ACT. We view this approach with concern.

We recommend that—

- (a) deregulation of trading hours in the ACT be rejected in the interests of retailers, employees and consumers.
- (b) the present *Trading Hours Ordinance* 1962 be repealed and replaced by an alternative ordinance.
- (c) a new Trading Hours Ordinance be drafted including the following provisions:  
the sale of goods in the ACT be permitted at any time except that a major retailer may not open for business between 1.00 p.m. Saturday and midnight Sunday.  
A major retailer is defined as a retailer employing more than 100 people in the ACT or elsewhere in Australia in any number of shops.

MRS R. J. KELLY  
MR K. L. FRY  
SENATOR M. COLSTON



1. I concur with the dissenting report with exception to recommendations (b) and (c).

My recommendations are:

- (a) deregulation of trading hours in the ACT be rejected in the interests of retailers, employees and consumers;
- (b) the present Trading Hours Ordinance is to be gradually re-enforced and that sufficient resources be made available for this purpose.

2. Any attempt to legalise present irregularities will lead to further unlawful practices. This will be used eventually as a justification for complete deregulation. As the dissenting report points out this would mean a serious disadvantage for the people of the ACT.

SENATOR G. GEORGES

## APPENDIX I

### List of Witnesses

#### ACT House of Assembly:

Mr Harold James Hird, Independent Member, Chairman, Standing Committee on Development, ACT House of Assembly, Canberra, Australian Capital Territory  
Mr Ivor Francis Vivian, Australian Democrats Member, ACT House of Assembly, Canberra, Australian Capital Territory  
Mr Gordon John Walsh, Australian Democrats Member, ACT House of Assembly, Canberra, Australian Capital Territory

#### ACT Sports Council Inc:

Mr Donald James Elphick, Senior Vice President, ACT Sports Council Inc., P.O. Box E156, Canberra City, Australian Capital Territory

#### Australian Association of Independent Businesses:

Mr Phillip Lacey Perman, Executive Director, Australian Association of Independent Businesses, Industry House, Barton, Australian Capital Territory  
Mr Alan John McDonald, Retailer, Committee Member of the Regional Committee of the Australian Association of Independent Businesses, Industry House, Barton, Australian Capital Territory  
Mr Steve Stavreas, Retailer, Chairman of the Local Regional Committee of the Australian Association of Independent Businesses, Industry House, Barton, Australian Capital Territory

#### Australian Bank Employees Union:

Mr Philip Eric Marchionni, Assistant State Secretary, Australian Bank Employees Union, 5 Northcliff Street, Milsons Point, Sydney, New South Wales

#### Australian Jewellers' Association:

Mr Peter Hodgson, President, New South Wales Branch, Australian Jewellers' Association, G.P.O. Box 4280, Sydney, New South Wales

#### Australian National University:

Mr Geoffrey Robert Hogbin, Economics Department, Faculty of Economics, Australian National University, P.O. Box 4, Canberra, Australian Capital Territory

#### Belconnen Mall Tenants Association:

Mr Raymond Ross Anderson, Member, Belconnen Mall Tenants Association, P.O. Box 33, Belconnen, Australian Capital Territory  
Mr John Gerard Frawley, Member, Belconnen Mall Tenants Association, P.O. Box 33, Belconnen, Australian Capital Territory

#### Canberra Commercial Development Authority:

Mr James Harold Pead, Chairman, Canberra Commercial Development Authority, Belconnen Mall, Canberra, Australian Capital Territory  
Mr Patrick Martin Taylor, General Manager, Canberra Commercial Development Authority, Belconnen Mall, Canberra, Australian Capital Territory

#### Canberra Consumers Incorporated:

Mr William Spencer Howitt, Executive Member, Canberra Consumers Incorporated, P.O. Box 591, Canberra City, Australian Capital Territory

