Select Committee on the ACT Supermarket Competition Policy
Legislative Assembly for the Australian Capital Territory
GPO Box 1020
CANBERRA ACT 2601

By email committees@parliament.act.gov.au

14 November 2011

Dear Sir/Madam

Background

Before presenting our comments, we feel it pertinent to explain the background to them.

In July 2008 the ACCC released a report addressing the competitiveness of retail prices for standard groceries. The report was commissioned by the Federal Government in response to the dominance of Coles, Woolworths and Metcash (wholesale market) in the Australian grocery market. A summary of the key findings of this report can be found at Attachment B.

Following the endorsement of the ACCC report by COAG, the ACT Government commissioned Mr John Martin (a former ACCC Commissioner) to review competition within the grocery market within the ACT. Notably, the resultant 'Review of ACT Supermarket Policy' (the Martin Report) found that in the ACT the strongest competitive tension and diversity came from the operation of ALDI and Supabarn. It also found that independent supermarket operators provided "competitive tension". The recommendations of the Martin Report were developed in a context influenced by the submissions of existing grocery retailers and a known deficit of supermarket floorspace. As a consequence, the recommendations were based on the (at the time likely) prospect that Franklins would re-enter the ACT market, that ALDI would continue to expand within the ACT, that Woolworths would continue to target full line supermarket (>2500m2+ GFA) sites, and that the local centre market would remain the domain of IGA and other independent operators who wished to expand up to $1000m^2$.

Figure 1 Floorspace at Group Centre Level (Martin Report 2009)

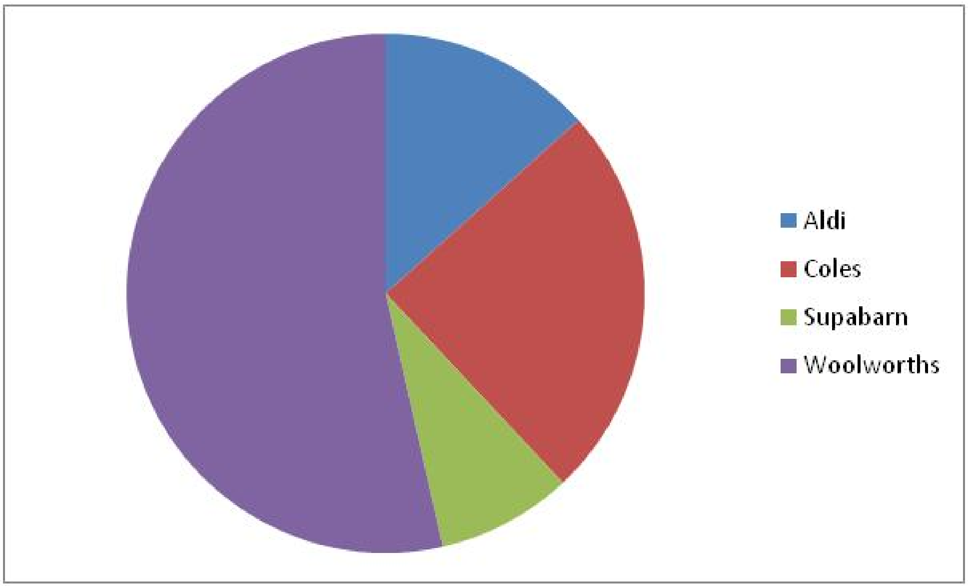
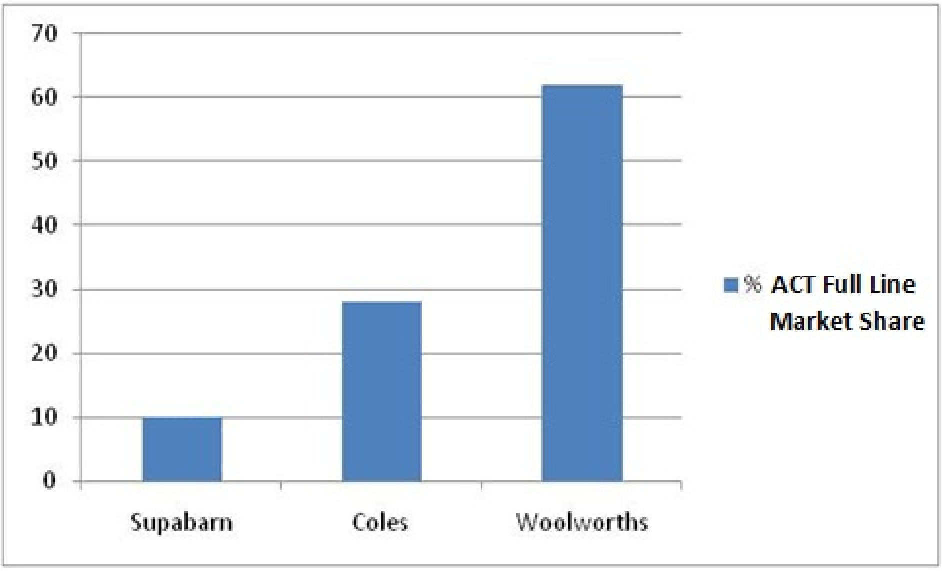


