



Submission by

MASTER GROCERS AUSTRALIA LIMITED

to

VICTORIAN GOVERNMENT

Review of Regulation Impacting Small Business Retailers
Cutting “Red Tape”

30 September 2016

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1. ABOUT MGA INDEPENDENT RETAILERS (MASTER GROCERS AUSTRALIA LIMITED)

1.1. MGA Independent Retailers (**MGA**) is an employer association representing the interests of independent supermarkets, liquor and hardware stores throughout Australia. These businesses play a major role in the retail industry and make a substantial contribution to the communities in which they trade. In Australia, there are approximately 2700 branded independently owned supermarkets and liquor stores, namely FoodWorks, Foodland, Friendly Grocers, IGA, SPAR, Cellarbrations, Bottle O, Bottlemart, IGA Liquor, Liquor Legends, Local Liquor branded stores, employing over 115,000 full time, part time and casual staff, representing more than \$15 billion in retail sales per year.¹ In addition, there are numerous hardware stores operating throughout Australia who are MGA members, most notably Mitre10. Many MGA members are small family businesses, employing 25 or fewer staff.

In Victoria, MGA has 652 active members generating approximate sales of \$4 billion and employing 25,000 staff.

1.2. The millions of people in small businesses around Australia, including our members, understand that red tape, which is often no more than information gathering, impacts disproportionately on them compared to larger corporations or enterprises. Everyday small businesses are forced to deal with a plethora of rules and regulations that take up valuable time and cause unnecessary delays to their business operations. These rules and regulations come from not only state and local regulators but also on a federal level. Every single imposition of red tape and compliance affects the profitability of a business and the burden is exacerbated for small enterprises. Smaller businesses also find it difficult to find information and understand their regulatory obligations.

1.3. On behalf of our members, MGA wishes to thank the Victorian Government for the opportunity to make a submission in relation to the Review of Regulation Impacting Small Business Retailers. On average, our members spend around five hours to ten hours per week or more on red tape and regulatory barriers are having a significant impact on the day-to-day operations of our small business community. MGA welcomes this review and our primary submissions are set out below.

¹ PricewaterhouseCoopers, *The economic contribution of small to medium-sized grocery retailers to the Australian economy, with a particular focus on Western Australia* (June 2007), p iv

2. MGA RESPONSE TO THE ISSUES PAPER AND FURTHER SUBMISSIONS

2.1. Information Fragmentation

Our members have reported that information on any aspect of their regulatory obligations as a small business operator is fragmented across multiple sources. There are a significant number of state and Commonwealth regulators when it comes to small business and often information is so hard to find, incomplete, inconsistent or outdated. Furthermore, there is a lack of advisory services, assistance and understanding from regulators, especially from local councils. This causes significant confusion, time and costs for a small business operator to understand and comply with their obligations when they could be concentrating on their business.

2.2. Payroll Tax

Payroll tax reporting is required monthly which is an unnecessarily short time frame. For small businesses strict time frames that must be followed for monthly payment of payroll tax are extremely onerous, particularly for those who lack online access or are located in remote areas. There is a complete lack of flexibility by the government in this regard. In addition, when accounts have to be reconciled at the end of each year, small businesses are also compelled to seek outside assistance which results in additional cost and time burdens.

Furthermore, this obligation coupled with other tax compliance such as GST collection, PAYG income tax collection and payment for employees, fringe benefits tax collection and payment increases overregulation and the amount of time and effort spent on tax related compliance issues.

Lastly, not only does pay roll tax create unnecessary red tape for employers, it is a significant cost burden and deterrence for employers to employ more staff. Currently in Victoria, the payroll tax rate is 4.85% and the threshold is \$575,000 annually. The 2016-2017 Victorian budget has also announced that the payroll tax threshold will progressively rise by \$25,000 a year over the next four financial years. In order to ease regulatory and cost burdens on employers, MGA suggests a lowering of the payroll tax rate and a more significant increase in the threshold in line with other states such as Queensland where the payroll tax rate is 4.75% and the threshold is \$1.1million.