#### G. J. Coles and Company Limited:

Mr Walter John Stewien, State Industrial Relations Manager, New South Wales and Australian Capital Territory, G. J. Coles and Company Ltd, 127 Liverpool Street, Sydney, New South Wales  
Mr Geoffrey Alan Tate, State Manager and Associate Director, G. J. Coles and Company Ltd, 127 Liverpool Street, Sydney, New South Wales

#### Commonwealth Bank Officers Association (Victorian Branch):

Mr Philip John Mahony, Victorian Division Secretary, Commonwealth Bank Officers Association, 208 Clarence Street, Sydney, New South Wales

#### Confectionary and Mixed Business Association of Australia and New Zealand:

Mr Ian David Stewart, Secretary, Confectionary and Mixed Business Association of Australia and New Zealand, 250 Canterbury Road, Surrey Hills, Victoria

#### Consumer Affairs Council of the Australian Capital Territory:

Mr Michael John Vernon, Chairman, Consumer Affairs Council of the Australian Capital Territory, P.O. Box 158, Canberra City, Australian Capital Territory

#### David Jones (Australia) Pty Limited:

Mr Peter Goodall, General Manager ACT, David Jones (Australia) Pty Ltd, Canberra Division, Alinga Street, Canberra City, Australian Capital Territory  
Mr John Graham Griffiths, Managing Director, New South Wales Country Division, David Jones (Australia) Pty Ltd, Castlereagh Street, Sydney, New South Wales  
Mr Gregory Charles Hart, Director of Stores, Southern Region, David Jones (Australia) Pty Ltd, Castlereagh Street, Sydney, New South Wales

#### Department of the Capital Territory:

Mr William Ernest Lawrence, First Assistant Secretary, Legislation and Policy Co-ordination Division, Department of the Capital Territory, London Circuit, Canberra City, Australian Capital Territory  
Mr John Ian Sedgwick, Executive Assistant, Commercial Policy Section, Legislation and Policy Co-ordination Division, Department of the Capital Territory, London Circuit, Canberra City, Australian Capital Territory

#### Federated Clerks Union:

Mr Keith Young Harvey, Federal Research Officer, Federated Clerks Union, 2nd Floor, 53 Queen Street, Melbourne, Victoria  
Mr Graham Paul Sheehan, Canberra Union Organiser, Federated Clerks Union, PO Box 1726, Canberra, Australian Capital Territory

#### Hardware Retailers' Association of Victoria:

Mr Allen George James, Secretary, Hardware Retailers' Association of Victoria, 13 Atherton Road, Oakleigh, Victoria

#### Kippax Merchants Association:

Mr Bravien Ward Howarth, Committee Member, Kippax Merchants Association, Kippax Fair, Holt, Australian Capital Territory  
Mr John Thomas Kafer, Member, Kippax Fair Merchants Association, Kippax Fair, Holt, Australian Capital Territory

**Lend Lease Investments Pty Limited:**

Mr Rodney Harold Parkin, General Manager Retail, Lend Lease Investments Pty Ltd, Level 1 Plaza Building, Australia Square, Sydney, New South Wales  
Mr Alan Arthur Revell, Managing Director, Lend Lease Investments Pty Ltd, Level 1 Plaza Building, Australia Square, Sydney, New South Wales

**Marchem:**

Mr Brian Kenneth Barlin, Marketing Director, Marchem (Canberra and Southern Districts Pharmacists Merchandising Co. Ltd), PO Box 105, Jamison Centre, Australian Capital Territory  
Mr Brian James Daniell, Member of Committee of Management, Marchem (Canberra and Southern Districts Pharmacists Merchandising Co. Ltd), PO Box 105, Jamison Centre, Australian Capital Territory  
Mr Francis Kevin Hall, Chairman, Committee of Management, Marchem (Canberra and Southern Districts Pharmacists Merchandising Co. Ltd), PO Box 105, Jamison Centre, Australian Capital Territory