Figure 2 Percentage of full line supermarket market share in the ACT



The Martin Report was endorsed by the ACT Government in October 2009, who subsequently released the ACT Supermarket Competition Policy Implementation Plan in January 2010. As a result of the Martin Report, ACT Government announced the following:

- The direct leases to Supabarn of supermarket sites at Casey and Kingston.
- The direct sale of land to an independent supermarket operator at Amaroo Group Centre (other than Supabarn).
- The direct sale of a site at Chisholm for an ALDI supermarket.
- The sale of a site at Dickson for a major but excluding Woolworths.
- The sale of a site at Dickson for an ALDI.

- The direct sale of sites for the expansion of existing Woolworths stores at Charnwood and the direct sale of land for the purpose of a new Woolworths store at Giralang. A direct sale application for the expansion of an existing Woolworths at Kambah is currently under consideration.

These announcements addressed the key elements of the Martin Report and the ACT Supermarket Competition Policy Implementation Plan.

Since then there have been significant changes in the grocery market. Specifically:-

- A further 47,000m^2 of supermarket space has been planned. This volume has been partially implemented through new stores or extensions to existing stores and includes a 14,000m^2 Costco which started operating this year, and a new 4000m^2 Woolworths which will shortly open, both at Canberra Airport. Some increases resulting from direct sales and government pre-commitments have yet to be realised but are expected to come on line in the next 2-4 years. This is expected to increase total supermarket floorspace in the ACT by 38% from 2009 levels (from 113,778m^2 to 182,478m^2).
- ALDI has turned down two direct sales of land at Kaleen and Wanniassa, reflecting their position that their retail niche market is saturated;
- Franklins has not entered the ACT market and has exited the Australian market all together;
- Metcash has acquired Franklins, although this decision is currently being appealed by the ACCC.
- Woolworths has consolidated its dominance in the market through the acquisition of new sites (particularly at the local centre level, with direct sale applications at Charnwood, Kambah and Giralang and development approval for the construction of stores at Bonner and Dunlop);
- Coles is pursuing opportunities to enter into the local convenience market, with smaller format stores collocated with service stations. These will compete with IGAs.
- Consumer savings as a result of the GFC has increased from 2% to 10% from pre-GFC levels, reflecting both a reduction in spending;
- The ACCC has:-
  - publically stated the need for an independent grocery warehouse in the ACT/NSW market place other than Metcash,
  - identified Supabarn as the only supermarket operator which has the expertise and capacity to purchase the Franklins warehouse and retail stores to become a genuine competitor to the major supermarket chains,
  - suggested that should their appeal against Metcash's acquisition of Franklins be set aside, grocery prices are likely to increase further. This concern has since been confirmed (see below).
  - Outlined its opposition to any of the Franklins stores being sold to Coles or Woolworths.

- Advised that IGA operators are unable to compete with the Majors as they do not benefit from and are precluded from developing the vertically integrated structures of the majors by reason of the dominance of Metcash.

- The ACCC Chairman has stated that "the two major supermarkets have significant market power with many smaller suppliers feeling they lack a real ability to negotiate supply arrangements".
- Metcash has, one week after the conclusion of the ACCC appeal into the sale of Franklins to Metcash in which Metcash indicated that the sale would not result in price rises, written to its retailers indicating a possible increase of charges.

Attachment H comprises an extract from the Australian Food and Grocery Councils' report '2020 Industry at a crossroads', which confirms the growing dominance of the majors and the manner in which they have leveraged their dominance to increase barriers to entry and expansion in the grocery sector.

