



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

JOINT SELECT COMMITTEE ON THE RETAILING  
SECTOR

**Reference: Industry concentration in the retailing sector**

FRIDAY, 9 APRIL 1999

PERTH

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**JOINT SELECT COMMITTEE ON THE RETAILING SECTOR**

**Friday, 9 April 1999**

**Members:** Mr Baird (*Chair*), Mr Jenkins (*Deputy Chair*), Senators Boswell, Ferris, Forshaw, Murray and Schacht and Mrs Elson, Mr Fitzgibbon and Mr Nairn

**Senators and members in attendance:** Senators Boswell, Ferris and Murray and Mr Baird, Mrs Elson, Mr Jenkins and Mr Nairn

**Terms of reference for the inquiry:**

To inquire into:

- (a) the degree of industry concentration within the retailing sector in Australia, with particular reference to the impact of that industry concentration on the ability of small independent retailers to compete fairly in the retail sector;
- (b) overseas developments with respect to this issue, highlighting approaches adopted in OECD economies; and
- (c) possible revenue-neutral courses of action by the Federal Government (ie courses of action that do not involve taxation reform).

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**Committee met at 8.35 a.m.**

**DYMOND, Mr Richard John, Owner/Proprietor, Toodyay Supermarket**

**ACTING CHAIR (Mr Jenkins)**—I call the committee to order and declare open this public hearing of the Joint Select Committee on the Retailing Sector. Today's hearing at the Commonwealth Parliament Office at Perth is part of the committee's inquiry into industry concentration in the retail sector.

I welcome Mr Dymond. The committee prefers all evidence to be given in public but you may at any time request that your evidence, part of your evidence or answers to specific questions be given in private. The committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. The committee has a submission before it dated 8 April 1999. Is it the wish of the committee that the submission be received and authorised for publication? There being no objection, it is so ordered. I now invite you to make an opening statement. At the conclusion of your remarks we will proceed to questions.

**Mr Dymond**—Thank you very much. I would like to thank you for the opportunity to address this forum. I have been working in this industry for 23 years—the last 10 years as an independent grocer. Prior to that I worked for a major chain for 13 years, including in positions of store management and at state office level. The reason I say this is so that I can let you know of my experience. I speak from my own experience in the industry. I own and operate a small supermarket in a small country town and I am also a member of the Western Australian Independent Grocers Association executive committee on which I represent the Foodland and Four Square supermarkets, which are generally the smaller supermarkets within the state of Western Australia.

Prior to that I spent two years on the FAL Foodland Franchise Advisory Committee as the country store representative. The reason I say this is to let you know that I have a history of representing particularly the smaller country supermarkets. Most of these smaller country supermarkets exist in towns with populations of fewer than 2,000 people. I would suggest that these areas will never, ever be serviced by the major chains. So you may well ask why am I here. They are not going to come in and take over my town. Why would I bother to turn up and stop them taking over everywhere else? It is my belief that unless the independent sector is strong I do not have an effective point of supply. At the moment we are serviced by a warehouse. If that warehouse was not effective we would have to be serviced by either a food service provider or a provedoring type company.

I know that we compete against these provedoring companies for things like government contracts and we can compete on price against those. We do compete on price against those provedoring companies, personally for an Army contract, and we can beat them on price. So to be provided for by someone who we are currently beating on price would greatly increase our costs and the cost to our consumers in these small rural communities. As recently as a couple of days ago I read a quote from the CEO of Woolworths. He was referring to Woolworths service to country communities and saying that they treat these country communities as important and that in a lot of cases the supermarket in the country community is the lifeblood of the community; it is very important.

Unfortunately, the country community he was referring to was Broken Hill. I treat that as a regional centre, not as a country community. We have those here. We have Bunbury and Geraldton, and I think these larger supermarkets are very important to those regional centres, but they, in a similar way to the banking community, would be very happy I think for those regional centres to suck in the surrounding communities. What I would like to stress to you is that I think that is not a good thing. I think those surrounding communities require their little supermarkets and their little strip shopping centres—their butcher, their baker, their chemist—and unless we can maintain a strong totally independent sector we will find it increasingly difficult to maintain that presence in those country communities.

We provide a service to the people in that community and we provide an essential service to the elderly and the infirm in those communities. I, for instance—I have spoken to at least a dozen colleagues in the last couple of weeks regarding this—go down once a week to the old people's home in town and drop off the groceries. That is a necessary thing in these small country towns and it is something that we will continue to do.

I have been asked to be relatively brief today and I think most points will be covered by people following me, but I would just like to highlight a couple of personal experiences from my time with one of the major chains that would indicate to me that the way that market share is being gained is not entirely fair, if you like. I was managing a major chain store at one stage and a particular product—a Coca-Cola product—was on special at a price that they felt was too cheap in another store. It was actually an Action store that had this product out too cheap. We, as store managers—and this was every store manager in every store in the state—were instructed to move that product to the top shelf with a minimal facing so that it would not sell until the supplier saw sense and did not sell the product to the Action supermarket at the cheaper price. That is one thing.

On a more general basis, for those of you who are not Western Australian here is a small geography lesson: Albany Highway runs down south and about halfway to Albany there is a town, just inland a touch, called Narrogin and then Albany is further down south. A major supermarket chain has a store in both of those towns. In Narrogin, the closer town, they do not have much competition; in Albany they have heavy competition. In my time with that chain, the chain operated on zone sell prices. The zone sell price in Albany, about 400 kilometres away—higher freight—was cheaper than the zone sell price in Narrogin at about 200 kilometres away. I thought that it should be the other way around. It should not cost as much to get goods to Narrogin; well, it does not cost as much.

**Senator FERRIS**—I do not think transport has got too much to do with it.

**Mr Dymond**—No, nor do I. Competition has got a lot to do with it—competition has got everything to do with it—and the independent sector is providing and, hopefully, can continue to provide effective competition. That concludes my statement. I am very happy to answer questions.

**ACTING CHAIR**—Thanks very much, Mr Dymond, for sharing your experiences.

**Mrs ELSON**—You are 200 kilometres out of Albany, are you?

**Mr Dymond**—No, I am in Toodyay which is 100 kilometres north-east of here.

**Mrs ELSON**—So you do not have competition in town, or it is not worth people going that 100 kilometres?

**Mr Dymond**—My competition is from Northam which is 15 minutes away. It is a regional centre that has both the major chain supermarkets. It is good competition and, yes, we enjoy competing with each other.

**Mrs ELSON**—I was very surprised to hear your comment about having to move a product, if it was cheaper somewhere else, away from selling point.

**Mr Dymond**—Yes, that was a one-off type of thing when I was working for a major chain.

**Mrs ELSON**—Yes, I know that was when you were with a major chain. Was that just one incident or were there others like that?

**Mr Dymond**—That was a one-off. I cannot recall any other instances where that particular thing happened.

**Senator FERRIS**—Is it an informal policy, do you think, of that particular major chain?

**Mr Dymond**—No, I do not think that is a general policy. I think that was a one-off sort of fight, but I do think that there are certainly suppliers who are favoured and suppliers who are not favoured. I think that is all based on trading terms and things like that.

**Senator FERRIS**—That happens.

**Mr NAIRN**—The wholesaler you buy from would be FAL. Is that right?

**Mr Dymond**—Yes.

**Mr NAIRN**—Is there a problem within the independent market and competition within the independent areas because of the fact that FAL basically have dominance in Western Australia from the wholesaling point of view, and at the same time they—as I understand it—own Action supermarkets themselves?

**Mr Dymond**—They do, yes.

**Mr NAIRN**—So do they give more favourable treatment to their own retailer—Action—as opposed to the other independents? Is there a problem in that area, do you think?

**Mr Dymond**—It is hard for me to say. I do not have a problem. Obviously I am not privy to all the information. I think a lot of the people at FAL are not privy to all the information about what happens at Action. It seems to be run very separately from the FAL wholesaling side of things. It is difficult for me to say. I do not think I have got the information, but personally I do not have a problem.

**Mr NAIRN**—Putting Action aside, just the straight operations of FAL, given the size or their dominance in the wholesale market, you do not feel that you are disadvantaged in any way in that respect?

**Mr Dymond**—I can only answer it from my own experience. When I put in my scanning system, I spoke to a lot of retailers in Victoria and Queensland just to ask for advice. At the time of asking I was having a bit of a battle with FAL about a particular thing at the time—as we do from time to time—and I asked them about their experiences. It seems to me that we get a reasonably fair deal from what I can see. But, yes, we do battle with them from time to time. We will always try to get a better deal, I suppose.

