



12 March 2008

Mr Graeme Samuel
Chairman
Australian Competition and Consumer Commission
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Email: grocerypricesinquiry@accc.gov.au

Dear Mr Samuel,

**PUBLIC SUBMISSION TO ACCC GROCERY INQUIRY BY AUSTRALIAN
MANUFACTURING WORKERS' UNION**

Please find attached the submission of the Australian Manufacturing Workers' Union (AMWU) to the ACCC Grocery Inquiry.

Yours faithfully,

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AMWU SUBMISSION TO THE ACCC INQUIRY INTO GROCERY PRICES

March 2008

The AMWU represents 140,000 members across the manufacturing industry and has approximately 10,000 members employed directly in the food manufacturing industry.

Many of our members are affected by the concentration of market power and influence in the industry enjoyed by the two major supermarket chains, Woolworths and Coles. This inquiry provides an opportunity for the ACCC to demonstrate that it will act in the public interest to ensure that the entrenched political, market and economic power of Woolworths and Coles is regulated by appropriate checks and balances. It is also an imperative to ensure that the privileged competitive position enjoyed by Woolworths and Coles is constrained and their market power is exercised in the interests of the broad community.

Subject to the observations made below, the AMWU welcomes the opportunity to make a submission on behalf of the union and its members into the ACCC grocery prices inquiry.

Competition Policy

The mission statement of the National Competition Council is:

"To improve the well being of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest".

No one would argue with the goals of improving the well-being of Australians, increasing growth, innovation and productivity. The key question is whether competition policy has delivered the stated goals in a manner which is in the public interest.

The Hilmer committee report was delivered to the Heads of Government on 25 August 1993.

Following the public release of the report, its recommendations were widely discussed and reviewed. At the time, Professor Hilmer observed that his Committee's recommendations were shaped by its views on what constitutes competition policy and the need to develop such a policy in a manner consistent with Australia's Federal system.

A paper released by Professor Hilmer at the time, The Bases and Impact of Competition Policy, sets out the context of the Committee's report. In this paper, Professor Hilmer states that his report rested on three main propositions:-

1. That competition policy covers a broad set of laws, policies and government actions that should be seen as an integrated whole.

2. The main elements of competition policy dealt with by the review were the processes, institutions and broad principles that would generate specific guidelines for various sectors of the economy.
3. The recommended processes and institutions leave much of competition policy squarely in the political domain.

Professor Hilmer also argued in this paper that "many of the areas of competition policy are not amenable to simple answers based on the application of proven principles. The economic logic in which competition policy is based is still being formulated. Academic reviews of the effectiveness of antitrust are at best equivocal".

"In practice then, with the exception of the kinds of rules in Part VI of the act, formulating and applying competition policy often requires political decisions."

Professor Hilmer's paper also outlined the elements of competition policy:

1. Limiting anti-competitive conduct of firms.
2. Reforming regulation which unjustifiably restricts competition.
3. Reforming the structure of public monopolies to facilitate competition.
4. Providing third-party access to certain facilities that are essential for competition.
5. Restraining monopoly pricing behaviour.
6. Fostering "competitive neutrality" between government and private businesses when they compete.

The AMWU believes that the views expounded by Professor Hilmer in 1993 are still relevant and that the economic logic of competition policy has not been confirmed and the effectiveness of antitrust is still equivocal. A significant focus of Australian competition policy has been to advance the neo Liberal economic agenda by limiting government involvement in the "market", "reforming" the structure of public monopolies to facilitate competition and promoting "competitive neutrality" between government and private business.

It is the AMWU's contention that National Competition Policy has failed the public interest on many occasions and has been used by the previous Howard administration as a political tool against the trade union movement and workers rights. The application of competition policy against the trade union movement breaches ILO conventions and demonstrates the application of Professor Hilmer's third proposition that "the recommended processes and institutions leave much of competition policy squarely in the political domain". The use of competition laws against the union movement demonstrates that competition policy is politicised. It is in this context that the AMWU makes the following submissions.

The AMWU in the Food Industry

The AMWU has members employed in the food manufacturing industry and across the range of retail grocery product types or categories including:

- packaged food
- frozen food
- fresh meat
- fresh fruit and vegetables
- dairy products
- bakery products
- delicatessen items and
- packaged non-food items

These are specifically the areas covered by the scope of the inquiry and detailed in the ACCC issues paper of 11 February 2008. AMWU members are engaged in production, maintenance, research and development, supervisory and technical roles within the industry. In addition, AMWU members provide engineering maintenance services to the retail sector including air-conditioning and general engineering services.