Figure 3 Proportion of existing floorspace by majors at Local, Group & Town Centre Level (2011 Retail Inventory)

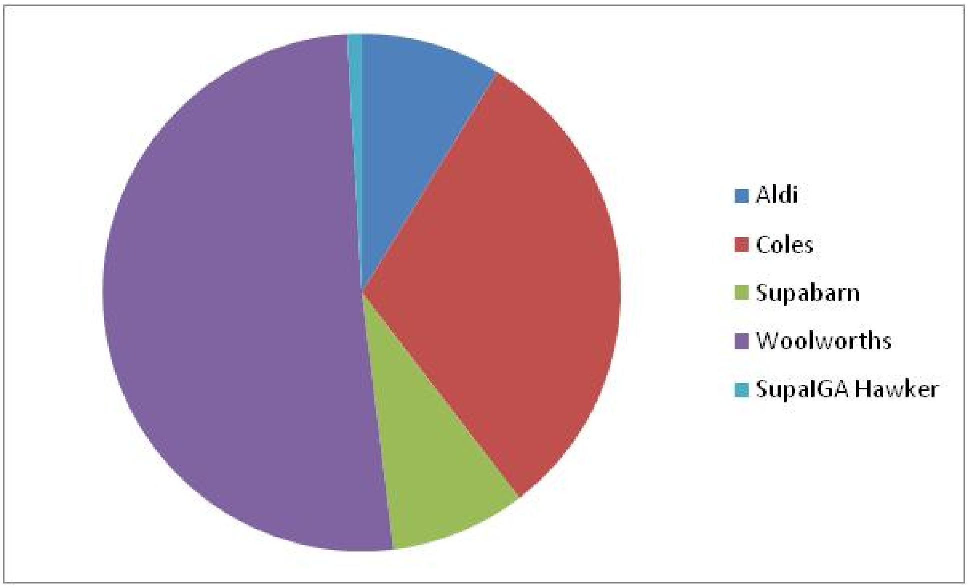


Figure 4 Proportion of floorspace by majors at Local, Group & Town Centre level, if all proposed floorspace implemented (2011 Retail Inventory plus details from Attachment C)

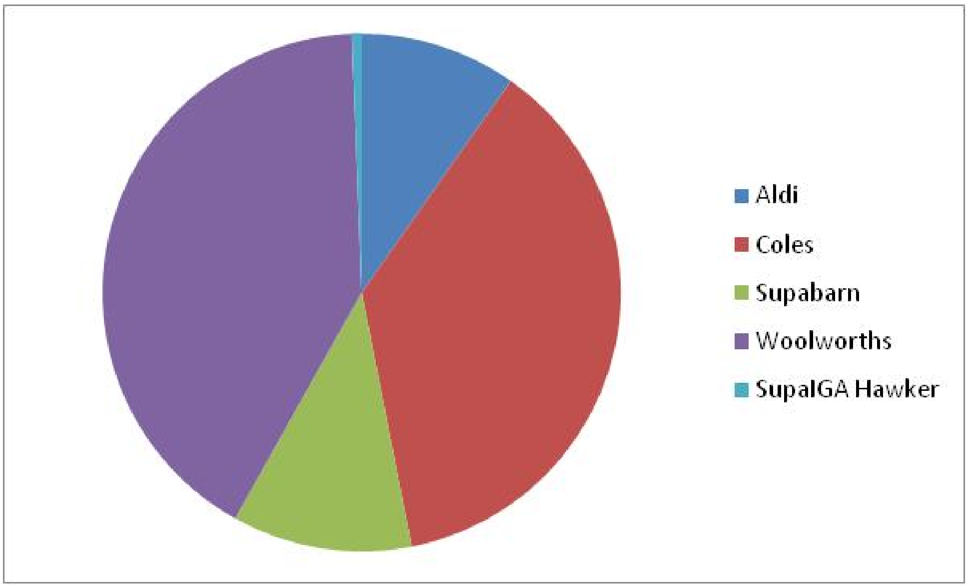
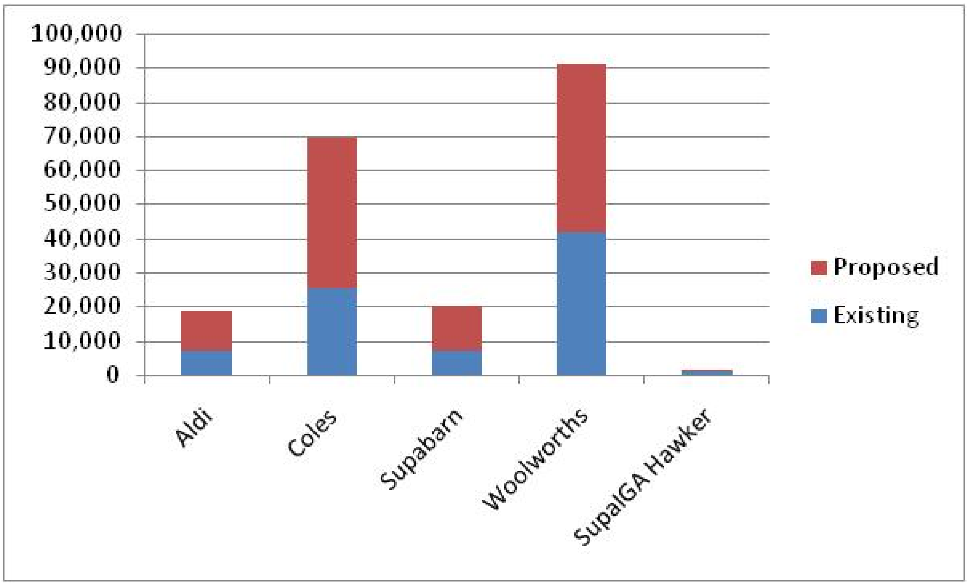