**Mr NAIRN**—You also mentioned a couple of times—was it profiteering companies?

**Mr Dymond**—Provedoring.

**Mr NAIRN**—Sorry. What companies are they?

**Mr Dymond**—People like Sealanes suppliers that supply to—

**Mr NAIRN**—Direct to government operations of some sort.

**Mr Dymond**—They supply to places like the Port of Fremantle, to boats that come in. Basically food service supply places, which would be our alternative supplier.

**Mr NAIRN**—Where do they buy from—FAL as well?

**Mr Dymond**—Direct from the manufacturers, I would think.

**Mr NAIRN**—Direct from the manufacturers. They are a bit like a wholesaler in a sense, are they?

**Mr Dymond**—They are, yes. They are a different type of wholesaler. FAL are also involved in the food service industry. They supply food service as well. The difference is the economies of scale. Where you have a warehouse that can push through hundreds or millions—heaps and heaps—of stock, obviously it is going to work out a lot cheaper, cost effectively, to get it to us. My turnover is around \$2 million a year, which for a supermarket is quite small, but basically we ride on the back of stores that turn over \$10 million, \$15 million or \$20 million a year because we can use the same supplier. I am arguing, I suppose, for some assistance for the independent sector in the metropolitan area and in the regional centres so that those of us out in the bush can still have this effective form of supply.

**Senator FERRIS**—Just to get a picture of your supermarket, what sorts of goods do you sell? Do you include, for example, deli items, fruit and veg and any meat? Do you have EFTPOS? If you have EFTPOS are you charged a service fee by the bank for it? To what extent do you supply the pastoral areas, the larger properties—distance deliveries? Are you simply supplying the town of Toodyay?

**Mr Dymond**—My supermarket is pretty typical of a small country supermarket. It is about 300 square metres, which is a very small supermarket size. We have fruit and veg; we have a reasonably good range of fruit and vegetables. We have a service deli that does sliced meats and cheeses and things like that. We have a very limited range of meat because there is a butcher in town who does a good job and we try not to tread on each other's toes too much, because in the same argument it is important for the town that he exists.

**Senator FERRIS**—Sure.

**Mr Dymond**—It is exactly the same argument. We have country towns where one person owns the whole main street and it frequently does not work. It is exactly the same argument, exactly the same reason why it does not work.

**Senator FERRIS**—What about EFTPOS?

**Mr Dymond**—We have EFTPOS. We get charged by the bank for EFTPOS. We offer it as a free service to the customers and we absorb that cost.

**Senator FERRIS**—What is it? About \$100 a month?

**Mr Dymond**—It is \$130 a month.

**Senator FERRIS**—There is a charge by the bank of \$100 a month in regional Victoria.

**Mr Dymond**—Yes. While it would be nice not to be charged that, it is well worth having.

**Senator FERRIS**—What about distance food supplies? Do you supply any of the big properties by fax machine, railing out groceries or anything?

**Mr Dymond**—No, we do not.

**Senator FERRIS**—Who supplies that market then?

**Mr Dymond**—I do not know. We used to supply to one property—a station property—but that was only because the people who owned it also had a farm locally. But, no, I am not aware of who is the general supplier to those properties.

**Senator FERRIS**—I will just raise with you one point which was made by Woolworths a couple of days ago in talking about market share. You might be aware that NARGA—the National Association of Retail Grocers in Australia—are arguing that the big three have 80 per cent of the retail market for food services.

**Mr Dymond**—Yes.

**Senator FERRIS**—But the statistical evidence that led them to that conclusion is based on a shop which sells dry packaged goods only and not the sort of shop you have. If you take into account the goods that you offer, then the ABS statistical information shows that in

fact the big three have only 40 per cent of the market. So when you talk about capping the market and about the size—80 per cent of the market, as you say here—I point out to you that it depends very much on what the goods are and the profile of the shop. If the committee were to adopt that as a policy and recommend it to government, it would enable the big stores to double their market dominance that they have now, based on the sort of shop you have got, before the cap came in. I mention that because, statistics being what they are, you can often make more out of one side than another.

But I am really interested in this question of the large stores carrying other stores as loss-making stores and I am wondering if, based on the evidence that you have from the time when you worked for one of these major chains, you could give us more information on the way that large chain uses that store policy.

**Mr Dymond**—Yes, I can give you basically anecdotal type evidence. I do not have any figures or anything.

**Senator FERRIS**—Yes, it would be useful.

**Mr Dymond**—But certainly where a store is under heavy competition—

**Senator FERRIS**—Are they urban or rural?

**Mr Dymond**—The one I would refer to, the one I remember the most, is Belmont, which is very local here. It was under very heavy competition from a lot of other suppliers, both independent and the other chain. The prices were dropped on the 400 top-selling lines, the lines that are most noticed, and that was carried for a period of more than six months.

**Senator FERRIS**—Did that force those prices down in the nearby stores?

**Mr Dymond**—They were dropped because they were down in the nearby stores. I cannot recall who started the drop. It certainly was not the chain that I was working for at the start of the drop. They followed. I would imagine at that stage it was almost certainly Action that started the price drop.

**Senator FERRIS**—Do you think that is a widespread practice by the large stores?

**Mr Dymond**—Absolutely, yes.

**Senator FERRIS**—Nationally or just in this state?

**Mr Dymond**—I cannot talk nationally, I do not know. But from all my experience, the major chain stores and the independent stores do competition checks on a regular basis.

**Senator FERRIS**—Yes, we have already got that evidence from Davids Holdings that they do a price check every day.

**Mr Dymond**—Yes.

**Senator FERRIS**—I am interested in this question of having loss-making stores in order to control particular areas of the market, be that urban or rural. Thanks very much.

**ACTING CHAIR**—Do you belong to a banner group?

**Mr Dymond**—Foodland, yes. I am part of the Foodland banner. They are generally the smaller rural supermarkets and convenience stores within the metropolitan area.

**ACTING CHAIR**—You talked about buying a new scanner system.

**Mr Dymond**—Yes.

**ACTING CHAIR**—Did you have to do that by yourself?

**Mr Dymond**—Yes.

**ACTING CHAIR**—That was not something that FAL were able to assist you with?

**Mr Dymond**—No. They can offer advice on that type of thing. I went to them for advice and got what I thought was not really good advice at the time, I am afraid. But we do that type of thing on our own.

**ACTING CHAIR**—As a lone operator, what difficulties are you are confronting in setting up your shop with, say, a scanner and things like that? Are those types of suppliers pressured into being uncooperative? I am just trying to get a feel for anything that happens at that end of the spectrum.

**Mr Dymond**—For that type of thing, we tend to work with different suppliers. The chains have a supplier for that type of thing and they may change their supplier in a couple of years time and then go with that one supplier. They tend to pilot a system, use it for a while, and then look for something bigger, better and brighter later on. They are working with only one supplier. So, no, the supplier that we went to is an independent supplier or a supplier to independents specifically.

**ACTING CHAIR**—The final question from me is: you talked about shifting products onto a top shelf to slow down sales.

**Mr Dymond**—Yes.

**ACTING CHAIR**—It has been put to us that one of the advantages that the majors have is to be actually selling their prime shelf space. This may be a naive question to ask on day 4 of this inquiry, but it has not been asked: what is to prevent the smaller independents, through their buying groups, from trying to come to deals like that and does it happen?

**Mr Dymond**—There is nothing at all to prevent it and, yes, it does happen, but to a lesser extent. Mr Cadbury's Chocolate can come to me and say, 'You put that bit up there and here's a nice box of chocolates for your wife.' It is exactly the same thing, isn't it, where you are getting a benefit for doing something that a supplier wants.

**ACTING CHAIR**—I think the suggestion is that it happens for more than a box of chocolate for the majors.

**Mr Dymond**—I am sure it does, but it is all relative. That happens right through the industry. I would say there is a big difference—and I guess I am biased—but I think there is a lot of pressure brought to bear on the suppliers from the majors and they cannot afford in some cases to say no, whereas when they come to me and ask for the bin to be put on the floor, they can well and truly afford to say no.

**ACTING CHAIR**—What about the decline of reps?

**Mr Dymond**—That is a very good point. There is no doubt at all that there are fewer company reps available, fewer company reps on the road now, than there were 10 years ago, and I think a lot of that has to do with centralised buying. It is another thing that I do not think is great for the industry, particularly for the smaller side of the industry.

