

Mr Paul Morris
First Assistant Secretary
Agricultural Competitiveness Taskforce
Department of the Prime Minister and Cabinet
PO Box 6500
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Dear Mr Morris

Woolworths is pleased to have the opportunity to provide this submission in response to the Green Paper released as part of the Government's development of the Agriculture Competitiveness White Paper. This submission builds on that made by Woolworths to the Issues Paper earlier this year.

Competition and Regulation

Woolworths understands that the Green Paper is one of a number of important reviews and initiatives being undertaken by the Australian Government.

Woolworths' submissions to the Harper Review emphasise the highly competitive nature of retailing in Australia and the many benefits that consumers have enjoyed from this intense competition. For example, Woolworths estimates that since 2008, the cost of a typical basket of groceries has grown at just half the rate of inflation. As a result, prices for food and non-alcoholic beverages have fallen in real terms to be seven percentage points lower than they were five years ago. This fall translates into an average savings per household of over \$2,250 in total or \$445 per year.

It is therefore no surprise that the draft report of the Harper Panel pointedly noted in its analysis of Australia's grocery sector that: "few concerns have been raised about prices charged to consumers by supermarkets."¹

Woolworths' anticipates that competition in the retail sector will continue to intensify with ALDI and Costco having recently announced expansion plans and a host of new on-line retailers continuing to emerge.

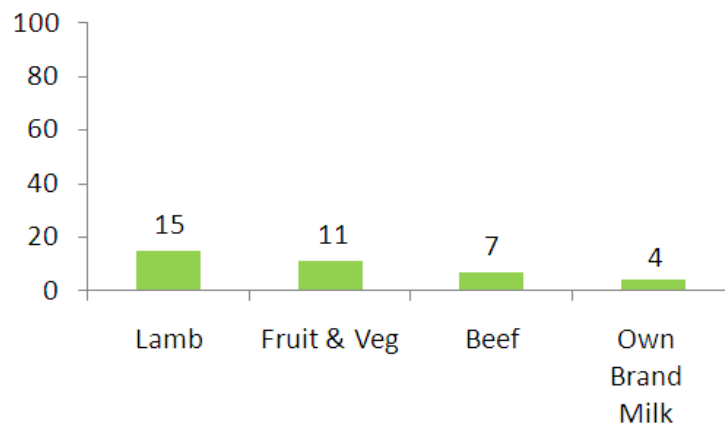
¹ Commonwealth of Australia, *Competition Policy Review - Draft Report*, 2014, p 181.

Woolworths offers customers a broad range of Australian produced foods and products. Woolworths' commitment to the agriculture sector is evidenced by the fact that 100 per cent of the fresh meat and 96 per cent of the fresh fruit and vegetables sold in its stores is Australian grown. While Woolworths is a supporter of Australian producers, it is important to note that Australian agriculture continues to be strongly export oriented. As the Green Paper details, in 2013-14 farm exports were worth \$41 billion while the value of farm production was almost \$54 billion.²

After exports, Australian retailers account for only a share of the destination of agricultural produce with the food service industry (cafes, restaurants and institutions such as hospitals, nursing homes, defence facilities and prisons) and the food processing industry both being important alternative markets. Within the retail sector itself Woolworths competes for market share alongside specialty retailers such as butchers and greengrocers (either in-store or on-line) and other supermarkets such as Metcash/IGA, Coles, Costco, ALDI, Foodland and Spar.

This means that while Woolworths is a consistent and reliable buyer of Australian meat, fruit and vegetables, it accounts for only a relatively small share of the market for Australian agricultural produce. For example, Woolworths estimates that its Own Brand milk accounts for four per cent of the milk produced in Australia. Woolworths estimates that it buys seven per cent of Australia's beef output and 11 per cent of Australia's fruit and vegetables production.³

**Percentage of Total Australian
Production Sold At Woolworths [2008]**



² Australian Government, *Agricultural Competitiveness Green Paper*, 2014, p 3.

³ Woolworths, *Response to the Competition Review Issues Paper*, 2014, p 13.

Woolworths supports measures that allow small businesses to participate in collective bargaining arrangements. Section 93 of the Competition and Consumer Act enables two or more competitors, typically small businesses, to collectively bargain with a supplier or customer. Where it will provide better outcomes for customers and suppliers, Woolworths is committed to collectively bargaining in direct supply arrangements with groups of small and medium sized businesses, and has made use of such arrangements in the production of Farmers' Own milk.