2.3. Work Health and Safety

Victoria and Western Australia are the only states and territories who have not adopted the model work health and safety laws, although the Western Australian government is currently undertaking a review of the model laws for implementation. Our members have reported

confusion as to the current laws, especially given the inconsistency between Victorian work health and safety laws and the rest of Australia. This confusion causes additional time burdens on our members who must seek assistance to ensure compliance.

We note that Victoria's Occupational Health and Safety Regulations 2007 will expire in 2017. If new laws and regulations are put into force following the expiration of the current regulations, this may mean an increased burden on employers to comply with new state specific rules. This is not meant to imply that employers are shying away from their duty to provide safe workplaces. However, there is an overly strong emphasis on the maintenance of paperwork by the prosecuting authorities. Employers will already have their work health and safety procedures in place but they will now need to review all of the new regulations and their new duties, and this will require further compliance obligations.

Court penalties and fines are far too inequitable for small businesses. The paper trail and costs involved are exorbitant and small family owned retail stores are often subject to the same (and perhaps more onerous) conditions than national chains such as Woolworths, Coles and Aldi.

Health and safety representative requirements and mandatory training and re-training makes a person more employable however if an employer nominates an employee to be trained and then the employee subsequently leaves the business, employers must train someone else which is a very expensive and timely exercise.

In relation to workplace safety inspections, safety officers often see matters differently when inspecting the same workplace and as a result there is significant inconsistency with arbitrary decisions and enforcement. Our members have previously reported for example that five inspectors will pass through the store, and then a sixth inspector will see infringements where others have not. The store is then fined for non-compliance when a different impression was given by the previous inspectors.

Lastly, workplace safety insurance is expensive for retailers, most of whom operate low risk environments. High risk businesses are being subsidised by volume businesses such as independent supermarkets and liquor stores.

2.4. Workplace Policies

In order to feel adequately protected, an employer needs to have a policy and safe work instructions on every facet of the business, from how to operate a cash register to workplace bullying to clocking on for work. Without this mass of paperwork, which needs to be constantly reinforced with staff for protection, a business is in constant fear of litigation.

2.5. **Tobacco**

It is illegal to sell tobacco to someone under the age of 18 but it is not illegal for someone under the age of 18 to smoke tobacco. In our view, an individual should be responsible for their own actions.

We note that each state and territory has its own regulations that create unnecessary imposts and confusion for our members. In Victoria, fines for breaches may be avoided if relevant training is provided to employees every 6 months, however employers must have written confirmation from employees that they have received this training. This creates unnecessary paperwork for employers and this ongoing training is a huge burden and distraction for small businesses.

Furthermore, the myriad of rules and regulations regarding the display and advertisement of tobacco products creates confusion, extra burden, red tape and costs for small businesses.

As with health and safety inspectors, when tobacco regulators/inspectors conduct undercover investigations (which many of our members see as entrapment) and they often see matters differently when inspecting the same workplace and as a result there is significant inconsistency with arbitrary decisions and enforcement.

2.6. **Food Safety**

Victoria has a number of food regulators with many overlapping responsibilities. While there may be cost savings from reducing the number of regulators, care should be taken to ensure that the benefits of specific industry regulators with a detailed knowledge of the particular industry are not lost in any restructure.

The costs of complying with audit requirements can be significant for businesses, and ultimately consumers. Regulators need to continually review ways to reduce these costs. Regional Victoria, with a higher proportion of small businesses, coupled with longer distances and the relative shortage of specialized staff is increasingly challenged by regulatory compliance.

When Australian governments agreed to a Commonwealth Food Safety Act to be mirrored in each state, Victoria was the first state to implement the new Act, and was the only state which decided to pursue food safety plans. Food safety plans are implemented at the retail level and are audited by local government or DHS accredited auditors. All food businesses registered with municipal councils are required to submit a Food Safety Program when first registering the premises and on each annual registration date.

Retailers need to satisfy the auditor that the suppliers from whom they purchase also have food safety plans in place. As with health and safety inspectors, auditors often see matters differently when inspecting the same workplace and as a result there is significant inconsistency with arbitrary decisions and enforcement. Furthermore, overlap and duplication of regulatory requirements impose unnecessary costs on businesses and ultimately on consumers.