**Senator BOSWELL**—Toodyay is an out of metropolitan area, is it?

**Mr Dymond**—It is 100 kilometres north-east of here.

**Senator BOSWELL**—You say you worked for a major and that you opened your own business.

**Mr Dymond**—Yes.

**Senator BOSWELL**—What was your reaction when Coles tried to take over FAL about four years ago?

**Mr Dymond**—Similar to my reaction to this.

**Senator BOSWELL**—Were you happy to have Coles as your—

**Mr Dymond**—No. The reason is that I see Coles and Woolworths as the opposition and I think being supplied by the opposition is a huge conflict of interest.

**Senator BOSWELL**—I ask this question of everybody and the committee is probably getting bored with it by now, but I think it is pretty relevant. In your submission you say that you should not have creeping acquisition. Is that correct? Maybe you do not say it.

**Mr Dymond**—No, I do not think I said that. I have got a bit of a problem with chequebook acquisitions when it seems to be over the top.

**Senator BOSWELL**—Would you prefer it if major chains were not allowed to buy out stores? That would stop your creeping acquisition or chequebook acquisition.

**Mr Dymond**—Are you talking about it as an alternative?

**Senator BOSWELL**—No. You are saying that there is chequebook acquisition. We know it as creeping acquisition. It has shifted the market share about 2.8 per cent.

**Mr Dymond**—Yes.

**Senator BOSWELL**—The question I always ask the retailers is: what would happen if you were offered 18 times more than your business was worth? I ask that question in all seriousness because we have got to come up with some answers and one of the answers may be that we do stop that.

**Mr Dymond**—Yes. Is that standard in retail?

**Senator BOSWELL**—Some guy wants to sell his business. He has worked 30 years and wants to go and sit on the beach and someone comes and offers him a huge retirement fund. Is that fair? Where are we, if we do stop it, with the majority of the individuals?

**Mr Dymond**—Yes, I see where you are coming from. The other side of it is that, if there is nobody else there to buy it, another community loses a service if the shop closes.

**Senator BOSWELL**—I understand the arguments. We have listened to them for four days and they are generally in one direction. You give us a problem but you have not given us any solutions. We have to work the solutions out. One solution is, as you say, that we have to stop creeping acquisition. Yes, you can do it. As long as you have support in the parliament, you can do most things. But you have to understand what the consequences are when you ask us to do these things. It may be that someone comes and offers you 18 times more than your business is worth.

**Mr Dymond**—Yes. I think it is pretty clearly stated in a couple of the larger submissions the position that the independents would like to see—that is, a market cap and an individual company market cap as well. I think by doing that, without having to stop chequebook acquisitions, you would limit chequebook acquisitions because of those market caps.

**Senator BOSWELL**—You would not really, because if you put a market cap on it would certainly stop the chains going and buying out retailers. What I am trying to say is you cannot have it both ways.

**Mr Dymond**—I understand that. I have a bit of a problem myself sitting here saying we need to do something about this because I believe in free enterprise. My personal beliefs are that, if you have got a shop, it is your shop and you should be allowed to do what you want with it. Woolworths have got a shop; it is their shop and they should be allowed to do what they want with it. That is a sort of philosophical position. I can see big problems, particularly in the rural area of the supermarket industry, if we do not do something.

**Senator BOSWELL**—Yes, I can see that. I am aware of the problem. What sort of store was the one at Belmont?

**Mr Dymond**—That was a major chain store. It was a Coles supermarket.

**Senator BOSWELL**—Everyone was attacking it and it kept lowering its prices?

**Mr Dymond**—Yes.

**Senator BOSWELL**—Conversely, have you ever experienced what we would call predatory pricing where anyone has gone out and cut prices—dropped, cut again, dropped, cut again and dropped—under you?

**Mr Dymond**—Yes, I have.

**Senator BOSWELL**—Don't give us the names.

**Mr Dymond**—Yes, I have had that experience where they have cut to try and put someone out.

**Senator BOSWELL**—Yes, where an independent has a cauliflower at \$2, someone cuts under it and then it is cut again, matched, cut, matched, cut and driven down.

**Mr Dymond**—Yes, I have experienced that on several occasions.

**Senator BOSWELL**—Could you give that to the committee on a confidential basis.

**Mr Dymond**—I was trying to remember the particular stores where that would have happened. I would be 99 per cent sure that would have happened at Belmont, 99 per cent sure that would have happened at Rockingham, and probably at Kalgoorlie. It is a regular occurrence, depending on the competition.

**Senator BOSWELL**—It is all right giving us anecdotal statements.

**Mr Dymond**—I do not have that written down. It is stuff that might have happened years ago. I have been 10 years out of the major chains, but I have no reason to believe it has changed.

**ACTING CHAIR**—Mr Dymond, perhaps you could take Senator Boswell's question on notice. If you cannot supply anything further, you do not have to, but if anything should come to mind after you leave, that probably would be helpful.

**Mr Dymond**—Okay.

**ACTING CHAIR**—Before I hand over to the chair, I would like to thank you for taking the trouble to come up and to share your experience of operating in a rural community.

**Mr Dymond**—Thank you very much for allowing me to.

[9.10 a.m.]

**GALE, Mr Neville Aleck, Managing Director, Advantage Supermarkets WA Pty Ltd**

**CHAIR**—The committee prefers all evidence to be given in public but you may at any point in time request that your evidence, part of your evidence, or answers to specific questions be given in private. The committee will consider any such request. However, it is important that you bear in mind that evidence taken in camera may subsequently be made public by order of the Senate. The committee has before it submission No. 10 dated 5 March 1999. Are there any alterations or additions you wish to make at this stage to your submission?

**Mr Gale**—I could just make a general comment, and that is that I wave the flag for free enterprise.

**CHAIR**—You have the opportunity to have a general preamble to your presentation.

**Mr Gale**—It is only really about one paragraph in length. There is a certain inevitability about what is happening in the marketplace with regard to supermarkets in particular. We have liquor stores and coffee shops which also come under the similar sort of threat that the supermarkets do but probably not to the same degree. As the largest independent in Western Australia by, I would think, a comfortable margin and certainly one of the largest two or three in the country, we come under attack more than most in Western Australia. In the marketplace of supermarkets it has become nearly impossible for independents to gain the sites that the majors do. I think that the gaining of sites is a major impediment to the growth of the independent situation. The lack of ability to have capital at the same quantity or at the same rates is another major problem for an independent now and in the future.

The trading terms are remarkably different. We are dealing in an industry that works on two to three per cent profit and yet the difference in trading terms is often far greater than that. There is as much as five, six or eight per cent difference in trading terms. How can an independent like me compete against all of that: the sites, the capital, the trading terms and the advertising power, which comes as a result of those trading terms, and then what I believe to be unconscionable behaviour—predatory pricing?

**CHAIR**—Do you want to make this as an addition?

**Mr Gale**—I just make it as a summary because that is where I am at. That is the problem that I am facing this very day.

**CHAIR**—Is there anything else that you would like to say as part of a general statement at this stage or would you like to go straight to questions?

**Mr Gale**—Go straight to questions.

**CHAIR**—Mrs Elson, would you like to adopt a question?

**Mrs ELSON**—I notice that you have had a number of different businesses but have you worked in the major chain stores before?

**Mr Gale**—When I first started I worked for Tom the Cheap Grocer in Western Australia. I suppose you can call that a large chain. I was a supervisor of 175 stores that were then in existence—but not the Coles and Woolworths of the day.

**Mrs ELSON**—Did you see predatory pricing going on then, where they were reducing and competing?

**Mr Gale**—I think it has always been on to a certain degree but probably not to the same degree that it is now. There is a different intent today. Today the intent is to put you out of business.

**Mrs ELSON**—Can you see that happening to you?

**Mr Gale**—It is happening right at this very moment.

**Mrs ELSON**—Can you give us examples?

**Mr Gale**—Yes, I can. In our first supermarket in Rockingham, which competes against Coles and Woolworths—I do not mind saying this to you, quite honestly—we were caning Coles. The sales were two to one in Advantage's favour. To say that this got up the nose of Coles was an understatement. They put every resource that they possibly had, including the Melbourne office, to assist them to fight Advantage. One of their tactics was that, no matter what price I set on meat, they would meet my specials and then they would undercut it by five per cent. That is still the policy today. I can put rump steak out at \$5 a kilo when the rest of the market is \$10 and they will go five per cent under the \$5. They will not be beaten.