The Competition Policy Review, chaired by Professor Ian Harper, is responsible for examining Australia's competition policy, laws and institutional arrangements. It is appropriate that any issues of competition policy are considered by the Harper Review and Woolworths has already made detailed submissions which are publicly available on the Competition Policy Review's website. These submissions are available to the Agricultural Competitiveness Taskforce if it wishes to further consider issues that are already being reviewed by the Harper Review.

Direct Sourcing

Every year Woolworths deals with thousands of large and small Australian businesses that supply fresh food. Woolworths' preference is to buy directly from producers and has strong, long-term relationships with farmers all around Australia. Some of these farmers have been dealing with Woolworths for decades and across multiple generations in one family . These long-term commercial relationships provide a number of important benefits:

- They assist agricultural producers by providing the certainty of reliable, on-going demand for fresh produce
- The security of longer term relationships can support innovation and investments in new technologies and improved agricultural practices
- Supplying direct at an agreed price rather than through the uncertainties of the wholesale market system can deliver a better return to farmers
- Direct supply can reduce the time taken to transport fruit and vegetables from the farm gate to the supermarket shelves and so result in better and fresher foods for consumers

The prices paid to suppliers for fresh produce are determined by the fundamentals of supply and demand in the marketplace for that product. Prices will fluctuate in accordance with the current supply. Factors influencing supply will include seasonality, quality, export markets, shelf-life, climate conditions, and demand from competing buyers. These facts were recognised by the ACCC in its *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries* which stated:

“Prices are dictated by supply and demand conditions in the marketplace at the time the growers’ products are ready for market. The ACCC has no concerns about the competitiveness of any market at this level.”⁴

The ACCC also exhaustively considered retail prices and the “gap” with prices received at the farm gate and advised that the available evidence did “not support the proposition that retail prices have risen while farm gate prices have stagnated or declined.”⁵ Recognising the commercial fact that Woolworths does not have the ability to determine the market price for agricultural products, the ACCC reported:

“Evidence available to the inquiry suggests that retailers do not set farm gate prices, but rather these prices mirror supply and demand factors in the relevant market.”⁶

“Accordingly, the ACCC considers the structure of the grocery sector does not lend itself to allowing the major supermarket chains to artificially suppress farm gate prices.”⁷

“The ACCC considers that the evidence in relation to fresh produce is inconsistent with arguments that the major supermarket chains are long-term oppressors of growers. Rather, the evidence indicates that, overall, growers have a range of options other than direct supply to the major supermarket chains. The evidence that some buyers have remained in business relations with major supermarket chains for many years without contractual reasons for doing so suggests that there are benefits from doing so.”⁸

“In relation to fresh produce, there is no credible evidence that major supermarket chains (or anyone else) can manipulate wholesale prices to suppress prices below competitive levels.”⁹

“Farm gate prices are determined by the supply and demand conditions prevailing in the relevant market, rather than by buyer power. In many instances, farm gate prices are heavily influenced by supply and demand in world markets.”¹⁰

⁴ Australian Competition and Consumer Commission, *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, 2008*, p 220.

⁵ *Ibid*, p 301.

⁶ *Ibid*.

⁷ *Ibid*, p 308.

⁸ *Ibid*, p 357.

⁹ *Ibid*, p 325.

¹⁰ *Ibid*.

Supplier Relationships and Private Contracts

Woolworths is committed to building strong commercial relationships with its suppliers and has taken a number of initiatives to support constructive dialogue and cooperation, including negotiating the Food and Grocery Code of Conduct and maintaining the Speak Up program. Woolworths works collaboratively with suppliers and independently monitors its performance through the Advantage Report.

Food and Grocery Code of Conduct

In November 2013 Woolworths agreed the terms of a voluntary Food and Grocery Code with the Australian Food and Grocery Council and Coles. The aim of the Code is to strengthen constructive relationships and goodwill in the sector. The Code sets out clear principles of the trading relationship between retailers and suppliers and will provide greater certainty and clarity about dealings in the industry.

Key features of the Code include:

- Prohibitions on unilateral, retrospective charges or penalties by supermarkets on food and grocery suppliers;
- Greater transparency around the principles of shelf allocation for branded and private label products;
- Recognition of intellectual property rights and confidentiality needs to drive innovation and investment in new products; and
- A low cost and fast track dispute resolution mechanism.

All of Woolworths' suppliers, including agricultural producers who supply directly to Woolworths, are automatically covered by the Code.

