

Ensuring retail success since 1903



**Inquiry into inhibitors to employment for small
business and disincentives to working for
individuals 2015**

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Inquiry into inhibitors to employment for small business and disincentives to working for individuals

The Australian Retailers Association (ARA) is urging the Government and to use the ‘Inquiry into inhibitors to employment for small business and disincentives to working for individuals’ to assist retailers, Australia’s biggest private sector employer, to reduce costs and compliance burden in the face of a difficult operating environment. In the last 10 years, the structure of the retail sector has shifted and evolved as a result of globalisation, advances in the supply chain economy and changes to business practice policies. In addition, the retail sector has experienced varying economic environments, an inflexible wages system, lack of consumer/business confidence, energy taxes (now removed) and the high Australian dollar having a significant effect on the performance of the industry and increasing trade exposure from overseas.

The ARA continues to advocate for greater harmonisation across jurisdictions, while not harming competitive federalism being advocated by many State Governments, the cost benefits from standardisation and transferability to national and small retailers are significant.

The ARA offers support, information and representation to over 5,500 member retailers representing more than 50,000 retail outlets across every State and Territory, works closely with the Government and other industry participants to ensure the long-term viability and position of the retail sector as a leading contributor to the Australian economy. The ARA delivers training, tenancy advice, consumer law advice and Employment Relations advice (registered with the Fair Work Commission) in every State and Territory. The ARA is the only body undertaking these activities for the retail sector in every State. We believe reform of regulation and reduction in tax along with duties and with a reduction in compliance burden for business and consumers will see the Australian economy and Australian retailers return to their traditional strength. The ARA is largest retailer organisation in the country.



Sources: ABS Labour Force, Australia, detailed quarterly 6291.0.55.003; ABS State National Accounts, 5220.0; ABS Count of Australian Businesses, 8165.0

Key issues:

Domestic economic conditions remain soft throughout the economy with the slowdown in the resource economy now hitting states dependent on that income and investment and we as the peak retailers association support the Government's efforts to grow the economy in the Federal Budget. The Australian economy appears to be suffering from a lack of confidence, over regulation and uncompetitive policies created over the last few years, leading to low productivity and inefficient tax systems which are yet to be fully addressed. Business profitability has been hit hard by rising cost pressures from wages to compliance burden and confidence remains fragile. While we have seen an easing in some energy costs due to Federal Government action, global markets jobs and investment are now at risk across many industries, especially our key trade exposed sectors; of which retail is now one.

The ARA and its members have a strong vision for the retail industry based on free markets and growth, productive and innovative businesses, responsible individual initiatives supported by government where appropriate, but without government interference where possible.

The ARA is committed to promoting retail as a viable and exciting career choice for young people, and to retaining and developing the highest standards of practice within individuals at all levels of the industry. The ARA is also committed to assisting members to deal with new technologies and a changing trade environment through education and skills training.

In this environment, the government must look at what it can do to responsibly promote the role of the private sector as the key driver of economic growth, jobs, investment and improved living standards.

Despite much negative media coverage, there are a number of successful Australian retailers (such as Cotton On, Bakers Delight, Smiggle and Forever New), all big businesses start as small ones and this is absolutely the case for the retail sector, who through their success within Australia are now expanding overseas. Some recent Australian entrants such as Specsavers are growing their specific sectors through franchising small businesses and establishing a manufacturing plant in Australia without any Government support.

The Government has a solid base to build on further growth if it addresses current structural spending, economy slowing high taxes and over regulation. The economy is holding up under difficult circumstances, where between declines in mining investment and manufacturing, the services sector is showing as a potential growth leader.

The Government must support the retail industry as one of those sectors which is forecast to grow jobs and the economy through practical actions, lower business costs, raise productivity and improve retail sector investment and career growth given the new trade exposure environment. The sector finds itself in an area of both opportunity and challenge.

The commitments the ARA wants to see are:

- Responsible economic management and expenditure restraint
- No new taxes or increases in existing taxes including excise taxes
- A genuine plan to stimulate growth through tax cuts
- Continued regulation reduction and national harmonisation within a competitive federal framework
- Accelerated government/private infrastructure investment and planning reform
- Commitment to the services sector through Vocational Education Training (VET)
- Continued development of effective employment pathways to the retail sector
- Keep Australia's AAA credit rating
- A key area is industrial relations advocacy to support more flexible employee working hours in the retail sector
- Taxation reform through a broadening of the GST and finally dealing with reducing the low value threshold on GST for imports and the states to pass on increased GST revenue in tax and duty cuts
- Planning reform and harmonisation

These and other initiatives need to continue to be delivered by the Government, and stand to benefit Australian retail business and the wider community by raising productivity and improving the prospects for investment, jobs and reforms.

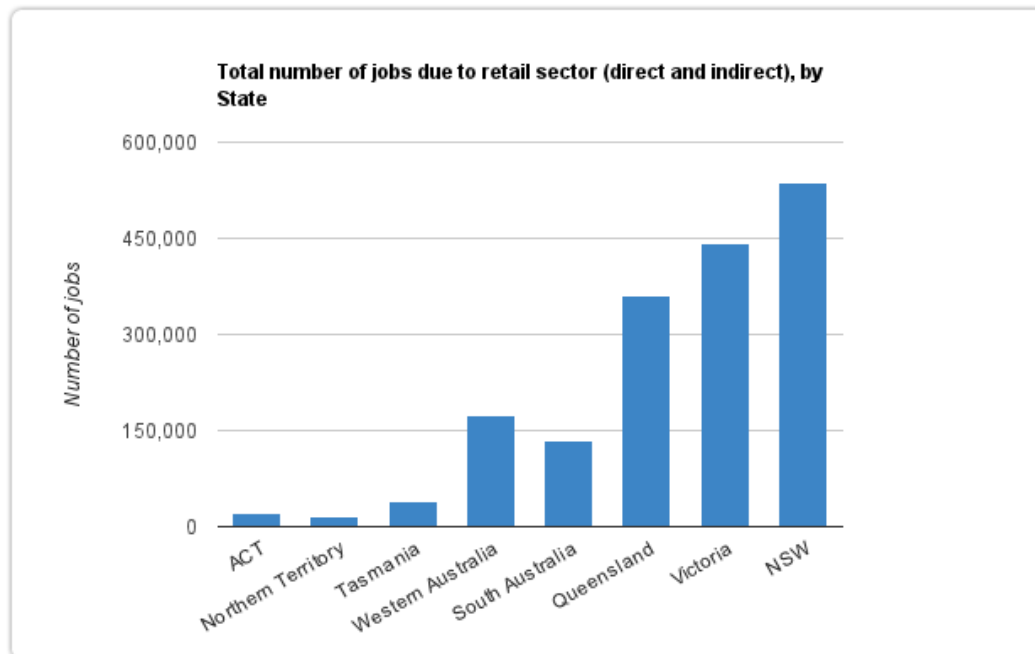
The priorities for retail in this respect are for the Government to:

