

29 October 2010

The Director
Legislation and Policy
Consumer Protection Division
Department of Commerce
Locked Bag 14
Cloisters Square
Perth WA 6850

Email: responses@commerce.wa.gov.au

Dear Director

Issues Paper - Response

Please find enclosed a submission from the Committee for Perth in response to the Department of Commerce Issues Paper entitled "Whitegoods and other consumer durables" released in October 2010. The Committee welcomes the opportunity to comment on this Issues Paper.

The Committee also notes the Minister's intention to conduct a full future statutory review of the Retail Trading Hours Act (1987) through which a wider range of issues will be considered and which are currently outside the scope of the Issues Paper. We would be pleased to provide comment and participate as part of that review process.

The Committee for Perth wishes to re-iterate that it supports the full deregulation of retail trading hours across the broad spectrum of retailers in the Perth metropolitan area and welcomes ongoing reform to the retail trading legislation to ultimately achieve this position.

We would be pleased to provide additional information or clarification should it be required.

Yours sincerely



Marion Fulker
CEO

Response from the Committee for Perth to the issues listed in paragraph 8 of the Issues Paper “Whitegoods and other consumer durables”

ISSUE 1: Should Sunday trading in whitegoods and certain other “bulky” or “durable” goods be permitted?

Do you think the law should be changed to permit optional Sunday trading in whitegoods and certain other bulky/durable goods?

The Committee for Perth strongly agrees that optional Sunday trading in whitegoods and certain other “bulky” or “durable” goods should be permitted and believes the law should be changed to enact this. However, the Committee reiterates its position that Sunday trading should not only be limited to these goods and should be broadened to enable all retail shops to trade on Sundays – regardless of the category of merchandise they are trading.

The Committee for Perth acknowledges that Sunday trading for all general retail shops is not within the scope of this Issues Paper, however within the context of this Issues Paper, re-affirms its support for the trading of “bulky” or “durable” goods on Sundays.

If so, should Sunday trading in such goods be restricted to the Perth metropolitan area, or should it also be permitted in regional areas?

The Committee for Perth acknowledges that special provision exists to grant Sunday trading to regional areas by way of a Ministerial order and believes this process is adequate to ensure that Sunday trading can be undertaken in regional areas where there is demand.

Or, do you think the laws should stay as it is, meaning that no retailers can sell such goods on Sundays unless they are already permitted to do so by the Act, for example because they are located in a special trading precinct, or in a regional area where a Minister order has already permitted Sunday trading?

The Committee for Perth does not believe the laws should stay as they are.

ISSUE 2: Which definition of relevant goods should be adopted?

If retailers are legally permitted to trade in whitegoods and certain other bulky/durable goods, what definition of any such term should be adopted?

What goods are relevant for inclusion in such a definition?

Should the definition:

- ❖ be limited to household furnishings and whitegoods?
 - ❖ be limited to large household goods that require transportation by vehicle, ie. “bulky” goods?
- or

- ❖ include all or most “durable” (ie. long lasting) household goods, including those that are not “bulky”? or
- ❖ include other items that are not “durable” or “bulky”?
- ❖ be as broad as possible, or narrow?

The Committee for Perth believes the definition of bulky/durable goods should be as broad as possible to encompass as many retailers and products as possible to enable maximum choice for consumers.

ISSUE 3: What implementation method should be adopted to allow Sunday trading in whitegoods and certain other bulky/durable goods?

What implementation method should be adopted to allow retailing of whitegoods and certain other bulky/durable goods on Sundays?

The legislative model that is adopted could be one of the five options described above, or another option that you may wish to propose.

The Committee for Perth supports the government’s preference for option 3 as the desired legislative model to be adopted to allow Sunday trading in whitegoods and certain other bulky/durable goods and notes the government’s criteria for option 3 outlined at point 101.

While the Committee welcomes the proposed changes to enable Sunday trading of bulky/durable goods, it encourages further reform to achieve full deregulation across the broad spectrum of retailers.

In commenting on the options, you may wish to include feedback on the following issues in particular:

Option 1: How costly would it be for retailers to restrict or amend their product lines in order to gain a special shop certificate? How likely is it that retailers would maintain their current stock lines and therefore forfeit the right to trade on Sundays? How would these decisions impact on consumers?

The Committee for Perth supports the government’s observation that both options 1 and 2 would artificially restrict retailers product lines and product displays and sales times. The Committee supports the government’s observation that this would not, or only minimally, occur under option 3 – the predominance test model.

Option 2: How costly would it be for retailers to reorganise their product displays, and quarantine non-bulky/durable items from sale on Sundays? How would consumers be affected by being unable to purchase, on Sundays, some items usually sold by a particular shop?

Refer response in option 1.

In addition, the Committee believes option 2 would create confusion for consumers by limiting the sale of products to bulky/durable goods on Sundays and yet enabling these shops to sell both bulky/durable and non/bulky durable goods at other times.

The Committee also believes that it would be impractical for retailers to quarantine non bulky/durable goods and that by doing so may have the perverse effect of limiting the range of goods available in WA stores compared with stores interstate.

Option 3: What is a reasonable threshold for “predominance:”? (eg 70%, 80%, 90%?) To what measure should the predominance test be applied? (eg should predominance be measured by reference to annual sales revenue, to number of product lines stocked, or some other measure?) Should the measure be averaged over a number of years, to avoid possible loss of the right to trade on Sundays, based on one year’s sales? How cost would it be for retailers to provide an audited annual statement to prove they meet the required threshold? What alternative proof could retailers provide?

The Committee for Perth supports option 3 as the preferred implementation model out of the five options presented.

The Committee notes the government’s comments at point 80 stating “The main advantage of the predominance test model is that it would provide a greater degree of freedom to recognise bulky/durable goods retailers, and more flexibility for consumers, in Sunday trading”.

Therefore the Committee believes that the lowest threshold for ‘predominance’ should be applied to enable the maximum number of shops to fall within the definition and therefore be able to trade on Sundays.

While noting the disadvantages of the predominance test as identified by the government at point 82, the Committee feels that this model is the one which will enable the greatest choice of goods and retailers for consumers within the restrictions of the definitions of bulky/durable goods and the shops which can sell them.

Option 4: How appropriate would it be, to only allow sale of non-bulky/durable goods, incidental to sales of bulky/durable goods? Would this be frustrating for consumers?

The Committee for Perth believes that this option would only serve to confuse and frustrate consumers.

This option could also have an adverse effect on consumers’ time, should they find themselves having travelled to a retailer with a specific item in mind only to find out upon arrival that while the shop is open, they are unable to purchase their intended product as it is a non-bulky/durable item and cannot be sold without the purchase of a bulky/durable item.

In addition, the Committee feels that this option could also distort product ranges available in WA stores relative to the same stores interstate.

Option 5: How would bulky goods precincts be identified? (eg, what is an appropriate percentage of bulky goods shops, required to make up a bulky goods precinct?) Would it be appropriate to use a predominance test on individual shops within a proposed precinct, to determine their character? What would be the competitive impacts, on retailers outside those precincts, of the “bulky goods precincts” model?

The Committee for Perth believes that option 5 will be geographically discriminatory to those retailers who are not deemed to be located in a “bulky goods precinct” and does not support this option.

Summary:

The Committee for Perth commends the work the State Government has undertaken to date to push for the much needed and well overdue reform to the current retail trading legislation in Western Australia. The Committee for Perth would be pleased to participate in the future review of the Retail Trading Hours Act (1987) or to provide comment to any documentation which may be released for public comment as a result of the review.

Marion Fulker
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Committee for Perth