An industry driven voluntary Code will always be preferable to a mandatory code. It is developed and executed by the people who best understand the industry – the suppliers and retailers themselves. The Code is currently being considered for prescription under the Competition and Consumer Act by the Australian Government.

Reporting and Independent Assessment

To independently assess the strength of Woolworths' relationships with suppliers, Woolworths participates in the Advantage Report¹¹ which gives retailers insights on how suppliers perceive their performance. It involves suppliers confidentially rating the performance of retailers against their peers to help retailers identify both their strengths and opportunities for improvement.

In the Advantage Group's independent supplier survey, Woolworths' overall performance ranking improved from fourth in 2013 to third in 2014. The survey included more than 1,000 responses from 213 suppliers and the retailers included ALDI, Coles, Foodland, FoodWorks, Metcash, Costco, SPAR, Target, Kmart, Drake Food Markets, Harris Farm, Ritchies, Priceline and Woolworths.

Woolworths has clear, long-standing and accepted procedures for trade partners to report any issues, but to accommodate concerns that there may be times where the normal escalation or reporting procedures are exhausted or not an option, Woolworths operates a "Speak Up" service. This is an externally-hosted hotline for trade partners to report any instances of misconduct.

As a service for suppliers, Speak Up is an independent, confidential telephone, internet, email, mail and fax service for Woolworths trading partners to report workplace misconduct. To guarantee independence, an external provider, Deloitte, is responsible for its operation.

Woolworths advises its suppliers that the service should be used if dealings with any Woolworths business division or employee may have created or are likely to create issues such as:

- Fraud, corruption or behaviour that threatens others
- People or product safety risk
- Restrictive practices or unconscionable behaviour
- Theft
- Conflict of interest
- Secret commissions, bribes or corruption
- Improper disclosure of confidential information
- Bullying
- Harassment

¹¹ For more detail see advantagegroup.com

Respect for private contracts

Woolworths does not support the proposal to introduce new regulations requiring the disclosure of private contracts between farmers and retailers. This runs the risk of stifling competition and driving up regulatory costs. There is already significant transparency of prices through international markets, domestic wholesale markets and market information services prepared and published by industry associations and government agencies.

The system of private contracts has been developed over hundreds of years and is a central part of the free enterprise system that Australia has adopted and championed. It is axiomatic that individuals and businesses who enter into private contracts should be able to maintain the privacy of these arrangements: private contracts are private.

The private contracts that Woolworths negotiates with individual farmers and suppliers include information that is important to both parties. Private contracts can include a range of detailed terms including price, quality specifications, quantities, timings and/or delivery details and duration. The ability of any business, be it a farm or a shop, to keep its most sensitive commercial information confidential should be protected, not threatened.

Requiring businesses to report to government departments the prices they received and paid for agricultural produce would involve the imposition of significant compliance costs. The Green Paper notes that farmers already spend more than 20 days per year complying with government regulation.¹² Given that a large proportion of farm production is exported, and the ability to pass on higher costs in a global market is restricted, the costs would be imposed on and borne by Australian producers. In the beef industry, this is particularly relevant given that in recent years 67 per cent of total beef and veal production was exported.¹³ For domestic contracts, these increased costs would presumably be eventually passed on to Australian shoppers in the form of higher prices.

Private contracts can be flexible, innovative and are negotiated so that they meet the needs of both parties. Woolworths has directly negotiated private contracts with dairy farmers for the supply of “Farmers’ Own” milk. An innovative development, this direct negotiation has provided farmers with a better deal for their milk, end-to-end transparency from shed to shelf, a more secure longer term contract and a closer relationship with their customers. One of the dairy farmers Woolworths contracted with, Mr Ian Noakes, told the *Farm Weekly* newspaper:

¹² Australian Government, *Agricultural Competitiveness Green Paper*, p xxi

¹³ Figure is for 2012-13, <http://www.mla.com.au/Cattle-sheep-and-goat-industries/Industry-overview/Cattle>, accessed 1 December 2014.

“Woolworths was a better deal, there is something in the contract for us. We have a good price guaranteed for three years that was beyond anything in any previous contract we’d been given.”¹⁴

Woolworths’ view is that the details of its contract with Mr Noakes, which covers pricing, quality specifications, and a range of other terms, should remain the confidential business of Mr Noakes and Woolworths. Woolworths does not support the introduction of a regulation that would require the disclosure of the details of contracts such as this to either the government or competitors - be they other dairy farmers or other retailers.