**Monaro Mall Merchants Association:**

Mr Brian James Daniell, Chairman, Merchants Committee, Monaro Mall Merchants Association, Monaro Mall, Canberra, Australian Capital Territory  
Mr Norman Clement Neeson, Member, Monaro Mall Merchants Association, Monaro Mall, Canberra, Australian Capital Territory  
Mr Geoffrey Butterfield Shaw, Member, Monaro Mall Merchants Association, Monaro Mall, Canberra, Australian Capital Territory

**Myer New South Wales Limited:**

Mr Peter John McLoughlin, Associate Director, Personnel, Myer New South Wales Ltd, 436 George Street, Sydney, New South Wales  
Mr Murray William French, Store Manager, Myer Belconnen, Belconnen Mall, Belconnen, Australian Capital Territory

**National Capital Development Commission:**

Mr Malcolm MacGregor Baxter Latham, Associate Commissioner, National Capital Development Commission, 220 Northbourne Avenue, Canberra, Australian Capital Territory  
Mr Geoffrey John Campbell, Chief Planner, National Capital Development Commission, 220 Northbourne Avenue, Canberra, Australian Capital Territory  
Mr Raymond John Pascoe-Webbe, Assistant Secretary (Urban Economics), National Capital Development Commission, 220 Northbourne Avenue, Canberra, Australian Capital Territory

**New South Wales Regional Chambers of Commerce and Industry:**

Mr Christopher Cameron Freeman, Treasurer, New South Wales Regional Chambers of Commerce and Industry, PO Box 274, Randwick, New South Wales  
Mr Rodney Darwall Gray, Director, New South Wales Regional Chambers of Commerce and Industry, PO Box 274, Randwick, New South Wales

**Private Citizens:**

Mr John Stuart Drabble, 5 Kootingal Street, Giralang, Australian Capital Territory  
Mr Darryl Kevyn Grigg, 12 Watkins Street, Wanniasa, Australian Capital Territory  
Mr John Kelly, 15 Hardman Street, O'Connor, Australian Capital Territory  
Mr Timothy Randall McGhie, 5 Cheel Place, Farrer, Australian Capital Territory  
Mr Stephen Gregory Ryan, 113 Chuculba Crescent, Giralang, Australian Capital Territory  
Mr Mark Julian Smith, 16 Onkaparinga Crescent, Kaleen, Australian Capital Territory

**Queanbeyan Chamber of Commerce:**

Mr David Lowrey, Chairman, Deregulation Committee, Queanbeyan Chamber of Commerce, Queanbeyan, New South Wales

**Queanbeyan City Council:**

Mr Colin Lance Davis, Senior Health and Building Surveyor and Development Promotion Officer, Queanbeyan City Council, Queanbeyan, New South Wales

**Reformed Church of Canberra:**

Dr Philip Larkin, Elder, Reformed Church of Canberra, Rivett Place, Rivett, Australian Capital Territory  
Mr Alan Murray Mackay, Elder, Reformed Church of Canberra, Rivett Place, Rivett, Australian Capital Territory

**Retail Traders' Association of New South Wales:**

Mr Roy Mathew Lawrence, Executive Director, Retail Traders' Association of New South Wales, 120 Clarence Street, Sydney, New South Wales

**Saturday Afternoon Shopping Association:**

Mr Rhys Ainslie Roberts, Secretary, Saturday Afternoon Shopping Association, PO Box 403, Canberra City, Australian Capital Territory

**Shop, Distributive and Allied Employees Association:**

Mr Joseph de Bruyn, National Secretary-Treasurer, Shop, Distributive and Allied Employees Association, 53 Queen Street, Melbourne, Victoria  
Mr Athol William Williams, ACT Organiser, Shop, Distributive and Allied Employees Association, 53 Queen Street, Melbourne, Victoria

**Small Shopowners Action Group ACT:**

Mr Augustin Petersilka, Convenor, Small Shopowners Action Group ACT, 39 Gooreen Street, Braddon, Australian Capital Territory