The Food Safety Program works well for larger organisations but tends to be too arduous and time consuming for smaller businesses. Record keeping can be administratively complex and time consuming particularly in relation to process temperature logs, goods receiving and goods storage temperature. Often these tasks are being carried out but not recorded.

2.7. Planning Laws

It is costly and prohibitive for small business operators either to apply for planning approvals or to appeal local government planning decisions. In this case, while planning laws are primarily local and state government responsibilities, the ACCC also has some powers under s50 of the Competition and Consumer Act.

Furthermore, regulations should be designed so that existing small businesses are considered and better protected when planning applications for large businesses are assessed. Many members have reported to us of occasions where a large business (such as Aldi) have applied for a planning permit in an area where both the local council and community disapprove and object to the application. The large business may then apply to the Victorian Civil and Administrative Tribunal (VCAT) to get approval, and are often successful despite the strong opposition. As a result, small businesses are left at a significant disadvantage by unfair and inconsistent rezoning and development rules.

2.8. Waste Disposal

While manufacturers and wholesalers produce and distribute packaging which results in packaging waste (of trade unit packaging) in retail outlets, the cost and effort of disposal is then borne solely by the retailer.

2.9. Plastic Bag Elimination

Any future determination by the Victorian government to ban plastic bags in line with other states would be of considerable expense and increase administrative red tape for our members. MGA and our members appreciate the detrimental effects that plastic bags can have on the environment and encourage customers to use or purchase re-useable bags for

their purchases. However, a total ban on plastic bags would increase the red tape encountered by small businesses as follows:

- Ensuring plastic bags are eliminated from the store which is a costly and timely process
- Complying with directions and obligations from the relevant authorities
- Providing training to employees in relation to the ban and how to deal with customers who question the issue
- Displaying notices explaining to your customers why the ban is in place
- Identifying and offering alternative bags, boxes or other methods to carry or deliver purchases
- Implementing extra processes on an ongoing basis to ensure compliance with any prospective laws

MGA recommends ongoing education and industry self-regulation in relation to this issue.

2.10. **Liquor Regulations**

We need certainty and harmonisation across the country. Currently, liquor licencing laws vary across federal, state and territory jurisdictions.

In Victoria, liquor licencing fees, hours of operation and other rules are also inconsistent between general liquor licence holders and package liquor licence holders. General liquor licence holders such as hotels and clubs have a greater scope in their trading hours and supply of liquor which is unfair to package liquor licence holders who pay approximately twice as much and must comply with stricter restrictions. Furthermore, an exorbitant fee (up to \$5000) and unnecessarily cumbersome application form are required to vary a liquor licence to enable a retailer to trade longer which impedes many of our members from expanding their business or starting a new one.

Victoria is the only state or territory in Australia which requires Responsible Serving of Alcohol (RSA) training to be conducted face to face. This is a serious burden to our members, especially those in regional areas. Having to organise, travel and pay for face to face RSA training for staff is extremely onerous, costly and timely for a small business when it could be as simple as completing an online course at any time.

Liquor licence inspectors are inconsistent with the approach to inspections and often appear to be set on simply handing out infringements rather than providing assistance to non-complaint businesses. MGA encourages a more collaborative approach from liquor regulators to assist businesses with liquor related issues rather than simply policing and issuing infringement notices.

MGA members have also reported that when acquiring an existing business with a liquor licence, the time frame for the transfer of a liquor licence is extremely timely and inconsistent. In Victoria, when transferring a liquor licence from one operator to another, the proposed

licensee cannot supply alcohol until the transfer application is granted by the Victorian Commission for Gambling and Liquor Regulation. Not only are members required to pay a licence transfer fee, members often are required to delay settlement of a sale of business or land as their liquor licence has not yet been transferred. Currently there is no “fast track” procedure available to low risk applicants on the basis of an impending settlement or for reasonable business grounds. This means that many small businesses are barred from trading for extended, unknown periods of time which can be fatal for a small business. This unnecessary delay also causes further frustration and barriers for small business owners who have already countless requirements to comply with when setting up or taking over a business. MGA recommends that the liquor licence transfer process be streamlined and that a fast tracking of simple non-risk liquor licence transfers be established.

