

12<sup>th</sup> February 2016

Mr Scott Rogers  
Manager; Communications  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Mr Rogers,

**Our Response to *Options to strengthen the misuse of market power law, Discussion Paper, December 2015***

As a very proud South Australian family business owner who understands the need to be competitive, I am extremely disappointed with the undivided, conquering and ruthless power that two of the nation's largest employers (Woolworths and Coles) are allowed to wield in the market place, plus get away with what in my view is a blatant disregard to the rules of competition.

The rules of competition, particularly in regards to abuse of market power must be the same rules for every business, regardless of a business's capital power. The Australian Food and Grocery Industry must be protected in the interests of consumers.

I am concerned for my 5,500 employees and their families' future welfare and employment prospects should this abuse by the major two Australian supermarket giants be allowed to continue in its current form. Loss of jobs, families will be torn apart and small businesses will continue to be closed across the nation if the rules of competition are not changed. Clearly in the long run this will affect consumers.

I own 43 retail business outlets in South Australia of which 34 are under the Foodland banner. I am proud to be part of the 'mighty South Aussies' (Foodland), creating excellence in personal service and continuous promotion of local South Australian manufactured goods and fresh foods and supporting national major brands. In Queensland I own 21 IGA supermarkets, emulating the SA model of excellence and local promotion of food and grocery products. I have plenty on the line here, including my staff, all of my customers, local suppliers, local producers and farmers.

I have been continually writing to Rod Sims, Chair, ACCC for over the past 4 years and providing examples regarding the on-going disregard of competition laws and misuse of market power by Coles and Woolworths. Some of these examples of misuse of market power are attached (letters to the ACCC). As I have said time and time again Coles and Woolworths continual abuse of market power, dominance and their unprecedented behaviour is a disgrace.

The current rules of competition are not working, take too long to be resolved, way too costly and cumbersome for small business operators to follow through the many abuses as they occur.

Having a healthy and competitive market place is one thing but when the big two supermarket chains abuse their excessive market power, there is an effect of the competitive market place, which causes downsides to consumers by having less choices, less convenience and in most cases higher prices.

I strongly support all of Harper's recommendations in his Final Report, particularly his Recommendation 30 relating to Section 46. My preference therefore in your Options Discussion Paper December 2015 is Option 'F'.

I am not a legislative lawyer, I am a grocer. I support Option 'F' because I believe that the other options do not go far enough. I am also of the opinion that the other options have been put up as delay tactics due to pressure mounting from the big end of corporate town where businesses such as Coles and Woolworths are continually lobbying the government as to why there should be no change in competition laws.

It's ironical that although Coles and Woolworths do not want change in the competition laws, they are the companies which are regularly before the ACCC to explain their behaviour on misuse of their market power.

The ACCC and the major national consumer advocacy CHOICE are supporting the recommendations of the Harper review to Section 46. It does beg the question and defies logic as to why this particular section has been side-lined and the government has once again requested more public consultation.

I do understand why many of my business colleagues, many of whom are local independent retail owners (and many are my local competitors) say things like *"it is all too much"* or *"what's the point I don't have the time or the money to fight this"* or *"this is not going to get anywhere"* or *"by the time this matter is heard and even if I might win the battle I will be out of business by then"* or *"it's too late I've lost everything"* or *"I might as well cut my losses"* etc.

The current lack of action and strength in our Competition rules enables Coles and Woolworths in my view to continue to abuse their market power principally because it is just too hard for small business operators to take action.

To summarise;

- I support Option 'F' of the Options Discussion Paper December 2015
- I would like to recommend that the government consider a tribunal arrangement that enables small business to gain access with quick response and at minimal cost (I think it should be no cost)

I am a member of SA Independent Retailers and support their submission to this Options Discussion Paper December 2015.

I look forward to your response in this matter.

Yours sincerely



**Roger Drake**  
**Managing Director**