- Implement retail tenancy lease reform recommended by the Productivity Commission through COAG and competition policy to create transparency
- Reform the Australian GST Tourist Refund Scheme (TRS) to allow private operators and grow tourist retail sector
- Work with states to give tax and duty relief to consumers and business through a broadening of the GST
- Support skills and employment pathways through VET in the retail and service sector
- Commence immediate reduction of the Low Value Imports Threshold (LVIT) on GST
- Complete planning reform through competition policy and COAG
- Allow more flexible workplace laws and penalty rate changes
- Harmonise state based laws and regulations through compilation policy and COAG including local Government bureaucracy
- Simplify workplace safety harmonisation
- Take up recommendations from the Financial Systems Inquiry (FSI) around payments reform

The rising cost of doing business:

- Skills shortages in the retail sector
- Uncompetitive wages
- Relatively high (by international comparison) interest rates
- Finance access
- Taxation structure

1.7 million Australian jobs because of the retail sector



* Includes direct retail sector data and the impact of retail on other sectors

Source: ABS Labour Force, Australia, detailed quarterly 6291.0.55.003; ABS State National Accounts, 5220.; PwC Input-Output model

Tax reform

- A lighter tax burden on business and individuals to drive stronger economic growth, more jobs and stronger government revenues
- Application of the GST on Low Value Imports under \$1000 with the view of a long term application level of zero dollars
- A broadening of the GST to facilitate the abolition of inefficient State and Federal Taxes
- A reduction in company tax rates
- Abolition of Payroll Tax
- A halt to ever increasing excise taxation grabs which is sapping money from consumers pockets and creating black markets
- Reform of Capital Gains Tax to ensure that small business people are not unfairly disadvantaged on the sale of the family home, which is often a business owner's main form of superannuation and source of security in retirement.

Policy principles

Australia needs a tax system that supports the achievement of agreed economic and social principles. Australia's competitiveness should be assisted, not harmed, by the tax system.

Tax revenue should be adequate to meet all elected governments reasonable expenditure needs, consistent with the exercise of fiscal responsibility principles. The tax system should be such that all taxpayers feel confident and satisfied in complying with it.

The cessation of excise unindexed tax increases or introducing additional indexation which in sapping consumer spending power, or in the case of some products such as alcohol and tobacco, is driving them out of the legitimate retail market into the black market.

Support for a root and branch review of the tax system to include the GST with a view to abolish inefficient taxes.

A sustainable tax structure will only be achieved through an integrated package of reform across all significant Commonwealth and State tax bases in the form of a balanced package covering consumption, income and assets.

Policy objectives

- **Economic efficiency** – taxation should impact neutrally on the economy and commercial decisions must not be skewed by tax considerations. The tax system should improve the competitiveness of Australia by encouraging productive investment, risk taking, economic growth and attracting capital and skilled labour
- **Adequacy** – tax systems should raise sufficient revenue for public expenditure needs, be sustainable in the long run and be consistent with fiscal responsibility
- **Simplicity** – taxpayers being able to clearly understand and meet their obligations
- **Transparency** – taxpayers should understand how and when they are paying tax and how much tax they are paying. Hidden taxes should be minimised
- **Limit costs** – compliance and collection costs should be minimised
- **Limit evasion** – there should be minimum incentive and potential for evasion and avoidance of taxation
- **Consistency** – tax policy should be internally reliable and consistent with broader Government policies
- **Flexibility** – the tax system should be able to respond to developments in the economy and society, for example demographic changes, financial innovation, globalisation and the internet
- **Public perception** – there should be the widest possible public support for the tax system

While changes in the early 2000s to Australia's taxation regime have improved equity, sustainability and efficiency, there is still much more room for improvement.

Based on the tax design principles above, the main reasons for further reform of Australia’s tax system include:

- Improving the efficiency and international competitiveness of the Australian economy
- Continuing Australia’s strong growth and productivity results
- Ensuring Australia can meet long-term challenges, particularly demographic changes, in the most cost effective way
- Promoting innovation, risk taking and entrepreneurship
- Encouraging investment in human capital, for example through education and training
- Encouraging skilled migration and the retention of skilled people
- Not causing distortions in competitiveness or driving unintended illegal markets through excessive taxation
- Reducing tax avoidance and evasion, to improve the perceived and actual fairness of the tax system.

Retail Data

Direct impact of retail on Australian economy, 2009-10

Employment at end of June	1.2 million
Wages and salaries	\$36.0 billion
Sales and service income	\$355.3 billion
Total income	\$358.2 billion
Total Expenses	\$341.9 billion
Operating profit before tax	\$18.9 billion
Earnings before interest tax depreciation and amortisation	\$21.7 billion
Industry Value Added	\$63.6 billion

Source: ABS Australian Industry, 2009-10, 8155.0

Low Value Imports Threshold (LVIT) on GST

The ARA welcomed recent government comments in support of plans to lower the LVIT which would enable collection of GST on parcels below \$1000, as well as from overseas suppliers.

While we have been disappointed with the agenda by one state government to use this issue as a wedge to try and gain more overall GST revenue for itself, we appreciate that the Federal Government is trying to find a path through these issues.

Lowering the GST threshold on imported goods needs to happen swiftly if Australian retailers are to be put on a level playing field with their online overseas counterparts, who currently have the distinct advantage of escaping GST when sending their goods to Australia.

As noted, state governments are also missing out on revenue due to the tax collection loophole created by not lowering the threshold, and this is obviously a big missed opportunity for state treasuries. It is disappointing that one state, Western Australia, is trying to gain more GST revenue for itself – and also hurting its own retail businesses.

The ARA supports the government’s plans to reduce the GST threshold, which falls into line with recommendations from the Low Value Parcel Processing Taskforce’s final report, encouraging this reduction to be implemented quickly to immense economic benefit and not allow it to be tied up with the announced tax review. International online retailers would easily be able to adjust to the new requirements, given they would be on par with how Australian based retailers and with all overseas jurisdictions either operating a very low threshold or moving to a zero threshold, Australia stands to be a tax free haven for international online retailers if this change is not made.