**Senator BOSWELL**—Have you put those ridiculous prices on?

**Mr Gale**—Yes, and they have met them. They will meet them if it is a special but if it is a shelf price they will meet it and go under by five per cent.

**Senator BOSWELL**—Do you have evidence of that?

**Mr Gale**—Go down to Rockingham, go to Joondalup, and you will see it in the meat cabinet. I will produce Coles people—everybody—and they will say that it is happening today. That is the policy in the meat departments of Rockingham and Joondalup today. I will compete against anyone at any time but that, in my opinion, is unconscionable and that is why I am here.

**CHAIR**—Have you followed that through, as an example, in deciding that you will move your prices down and watch them follow you down five per cent below?

**Mr Gale**—Yes.

**CHAIR**—Have you done that?

**Mr Gale**—Yes. The classic example is that Coles this week have advertised premium rump steak statewide at \$9.29 a kilo. The regular price at Coles in Rockingham and Joondalup, because of them fighting me, is \$8.99. It is below their special price for today. It mainly occurs in beef but does follow on other lines as well. I will also give you another example that I consider to be unconscionable. Generally Foodland enables us to compete and they do the price checks and they keep us informed as to what the current shelf price should be for every product. It is usually competitive, it is measured against the change and we follow that pretty religiously.

Coles currently have a policy against Advantage—and I do believe it happens against others as well—where they will do a deal with a supplier. It might be an extra dollar a case off for a limited period. They then put a ticket on their shelf—last week it was the same price; this week they will apply the 4c per item—which says ‘Coles price \$1; Advantage price \$1.04.’ That actually goes on the ticket. Yet the truth of the matter is that on a one-for-one basis we were the same. What they have done is not illegal. They have applied a discount and made it appear to the consumer that Coles is giving a discount. They will not just put one of these in the store, they will put 40 or 60 of them around the store where they have done a deal on 40 to 60 lines. By the way, we do it to 3,000 lines but never, ever show the competitor’s price—although we beat them on most of those.

**CHAIR**—So they actually put the Advantage price on the sticker?

**Mr Gale**—Yes.

**Senator FERRIS**—Are you telling us that is not illegal?

**Mr Gale**—No, it is not illegal. It is the truth, isn’t it?

**Senator FERRIS**—But is it the truth?

**Mr Gale**—On that particular line it is. I have taken it to the law, I have taken it to the ACCC, and they say to me that what they are doing is unconscionable but not illegal.

**CHAIR**—If it is unconscionable then the provisions of the act allow you to take action.

**Mr Gale**—True, and that is what my solicitors have said to me—but at what cost, in all honesty, Senator?

**Senator MURRAY**—You do not fall within the definition of the act; you are too large.

**Mr Gale**—How large am I? That is another thing—three supermarkets makes me a chain. I am not a chain; I am a poor little independent.

**Senator MURRAY**—I think you should recognise that he cannot access the act because the definition for ‘unconscionable conduct’ requires you to have not more than \$1 million supply. He is far bigger than that. That is why he would not be able to access that.

**Senator BOSWELL**—Is that \$1 million supply or the action has to be under \$1 million, Senator?

**Senator MURRAY**—You have to be under \$1 million of supply.

**Senator BOSWELL**—So the turnover of the particular total supply—

**Senator MURRAY**—That is why I have tried to change the definition to the definition of the ABS system of small business and/or a certain size of supply.

**Senator BOSWELL**—You may have an advantage on me because you are on the committee but I understood that it was not the turnover, it was the particular matter in dispute.

**Mr NAIRN**—Yes, I would have thought so.

**Senator MURRAY**—I do not think we should get distracted with it. All I mean is that for him the access might not be as easy as we would expect under the ‘unconscionable conduct’ definition.

**Mr Gale**—Nevertheless the cost of legal challenge is not insignificant these days.

**Senator FERRIS**—Could you supply us with your advice on a confidential basis for the committee to just see, as a case study, how you tried to take this? Would you have advice from your lawyer where you could show us where the act is actually failing you in that sense?

**Mr Gale**—No, I do not have anything in writing because most of the discussions have been verbal. I have not sought written situations from this but the ACCC in Perth will know that I have referred the matter to them several times. I can give you the name of the fellow in the ACCC, which I will do, here in Perth that I have referred the matter to.

**CHAIR**—I think it would be useful if you could actually write us a brief note outlining in very brief terms what has happened, the person you discussed it with at ACCC and the advice that you received. It would be quite useful because obviously this comes to the core of what we are looking at and obviously we are not terribly happy with that type of approach.

**Mr Gale**—Neither am I, I can tell you.

**Mrs ELSON**—With this comparison of price that Coles are doing, has that decreased your sales?

**Mr Gale**—Yes, it has.

**Mrs ELSON**—To any great extent?

**Mr Gale**—Yes, it has. I said that we were two to one—and it was two to one—but it is now level. Now that it is level, the pace is really starting to be applied. There is no doubt about that.

**Mrs ELSON**—Has Coles offered to buy you out?

**Mr Gale**—Yes.

**Mrs ELSON**—Did they offer you more than what it was valued at?

**Mr Gale**—No, they offered me what was fair value.

**Mrs ELSON**—Thank you, Mr Chairman.

**CHAIR**—Further questions?

**Senator MURRAY**—Thank you, Mr Chairman. Mr Gale, I think for the purpose of the committee you should also indicate the quality of your chain. My understanding is that the Advantage Group not only is just a very large independent but has in fact won a number of awards in terms of your retailing expertise and that sort of thing. What we are up against in this committee is a comparison of independents versus Coles and Woolworths, which stand for very high standards. I think you should illustrate your own high standards in terms of the awards you have won.

**Mr Gale**—In 1993, I think it was, we won the IGA award for the Australian Retailer of the Year, and then in 1994 we followed that up with the international award for the finest IGA stores in the world.

**Senator MURRAY**—So that would mean, of course, that you are professional, you are not amateur; you know what you are doing in this business.

**Mr Gale**—We compete, probably more than any other independent that I know, on a one on one basis. We compete in the deli and seafood departments, the bakeries, the meat, the groceries, everything, one on one against the chains.

**Senator MURRAY**—One of the defences both Coles and Woolworths have used to these allegations against them is that if they were true they would be making excess profits. They produced schedules within their submissions which indicate the EBIT and EBITDA—depreciation and amortisation—they were getting compared with international chains. I would like you to get copies of those submissions from the secretariat, and if you could perhaps critique those for us and drop us a line. If you are willing to show us what your comparative EBIT is, you can do that on a confidential basis or an open basis. But what we need is a professional critique of those presentations and submissions by those majors from a professional who can perhaps pick some holes in it which we might not see.

**Mr Gale**—I am happy to do that.

**Senator MURRAY**—The other key question I have for you is your emphasis on trading terms. Every retailer knows that buying price is only part of the game; that trading terms in fact are absolutely material to stock turn, cash flow, discount rebates, whether other people stock your shelves for you and you do not have to pay the labour costs, and all that sort of thing.

You very briefly outlined for us that trading terms are composed of allowances for cooperative advertising, cooperative in lieu, volume rebates, new line fees, gondola end charges, warehousing allowances, national distribution allowances, ranging allowances, and others. You would appreciate that most of the committee and the secretariat have little or no experience in supermarket retailing. It would be very helpful for us if you could perhaps come back to us and outline in brief what each of those mean, and how they can be manipulated by a major to give advantage to that major over an independent, and why that would be immoral and unconscionable, and perhaps any instances anywhere in the world, such as America, where some of those practices might be made illegal or be regulated.

**Mr Gale**—I do not see getting the trading terms that the majors do is unconscionable. I think good luck to them. But the fact that I cannot get the same trading terms is a major problem.

**Senator MURRAY**—But that is the point, isn't it? Under American law you are given the same terms if you compete on the same basis. In other words, if you do the same volume of the same product, you are entitled to the same terms. Your inference here, unless I misunderstand you, is that you do the same volume and you are not getting the same terms. To me, that is wrong; that is a discriminatory practice, frankly.

**Mr Gale**—I do the same volume on a store level, but of course nationally Coles versus the total volume of Advantage is vastly different, and that is what the suppliers basically use as their argument.

**Senator MURRAY**—In every case?

**Mr Gale**—Almost every case.

**Senator MURRAY**—So there is no area in the trading terms that we should pay attention to in terms of unconscionable conduct?

**Mr Gale**—The independents' trading terms are partly consumed by Foodland. That is part of their profit. Unfortunately, the warehouse at Foodland has to make a profit, has to pay dividends to its shareholders, has to pay for itself, and a lot of the trading terms that the chains enjoy Foodland can share in, but it uses a lot of those to go to their profit and it does not come back to the retailer.