**Trades and Labour Council of the Australian Capital Territory:**

Mr Charles Walter McDonald, Secretary-Treasurer, Trades and Labour Council of the Australian Capital Territory Inc., PO Box 279, Dickson, Australian Capital Territory

**Victorian Chambers of Commerce and Industry:**

Mr Alan Hamilton Broadhead, Past President and Present Board Member, Victorian Chambers of Commerce and Industry, 21 Burwood Road, Hawthorn, Melbourne, Victoria  
Mr John Harrower, Managing Director, Victorian Chambers of Commerce and Industry, 21 Burwood Road, Hawthorn, Melbourne, Victoria  
Mrs Dorothy Leviston, President, Victorian Chambers of Commerce and Industry, 21 Burwood Road, Hawthorn, Melbourne, Victoria

**Victorian Master Pastrycooks Association:**

Mr John Leslie Klemmer, Secretary, Victorian Master Pastrycooks Association, 21 Burwood Road, Hawthorn, Melbourne, Victoria  
Mr Rolf Laurie Lie, President, Victorian Master Pastrycooks Association, 21 Burwood Road, Hawthorn, Melbourne, Victoria  
Mr Roland Marek, Senior Vice-President, Victorian Master Pastrycooks Association, 21 Burwood Road, Hawthorn, Melbourne, Victoria

**Waltons Bond Limited:**

Mr Anthony Douglas Ashpole, Store Manager, Waltons Bond Ltd, Park and George Streets, Sydney, New South Wales

Mr Michael Conor McCretton, Retail Group Manager, Waltons Bond Ltd, Park and George Streets, Sydney, New South Wales

**Woden Shopping Square Merchants Association:**

Mr Gordon Hilary Winter, Representative, Woden Shopping Square Merchants Association, Woden Valley, Canberra, Australian Capital Territory

**Woolworths Limited:**

Mr Richard Francis Holland, Area Manager, Woolworths Limited, New South Wales and the Australian Capital Territory, Cnr. George and Park Streets, Sydney, New South Wales  
Mr Michael Anthony Kelly, State Manager, Woolworths Limited, New South Wales and the Australian Capital Territory, Cnr. George and Park Streets, Sydney, New South Wales  
Mr Maldon Thomas Walker, Consultant in Research and Public Relations, Woolworths Limited, Cnr. George and Park Streets, Sydney, New South Wales

**J. B. Young Limited:**

Mr William George Colman, Joint Managing Director, J. B. Young Ltd, PO Box 638, Fyshwick, Australian Capital Territory  
Mr Alfred George Cutts, Personnel Manager, J. B. Young Ltd, PO Box 638, Fyshwick, Australian Capital Territory

**APPENDIX II**

**Persons and organisations who made submissions but did not appear at public hearings:**

Australian Institute of Urban Studies  
Bernard's, Woden Plaza  
Canberra Greyhound Racing Club Inc.  
Mr R. Di Bartolo  
Mr B. Howarth  
La Belle Bridal Boutique  
Music Fair Pty Limited, Woden Plaza  
Norman Ross Stores Pty Limited  
Symons Menswear, Belconnen Mall  
Miss K. Tein  
Mr F. Thomas  
Venture Stores Limited  
Mr T. Walshaw  
Xanadu Gifts and Games  
Yass Chamber of Commerce  
Mr C. C. Yates

### APPENDIX III

#### Correspondence received relating to retail trading hours in the ACT

The Committee received the following correspondence during its Inquiry, most of which was sent in the first two months subsequent to the terms of reference having been advertised.

(1) Proforma slips addressed to Senator Reid stating: 'As a Canberra shopper, I am concerned that De-regulation of Trading Hours will result in lowering of service standards, an increase in prices across the board, a lessening of Retail competition, and will cause an increase in unemployment. I therefore wish to register my opposition to De-regulation.'

These slips were then signed by shoppers and forwarded to the Committee by retailers who had displayed the forms on their counters.