Figure 5 Existing and proposed floorspace (2011 Retail Inventory plus details from Attachment C)



Whilst supportive of the Martin Report's recommendations, we believe that these must be interpreted and applied in light of the context in which they were developed, and with regard to the significant changes that have occurred in the intervening time period.

We now turn to address the Select Committee's terms of reference.

(a) The operation of the policy as it Interacts with the planning system

The policy reads:-

'The ACT Government believes that Canberrans are best served by a diverse and competitive retail grocery supermarket sector that supports consumer choice and convenience. In considering the use or sale of land for grocery supermarkets, the ACT Government will take into account the capacity of a retailer to access suitable sites as well as the nature of the benefits a particular type of supermarket may bring, such as product diversity, quality of service, environmental gains, integration with existing retail/commercial centre, footprint and car parking'

The ACT planning system addresses the allocation and use of land. In a perfect market the planning system would not be required to address competition requirement. However, and as has been consistently acknowledged by the ACCC and the ACT Government, the ACT and national grocery market operates as a duopoly with significant impediments to new entrants, with consequential costs in terms of high grocery prices borne by the consumer.

Independent Operators are of the strong belief that the Supermarket Policy and the ACT planning system, because of its unique characteristics including the availability of direct sales, have the potential to mutually reinforce one another thus enhancing competition to the benefit of local consumers. Because of the need to maintain the hierarchy (discussed under (d) below), and thus the limited number of locations for supermarket development (notwithstanding the creation of new catchments and centres through Greenfield development), direct sales are an essential tool to managing access to markets for specific operators that would otherwise be precluded. This has successfully been done with ALDI when they have received multiple direct sales. However the manner in which the policy has been interpreted and applied through the ACT planning system has led to a high degree of confusion and at times lack of transparency in decision making processes.

The ACT Government has established the Supermarket Competition Coordination Committee (SCCC) to support the implementation of the Martin Report recommendations, monitor the implementation of policy, consult with industry stakeholders and report to the Government annually on progressing in implementing further supermarket competition in the ACT. Whilst a laudable initiative, this cannot address issues arising from the policy itself, or its relationship of the policy with the land use planning regime.

The policy neither recognises nor, despite its reference to land use, is recognised by the Territory Plan. Applications for direct sales are not required to demonstrate how they facilitate the reinforcement of the hierarchy. Development applications for supermarket proposals (other than those at the local centre level) are not assessed against any competition requirements. Once land has been acquired for supermarket purposes (which may or may not be subject to a GFA requirement or restriction), the scale of the development is limited only by the Planning Authority's discretionary assessment of appropriateness to the setting, and other quantitative controls such car parking and traffic generation relative to local road networks.

The policy does not specify criteria for identifying which centres are to expand, or defined tests to be used when assessing the sale of land on the assessment of a development proposal. Whilst requiring the ACT Government to take account of a range of factors, the Policy and its Implementation Plan do not specify which (if any) of these factors have priority over one another, the thresholds that should be achieved, or a comparative approach to the benefits an alternative grocery provider could bring to the market. While some clarity is provided by the Policy Implementation Plan, this document itself is poorly structured, does not include specific measures, targets, or timeframes, provides poorly worded definitions for large format/full line and convenience/local supermarkets and importantly, does not recognises the retail hierarchy which is a key element spatial planning system in the ACT. This will be commented on further below.

Importantly, neither the Policy nor the Implementation Plan expressly recognise the eligibility criteria for direct sales as recommended in the Martin Report. The eligibility criteria have the acknowledged result of limiting applications for direct sales to SupaIGA not controlled by Metcash, Supabarn, ALDI and Franklins; this is commensurate with the context in which the Martin Report was prepared and the object of increasing diversity and competitive tension by preventing the Majors from increasing their market dominance.   It also reinforces our contention that references to 'new entrants' should be interpreted to refer to new entrants to the market, rather than new entrants to a particular centre, for the purpose of direct sales.

The Martin Report also promoted the development of a flexible approach to market indicators and a site by site basis to direct sales. Independent Operators do not dispute the need for these, but maintains that this cannot be at the expense of a transparent and well defined commercial centres hierarchy. Independent Operators maintain that much of the confusion arising from the application of the ACT's Supermarket Competition policy derives from this lack of clarity.