Infrastructure

The ARA calls for enhanced investment in logistics and infrastructure to lift productivity and efficiency, in response to changes in demography in both urban and regional Australia. The real cost of living pressure and business costs are measurable by retail businesses, proving the urgent need to improve supply chain flows. The commitment shown so far to infrastructure by the Federal Government has been impressive and can be seen right around the country, in particular the massive infrastructure catch up programme in NSW is a classic case of where public/private Federal and state government cooperation is now a key driver in that state’s economy.

Policy principles

Infrastructure is vital to Australia, now and in the future. We must continuously improve our national infrastructure if we are to:

- Improve Australia's economic performance and achieve economic growth
- Maintain and enhance our international competitiveness

Policy objectives

- Port, rail, airport and road investment creates greater efficiencies for supply chain logistics
- Encourage technological change in all areas related to infrastructure
- Ensure the private sector plays a major role in financing, designing, building, operating and maintaining infrastructure
- Support transport development which enhances customer and business transport links to key retail hubs
- Ensure that all infrastructure projects are subject to a proper cost-benefit analysis
- Make certain that equitable and sustainable risk allocation models are developed for each project undertaken by the private sector.

Budget & fiscal responsibility by Governments

- Return the Federal Budget to surplus over time ensuring the economy continues to grow, to take pressure off borrowings and interest rates and ensure that the government has the means to execute a fiscal response to a future financial crisis
- Efficient delivery of public and community services by government and an annual two percent reduction of spending by government on government for the next five years
- Grow revenue by lowering the cost of doing business through lower and more efficient taxes
- Growth in government expenditure is unsustainable and must be addressed.

Respond to the flexibility, productivity & participation needs of the modern workplace

The biggest single challenge inhibiting employment for small business and disincentives to working for individuals has to be flexibility and reasonability issues due to the inflexible workplace relations system. In particular a just and fair economically sustainable system for setting penalty rates needs to be addressed.

The retail workforce

The retail industry employs more than 1.2 million Australians, and is the largest private sector employer. The demographics of the retail industry demonstrate the important contribution it makes to Australian society. A third of the retail workforce is aged 24 years or under and almost three-quarters of the workforce is aged under 45, making retail the second youngest employing industry. Further, 56% of the retail workforce is female, compared with 46% across the entire Australian workforce.¹

The contribution the retail industry makes to young people entering the workforce is significant. With youth unemployment increasing at an alarming rate, from a low of approximately 8% in 2008 to 13.9% in February 2015, the need to provide meaningful employment opportunities for young people is crucial. Any changes that will promote workforce participation in the retail industry will naturally have a positive impact on youth employment levels.

Challenges faced by the retail industry

The PC is well versed in some of the challenges faced by the retail industry. The Productivity Commission (PC) conducted a broad reaching review of the retail industry in 2011² (the 2011 Review) and in 2014 the PC reviewed the costs of doing business in retail trade (the 2014 Research).³ Both these projects involved some analysis of the challenges faced by the industry and the impact of the workplace relations framework on the industry's capacity to respond to those challenges.

From a workplace relations framework perspective the most pressing issues for retailers centre on its ability, under the current framework, to engage its workforce in ways that drive productivity and align with consumer demand.

As identified in the 2011 Review, a clear challenge for the retail industry is to achieve productivity gains under a workplace relations framework that does not always support those gains.

Safety Nets

As identified earlier in this submission, the issue of minimum safety nets is a pressing one for the retail industry. Online retailing, both domestic and international, has increased its market share to the detriment of traditional bricks and mortar retailing. The challenge for multi-channel and bricks and mortar retailers has increasingly become how to differentiate their offering, particularly where they cannot differentiate on price. The point of difference increasingly has become about shopping experience, including service.

Multi-channel and bricks and mortar retailers have a high level of control over the shopping experience. The aspect they have least control over is their people. Retailers are able to select and train their sales employees. They are significantly

¹ Australian Workforce and Productivity Agency and Service Skills Australia – *Retail Workforce Study* March 2014

² Productivity Commission 2011, *Economic Structure and Performance of the Australian Retail Industry*, Report no. 56, Canberra

³ Productivity Commission 2014 Research Report, *Relative Costs of Doing Business in Australia: Retail Trade*

restricted, however, in their capacity to put the right number and quality of people on the shop floor when their customers want to shop, and in their capacity to provide incentives for their store based employees.

Penalty Rates

As a starting point, the ARA considers it essential that there be a mature and reasoned discussion of the current system for the setting and variation of penalty rates.

The ARA considers it appropriate that weekend and evening rates of pay are regulated. The key question is whether the current regulatory regime is appropriate. In the ARA's submission, this can be answered quite simply through a cursory review of recent award regulation history. We use the Sunday penalty rate under the *General Retail Industry Award 2010 (GRIA)* as an example.

Under the retail awards with common application across the various states and territories prior to the Award Modernisation process conducted by the predecessor to the Fair Work Commission (**FWC**), the Australian Industrial Relations Commission (**AIRC**), there were a variety of penalty rates applicable to Sunday work. We have set these out in the table below:

State/Territory	Pre-Modern Award/NAPSA	Sunday penalty
NSW	NAPSA Shop Employees (State) Award	50%
VIC	Victorian Shops Interim Award 2000	100%
QLD	NAPSA Retail Industry Award – State 2004 (QLD)	100% (Non-exempt stores) 50% (Exempt stores and Independent Retailers)
WA	Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977	100%
NT	Retail, Wholesale and Distributive Employees (NT) Award	100%
TAS	NAPSA Retail Trades Award	100%
SA	NAPSA Retail Industry (South Australia) Award	60%
ACT	Retail and Wholesale Industry - Shop Employees - ACT Award 2000	50%

It can be seen from this that there was a mix of Sunday penalty rates applicable across Australia prior to the Award Modernisation process in 2008, with three jurisdictions, including the largest in New South Wales, providing for a Sunday penalty rate of 50% or 60% for all employees. Additionally, Queensland provided for a 50% Sunday penalty for employees of Exempt stores (retail businesses selling particular types of goods, including newsagents, fruit and vegetable shops, sporting goods retailers etc) and of Independent Retailers (businesses where the number of people engaged at any one time in the shop is not more than 20 and the number of people engaged in all shops in Queensland owned by the person,

partnership or corporation is not more than 60).

The decision of the AIRC, taking into account a Modern Awards Objective (**MAO**) in substantially the same terms as that currently contained within section 134 of the FW Act, was to increase the Sunday penalty rate to 100% for all States and Territories.