The Wal-Mart Effect in Australia

The AMWU believes that the buying power in grocery supply markets is massively weighted towards the major supermarket chains (MSC's). The operational model adopted by Australian MSC's is based on the "Wal-Mart model/ effect". This is described in the following terms:

"As Wal-Mart gained scale, growing in rural areas where it brought a range of selection and prices not previously available, the questions to suppliers became a way of doing business, a culture of looking for every penny of cost-saving that could be wrung out of designs, packaging, labour, materials, transportation, even the stocking of stores. It is that cascade of frugality, questions, and pressure that creates the Wal-Mart effect"²

"Wal-Mart has the power to squeeze profit killing concessions from suppliers, many of whom are willing to do almost anything to keep the retailer happy, in part because Wal-Mart now dominates consumer markets so firmly that they have no choice"³

"Wal-Mart's way of doing business can hollow out companies gradually transforming full fledged consumer product companies who design and manufacture their own products into little more than importers. Wal-Mart's price pressure can leave so little profit that there is little left for innovation"⁴

² The Wal-Mart Effect -- Charles Fishman -- Penguin Allen Lane

³ ibid

⁴ ibid

It is our submission that the Wal-Mart effect, in terms described above, is operating within Australia and is having significant detrimental effects on the Australian food manufacturing industry. If continued unchecked, it has the potential to "hollow out" the Australian food industry manufacturing base.

In his groundbreaking analysis of the effects of Wal-Mart on rural communities, Dr Kenneth W. Stone reached the following conclusions and made a number of recommendations.

"Studies in Iowa have shown that some towns below 5,000 population have lost nearly half their retail trade in the last 13 years. Public officials are placed in difficult situations as they decide whether to recruit and/or approve the establishment of new mass merchandiser stores. There is a need for an educational program aimed at public officials, to help make better decisions regarding this problem."

"Rural communities have been losing retail sales to larger towns ever since Montgomery Ward and Sears Roebuck started their mail order businesses. However, the leakage of retail trade from small towns has accelerated in the last two decades with the rapid proliferation of discount mass merchandiser stores in the larger towns and cities."⁵

The Australian MSC effect in is strikingly similar to the Wal-Mart effect in the US. This is not surprising given that Australian MSC's look to the US market for basic philosophies and innovations in retailing. This linkage is clearly demonstrated by the retired group managing director and chief executive officer of Woolworths Roger Corbett joining the Wal-Mart board.

Woolworths and Coles -- Tectonic Forces

The market power of the major supermarket chains has reached a level which is not in the national interest and which has been described by Price Waterhouse Cooper as "tectonic forces"⁶

Executive Salaries

A further matter of relevance to this inquiry is the level of MSC executive remuneration. Trends in executive's salary increases within the retail sector have followed the US model with massive increases to the senior executives in the MSC's and restraint or real pay cuts being forced on other MSC employees. This is creating a significant and growing gap between the relative pay levels of the majority of MSC employees and that of executive staff. This also follows the Wal-Mart model.

⁵ Impact of the Wal-Mart Phenomenon on Rural Communities -- Dr Ken Stone, University of Iowa

⁶ PwC 2007 Retail and Consumer Outlook Australia -- Changes in Play

The former Woolworths chief executive Roger Corbett earned an average income since 2001 of over \$6 million per year. In the 2005 financial year Mr Corbett took home a record \$10.8 million, a figure boosted by share options awarded in previous years which have vested. Michael Luscombe, Roger Corbett's replacement receives a base salary of \$1.8 million plus a bonus of up to \$1.8 million per year.⁷

Wesfarmers, the new owner of Coles, has employed Ian Macleod as managing director. Macleod will receive an annual salary of \$2 million with a capacity to earn more if it clears "strict" performance problems. He will also be paid \$2 million in cash and stock when he starts.⁸

The Wal-Mart link continues with the employment of Ian Macleod who was previously an executive board member for Wal-Mart's German operations.

The AMWU is extremely concerned that the combination of direct and indirect links to Wal-Mart through senior executives employed by Woolworths and Coles will increase pressure to reduce the wages and conditions of directly employed retail staff. This pressure to reduce wages and conditions has and will flow through to the workforce in related industries such as the food manufacturing sector.

The Costco Way

A report in Business Week in 2004 demonstrates that there is an alternative to the Wal-Mart model. Costco increased sales by 14% and posted a 25% profit gain in March 2004. The market drove the company's stock down by 4% as it was seen to be a problem that Costco paid its workers much better than arch rival Wal-Mart stores. According to the report the market's view of Costco speaks volumes about the so called Wal-Martization of the US economy.