**Senator MURRAY**—To return to my question, it would be helpful if the committee had a brief description of those. Would you mind doing that for us?

**Mr Gale**—Yes, I am happy to do that. You might ask Foodland when they come to do that, because I think they are in a far better position and probably a better informed position than I. But from my perspective, yes, I will give you everything that we get.

**Senator MURRAY**—Yes, because they will have a wholesale perspective, and I would like to get a retailer to critique it. The other question I have really is as to your future. The senators and members here—quite rightly—asked you what has happened to you as a result of this competitive situation. Does it mean, do you think, that you will be forced out of business and be forced to sell? Or does it simply mean that times are tougher for you, and will remain tough?

**Mr Gale**—They are very tough. At 2.30 today my board is meeting to discuss our future. At this stage, Senator, I do not know what my future is. I will tell you one thing: I am not going to continue to do 70 and 80 hours a week for a decreasing return, which has been in evidence for the last three or four years. You might say that those are the natural market forces, but unfortunately my wholesaler has not helped by removing about \$1 million worth of rebate per year from me for reasons that they can describe best. So Foodland have actually been of major assistance in this discussion of my future this afternoon.

**Senator MURRAY**—If you read Terry McCrann's article—yesterday, I think it was—he says people like you are just incompetent, hopeless and useless, and you should get out there. That is a typically economic rationalist view, frankly.

**Mr Gale**—It might be true, too.

**Senator MURRAY**—Which is why I asked about your professionalism and your expertise.

**Mr Gale**—I used to put it right up here, but these days I am not sure I can say that because I am having extreme difficulty, I can tell you, competing in the marketplace.

**Senator MURRAY**—Let me give you my last question, then: where is the stress on you? Is it in terms of cash flow? As you know, you can survive unprofitably with cash. Or is it in profitability? Where is the stress applied most?

**Mr Gale**—The stress is applied in competing profitably. I do have a cash flow situation which I have got to watch. I must say that one of the main reasons for meeting today is to discuss how we are going to fund, in this competitive environment, the new store which we are going to open in Subiaco in a few months' time, or what are going to be the funding sources. What has to be understood, I think, when you open a store as large as we have, is that you have initial set-up costs which are usually in the order of about half a million dollars, and then you trade initially at a loss simply because of your systems and your gearing, and as good as you are that does not ever seem to be able to be negated; it is very difficult to trade a store profitably as big as this from day one. So at least you are carrying into the end of year one, as an independent, about a \$1 million loss.

This is why I think there is an inevitability that you people are going to have to grapple with. I do not see the future of independents in supermarkets, frankly, because they cannot

sustain these types of losses. They cannot build these types of stores because of the capital and things that are very restricted. I think the supermarket industry itself has almost become too big for the independent to compete in, with the exception of the rural areas where the smaller unit can compete. In the larger environment in which we are, it is very difficult.

To summarise the answer to your question, yes, it is the competitiveness that is becoming difficult, and I am putting it down to the difference in trading terms. You have got to sell every product competitively, and you have got to have good specials. You have got to have clean stores and good service, and I think we provide every bit of that as well, if not better, than the chains do. But to compete at the level required, the profitability at the end of the day is not there, and I do not know how to address that at the moment. I really do not know how to address that.

What I do need is better trading terms. I constantly negotiate with suppliers on better trading terms but inevitably they say, 'You've got the maximum we can give you.' I say, 'Well, that's not competing on the same basis as Coles.' 'Don't you worry about what Coles and Woolworths get because that's our business, between ourselves and them.'

**Senator MURRAY**—But it should not be.

**Mr Gale**—I agree with you. I think if I enjoyed the same trading terms—

**Senator MURRAY**—If you get a case discount for every 100 cases, 20 cases or 1,000 cases, that should be the rule and it is open to everybody. Why should it be secret?

**Mr Gale**—You have raised an interesting point there, because once upon a time there just used to be a wholesale price, and that was the wholesale price set on a certain quantity buy, but now you have got all of these other things that I have listed in there that add up to a trading term difference. The sum difference between what I get and the chains I would say is between five and eight per cent difference. In a two or three per cent trading profit, how the hell can I compete when the trading difference in terms is five to eight per cent?

**Senator MURRAY**—That is why we need that much better developed for us to understand. Thank you, Mr Chairman.

**CHAIR**—Mr Gale, I think we find this all particularly interesting. There are questions from Mr Nairn and then Senator Boswell.

**Mr NAIRN**—Mr Gale, you mentioned that FAL have just removed \$1 million from rebates. I asked the question of Mr Dymond before: with FAL having such a dominant position in the wholesale market, do you feel that puts you at a disadvantage? **Mr Gale**—Of course it does. Foodland can do what they like and I have really got to take it.

**Mr NAIRN**—You are the first person to actually say that about some of these wholesalers. We asked these questions of Davids in the other states where Davids are basically exclusive providers to the independents, and it seemed to me that the argument against the larger stores at the retail end surely has to apply to the wholesale level as well, but everybody said, 'No, they're very nice and they do the right thing by us; they don't have

a piece of us at all.' FAL is in an even more dominant position in Western Australia than Davids are in other states, and they operate at a retail level as well, so do you feel they probably get a better deal to advance supermarkets than they give to you?

**Mr Gale**—I was a director of Foodland for nearly 15 years, and I can tell you that I left Foodland because of the conflict of interest over this very issue. I was a very disappointed person because I fail to understand, frankly, why the biggest customer that Foodland has as an independent in actual fact receives the worst trading terms. The smallest independent, like the little fellow here with \$2 million turnover, compared to my \$100 million or thereabouts, receives immeasurably better trading terms from Foodland. You can say, 'What have Foodland offered you?' Yes, they have offered me trading terms, but with so many strings attached to them that it makes it impossible for me to operate independently, and all the legal advice is, 'Don't touch it.'

So why they are doing it? I do not know. It is not a crisis that I face, but it is certainly an interesting challenge as to what the future is, and it is very much involved in what Foodland are doing. We compete against Action Food Barns, which Foodland own. The trading terms which Foodland provide Action with are superior to those which I receive, and I think that there is about a 2.5 per cent differential between the trading terms that Action receive and ourselves.

**Mr NAIRN**—So you would say that Foodland are really using their market power at a wholesaling level?

**Mr Gale**—Absolutely.

**Mr NAIRN**—The other question I wanted to ask is: what sort of difference do you think you can borrow from the banks compared to the big guys?

**Mr Gale**—The big guys, of course, use a lot of the public money but we borrow at pretty competitive rates. The overdraft rate is still around the 10 per cent mark or we can buy bills for a bit under six per cent.

**Mr NAIRN**—For capital?

**Mr Gale**—Yes, for capital.

**Mr NAIRN**—For your new store that you are putting in at Subiaco.

**Mr Gale**—Yes.

**Mr NAIRN**—You would be borrowing at under six per cent.

**Mr Gale**—Yes. We would probably put it in under a bill situation, which would give us an under six per cent interest rate.

**Senator BOSWELL**—Mr Gale, there seems to be an anomaly in your submission. You seem to be a very aggressive trader. You say that there is not a future and yet you are

opening a new store in Subiaco. You are either a superoptimist or—I won't mention the alternative! Presumably you are a superoptimist.

**Mr Gale**—Yes, I am. I believe that, with negotiation, we can probably come to grips with some of these situations. I have great faith in what this committee can achieve in levelling the playing field, so to speak.

**Senator BOSWELL**—You appear to have a conflict with your supplier.

**Mr Gale**—Yes.

**Senator BOSWELL**—Does your supplier—and you are a director—get the same terms and conditions as Davids, or would Davids get a better discount from the suppliers because they have a bigger volume?

**Mr Gale**—I think Foodland as a percentage would get the same.

**Senator BOSWELL**—You said that you are at a disadvantage because you have only one supplier. If there were two suppliers in Western Australia, would there be enough critical mass to sustain two warehouses, two trucking lines, two of this, two of everything else?

**Mr Gale**—The answer is no.

**Senator BOSWELL**—Were you disappointed when Coles were knocked out of the ring?

**Mr Gale**—No, I was very glad about that, because you do not get into bed with the enemy. If you do, you end up getting raped!

**Senator BOSWELL**—You are, obviously, a very successful person. Western Australia is able to maintain the highest percentage of independent sales—better than any other state. What do you put that down to? Queensland has fared the worst; Western Australia holding its market share in the independents has done the best.