This increased penalty rate, under a “modern” award system was implemented despite shifts in retail trading hours, changes to consumer preferences, the prevalence of weekend work in the industry and, as we set out below, the views and experiences of retail employees and employers. It is difficult to reconcile the movement, led by consumers, away from non-standard shopping hours and a decision to significantly increase the penalty rate applicable to employees who need to be engaged to meet the shifting consumer preferences. In the ARA’s submission this is indicative of a fundamental issue with either the architecture of the MAO or the manner in which it is being applied.

A further example of this fundamental issue can be demonstrated when the Sunday penalty rate under the GRIA is compared with like industries (those where employees are likely to work on Sundays) when compared with non-like industries (those where Sunday work is relatively uncommon). This is set out in the table below:

Awards in like industries	Sunday penalty
<i>Fast Food Industry Award</i>	50%
<i>Restaurant Industry Award</i>	50%
<i>Registered and Licensed Clubs Award</i>	75%
<i>Hospitality Industry (General) Award</i>	75%

Awards in non-like industries	Sunday penalty
<i>Clerks Private Sector Award</i>	100%
<i>Manufacturing And Associated Industries And Occupations Award</i>	100%
<i>Building and Construction General On-site Award</i>	100%
<i>Higher Education Industry – General Staff - Award</i>	100%

It is also clear that the FWC (and its predecessor the AIRC), having considered the Sunday penalty rate against the MAO, has reached a conclusion that on its face is contrary to any reasonable analysis. It is clear to the ARA, based on this, that the FWC is not being appropriately directed in its consideration of what constitutes a fair and relevant minimum safety net under the MAO as presently constructed, and that changes to the MAO are essential to ensure the award system promotes economic growth and productivity, and which promotes a alignment between the operations of the industry and the relevant modern award.

Relevant to the issue of appropriate regulation of weekend and evening penalty rates, the PC during the 2011 Review considered retail trading hours and consumer preferences for access to retail businesses. The PC made the following observation in relation to this:

The most notable omission in the objectives underpinning trading hours regulation are the interests of consumers. Consumer preferences or needs can no longer be ignored or downplayed. In the past consumers had few or no places to shop if retailers were closed. In the internet age they do — to the potential detriment of many ‘bricks and mortar’ retailers (and their employees), and to the vitality of shopping precincts and community life that is often the objective of trading hours regulation.

In the ARA’s submission is this is equally relevant to the issue of applicable penalty rates for weekend and evening work. The GRIA sets the minimum safety net payments for employees working at historically non-standard hours. As set out above, on Sundays under the GRIA retail employers are required to pay their employees at double the base rate of pay. This is as significant a barrier to the ability of retailers to meet consumer preferences as restrictions on trading hours. It also impacts on the shopping experience so crucial to a retailer’s capacity to compete, as retailers are prevented from engaging the number and mix of employees on Sundays that will provide the best customer experience.

To assist in understanding the impacts of this, we refer to research commissioned by the ARA during the 2012 Award Review⁴, which is attached to these submissions. The Australian Centre for Retail Studies (**ACRS**) conducted research into consumer, retail employee and retail employer attitudes and experiences in relation to Sunday trading. Key themes which emerged through the research were:

- a. There was consistency between retail employers and retail employees in what they reported regarding the detrimental impact on them attributed to the Sunday penalty rate. For retail employers it was that they operated with a lower number of employees than optimal, or with a mix of employees that was less than optimal. For retail employees it was that older, more expensive employees were disadvantaged when compared to younger, lower cost employees when it came to the allocation of Sunday hours.

Sunday is an important trading day, where despite more constrained trading hours retailers reported strong sales figures, with average spend per transaction the third highest behind Saturday and Thursday.

- b. Profitability of Sundays is marginal due to higher labour costs.
- c. Employees are willing to work on Sundays for lower penalty rates than that imposed by the GRIA.
- d. While the impact of working on Sundays on their weekend social life was the most common difficulty experienced by Sunday workers in retail, this was closely followed by difficulties that relate directly to Sunday staffing levels (“limited number of staff”, “inexperienced staff” and “pace of weekend trade”).

It is clear from this that retailers are restricted in their ability to meet consumer preferences, in particular as it relates to access not just to retail stores but also to retail service, on Sundays.

The ARA’s view is that penalty rates should be determined by an appropriate regulatory body within an appropriate regulatory framework. It is essential, in our submission, that this regulatory framework take into account the specific circumstances of the industry and give precedence to economic considerations such as employment levels in the industry,

⁴ Australian Centre for Retail Studies, *Sunday Trading Research 2012*

productivity and the viability of business operations. We provide a recommendation on this below.

The ARA considers there are four fundamental changes that are required to be made to the MAO.

The ACRS sought the views of retail employees about Sunday work in particular, and it is clear that there are some difficulties experienced by those working on Sundays in terms of the balance between work and their family and social lives.

These difficulties are not causing employees in retail to seek to withdraw from Sunday work, and it is clear that employees in the main would be happy with a 50% penalty for Sunday work. In that sense, as it relates to the retail industry, penalty rates for Sunday work are not effectively addressing these concerns as they are overcompensating for them.

Minimum Wages, the NES and Awards

The ARA is not advocating wholesale reductions in minimum wages, or award wages. What we are proposing is twofold. The first is that there is a level of flexibility in the way that minimum conditions interact with above minimum incentive payments. Clearly, at least as it relates to the retail industry, the current system does not provide a viable opportunity for retail businesses to offset incentive payments against minimum conditions. This is a significant barrier to driving productivity in the industry, and if that barrier is not removed there is little genuine scope for real productivity gains that do not come with reductions in labour hours offered across the industry.

The framework under which the Minimum Wage Panel of the FWC operates should be reviewed. Clearly, Australia operates under higher wage structures than most other countries. The Minimum Wage Panel, in setting minimum wages, should be required to take into account the circumstances of other countries, and in particular Australia's key competitors.

The ARA also brings to the attention of the Inquiry an undesirable impact the minimum safety net under the GRIA is having on one of the key planks of the FW Act – enterprise level bargaining. Data released by the Commonwealth Department of Employment clearly demonstrates that enterprise level bargaining in the retail industry has gone backwards at an alarming rate since the commencement of the GRIA. We have set out in the table below a summary of that data, setting out enterprise agreement lodgement numbers in the year prior to the commencement of the GRIA and lodgements in each of the years after.