The market dominance of Coles and Woolworths at the local and national levels has been commented on extensively by both Martin Report and the ACCC. We note that the Majors also sell grocery lines through their service station operations (Caltex and Shell) and their discount department stores (Big W, Kmart and Target), and that Woolworths has recently announced that it will invest in promoting its home lines and internet supermarket shopping. This has the potential to increase the market dominance of Woolworths, without the requirement for additional store locations. Coles has already invested heavily in online sales platforms, suggesting that the duopoly will continue to entrench itself.

As a result of ACT Government's implementation of the Martin Report, the major supermarket chains have exploited the lack of a comprehensive approach to competition issues in the planning system to continue to increase their market share. Woolworths have exploited the Local Centre Policy to establish new 2000m² GFA stores at Bonner, Dunlop and Giralang local centres, thereby opening up a new tier of 'majors' competition. Coles have submitted direct sale applications for sites at Kambah, Erindale, Weston Creek and Kippax group centres, and are using the ACTPLA Master Planning Process of group centres to incorporate second full line supermarkets to be operated by them. Woolworths have responded by contemplating the use of master planning to obtain further full line supermarkets at Jamison and Curtin.

These actions have not increased competition, but, if they proceed to approval, will further entrench the existing duopoly and result in the following:

- Substantially increasing the market share of the two major supermarket chains in the ACT despite the recommendations of the ACCC Grocery Inquiry Report and Martin Report.
- Substantially decreasing the market share of new entrants such as Supabarn, Costco and ALDI.
- Substantially decreasing the market share of local independent supermarket operators, local independent suppliers, as well as independent small businesses such as bakers, delicatessens, chemists, liquor stores, fruit and vegetable retailers and butchers.
- Substantially decreasing the volume of independent supermarket operators in the ACT which would result in stifling the independent wholesale warehouse being established by Supabarn.
- Create an oversupply of supermarket space in the ACT, effectively closing the operation of independent supermarket businesses.
- The lessening of competition, choice and range for the consumer.

Independent Operators are therefore of the opinion that while the recommendations of the Martin Report should be implemented as part of the Supermarket Policy, they need to be considered within the context they were developed and treated accordingly.

(b) The Appropriateness of Settings as it Applies to ACT Government Direct Sales, Group Centres and Local Centres

Direct Sales

ACT Government has directly sold sites to new entrant supermarket operators to encourage competition in the market place. This has been generally successful; ALDI would have never had the representation they have in Canberra if it were not for the direct sale of sites at Kippax, Condor, Jamison and Chisholm. The ACT Government has also previously direct sold service stations to Woolworths for the purpose of encouraging competition between service station operators.

Direct sales are an appropriate tool which may enhance competition by facilitating new entrants (ALDI, Supabarn, Costco) into the market place. A comparison may be drawn from the recent entry of Supabarn into the Tuggeranong market through the acquisition of an existing supermarket operation at Wanniassa Group Centre. As a consequence of this, Woolworths operations at Erindale and Kambah immediately reduced their prices. Direct sales are envisaged by the Supermarket Competition Policy, but are subject to consideration of the benefits that the direct sale may bring.

The value of direct sales in meeting the benefits sought by the policy reduce to zero or less when those sales are made to the Major supermarket chains. Direct sales of this nature do not bring new players to the market, but entrench existing patterns of market dominance. The Martin Report contemplates direct sales as a means of facilitating new entrants, and we refer to our earlier commentary regarding the interpretation of this term. Independent Operators contends that Coles and Woolworths, who collectively have 90% of the Canberra full line supermarket market, are not new entrants and should not be provided new supermarket sites through the direct sale process.

Group Centres

There are seventeen group centres in Canberra. Coles and Woolworths are currently established at fourteen of these centres. ALDI has been introduced into six group centres (both existing stores, direct sales and pre-commitments) and provides genuine competition to Coles and Woolworths. Supabarn maintains a presence in two group centres and SupaIGA in one.

It is our opinion, supported by independent economic experts that with the exception of Dickson and possibly Weston Creek there is no other group centre other than Dickson that can sustain two full line supermarkets. Manuka, which is considered one of Canberra's largest group centres had both Coles and Woolworths trading in the centre and eventually Woolworths closed. ALDI has recently refused two direct sales of land in group centres, indicating that the market is saturated. Introducing Coles (or any other second full line supermarket) into group centres will only lead to an oversupply of supermarket retail space and result in the closure of surrounding small businesses whilst taking away market share away from surrounding Group and Local Centre independent supermarkets which may eventually lead to their closure.