Wal-Mart had taken a public relations pounding for paying poverty level wages and shouldering health insurance for fewer than half of its 1.2 million US workers. Still it remains the darling of the street, which, like Wal-Mart and many other companies believes that shareholders are best served if employers do all they can to hold down costs, including the costs of labour. The report highlights that Costco's higher wage approach actually beats Wal-Mart at its own game on many measures. A comparison of the Wal-Mart warehouse unit that competes directly with Costco found by compensating employees generously to motivate and regain good workers, 1/5 of whom are unionised, Costco gets lower turnover and higher productivity. Costco actually keeps its labour costs lower than Wal-Mart as a percentage of sales, and its 68,000 hourly workers in the US sell more per square foot. 102,000 Wal-Mart employees in the U. S. generated some 35 billion in sales (2003), while Costco did 34 billion with one third fewer employees. Costco pulled in \$13,647 in US operating profit per hourly employee last year versus \$11,039 at Wal-Mart. Over the past five years Costco's operating income grew an average of 10.1% annually slightly besting Wal-Mart's 9.8%.

⁷ The Sydney morning Herald, 10 November 2006

⁸ The Age 8 February 2008

The article asked the question, which model of competition will predominate in the US? The cheap labour model turns out to be costly in many ways. It could fuel poverty and related social ills and dump costs on other companies and taxpayers, who indirectly pick up the health care tab for all workers not insured by their parsimonious employers. What's more the low wage approach cuts into consumer spending and, potentially economic growth. "You cannot have every company in adopt a Wal-Mart strategy. It isn't sustainable," says Rutgers University management professor Eileen Appelbaum, who in 2003 edited a vast study of 38 academics which found employers taking the high road in dozens of industries.⁹

MSC Cost down Pressures on Australian Food Manufacturers

AMWU organisers, delegates and members continually raise the cost down pressures being forced on Australian based food manufacturing companies. Issues raised include:

- MSC pressure on food manufacturing companies to continually reduce the supply price of locally produced food items.
- The threat of outsourcing or off shoring of locally produced products.
- Demands for changes to packaging and labelling including the volume, weight and size of products.
- Cost shifting by longer term storage/freezing facilities becoming the responsibility of the producer as distinct from the retailer.
- MSC's demanding that manufacturing companies use the MSC's transport and merchandising facilities and charging the manufacturing companies for this service.
- Cost-cutting and reduced margins resulting in lower producer expenditure on research and development, innovation, technology, and employee skills training.
- Anti-competitive practices such as the removal of Australian brands from customer friendly and accessible shelf space in supermarkets in favour of imported "home" brands.
- Imported "home" brands in many cases produced by exploited labour and with little or no consideration of the environment or workers health and safety thus placing unfair competitive pressure on local producers.
- Demands for local producers to pay for consumer friendly and accessible shelf space in supermarkets.

⁹ Commentary: the Costco Way -- higher wages mean higher profits. But try telling Wall Street Business Week – Stanley Holmes and Wendy Zellner

- Pressure on the living standards of food manufacturing workers as a result of MSC cost down pressure.
- Regional farming communities suffering due to manufactures seeking to cut costs and enforce cost down pressure farther down the supply chain.
- Job losses in food manufacturing as a result of MSC forced cost-cutting and the off shoring of suppliers.

The demands on suppliers and the workforce are driven and supported by the dominant market position of the MSC's who represent 80% of turnover in the industry. The National Association of Retail Grocers of Australia demonstrates in their submission to this inquiry that the top two participants, Woolworths and Coles control 78 to 79% of turn over between them.

It is impossible for many Australian producers to resist the demands of the MSC's. A spiral of cost-cutting normally ensues with the result that in the medium to long term no further capacity remains for cost-cutting and the lower margins on production mitigate against competing on new technology, skills, research and development and innovation. This places Australian producers in a position where it is cheaper to source their product from overseas.

This is not in the national interest and will precipitate a decline in Australia's capacity to produce many of the staple food products required by the nation.

Left unchecked, the Wal-Mart effect will ensure that the off shoring of Australian food manufacturing jobs continues. Australian consumers will have an increasing reliance on imported product produced in food manufacturing factories with less rigorous health, environmental and human rights obligations. In the medium to long term this is no guarantee that the reduced cost will be passed on to the consumer.

Off Shoring

The AMWU acknowledges the reality of global sourcing and supply chains nevertheless many of the employment and social implications of this strategy are ignored by retailers, governments, and not understood by consumers.

As one of the leading agricultural countries in the world Australia should be in a position to elaborately transform our farm produce into competitive, high-quality supermarket items.

Unfortunately, the outcome of this inquiry could act against the interests of our food manufacturing industry particularly if the analysis of submissions is based on neoclassical economic theory and theory of comparative advantage.