Year	Agreements lodged
2009	685
2010	401
2011	120
2012	108
2013	117
2014 (to end September Quarter)	75

The full data can be found at <http://employment.gov.au/trends-federal-enterprise-bargaining#foidoc-KMXIVKCGEP>

The implication of this is that retail businesses are increasingly reluctant to enter into enterprise agreements, particularly small businesses. Anecdotal information from ARA members indicates that the fundamental reason for this is the high minimum safety net set by the GRIA, and the difficulty of implementing a viable set of terms and conditions that will leave employees better off overall than they would be under the GRIA while still promoting productivity increases.

There is a clear question for the Inquiry about what type of industrial system will best promote ongoing prosperity for Australia. If, as the ARA believes, this is best achieved through enterprise level bargaining where real productivity gains for small businesses are achieved and employees are able to be fairly rewarded for their contribution to those gains, then the modern award system need to be a true minimum safety net. Currently for the retail industry it is our submission that this is not the case. The Modern Award imposes rates of pay, penalty rates and other restrictive employment conditions that are unsustainably high, and which act as a disincentive to bargaining.

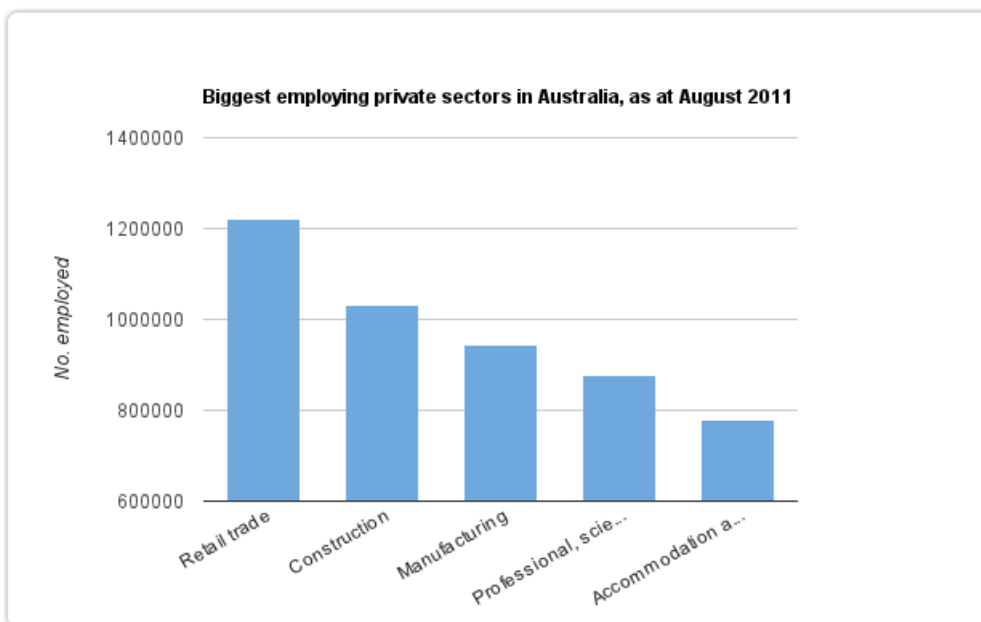
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<http://www.pc.gov.au/inquiries/completed/retail-trade/report/retail-trade.pdf>

Retail is responsible for directly employing 1.2 million people from a diverse range of careers including customer service, butchers, bakers, pharmacists, hairdressers, mechanics, finance, information technology, communications, human resources and management.

Over 1 million Australians work in retail



Source: ABS Australian Industry, 2009-10, 8155.0

Economics

The ARA calls for recognition by government that long term business planning requires investment certainty, the minimisation of risk, low taxation, flexible wages systems, stability and reliable cheap sources of energy supply.

A strong, globally competitive economy which provides businesses large and small with the commercial freedom to take calculated risks, invest and secure productive rewards that benefits business owners and managers, their families, employees and consumers is desirable.

The retail economy has fundamentally transformed since the 1980s and is now deeply integrated in regional and global trade.

Our economy is comprised of over 120,000 retail enterprises, most of which are small businesses, but some are amongst the largest and most successful corporations in the world.

The ARA's policy department is committed to making sure that the environment for doing business in Australia gives our private sector and business sector a competitive and productive edge.

We believe in economic reform and the leadership that government and the private sector business organisations can provide in facilitating reform and community support for the reform effort. The ARA is particularly concerned to ensure that Australia's tax and regulatory systems support private entrepreneurship.

The ARA is keen to see the private sector continuously invest in physical infrastructure and human capital that can add to economic growth as well as community and social wellbeing.

The ARA continues to be committed to support our private sector and our governments to restore the health of the financial and capital markets. The ARA also seeks to ensure the flow of capital to Australian businesses large and small can fuel a new wave of growth and economic prosperity.

Policy objectives

- The Small and Medium Enterprise (SME) retail sector to have a voice in the framing of national economic policy
- Making the case for economic reform and the adoption of policies that promote commercial freedom, entrepreneurship and private sector investment
- A tax system that creates incentives for the private sector to flourish, improve economic growth and increase employment
- Reduce the size and interference of government including local government bureaucracy
- Freeing up finance availability
- Removing multijurisdictional compliance through harmonisation, utilising competition policy and COAG forums with each Minister delivering tangible outcomes in the next term of parliament.

Participation in the nation's economic affairs by small and medium retailers

The ARA would like to see:

- Rewarding personal entrepreneurship to maximise job creation and wealth for families and local communities
- An increase in the numbers of self-employed people from one in five to one in four
- Reduce red tape and compliance burden on all business, with a particular effort to assist the SME retail sector
- The competition policy review should ensure all aspects including effects tests are looked at as options to facilitate greater market participation to avoid concentration in any particular part of the retail sector or the sector as a whole.

Policy framework

Government policies must recognise the need for the different capacities of smaller enterprises.