2.11. AFL & Easter Sunday Public Holidays

These additional public holidays which have been declared in recent years are not only extremely expensive for our members in terms of penalty rates but also create extra administrative work for our members in consulting with staff about optional work on public holidays, altering rosters and processing penalty rates.

MGA estimates that it costs our Victorian members \$3million to trade on the AFL public holiday and \$250,000 to trade on Easter Sunday, and often profits do not cover the costs of trading and certainly do not compensate for the angst, stress and extra burden of staffing and administration for those additional public holidays.

2.12. Container Deposit Legislation

MGA is aware that there much support for container deposit legislation despite the fact that the Government is currently not in favor of such legislation. MGA supports the Government’s position on this issue and maintains that the status quo and current recycling programs are more than adequate. Any future container deposit legislation would only serve to impose further regulatory burdens and costs on small businesses who would need to implement processes and programs at a great cost.

2.13. Mandatory Kilojoule Labelling

This proposed scheme will cause significant red tape, time, cost and stress for small to medium businesses. It will require some of our members covered by this legislation who have a deli or hot food section, to put a sticker or display kilojoule content every time they make a customer a sandwich, cut ham or sell a cooked chicken. Not only will this waste time and costs, it is simply unnecessary for a small business retailer and it should not be their

responsibility to monitor customer's food choices. An individual should be responsible for their own actions and retailers should not be required to take extra steps and costs to ensure that customers eat healthily. Small to medium businesses also do not have the facilities, knowledge or ability to calculate the kilojoule content for all take away food and drink. Lastly, kilojoule labelling on pre-packed ready to go take away food should be the responsibility of the supplier rather than retailers.

2.14. Compulsory Training

Compulsory training in the grocery and liquor retailing sectors is extremely onerous, time consuming and costly.

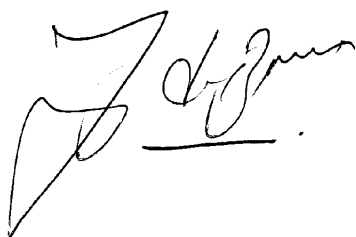
This compulsory training covers:

armed robbery policy	bag check policy at checkouts	basic food safety training for all staff working in fresh food departments
bullying	CPI training	daily forklift check list
disability rules and policy	electrical cord tagging every twelve months of every item in the store including calculators	emergency response if a customer has a heart attack or a fall or actually dies
emergency response if a staff member/customer has a heart attack or a fall	fire rules and policy	first aid training
floor spills policy	food safety, contents & ingredients of certain products	food safety supervisors' courses
GST requirements and key dates	hazardous goods signage	incident report forms
induction	OH & S basic training	OH & S committee
OH & S safety officer	pallet jack & forklift policies	pedestrian exclusion zones and how they are to work
phone policy	police checks if in charge of staff	prohibitions on sale of knives to customers under 18
responsible service of alcohol training, with rules on certificates and signage to be displayed	safe lifting	scale checks daily for weights and measures compliance
separate requirements for tobacco	temperature checking of all deliveries of chilled and frozen foods	temperature checks multiple times per day for refrigeration equipment
training and policy for dealing with a customer who has fallen out of their his/her wheelchair	training in how to deal with a customer who has stolen goods from the store	trolley collecting policy
trolley handlers guide	uniform and dress policy	and the list goes on...

3. CONCLUSION

- 3.1. MGA sincerely thanks the Victorian Government for this opportunity to make a submission in relation to the review of regulation impacting small business retailers.
- 3.2. Compliance with all the rules and regulations is not only contained within federal and state laws but also local council conditions and separate local accords are having a deleterious effect on the profitability and viability of independent supermarket and liquor stores. Small business is being bombarded with rules and regulations from all levels of government. Whilst we acknowledge and welcome the Victorian Government initiative on the removal of red tape we would also welcome the reduction of red tape at the federal government level.
- 3.3. MGA's members would very grateful if you would consider the above concerns. MGA would be pleased to explain its position on behalf of members if the government wishes to discuss this matter further.

Jos de Bruin

A handwritten signature in black ink, appearing to read 'Jos de Bruin', with a horizontal line underneath the name.

CEO

MGA Independent Retailers (Master Grocers Australia Ltd)