Both of the majors are known to have significant resources and market share, operating approximately 800 stores each. Both of the majors are able to support an ailing store in order to maintain a competitive presence in a centre. This could easily lead to a 'war of attrition', whereby two underperforming stores are maintained to no benefit of the community in terms of product diversity or grocery prices, in the hope that one will outlast the other. Ultimately this could lead to planning blight, where large volumes of unused and surplus retail floorspace remain in prime locations within centres, detracting from the attractiveness and viability of the centre as a whole.

<u>Local Centres</u>

Local centres are defined in the Territory Plan relative to local residents (within the immediately surrounding suburb) convenience needs.

It is important to note that the term 'convenience retail or 'convenience shopping' in planning has a specific meaning. It means a relatively small shop tailored to meet the daily (ie, milk, bread and newspaper) needs of a local community. A corner shop or mini-mart would be classic examples. A convenient local location is a key element, with a limited range of goods. This is always (in planning terms) clearly differentiated from the weekly (or fortnightly) trolley shop facility which caters for the major weekly shopping trips to obtain groceries for a family. This is typically catered for by a major supermarket. For this type of shopping a large supply of car parking is a key element together with a very wide range of goods.

Any direct sales entertained in local centres must be for a purpose commensurate with the role of that centre in the hierarchy.

(c) the impact of the policy on operators and consumers

The policy, as it is currently interpreted and implemented, will have the effect of decreasing the market share of independent supermarket operators, resulting in the closure of many independent supermarket operators and small independent businesses (butcher, baker, deli etc) throughout Canberra. The flow on effect of such closures will be the loss of jobs. Independent business is the largest single employer in the ACT outside the public service and Supabarn is the largest locally owned private enterprise employer in the ACT. More importantly closures and market share loss will result in higher prices and less choice for the consumer.

Local suppliers to independent businesses will also be detrimentally affected as they rely on the success of these operators to continue to trade effectively. Woolworths, which already benefits from strong vertical integration, has recently announced it will increase its focus on home brands which in turn will significantly narrow the market for suppliers. In contrast, Supabarn actively supports a significant number of ACT and regional suppliers who would not otherwise have access to the market.

We attach economic impact studies which confirm that the expansion of the duopoly in most areas of Canberra will have a severe detrimental effect on independent supermarket operators and ultimately consumer choice and price points. This includes the assessment prepared in opposition to the QIC proposal, Coles proposal at Kambah and Erindale and a possible third full line supermarket at Casey. Whilst Giralang is subject to a Supreme Court hearing, several economic impact studies tabled during the possible ACAT hearing confirmed that surrounding local and group centres would possibly be no longer viable.

It must be remembered that Canberra consumers currently have access to all major supermarket retailers within a five to seven minute travel time (with the exception of Costco and Supabarn). Woolworths, Coles and Aldi are easily accessible within these time frames. Canberra has the best road networks and travel times of any major capital city nationally. Therefore, the suggestion that more major supermarket stores are required for the benefit of consumers is simply an argument put to Government to camouflage the real intention of increasing market share to stop new entrants from entering the Canberra market.

(d) Impacts on the retail hierarchy

The structure of urban development in the ACT is predicated on a hierarchy of commercial centres, as expressed through the Territory Plan. The hierarchy derives from a logical spatial analysis process which has sought to locate different scales of centre appropriately relative to their catchment, whilst ensuring the most efficient provision of infrastructure (including public transport), social services and retail offer. A cursory examination of the positioning, layout and access provisions of local centres to group centres and then town centres, with Civic as the metropolitan node, clearly reflects this hierarchy as it has been implemented across the Territory.

As an example, group centres are well positioned relative to arterial roads for accessibility purposes (both car and bus), whereas local centres are positioned within the immediate neighbourhood that they serve. As a consequence, group centre scale development is not typically appropriate in a local centre location, due to the traffic impacts relative to the road network that serves them. This relationship can be also been seen when considering the provision of infrastructure, social services and so forth.

Within this context it is appropriate to ensure that the social and community provision of a centre is appropriately scaled relative to its retail offer. These activities mutually reinforce one another, and contribute to the long term sustainability, viability and vitality of a centre. The Territory Plan Community and Recreational Facilities Location Guidelines General Code sets out the locational requirements for a broad range of community assets, and states that 'community facilities generally should be located near retail centres in a position that is relatively central to their long term catchment and at a level of the urban hierarchy that is appropriate to their size and scale'. Attachment N comprises a list of those facilities addressed by the code, and their desired location relative to the hierarchy.

Until recently the commercial centre hierarchy has been well understood and supported by both planning policy and development application decisions. Even relatively recent policy documents (such as the concept plans released for new Gungahlin local centres) demonstrate a consistent approach to the scale of local centres. It was consequently considered to be a robust basis for investment decisions. However more recent planning decisions, purportedly made in line with the Supermarket Competition Policy have blurred the line between local and group centres, with what has previously been understood to be group centre scale development approved (and facilitated by direct sales) in local centres.