Regulatory intervention is not required as there are already a host of information providers actively generating market information and intelligence. Some of these providers are private sector service providers who supply pricing information and market analysis as part of their specialist consultancy services. Others are industry bodies that provide these services to their members. For example, Dairy Australia publishes data on farmgate prices, EU indicative export prices, US indicative export prices and information on farm inputs and costs.¹⁵ Meat & Livestock Australia publishes MLA Market Information which “provides the latest prices, reporting, forecasts and analysis for Australian and International red meat markets.”¹⁶

Education, skills and training, and labour

Woolworths welcomes the Green Paper’s focus on these issues and, as detailed in its original submission, has already developed its own active program of skills development through its Fresh Food Futures program.

At the centre of the Fresh Food Futures are the Woolworths Agricultural Business Scholarships. Through the fully-funded Scholarships, 25-30 young Australians are provided with the opportunity to participate in the 12-day course to gain a broad academic perspective on the business of agriculture from key academics, business leaders and other industry experts. The course is practical as well as theoretical, and aims to assist participants build their professional careers in agriculture.

The Woolworths Agricultural Business Scholarship Program has been conducted each year since 2007 and more than 170 young farmers have graduated from the program.

¹⁴ “Customers appreciate Noakes’ quality”, *Farm Weekly*, 6 November 2014 p 18.

¹⁵ See Dairy Australia’s website: www.dairyaustralia.com.au/Markets-and-statistics.aspx

¹⁶ See Meat & Livestock Australia’s website: www.mla.com.au/Prices-and-markets

Red Tape

Woolworths welcomes the Green Paper's concern with improving the performance of Australia's regulatory systems by winding back the burden of red tape that is imposed throughout the supply chain. From Woolworths' perspective, one of the key red tape issues to be addressed is the outdated restrictions that are imposed on the retail sectors' trading hours. The benefits of allowing consumers and traders to decide for themselves when to shop are well-established. The elimination of restrictive regulation in this area produces substantial and immediate positives and the benefits of reform have been studied and examined exhaustively.

The Productivity Commission considered the regulation of retail trading hours in its 2011 inquiry into the Australian retail industry and recommended that trading hours be fully deregulated. The Productivity Commission highlighted the:

- Costs on retailers: these include efficiency costs arising from investments not being fully utilised; from the need to manage stocks of perishable goods such as flowers, fruit and vegetables, milk and fresh meats; compliance costs across jurisdictions and sales lost to competitors – including international on-line retailers – that are not restricted by trading hours regulations
- Costs on consumers: these include opportunity costs created by imposing inconvenience on consumers and the creation of congestion costs as all shoppers are forced to shop during the same restricted hours
- Costs on employees: regulated hours impose costs on employees who would prefer to work during the hours that are prohibited by regulation

The relaxation of trading hours is clearly a significant micro-economic reform that benefits consumers and promotes efficient and sustainable economic growth. Jurisdictions like Victoria, Tasmania, Northern Territory and the ACT do not regulate trading hours (beyond, in some states, Christmas day, Good Friday and ANZAC Day) and this should be adopted as policy in the states that persist with extensive restrictions such as Queensland, Western Australia and South Australia. While NSW is less restrictive than some, it still maintains an inconsistent patchwork of restrictions relating to Boxing Day and Easter Sunday.

The relaxation of trading hours would benefit consumers and promote efficient and sustainable economic growth and allow Woolworths to make available the agricultural produce it sources from farmers to more consumers.

The benefits to the community include the additional wages paid to employees as a result of an increase in employment opportunities. This would represent millions of dollars in increased wages flowing, every

week, into local communities. There are many regional areas where regulations currently prevent trading on Sundays - a convenience that has been enjoyed by people living in urban Australia for many years.

Importantly, trading hours reforms have a large potential benefit, are easy to implement at no cost to taxpayers and the benefits of reform could be secured immediately.

Conclusion

Woolworths appreciates the opportunity to provide this submission in response to the Agricultural Competitiveness Green Paper, which adds to the submission lodged in response to the Issues Paper.

The continued growth of a successful Australian agricultural sector will involve all parties working in partnership to reduce red tape, understand changing consumer preferences and promote innovation to develop new products and increased local supply, while all the time building future industry leadership and strengthening sustainable agricultural practices.

If the Taskforce requires any further information please contact me on 02 8885 4900 or msamaras@woolworths.com.au

Yours sincerely

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