Total 4000 (approx)

(2) Pro-forma letters addressed to Senator Reid stating:

'As a small trader I and my family are seriously concerned at the implications of de-regulation to trading hours in the ACT. We believe that the present legal trading hours are quite adequate to meet the requirements of the greater majority of consumers, who would be opposed to any increase in prices which must occur if weekend trading becomes general. Small traders are already working longer hours than other sections of the community and family life of traders and their staff would suffer with general weekend trading. It is obvious that the campaign for de-regulation is motivated by large retailers who are seeking to get a greater share of the market at the expense of small traders and intend to spread de-regulation to other states. If their campaign is successful many small businesses will not survive. We think that you and your colleagues should be concerned also at the likely loss of full-time jobs in the retail industry and urge you to reject the proposed de-regulation of trading hours in the ACT'.

These form letters were signed by the individual retailers who also gave their business name.

Total 200 (approx)

(3) Pro-forma letters addressed to the Secretary, Joint Committee on the ACT, stating:

'I wish to express my total opposition to the proposal to de-regulate trading hours in the ACT. I cannot express too strongly to the committee, my concern for the future. De-regulation of trading hours will only lead to:

- a. closure of small businesses;
- b. less service to the customer;
- c. increase in prices;
- d. retail industry unemployment;
- e. a disruption in the accepted weekend leisure period for retail employees.

I have already witnessed a large degree of under-staffing in the ACT, especially in those stores trading on Saturday p.m. at present. I believe that a major reason for the ACT having the highest food prices of any other Capital City in Australia is that the chain supermarkets trade on Saturday afternoons. I therefore urge the committee, in the strongest terms, to advise the Government to rescind Clause 90 of the ACT Omnibus Legislation and leave ACT trading hours as they currently stand.'

These proforma letters were individually signed and an address provided.  
Total 60

(4) Individual letters from small traders:

- (a) in favour of deregulation—Total 1
- (b) opposed to deregulation—Total 39

(5) Individual letters from residents of the ACT:

- (a) in favour of deregulation—Total 32
- (b) opposed to deregulation—Total 35.

## APPENDIX IV

### SURVEY RESULTS

During the course of the Inquiry the Committee was provided with results of several opinion polls and surveys which are included in the transcript either as submissions or as evidence presented at public hearings. While the Committee has reservations about the usefulness of these surveys the results are summarised below for completeness of the Report.

Certain groups opposed to deregulation or to the extension of trading hours such as the SDA, the Confectionary and Mixed Business Association of Australia and New Zealand and the AAIB quoted the results of the study referred to as the 'Feros Report'. This survey of over 10 000 respondents was commissioned by the Small Business Development Corporation of Queensland and undertaken by Mr V. G. Feros. It was conducted amongst the small retailers, retail employees and shopping communities in Brisbane, Ipswich, Mackay, Rockhampton, Toowoomba and Townsville from July to August 1981. The results from the three groups of respondents surveyed were as follows:

In response to the question '... do you see a (general) need for extended retail trading hours?', the 'No' response was as follows:

Business survey 91.8%  
Employer survey 88.1%  
Shopper survey 65.3%

In response to the question 'Are you personally in favour of extended trading hours?', the 'No' response was as follows:

Business survey 86.9%  
Employee survey 84.5%  
Shopper survey 64.6%

After having considered the total number of responses, the report concluded: 'the survey demonstrates that the majority opinion does not favour extended retail trading hours in Queensland'. (For a summary of report findings refer to pp. 1110-1113 of the transcript of evidence.)

Another survey referred to by SDA was conducted in South Australia in 1981 by Peter Gardner and Associates. It reported that 68.2% of unspecified respondents were satisfied with the present 54 day arrangement for retail trading. (This is reported on pp. 1116-1117 of the transcript of evidence.)