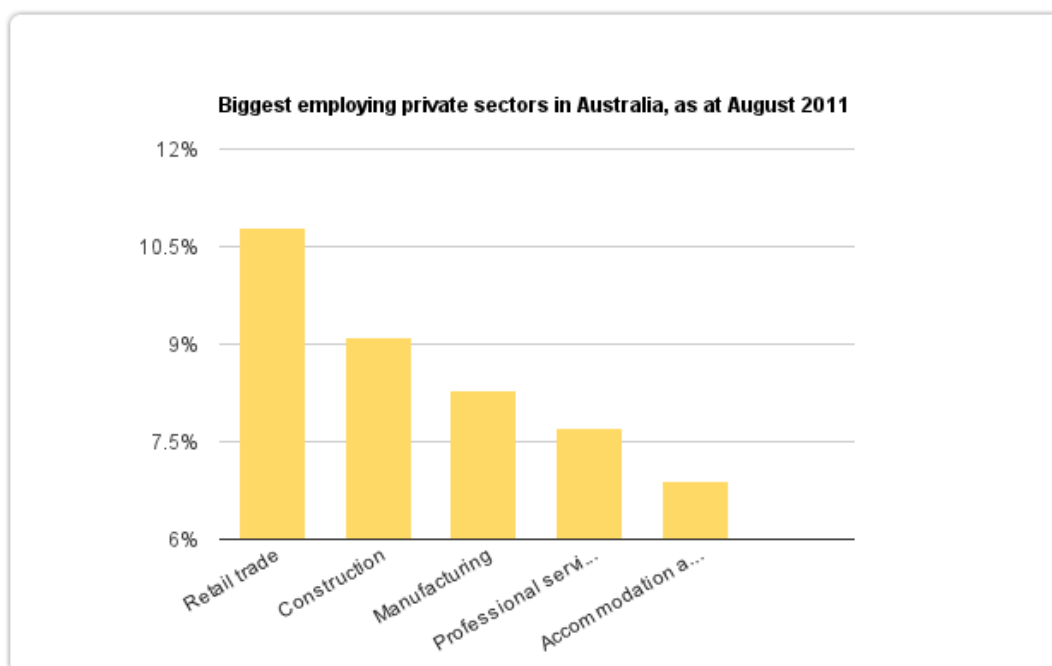
Small businesses are not just miniature versions of larger enterprises, and not all small businesses necessarily want to expand. The competitive and entrepreneurial spirit of small business is the vital underpinning of Australia’s economic future as the level of growth in larger corporations has steadied, with restructuring more in favour of medium and smaller enterprises and the exploitation of specialist skills and niche markets.

Small business policy should then be primarily directed at those characteristics of small businesses which are usually or typically different from medium and large businesses.

Policy objectives

- Comprehensive taxation reform which reduces compliance costs, complexity and uncertainty for small business
- Access to and cost of finance for small business to promote long term growth in the sector
- Continued deregulation of labour relations while at the same time promoting better workplace practices in areas of skills, occupational health and safety
- Extension of competition policy principles, including competitive neutrality to ensure government business enterprises compete fairly with the private sector
- Increased take-up of new communications technologies by small business including electronic commerce and better engagement so SMEs use high speed broadband
- Small business involvement in telecommunications policy development through input of research and commercial analysis into government and industry forums
- Greater access to and increased involvement of small business in government purchasing
- Red tape reduction target which is benchmarked
- Simplification of superannuation payment and collection.

Almost 140,000 retail businesses in Australia



Source: ABS Labour Force, Australia, detailed quarterly 6291.0.55.003

Online

The ARA believes that utilisation of an online web presence for small business, coupled with the rollout of national infrastructure including high speed broadband and fourth generation wireless services, provides a critical platform for business to harness productivity and business improvements.

The ARA has developed skill sets with Service Skills and the National Online Retailers Association (NORA) which work to support existing supply chain and business skills. With many commercial drivers creating and assisting change within the sector including the ICT sector developing products and supporting retail.

The government's role should be commercial facilitation in this technology product rollout and skills building, encouraging and facilitating through existing skills development opportunities allowing market forces to do the rest.

Education and training policies

Schools

The ARA supports a smaller federal bureaucracy for school education, and decentralisation of delivery to the states and schools. That said, there is a continuing role for the national development of curriculum and the need for the Federal Government to take a more active role in school to work (directly or via further education) transitions. The Federal Government has more financial stake in successful transitions due to the significant cost of funding welfare benefits should the student not successfully transition into further training or work. Specifically related to this the federal government should:

- Take greater leadership of vocational training in schools by increasing the dialogue and engagement between schools and industry, and focus on improving the quality and significant inefficiencies created by poor pathways between VET qualifications
- Improve the embedding of employability skills in the school curriculum
- Encourage and if necessary incentivise the states to introduce minimum requirements for literacy and numeracy to standards required in the workplace, using international benchmarks
- Continue current programs for youth connections (addressing disengaged early school leavers) and school partnership brokers under a redefined and more focused initiative School to Work Transitions. This focus maintains a direct connection between the prevention of poor outcomes and the cost of failure (welfare).

Vocational training

The ARA supports a review of the efficiency and effectiveness of the vocational training system currently being conducted. However, although there are specific issues within each part of the education and training system (early childhood, schools, vocational training, and higher education), it is important that there is greater clarity of roles between the Commonwealth and the states across the system not just within each component, and pathways and recognition of quality outcomes should be improved between the sectors so as to achieve efficiency of public funding spend. In other words, any changes made to VET should be done so within a holistic approach to the total system and with a focus on industry not providers.

Funding in VET specifically should be focused on high quality and national qualifications with industry engagement including work integrated learning models such as apprenticeships.

There is no doubt that a more effective national and partnership skills agreement with the states and territories is needed. This will deliver medium to long term outcomes in vocational training. In the meantime, overall investment should not be reduced, and indeed more targeted effort should be placed on increasing apprenticeships particularly for school to work transitions and the disadvantaged groups so as to save on welfare support. Also, the priority is to focus on

improving quality across the system, and in turn improving pathways and recognition of prior learning so that students do not have to duplicate learning which is resulting in wasted public funds.

Traineeships

The policies of the previous Government, most specifically with the removal of non-trades apprenticeship incentives and mature age trade apprenticeship wage subsidies have had a significant negative impact on apprenticeship numbers. The major impact to commencements occurred after July 2012 when the 2012/13 Budget and MYEFO cuts took effect.

Commencements in apprenticeships and traineeships across all qualification levels for the last six months of each calendar year across selected years:

1999	88,127
2002	125,672
2005	119,686
2010	148,387
2011	147,842
2012	99,484 - a staggering 33% fall in 12 months.

The March and June quarter 2013 actual figures indicate a continuation of the decline. The commencement numbers for ‘technicians and trade workers’ was 32,300 in the March quarter 2013 compared with 35,500 in the corresponding quarter in 2012; total commencements excluding those figures (largely non-trades) are 36,400 March quarter 2013 compared with 67,000 – around half as many. The September quarter trend figures are indicating an upturn but the actual figures are not yet available and the slight upturn in non-trades is nowhere near back to trend. The trade figures, which show some growth are not reflected by industry feedback with the exception of construction trades, where employers are getting in ahead of wage increases effective from January 2014.

It is critically important that there is no further removal of apprenticeship incentives until a comprehensive review with industry has taken place which discusses how to ensure the incentives are working to change employer behaviour to offer jobs for apprentices and trainees. This review should look at restoring some incentives, taking into account the cost of training imposed by the states and the need to boost youth employment in key areas of entry level occupations and courses.