A continuation of this policy approach will ultimately result in a loss of investor confidence, the decentralisation of group centre functions to local centres, and a lessening of the community, infrastructure and efficiency dividends arising from the hierarchy. Increased retail development in local centres will inevitably reduce the competitiveness of other competing local centres, and detract from the viability of group centres. A reduction in investor confidence will reduce ongoing investment in maintenance and upgrades of existing centres, thus hastening decline.

Should the integrity of the hierarchy be further undermined by the loss or decentralisation of retail facilities, the policy imperative of co-location of community assets would also be undermined, thereby reducing community convenience and benefit. In the case of Kaleen, the loss of the anchor supermarket as a result of competing local centre development could ultimately result in the loss of a post office, banking facilities, aged care facilities, sports and community centres and places of worship. This would further undermine the ability of the centre to fulfil its role, while also compromising the robustness of the wider hierarchy by perverting the direction of trade and reducing transport planning outcomes arising from linked trips.

Independent Operators strongly support moves to more clearly define the commercial centres hierarchy and a spectrum of development appropriate within those centres, provided that a clearer distinction is drawn between the role and function of each tier of the hierarchy and the scale of supermarket provision in any one centre. These distinctions should be consistent across and recognised in both the Territory Plan and the Supermarket Competition Policy. Quantitative thresholds may assist in this regard and our proposals can be found under point (e) below.

(e) Future applications of planning and competition policies

Independent Operators acknowledge that competitive forces should act to lower prices to the benefit of consumers. However this is dependent on the assumption that a perfect market exists; it is clear from recent ACCC actions and statements that an imperfect market exists. Within this context, regulation of land sales and land use is a justified means of addressing market inequities.

The ACT Government is in a unique position in terms of its ability to regulate land sale and land use. The ACT Government needs to make a clear decision as to whether they wish to assist new entrants to compete against the Coles and Woolworths duopoly, which supports the ACCC position.

The Martin Report, the Grocery Inquiry Report, and the ACCC's arguments in the case against Metcash all support Government intervention in establishing competitors to Metcash Coles and Woolworths. Independent supermarket operators cannot compete with Coles and Woolworths whilst they are purchasing items from a profit centre i.e. Metcash. Independent Operators need to be vertically integrated.

This model has been very successful in New Zealand under the trading name Pak N Save. Moves to support the Independent Opertors position within the market will assist in the achievement of this, thereby addressing overarching policy issues of competition and grocery prices which individual direct sales to facilitate the entrance of second major supermarkets in group centres could not achieve.

Currently, ACTPLA does not consider competition issues when assessing Development Applications and nor should they but the Government should consider competition as a major factor in direct sale decisions. However, it would seem that the major supermarket chains are using planning to overcome policy. Once again Woolworths are attempting to increase their market share by placing large supermarkets in local centres and Coles are using the master planning process of group centres to locate second full line supermarkets next to Woolworths in group centres to achieve greater market share. Ultimately this will result in the possible closure of independent local businesses, as well as undermining the retail hierarchy (i.e. one centre gets too large, the neighbouring centres close resulting in the loss of these facilities for local residents).

Accordingly, we make the following recommendations.

Recommendation 1
Make explicit reference to the Commercial Centres Hierarchy in the Supermarket Competition Policy and its Implementation Plan, and ensure that future direct sale applications are assessed with regard to their impact on the integrity of the hierarchy.

Recommendation 2
Vary the Supermarket Competition Policy, its Implementation Plan and the Territory Plan to include consistent definitions for supermarket activities in each tier of the commercial centres hierarchy.

Recommendation 3
Vary the Territory Plan Local Centres Development Code to include the following mandatory requirement:

The maximum Gross Floor Area (GFA) for any supermarket is 1,000sqm gross floor area. For the purpose of assessing GFA, this is to include any associated loading docks and storage areas, whether shared or not, and any commercial or other shop premises within the same building or centre associated with or related to the supermarket or the operator of the supermarket (for example, offices, bakeries or liquor stores).

Any new Crown leases for supermarket activities in local centres should include similar terms.

The imposition of a 1000m2 GFA limit on supermarkets in local centres would marry with the desires of IGA operators as expressed to the Martin Report, and would allow a significant increase in the volume of supermarket floorspace at this level. It would also respond to the issues identified in our submission to the Commercial Centres Review.