The New South Wales Branch of SDA commissioned the Beacon Organisation (a member of Research International) to conduct a survey of consumer attitudes to retail trading hours. 500 housewives in the Sydney metropolitan area were interviewed to determine consumer knowledge of current retail trading hours and acceptance of any extension of trading hours at weekends. Only 17% of respondents said they were aware of current legal trading hours but when they were shown full details of trading hours 75% of the sample indicated existing hours were satisfactory. Respondents were asked whether they would be in favour of, or against, all day Saturday trading by the large supermarkets and department stores. In all, just over 70% of the sample were opposed to extended trading hours on Saturday if it meant increased prices and poorer customer service. (Results on pp. 1113-1116 of transcript of evidence.)

The ABEU referred to the results of a Morgan Gallup Poll reported in the 'Bulletin' on 27 January 1981 which indicated that 56% of the respondents did not favour extended trading hours. (Transcript of evidence p. 767.) The results of this poll, conducted in November 1980, as reported in the Bulletin were, in fact, as follows:

#### Open shops all day Saturday

	All states	NSW	Qld	WA	SA	Tas.	Vic.
	%	%	%	%	%	%	%
Favour	49	60	54	46	44	37	36
Oppose	42	31	37	47	46	51	56
Undecided	9	9	9	7	10	12	8
Open shops any day/night							
Favour	49	60	53	51	39	37	37
Oppose	40	30	38	40	41	59	53
Undecided	11	10	9	9	20	4	10

This poll also found that general support for extended shopping hours had declined from 54% in 1978 to 49% in 1980.

A more recent poll conducted by the 'Bulletin' and published on 29 June 1982 indicated that extended shopping hours had gained favour since the previous poll referred to above. This latest poll showed that 56% of people aged 14 and over favoured all day Saturday trading while 33% were opposed and 11% were undecided. The figures on a State by State basis were as follows:

#### Open shops all day Saturday

	All States	NSW	WA	SA	Qld	Vic.	Tas.
	%	%	%	%	%	%	%
Favour	56	68	55	53	48	45	37
Oppose	33	20	35	36	37	45	48
Undecided	11	12	10	11	15	10	15

Some of the major retailers, J. B. Youngs, Myer and Coles, referred to the results of a November 1980 McNair Anderson Australian Public Opinion Poll, incorporated in the submission of Myer. (Transcript of evidence, p. 133.) It showed that 59% of the adult population favoured Saturday afternoon shopping. Coles & Co. Ltd in its submission mentioned that this survey showed 90.7% of those polled in the ACT agreed that shops should be open on a Saturday afternoon. (Transcript of evidence p. 175.)

The Retail Traders Association of N.S.W. did not take a position on the question of extended retail trading hours but included the results of two surveys in an Appendix to its submission. A survey of members of the Association was conducted in August 1979 and found 53.9% of members in Sydney and its suburbs in favour of extending hours. When country members were included only 41.6% of the total membership favoured extended hours. (Transcript of evidence, p. 723.)

Spectrum Australia conducted a survey of shoppers in the Sydney metropolitan area in October 1980 for the Association. More than half of those sampled agreed that shopping hours should be longer and 55% supported the extension of trading hours on Saturday afternoons. (Transcript of evidence, pp. 725-727.)

Another recent poll was published by the 'Age' newspaper on 28 June 1982. This poll was conducted by Irving Saulwick and Associates in conjunction with Beacon Research Pty Ltd and the Department of Political Science in the University of Melbourne. Of the 2000 people surveyed throughout Australia who were asked the question 'Do you think

that department stores and supermarkets should be allowed to trade on Saturday afternoon and Sunday if they want to; or should not be allowed to trade on Saturday afternoon or Sunday', 61% were in favour of voluntary weekend trading by department stores and supermarkets while 38% were opposed. In answer to the question 'Do you think small shops such as dress shops, butchers, hardware shops and so on should be allowed to trade on Saturday afternoon if they want to; or should not be allowed to trade on Saturday afternoon or Sunday' approval for small stores trading at weekends was registered as 74% with 25% opposed.