The Government should not be tempted to concentrate support on trade apprenticeships alone and skills needs list occupations. This does not reflect the broader economic and productivity benefits of structured training across the economy. The economic benefit of work integrated learning systems such as traineeships can be just as positive for services sectors such as retail. Also, the loss of tens of thousands of non-trades apprenticeship commencements is a blow to youth employment and a cost to the federal government in increasing unemployment benefits.

Industry Skills Fund

This program provides funds on a co-contribution basis directly to employers to support up-skilling using national qualifications. ARA and its members strongly supported the previous National Workforce Development Fund, although saw it should be more efficiently managed directly by the department. At the writing of this submission, we have had time to review the new Industry Skills Fund guidelines however, our members are yet to test the process and first look would indicate some level of process and complexity for small to medium retailers. We have also raised concerns over the rating

system that does not recognise retail or tourism as growth and innovation priority sectors despite all economic forecasting which we would like to see the government address.

VET architecture

ARA members support the basic underpinning of the structure of the VET system being the development of training packages that are reviewed to reflect changes in occupations and skill needs. The ARA is concerned changes could see major national businesses develop unaccredited non-transferable packages if there isn't comprehensive enough consultation period with industry stakeholders.

Career development

The Federal Government should revisit the important issues in the release but not funded National Career Development Strategy. The significant spend on workforce development should be complemented by an effective spend on career development, to ensure:

- Students are undertaking courses with a strong understanding of career opportunities and the demands of the occupation
- The right skills are deployed to the right place at the right time
- Better coordination between all of the parts of Government that currently provide careers advice, support and funding
- Industry leadership and professionalism in careers advice.

Removal of employer incentive payments for existing workers traineeships

The removal of the employer incentive payments has impacted dramatically for enrolments on traineeships which impacts on young workers in up-skilling and improving career prospects.

The ARA recognises the Government needs to work within current budgetary restraints but there needs to be a refocusing of allocation in alignment with younger workers.

- Retail is second to aged care sector in employment in Australia and particularly in regional areas
- Constant need for employees as many large retailers particularly supermarkets have staff turnover rate of annually of 20%/30% always requiring skilled staff
- Flexibility of retail i.e. varied shifts, part-time employment; fulltime employment can adequately meet most people's requirements.

Employment

The economic and fiscal policy context for this important priority is increasing workforce participation to improve productivity and reduce welfare dependency. The review of employment services due for 1 July 2015 implementation is critically important to get right, with the starting position being that the vast majority of the job market does not require government involvement and job seekers and employers are self-sufficient.

The ARA has been working closely with industry and government to develop a new model which delivers to the needs of industry while addressing jobs opportunities for job seekers.

Employment services need to be employer-facing, not supply side driven. All indications are that the new system addresses many of the industry needs and we look forward to seeing how effective government changes will be as the

new system is implemented with retailers working with government to improve outcomes.

A reduction of the red-tape burden on business

Ensure that well-designed regulation and effective functioning of the federation supports the seamless operation of a national economy and business efficiency.

The ARA had welcomed the commitment to reduce red tape including the legislation removal days.

The ARA supports work already underway in some states and see the mechanism of competition policy as a means of driving this critical reform.

Every new regulation, tax, law and public servant increases compliance burden for business and the ARA supports the fundamental principle of small government which removes laws and regulation which create unnecessary burden for business.

From our work, retailers are clearly identifying the size and bureaucracy levels within local government as creating significant delays and compliance for business.

That is efficient, cost effective & fair policy objectives

- A net benefit approach to new and existing regulation or laws
- An emphasis on the shift from a detailed and prescriptive 'input-based' approach to a broader 'output-oriented' approach. Businesses should be given flexibility in meeting the aims of regulations rather than simply having to meet set obligations
- Appropriate accountability to ensure that essential objectives of regulation are achieved without unduly restricting or impacting on business
- Regulatory structure that involves adequate consultation, assessment of the alternatives to regulation, accurate cost benefit analysis and the monitoring of the performance of regulatory agencies
- A comprehensive and continuous review approach across jurisdictions led by a commission level body at the Commonwealth level with greatly increased resources compared to the Office of Regulation Review in the Productivity Commission
- Ensuring that the regulatory decision-making process is transparent, leads to fair outcomes and involves consultation processes that are accessible and responsive to business and the community
- New regulatory culture where there is an understanding of business processes and the burden created by regulatory compliance and a commitment to providing a 'business-friendly' operating environment
- Use of competition policy and COAG to force reform
- Removal of overlap and duplication particularly resulting from separate Commonwealth and state regulation
- Red tape target with bench marks for achieving of targets.

Counterfeit product

Globally and here in Australia, counterfeiting is a significant problem, affecting brand owners and consumers across all industries. Although the significant negative impact of counterfeiting has long been known, Australia's anti-counterfeiting laws have simply not kept pace with the problem. Indeed, the flow of fake goods into Australia, and their sale in our markets, continues unabated.

Our main objectives regarding law reform in the area of counterfeit goods are:

- Improved border control measures to identify and halt the importation of counterfeits;
- Removal of the 'personal use' exemption for importation of counterfeit goods under the *Trade Marks Act 1995* (Cth)
- Institution of a 'no counterfeits' declaration on passenger arrival cards used for entry into Australia
- Increased public awareness of the impact of counterfeit products
- Clarification regarding the right of citizens and companies to act as 'private prosecutors' in criminal cases involving counterfeit products.

The ARA along with members and stakeholders are undertaking research work to identify issues and needed measures in greater detail.

GST Tourist Refund Scheme initiative

Over the past 10 years, retail and tourism industry groups within Australia have indicated their support for enhancements to tourism shopping arrangements in Australia. Central to these calls is reform to the current government controlled Tourist Refund Scheme (TRS). Australia currently lags behind many other countries around the world, where private providers operate a more efficient TRS and actively promote the service as a key offering to international visitors.

The introduction of a private provider platform will enable innovations that can enhance Australia as a tourism shopping destination, and help drive up overall spend by international visitors to Australia. Furthermore, a private provider platform will enable a more streamlined experience for travellers at the border and enhance the experience for travellers at our vital international gateways.

Given the strain placed by the current economic climate on the tourism and retail sectors, this will only benefit the sector.

We see this as an opportunity to leverage the full potential of tax-free shopping to make Australia an attractive shopping destination for overseas visitors. This initiative represents a tangible step towards increasing the yield by international visitors whilst in Australia.