Recommendation 4

Vary the Territory Plan Group Centres Development Code to impose a mandatory limit of one full line (1500m2 plus GFA) supermarket in all group centres except Dickson, for which there is a demonstrable need for a second full line supermarket. For the purpose of this proposal an ALDI, SupaIGA or similar complementary retailer under 1500m2 GFA is not considered to be a full line supermarket. For clarity, this is not intended to place an upper limit the size of the full line supermarket serving a centre. Most group centres are served by 2500m2+ full line supermarkets. This threshold would not preclude existing full line supermarkets from expanding further or being established in new group centres.

The proposal to limit the number of full line supermarkets in group centres to one also recognises that competition extends in multiple directions within the hierarchy. Supermarket competition can exist within any one centre (where two or more grocery retailers are located), between centres on the same rung of the hierarchy, and between centres on different rungs of the hierarchy. As identified by Dr Rhonda Smith, given characteristics that are peculiar to the ACT, such as better road networks, detailed planning in relation to the location of stores and the like, the geographic dimension of the grocery retail market may be as broad as the ACT and nearby areas. Consumers will gravitate towards the centre which best meets their needs notwithstanding the appropriateness of that location, although such needs can be distinguished into retail, social and community needs, and within grocery retail needs, convenience and full line grocery needs.

A 1500m² plus full line supermarket in most group centres is more than adequate to cater for the catchment's grocery needs. As discussed above, previous attempts to introduce two supermarkets in a single group centre have resulted in the closure of one, leading to planning blight. It is far more satisfactory from an economic health perspective to have a single well functioning full line supermarket in a group centre than to have two poorly performing supermarkets. Allowing more than one supermarket operator in any one centre could provide sufficiently resourced operators the opportunity to wear out the competition, thereby reducing competition and diversity over the long term. The setting of a 1500m² threshold rather than, say, a 2500m² threshold will ensure that the majors do not have the opportunity to enter the market at, say 2,400m² (ie, a basic full line supermarket) whilst facilitating complementary retailers such as ALDI and SuperIGA.

If a second 1500m²+ GFA supermarket is proposed in a single group centre, the development application should be supported by a retail impact assessment which considers the impact of the development on all levels of the retail hierarchy. Appropriate controls should be inserted into the Territory Plan to secure these outcomes.

Accordingly, the restriction of a single full line supermarket in group centres will ensure that centres compete against other centres, whilst ensuring that each centre remains viable in its own right and able to provide the full range of complementary retail and community services anticipated by the community. Clearly defined limitations that are adhered to in government decisions are essential. If over time, with densification, and in response to economic trends thresholds are to be raised, any movement in the thresholds of one level of the hierarchy must be mirrored by similar movements in the thresholds for other tiers, so to ensure that the hierarchy remains robust and defensible.

Recommendation 6

That the Supermarket Policy expressly adopts the recommendations of the Martin Report; specifically that it is implemented on a case by case basis and that direct sales can only be considered for new entrants. The open slather approach, whilst preferable in a perfect market for competition outcomes and where all operators are starting from the same base (ie, the duopoly has market share to protect), will only serve to assist the incumbents in this highly imperfect market. Any new supermarket site must take economic impact into consideration and must prove that surrounding centres must remain viable and sustainable.

Independent Operators believe that should the Inquiry adopt the recommendations set out above, a new distribution centre open to all independent supermarket operators could be established in the ACT. This would generate true competition within the grocery market, enabling independents to be vertically integrated into the supply chain. Local suppliers would prosper as a result of this integration and the opportunity to supply groceries into NSW. This is supported by federal Industry Minister Kim Carr who has publically accused the majors of 'constricting choice and killing innovation'. Consumers would benefit from lower prices and greater product diversity.

Independent Operators urge the Inquiry to be mindful of any measures that would assist the duopoly in maintaining or increasing their dominance in the ACT market. The ACCC's report confirmed that 'found that "vigorous competition between the major supermarket chains is unlikely in the future". In addition Dr Rhonda Smith has advised that any increases to the number of Duopoly supermarket stores in the ACT will not change the number of players at the retail level.

Any policy initiatives which simply increase the number of Woolworths or Coles stores in the ACT, without reference to market share or the benefits that an independent distribution centre could bring to the market as a whole, will not result in any real change for the consumers benefit.

Postscript

In addition to the attachments referred to in the text above, we attach a number of secondary attachments which may be of use or interest to the Select Committee. They are as follows:-

- Attachment R - Dimas Report dated 12 July 2007, addressing supermarket provision in the ACT
- Attachment S - Urbis Report dated 20 July 2007, addressing supermarket provision in the ACT
- Attachment T - Chief Minister Press release dated 6 August 2008, supporting supermarket competition
- Attachment U- Letters of support
- Attachment V – Map illustrating distribution of major full line supermarkets in Canberra.