**Senator FERRIS**—Try shopping hours, Senator Boswell. That is the reason.

**Senator BOSWELL**—Are shopping hours restricted here? Actually we have got restricted shopping hours in Queensland. I am not sure they have in Western Australia.

**Mr Gale**—Yes, we do. The trading hours, I think, certainly assist the independents here—the small independents, that is, who have got fewer than three stores and can operate with 10 staff or less. They can operate seven days a week. That gives them a big advantage, but we are not able to do that. We have the same trading hours as the chains.

**CHAIR**—Senator Boswell, are you wanting to pursue that line of questioning, because I know Senator Ferris did?

**Senator BOSWELL**—No. We can talk about the trading hours. I am not sure there is much we can do about them. They are really a state issue.

**Senator FERRIS**—I am interested to know to what extent you think, first of all, your business would benefit from a deregulation of the shopping hours in terms of profitability and to what extent you think it would affect the corner stores, because one of the things that has consistently come through in evidence that we have taken earlier this week from independents is the combined effect of the sorts of practices that you have outlined to us today in relation to the large chains, but also the incredible effect of the deregulation of shopping hours which allows the major chains to trade, in the ACT, until midnight.

**CHAIR**—And some around the clock.

**Senator FERRIS**—Yes, and some 24 hours. I am wondering if you have done any market projections, particularly in relation to this new store you are planning to open in Subiaco, where I would think extended shopping hours would be a great plus for the sorts of people who live there.

**Mr Gale**—I can give you some insight to trading hours because Rockingham in particular is gazetted as a tourist precinct which enables it to trade seven days during school holidays and vacation times, and we do trade, and the increase in sales during that period is significant. I do know that when we open seven days the effect on the smaller retailers in the Rockingham region is also significant. It is very negative. But when we are not allowed to open, they have a real picnic on Sundays.

**Senator FERRIS**—It has been suggested it could be a 20 per cent difference.

**Mr Gale**—Yes, at least.

**CHAIR**—So you would be in favour of deregulation of shopping hours?

**Mr Gale**—Personally I would benefit from it, but if you asked me whether the deregulation of trading hours would further exacerbate the dominance of the chains, the answer is, yes, it would. So, if I were to answer personally, I would benefit from it, but in the national interest of things, if it happened in Western Australia, the chains would severely erode the independent market power.

**CHAIR**—On a national basis it is mixed, as you know.

**Mr Gale**—Yes, I do. Western Australia, I mean, yes.

**Senator BOSWELL**—The market share that you enjoy—not that you personally enjoy—is it because there are lots of smaller towns that cannot sustain a Woolworths in Western Australia? It is a state made up of 2,500 towns, maybe 1,400. There are not very many big regional centres. There is Bunbury, maybe Busselton, but the whole of regional Western Australia is made up of very small towns. Is that one of the reasons why there is—

**Mr Gale**—The dominance of independents in Western Australia came about because of a number of factors. First of all, because of the distance from the eastern seaboard and therefore the priority of the eastern seaboard over the rest of Australia, and particularly Western Australia, Western Australia was really one of the last states that the chains put

their full focus and attention to. In the meantime, on the other hand, at Foodland we had some pretty aggressive management that had come from the chains, directly from the chains. In fact I was very much part of recruiting the then managing director David Fawcett from Coles to Foodland—I think I was chairman at the time—and he immediately set about putting the independents on the highest possible level.

Since that time a whole series of factors have changed. The eastern seaboard has been seen to be pretty saturated and the chains looked at other market opportunities, and Western Australia was an obvious opportunity for them. So then they started to focus on Western Australia by, first of all, moving into the regional centres, virtually trying to acquire every available site in Western Australia, particularly in the Perth metropolitan region, and then started to do some acquisitions and things like that around the place. Where are we at the moment? We are in rapid decline.

**Senator BOSWELL**—What share of the market are you losing collectively per year?

**Mr Gale**—I would think that we are losing five to 10 per cent—probably five per cent per year.

**Senator BOSWELL**—And that is going down like a stone.

**Mr Gale**—It is. Can I see that reversing? No. Can I see it accelerating? Yes.

**Senator BOSWELL**—Can you see an answer?

**Mr Gale**—No. As I said to you in my opening address, I can see a certain inevitability if all factors that are current remain.

**Senator BOSWELL**—Let me put it another way. If caps, divestiture and all that do not work, where is the answer?

**Mr Gale**—I am not in favour of caps. If the chains want to make me a reasonable offer for my business, I think I should be allowed to sell it to them. That is their business. But I am now thinking as a private individual and I listened to the questions you asked Mr Dymond earlier. All of the caps and things that you are talking about, I think, can slow the rate of decay of the independent there but will not stop it. First of all, find me a real estate developer who is going to give an independent, who might have a short-term life, a 20-year lease in a major shopping centre. Secondly, where is the banker who is going to give an independent up to \$4 million cash to open a store that is going to run at a loss and maybe—maybe—one day make a profit to enable him to get his money back?

Compare it to the chain that comes in and says, ‘There’s my money. There’s the future security,’ and you do not have a problem. I have often described to my senior staff that we are the last of the Mohicans, because I think we are. I do not know of another independent who can put his hand up for \$3 million to \$4 million every time a new store becomes available, let alone find a developer who is prepared to run with you.

**CHAIR**—Could I follow up the question from Senator Boswell. If tables were reversed and you were sitting amongst the group on the other side of the table, given what you have said, do you see it as being the inevitability of market forces as markets change and market positions change, or do you think that this committee should be actively doing something and, if so, what? If you rule out the cap, that would equally follow that divestment is out. What do you see as being the solution?

**Mr Gale**—I think the first solution is to enable the independents to trade on a level playing field. Unless you can produce that, inevitably the sheer weight of the imbalance of opportunity for us is in—

**CHAIR**—Do you think that is possible?

**Mr Gale**—I do not know.

**CHAIR**—In any market situation there is always discount for larger purchases, et cetera. Is this feasible?

**Senator FERRIS**—What is a level playing field to you, in other words?

**Senator MURRAY**—But you are talking about fair competition.

**Mr Gale**—I am talking about fair competition—to be able to buy my goods at the same price. If I have got a supermarket that is turning over \$40 million a year and so, too, is the opposition, I should be able to buy my baked beans and Kelloggs Cornflakes for the same price.

**Senator FERRIS**—As they do?

**Mr Gale**—As they do.

**Senator BOSWELL**—Even if the opposition buys—

**Senator FERRIS**—Twice as much.

**Senator BOSWELL**—\$39 billion worth of groceries or \$25 billion?

**Mr Gale**—You see, that is your problem, because if you say that you can buy \$39 billion and for that get a benefit for doing that that the independent cannot, then are you not saying to me, ‘I’m making you uncompetitive,’ and you are if you do not do something about it? In an industry where we are talking about two and three per cent you cannot allow any difference because I have got the same rent costs, I have got the same wage costs, I have got the same everything.

**Senator BOSWELL**—In some cases more rent costs than the majors.

**Mr Gale**—No. We have been pretty clever about that. I think we have got the same rent.

**Senator FERRIS**—Independents often do not have.

**Mr Gale**—I think developers tend to in-build a little bit of fat for having to deal with the event that an independent may want to sell out.

**Senator BOSWELL**—How would we implement that? Would we have to go and have the ACCC looking at every Coles invoice, every Franklins invoice, your invoices, or taking a selection? How would you actually implement?

**Mr Gale**—I do not think you can, but unless you can you have immediately created the unlevel playing field that exists in the state today.

**Senator FERRIS**—So what is your level playing field? What is a level playing field to you?

**Mr Gale**—The level playing field to me is to be able to negotiate exactly the same terms as those people.

**Senator FERRIS**—Regardless of size of supply?

**Mr Gale**—I think you have got to have some element in the equation. Once upon a time there used to be the wholesale price of goods and the retail price. Now there is no such thing as ‘the wholesale price’.

**Senator BOSWELL**—And yet stores like yours would have gone to the buyers—because I was in the game—and said, ‘Let’s knock off the wholesaler and sell it to me direct.’ That is what happened—I was there when it happened. Big stores like yours that were trading with Campbells, or whoever they were at the time, came to the suppliers and said, ‘Right, deal with me direct.’ The response to that was that we found we had buyers coming in against the independents. Now there is no wholesale thing; it died in the early sixties. Now we are straight on, and the suppliers probably made a rod for their own back on it. But what we are faced with is that there are two majors and a minor player that is not represented in Western Australia and what we are trying to do is sustain an independent sector—we have to have countervailing market power, innovation, and all those sorts of things. You have given us the problems, but you are not too good on the solutions.