This would also allow Australia to better compete with our Asia-Pacific neighbours, who currently enjoy the benefits of private providers marketing local shopping opportunities. Expert private providers have an incentive to market countries as an international shopping destination in a way that a government-run scheme cannot do.

Below are our key recommendations to the current scheme that are being proposed:

Recommendation 1:

That policy makers adopt as policy, a competitive open-market model for GST refunds for departing travellers under which private providers (like Global Blue) may provide tourist refunds under the Tourist Refund Scheme (TRS).

Recommendation 2:

Policy makers adopt as policy a digital TRS system, similar to the Singapore model, to improve customer service, enhance fraud prevention and create operational and head count savings for the Australian Customs and Border Protection Service (Customs).

Recommendation 3:

Policy makers also examine the potential cost savings to be derived from outsourcing the export verification compliance function of Customs to an independent service provider (as occurs in at least one overseas country).

Retail tenancy and planning reform

The dependency on securing tenancies within shopping centres poses a significant structural challenge for the ongoing viability of the retail sector. The oligopolistic nature of shopping centre ownership and a retail tenancy regime which is

skewed in favour of these large-scale landlords both present an inherent disadvantage to Australian domestic bricks and mortar retailers in terms of equitable competition.

The ARA has agreed with the overall intent of Productivity Commission reports that all the current national Tenancy Working Group projects overseen by COAG must achieve a more equal framework for retailers negotiating leases; however this needs real Federal Government support to drive change. The ARA does recognise some State Governments have identified transparency of information and level playing field issues and commends those governments for taking action to rectify competition issues.

There are distinct issues retailers are currently facing in relation to retail tenancies and ARA would see as needing to be addressed.

Objectives

In addition to the base rental cost, significant additional rental expenditure is imposed through 'turnover rent' whereby, built into the rental agreement, the landlord is entitled to a percentage of takings in addition to the minimum rent.

A retailer conducting business in a rental premise has little long-term certainty significant costs associated with set-up, and relocation is heavily leveraged at the point of re-negotiation. Due to the standard terms of a lease, which are usually five or seven years, a retailer has no security and can be told to leave the premises for the simple reason of "not fitting" with the centre's image, notwithstanding the investment into the retail space. Retailers are subject to the perceived threat that an alternative tenant is prepared to pay more for the same tenancy.

- The ARA believes there should be a first and last right of refusal by a sitting tenant on any rental offering
- The ARA seeks to require that a sitting tenant must be offered both first and last right of refusal to release the premises prior to the landlord executing a lease for another tenant. We believe that such a mechanism will force the landlord to meet the real market value for the demised premises and not take advantage of a veiled threat or misrepresentation of the true facts as to an alternative tenant for the tenancy. We also believe this mechanism will create an environment conducive to bargaining in good faith, fair disclosure and transparent undertakings
- The ARA also sees this mechanism as being a solution to the problem experienced by a retailer whereby a sitting tenant effectively gives up a large percentage of goodwill of the business to the landlord (via increased rent) as a defence to the threat that a third party will take over the lease at a higher rent without having to purchase the goodwill of the existing business
- The 'turnover rent' provisions by landlords where they are able to determine rent increases which are geared within what a retailer 'can afford to pay' rather than a common and transparent market rate mechanism thanks to accrued data provided under the turnover rent clauses needs removing
- The structure of such a term is usually based around financial requirement within the lease to pay a percentage of turnover rent as an additional rent component. Almost without fail, this financial requirement to pay turnover rent is set at such an unrealistic level of turnover which would most likely never be achievable by the tenant
- The ARA believes the retailer's monthly turnover figures should be reported by the tenant to a third party aggregator, and not directly to the landlord. These figures can then be advised from the third party to the shopping centre on an aggregated category basis, rather than individual figures being reported to the landlord directly which would allow landlords access to the statistics they require to run a centre and retailers a level playing field. An exception could apply if the rent paid by the retailer was based solely as a percentage of tenants' turnover figures
- In the period after the current lease term is expired, but prior to a new lease being agreed to, the tenant is regarded as being the occupant month-to-month under a 'lease hold over provision' period. If, and when, a new lease is signed at a different rate, the retailer is obliged to pay back the difference and this is obviously an unbudgeted and unexpected financial burden to the individual retailers.

For these reasons ARA would require these changes to protect tenants' turnover and any other commercial in-confidence

information which could impact on negotiations with landlords.

Planning

The Council of Australian Governments (COAG) should be the recommended body used to facilitate a national approach which will create a greater availability of retail space in retail activity areas driven by the Federal Government.

The ARA supports any move to create a greater competitive environment allowing retail development to be a positive outcome, and the ARA would like to see a mechanism facilitated by the Federal Government through COAG to achieve this outcome.

- Take into consideration the social and economic impacts of 'dead centres' when local government undertakes assessment of new 'out-of-centre' planning proposals. The ARA would support this if part of that assessment would be to still allow rejuvenation projects in existing retail areas. It is also important to consider 'out-of-centre' developments which are beneficial to the community such as outlying areas
- Costs be awarded against vexatious planning appeals would, in all reason, reduce compliance costs, time and funding costs for retail developments. As with a number of these matters, the Commonwealth would need to look at ways of facilitating this move through mechanisms such as COAG
- ARA will support moves which reduce unnecessary regulatory development costs
- With improving technology, local government could undertake large parts of the approval processes electronically using methods such as process application interfaces meaning as an application went through an applicant could instantly see what was wrong before trying to continue and address the issue immediately. This would limit the appeals process, improve the ability of council staff to understand the commercial implications of any delays and gain an understanding of how significant any delays can be for developers and retail tenants.

Executive summary

The ARA has a long tradition of representing the retail sector. In light of the challenging economic times our nation is now facing, we are calling on the Government to remember the importance of the services sector as an overall proportion of Australian economic activity and job creation. Retail is one of the few forecasts growth areas of the economy over the forward estimates.

- Responsible economic management and expenditure restraint
- No new taxes, or increases in existing taxes such as excise taxes
- The only exception should be broadening of the GST base to lower inefficient taxes
- Continued regulation reform and harmonisation
- Accelerated private infrastructure investment and planning reform
- Commitment to the services sector through Vocational Education Training
- Keep Australia's AAA credit rating
- Industrial relations advocacy to support more flexible employee working hours and agreements in the retail sector and reform of Fair Work
- Reducing the low value threshold on GST for imports
- Support major transport infrastructure development to resolve supply chain efficiencies.

We will be seeking clear commitments to these issues to be delivered.

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