AMWU submits that it is not in the national interest to allow the MSC's to diminish the capacity and economic viability of Australia's food manufacturing industry.

A number of issues must be taken into account when considering the imported goods on the shelves of the MSC's. These include:

- The environmental costs of shipping goods from overseas to Australia. All goods on Australian shelves should have an environmental/greenhouse gas rating related to its production and distribution.
- MSC's should be required to publish on their web sites the greenhouse gas component of imported and locally produced products.
- Whether the goods have been produced in a country that recognises and implements ILO conventions.
- The effect on Australia's balance of trade and current account deficit.
- The detrimental effect on employment opportunities in the food manufacturing industry in Australia.
- The unfair competition faced by Australian food manufacturing companies due to the exploitation of many over seas factory workers.
- The increasing health risks to consumers as a result of poor hygiene in many overseas manufacturing plant.

Misleading and Confusing Labelling

Food labelling in Australia continues to be problematical. Despite recent legislative amendments, Australian consumers are still left in the dark when it comes to the origin of many products on the supermarket shelves. The "manufactured /made in Australia from local and imported ingredients/products" is meaningless and does not facilitate considered consumer choice. We note that the terms of local and imported are sometimes in reverse order i.e. from imported and local products. This lack of consistency and transparency leads to confusion in the minds of the consumers.

Similarly the statement "may contain imported ingredients" provides the consumer with absolutely no understanding of the origin of the product being purchased.

Some products prominently display the Australian made logo and in small print carry the "information" "Made in Australia from Local and Imported Ingredients"

Effective competition driven by consumer choice must be enhanced by increasing the consumer's ability to make considered judgments on the products that they are purchasing. This should include the capacity for customers to clearly understand the origin of the goods purchased and whether the goods have been manufactured in an environmentally acceptable manner and that the workers producing the goods have been treated fairly and equitably and, at least, in a manner consistent with International Labour Organisation conventions

Mergers and Acquisitions

The AMWU is opposed to further mergers and acquisitions by the MSC's as this will increase the "tectonic force" within the retail industry and will have a detrimental effect on competition and consumer prices.

Shopper Docket

The AMWU is of the view that supermarket petrol dockets have to be paid for within the supermarket chains operations. The AMWU notes recent commentary by Alan Fels and Fred Brenchley that:

- Supermarket petrol dockets would be the ideal test case of the new predatory pricing laws.
- Shopper dockets have not received the scrutiny they deserve.
- If successful in petrol, they could be easily applied to telecommunications, TV, electricity, gas and even travel, helping Coles and Woolworths extend their tentacles even further.
- Small-business claims petrol shopper dockets are driving independent service station operators to the wall and the shopper docket outlets of Shell and Caltex are selling petrol below the price independents can buy.
- Apart from diminished competition, in the long run consumers are likely to pay more for both groceries and petrol.
- The supermarkets deny any cross subsidy of higher grocery prices to fund fuel dockets, but good luck to anyone who can get a bead on supermarket accounts
- Many believe the really anticompetitive issue is the underlying tie-ups between the supermarkets and oil majors, not shopper dockets per se.
- The ACCC needs to issue guidelines on how it intends to interpret the predatory pricing rules. What's its view on market share, sustained discount pricing and low cost?¹⁰

¹⁰ hidden cost of cheap fuel -- Alan Fels and Fred Brenchley -- the Australian financial review October 9, 2007

Recommendations

1. That the ACCC develop and publish regular graphs and information on the relationship between retail chain executive salary increases, average salary increase for grocery workers, the CPI, and the percentage of imported products .
2. That the ACCC develop and publish a guide for local councils on the social and economic impact of MSC's establishing in their council areas.
3. That the ACCC prevent any further consolidation of ownership and increase of market power by the MSC's within the retail industry
4. The ACCC recommends to the Federal government that a review of labelling, packaging takes place to ensure customers clearly understand the percentage of each item relating to imported product. In addition, the country of all ingredients origin must be clearly and distinctively marked on each product.
5. The ACCC to recommend to the Federal government that the greenhouse gas emission cost of a product is prominently displayed. This cost to include the greenhouse gas emissions associated with the manufacturing of the product and the emissions associated with transporting the product from the country of origin to the supermarket shelf.
6. All costs associated with the "shopper docket" promotional scheme are published separately in the MSC's annual accounts including the calculation of the impact of these costs on grocery items.
7. The Federal government to conduct an inquiry into the medium to long-term national impact of the "Wal-Mart effect" on the food manufacturing industry particularly employment in the industry, the effect on rural and regional communities and the long-term impact of emissions trading on grocery prices within Australia.