**Mr Gale**—No, because I have lain awake for many a night, Senator Boswell, trying to come up with the solutions. You people live with it for a short period of time; I live with it permanently. I have solutions for my own position because I have a certain critical mass that these other poor unfortunates do not have, and that gives me an advantage as an independent, but then on the other hand—

**Senator BOSWELL**—Do you buy anything direct?

**Mr Gale**—Yes, we buy some goods direct.

**Senator MURRAY**—Mr Gale, just to follow up on that point, you are a member of an international group, having won an international award. Why do other countries not have this

same problem? Why is their chain dominance so much lower? Why are their independents doing so much better? Don't you discuss it with them?

**Mr Gale**—Yes, we do, but it is very difficult to draw a comparison. There are the huge population differences which usually explain it all away. One of the major problems we have in this country is this over-shop situation. We have a shop on every bloody corner, haven't we? As soon as I get a supermarket up to \$30 million, I am just waiting for the next time there is another shop site gazetted that brings you from your \$700,000 or \$800,000 back down to \$600,000 again, and so forth. In fact, throughout Western Australia in particular we have got planning situations, and it is not any criticism of the planners per se, where we have got developers who, immediately they see a retail site, build something on it and the first thing they build is a supermarket. I tell you what, when you get the watering down of all this, it makes it very difficult.

I operate stores of up to 5,200 square metres, which is bigger than the chains actually have, so it makes it even more difficult when you look at the comparative size of this huge great monster that you are trying to feed and keep profitable.

**CHAIR**—Further to Senator Murray's question, are you 100 per cent Australian owned or is there overseas equity?

**Mr Gale**—No, it is just two families, the Simpsons and the Gales.

**Senator FERRIS**—What is the reference to the international award?

**Senator MURRAY**—It just has context internationally through the independents.

**Senator FERRIS**—Okay—but not financial?

**Senator MURRAY**—I assumed, therefore, you would exchange notes as to how your different trading situations are.

**Mr Gale**—Yes, in terms of, 'How did you provide the service?' and, 'What did you do there?' but in terms of the price of goods on the shelf, that really does not come into it. There is very little range comparison and the product for product comparison between countries is pretty limited.

**Senator MURRAY**—What lies behind Senator Boswell's questioning—and he is quite right—is that we are looking to you for solutions. We as a committee can only recommend legislative or regulatory change, and behind the question about international precedent is: has different regulation or different legislation there resulted in a restraint on major chain power? Or is it entirely due to circumstances of population and markets and distance and all those other things? We do not know the answer to that question, and people like you could help.

**Mr Gale**—I think that once you allow the chains to achieve the critical mass that they have by comparison to us you have to be very careful. As they continue to seek an increased market share, you will observe that they do not compete too heavily against each other. They watch each other but they do not destroy each other in the process. But they love destroying

the independent because they see him as the opportunity to pick up the crumbs that are left behind. The thing is that, having achieved the mass that they have, it is almost like a downhill run for them. There is such dominance that you get, 'Now let's enter into the convenience field. Now let's start selling petrol. Let's take over the liquor industry. Let's make sure that every shoe that's worn in Australia is from one of our retail situations.'

I think this committee is meeting 20 to 30 years too late. You guys should have done this, with all due respect, a long, long time ago and you are asking me for the solutions now and I do not have them.

**Senator BOSWELL**—Mr Chairman, I just want to make a point here. Both Mr Williams from Coles and Mr Corbett from Woolworths gave evidence to say that the protocols for those firms were not to predatory price. I believe they were both honourable people. If there is predatory pricing happening, it is happening down in the ranks.

**Mr Gale**—No, I can tell you that the meat pricing policy came from Melbourne, not the Perth office.

**Senator BOSWELL**—Because you are a very credible witness, I would like you to give us—not anecdotal evidence, because we can get that at the pub or at the cattle market—any evidence that you have where you put a price, it's cut, you go down, they cut, you go down, they cut.

**Mr Gale**—But how many times do you have to cut before it is a predatory price? I refuse to play the game. I will set the prices that I need to make the required gross profit to make my business successful. If then I have a competitor, which I do have, that deliberately undercuts my price by five per cent—and every experiment that I have ever done to reduce the price and watch what they do, they go straight back and undercut it again—

**Senator BOSWELL**—That is then predatory pricing.

**Mr Gale**—Then sometimes I put the price back up again, and they will move back up too, but still move up to within the five per cent.

**CHAIR**—Do you believe this pricing policy is local here in Perth, so that they are deliberately aiming at your chain?

**Mr Gale**—I have absolutely no doubt about that.

**CHAIR**—Here locally, in Perth, rather than from head office?

**Mr Gale**—I think that it is initiated at store level and it is carried to head office, Perth level. They tried for a long time to compete using other methods against Advantage and when that did not work—

**CHAIR**—What were they?

**Mr Gale**—Just meeting my special prices, for example; putting out separate advertisements for their own stores and competing against me. That was tried. But we were more aggressive. We were on the shop floor—and I spend more than 50 per cent of my time on the shop floor talking to the customers. That is something, as an independent, we can do but they cannot. Eventually, when they arrived at the decision that they could not compete on a one on one basis, what they had to do was ‘establish a policy which he cannot win on’ and that was to undercut my meat prices by five per cent.

**CHAIR**—By the way, just for the interest of the committee, we have got the ACCC people here, who did confirm that they have had discussions with your organisation about predatory pricing and also that they did advise you in relation to the limit of \$1 million, which Senator Murray has been talking about, in terms of unconscionable conduct. So thank you.

**Senator BOSWELL**—I just wanted to ask you, Mr Gale, to put down on paper—and you can do it as an open thing if you want to, or in camera if you prefer—the evidence that you have of where you have put a special out and have been undercut.

**Mr JENKINS**—Are there other butchers in the shopping centres where you are operating?

**Mr Gale**—Yes.

**Mr JENKINS**—What is happening to them whilst this has been going on around them?

**Mr Gale**—They have changed hands several times.

**Mr JENKINS**—So they are struggling?

**Mr Gale**—I think so. I’ll tell you what: I would not like to be in between Coles and us. I believe I have probably the most efficient meat operation in Western Australia. We certainly sell from top quality to the range of value added, the best seafood. We have a smallgoods manufacturing department in the stores and things like that. To compete with us you have really got to try something a little bit above the ordinary level of competition because of the nature of the beast that the chains have to compete against.

**Mr JENKINS**—Your submission says that 12 per cent of your business is in meat and that there is a total of about 42 per cent of your business where the source is direct from supplier.

**Mr Gale**—Yes.

**Mr JENKINS**—Within that 42 per cent, how many of those suppliers are local? Is there a difference in your ability to get good terms depending on whether they are local or national suppliers?

**Mr Gale**—That is a very important point. I think the local suppliers tend to give me better terms than the national suppliers. The local suppliers realise that we are their real life

blood and that, if all of the independents disappeared, they too could disappear simply by the major chains saying, 'Sorry, we don't buy our smallgoods'—or whatever—'from you. We get them from XYZ Co.' So the small supplier I think in the whole chain of things is very much at risk as the independent sector declines.

**Mr JENKINS**—Are the local suppliers being squeezed out? Is that as a result of the independents being squeezed out, or is that part of the overall same phenomenon?

**Mr Gale**—I think a combination of both. It is a natural thing, but of course the smaller and least efficient in any of these operations disappear, don't they? The better quality operator still survives because he chases other markets; he enters into other areas. I am lucky because I have got the liquor businesses and the coffee shops and things which enabled me to put funds into the supermarkets and things like that. But I'll tell you what: I have reached the end of the day of me putting additional moneys in to supplement the supermarkets. I am not going to do it any more.

**Mr JENKINS**—Mr Chair, I make the observation as an eastern seaboarder—a Victorian even—that especially here in Western Australia, and perhaps in South Australia, part of the independents' niche marketing is that they are able to be selling local produce. For instance, if you look at the types of goods that are advertised in the media here in Perth, it is a different range from what we can get, because of that, in Victoria.

**Mr Gale**—Yes. We certainly benefit from that. If you watch my advertisements over the next few weeks you are going to see even more of it because we have been out sourcing product which I think is of a superior quality and at a better price than perhaps the chains can acquire. They will see it in the advertisement next week.

**Mr JENKINS**—It strikes me that is part of the comparison that could be made to international circumstances where the markets are able to supply themselves. Who owns the shopping centres that you operate out of?

**Mr Gale**—Big insurance companies; Joondalup is owned 50 per cent by the state government and Armstrong-Jones own the other 50 per cent. Rockingham City is Colonial now. Colonial has just, I think, entered into the scheme of things.

**Mr JENKINS**—So the big three retail tenants are involved in these shopping centres.

**Mr Gale**—Yes.

**Mr JENKINS**—But you have still been able to negotiate good fair terms compared to your competitors.

**Mr Gale**—Yes.

**Senator BOSWELL**—Are you in the same shopping centres as Coles?

**Mr Gale**—Yes, one on one. We are fighting a kind of retail war.

**Senator BOSWELL**—You are manning up, are you?

**Mr Gale**—We literally man up every day. We are down in their stores; they are up in our store. Sometimes I think I should chuck them a badge because they spend as much time in our store as they do in their own but that is the natural scheme of things that happens in regional shopping centres anyway, yes.

**Senator FERRIS**—I have two issues I would like to raise and I will roll them into one question for efficiency. My first is the question of corporate philanthropy, the degree to which a chain such as yours puts back into the local community in that sense. The second is to ask you to reflect on a piece of evidence which we have already received elsewhere. That is that, when a new product is released and there is a large national marketing campaign, perhaps through magazines and so on, it has been suggested to us that the independents have great difficulty getting ready rapid access to those new products while that promotion is going on and this in some way could be the result of pressure applied by the chains to stop the product for the first two or three weeks. This includes things like new cigarette brands as well as food items.

**Mr Gale**—In terms of supporting the community, there is no doubt that I think the independent does much more for his local community than does the chain. We certainly make sure that sporting groups and organisations and individuals are assisted to a large degree. That level of corporate concern was very much part of the factor that enabled us to be the Australian Retailer of the Year and then the International Retailer of the Year. For example, until very recently we would give everybody who comes in the store a free cup of coffee. I have now had to put that to 50c but 25c of that 50c goes to the community. We put that back into the community—children's hospitals and local groups and things like that.

**CHAIR**—How much in total would you say your corporate philanthropy is worth?

**Mr Gale**—I think it is worth about \$30,000 a year.

**CHAIR**—In total?

**Mr Gale**—Yes.

**Senator FERRIS**—Do you think that is important to the consumer?

**Mr Gale**—No. When the consumer goes to do their shopping, they will look at where they are getting the best deal, not who was the good bloke who supplied the rugby club with a set of jumpers. There is a belief in the community that we make millions and millions of dollars and it is expected that we do that and it is expected that we provide the cheapest prices as well.

**Senator FERRIS**—Sounds like the view of politicians.

**Mr Gale**—I will not enter into that.

**CHAIR**—Wisely.

**Mr Gale**—Yes. With regard to the second question, 80 per cent of all new products that come on the market fail, so therefore there is a certain degree of business sensibilities that come into putting new products into the marketplace. I think for a new product to succeed, if I were a manufacturer I would certainly be looking for the support of the chains initially because without it the product would certainly fail. Then sometimes the product is so popular that the offtake outstrips the ability of the company to produce it. First of all they will do test samples of an area to get some sort of idea and then they will release it in a state and then gradually from there the states will be included—and usually WA is last.

I do know that my good friend Arthur Trindall, whose job it is to source these products, is very concerned when I ring him up and say, ‘Why is such-and-such a product available at Coles but we can’t get it?’ Most of the time that is because they have not negotiated the terms properly, but very often it is also because the product has not been made available yet. But usually the companies, I must say, try and do it with a degree of fairness. In other words, if it enters WA then Coles, Woolworths and Foodland will be given a share of it.

**Senator FERRIS**—So you do not think that the chains put the pressure on to try and do that manipulation?

**Mr Gale**—The chains do try with products to have sole distribution of the product and have uniqueness, but of course that is of no benefit to the companies, so really in the vast majority of cases that does not apply. But where it can apply, particularly at Easter for example, then this duck with a chook sitting on top of its head is only sold at Coles—they have exclusivity of that particular product—and they can have it too! We might on the other hand have a rabbit.

**CHAIR**—Or the singing banana milk bottle we heard about. On page 2 of your submission you say:

Every supplier enters into trading terms with Advantage and almost without exception those terms are significantly less advantageous than those received by Coles and Woolworths, by 3% to 5% which is greater than the net profit achieved by the supermarkets.

Can you actually prove that that is the case?

**Mr Gale**—Yes.

**CHAIR**—You can?

**Mr Gale**—Yes, and I will give you a full list of our trading terms. What I would then ask you to do is to demand from Coles what their full set of trading terms are. If you line up what my trading terms are—in fact I am going to give you in print every product, every supplier, the full trading terms that I receive—and then, if you have the power to, demand exactly the same of Coles and Woolworths and you will see that there lieth the solution to your problems.

**CHAIR**—We will put it there, and I think as Coles and Woolworths are behind you they may—

**Mr Gale**—But make sure they are honest.

**CHAIR**—They may take that question on notice.

**Mr Gale**—Full trading terms, not just what the—

**CHAIR**—Okay. I think that is very interesting and we appreciate that. You talked about your difficulties with the wholesaler you deal with. Why would you not normally just consider changing them?

**Senator BOSWELL**—Because there is no-one else.

**Mr Gale**—I am currently in negotiation, but I must say to you that I have been in negotiation with the wholesaler for two years. To say that we agree to disagree is about as close as we are going to get on that one at this stage. But I have no doubt that the difficulties I am having with my wholesalers are because of their monopoly situation. If they thought they were going to lose the \$100 million sales that I produce by my saying I will get a better deal somewhere else, their intransigence would be remarkably different today.

**Senator BOSWELL**—But you acknowledge there is not enough critical mass to have that?

**Mr Gale**—No, you would be no better off.

**Senator MURRAY**—Unless you can transship cheaply?

**Mr Gale**—Yes, we have also looked at that. In some cases we can do that or we start to buy direct but the quantities are so great to get the best deals that it becomes uneconomic to do so. You virtually have to have your own warehouse to do it.

**CHAIR**—All right, thanks very much, Mr Gale. I think you have given us a fair go. I have to say, along with Senator Boswell, that you are what we would call a very credible witness. We find the information you have given us today particularly interesting and particularly challenging. I think some of my colleagues were saying that if it is okay with you we may come back to you with a phone hook-up and test some ideas that you may have. But we also wish you well with the battle.

**Mr Gale**—I enjoy the battle.

**Senator FERRIS**—We can see that!

**Mr Gale**—Yes, I do enjoy the battle and I must say that I enjoy competing with the chains. You will notice that very little reference is made to Woolworths here. I must say that I enjoy competing more against Woolworths because I believe they fight with both hands in front of them and with a clear face but the other mob I am not quite so sure about.

**CHAIR**—Say hello to the three of them behind you.

**Mr Gale**—They know. We have agreed to sort of—

**CHAIR**—Thank you for being so frank and open. We appreciate it.

[10.16 a.m.]

**CATANIA, Mr Nick, Executive Officer, Western Australian Retailers Association and Western Australian Council of Retail Associations**

**CRAWFORD, Mr Ian Wesley, President, Western Australian Council of Retail Associations, and Vice-President, Western Australian Branch, Pharmacy Guild**

**CHAIR**—Welcome. What is the difference between the two organisations?

**Mr Catania**—The Western Australian Retailers Association is made up of many small retailers across the board of retail, whereas the council is a peak body made up of affiliates of various industries like pharmacies, jewellers, et cetera. So one is a peak body whereas the other is a general retail body representing all comers, if you like, in the retail field.

**CHAIR**—Okay. The committee prefers all evidence to be given in public, but you may at any time request that your evidence or part of your evidence be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. The committee does not have a submission before it. I now invite you to make an opening statement. At the conclusion of your remarks we shall proceed to questions.

**Mr Catania**—Both Mr Crawford and I represent approximately 6½ thousand small retailers in Western Australia—it is probably the biggest retail association or organisation in Western Australia. We have as part of the council of retailers liquor stores, hairdressers, beauty therapists, newsagents, pharmacies, jewellers, butchers, motor traders, delicatessens, food retailers and suburban business groups in Western Australia, particularly of course in the metropolitan area. Our presence here today, I am sure you are all aware, is because small business retailers and small business generally have a very short life span. The statistics I quote are that 78 per cent of small businesses that start up only last 18 months. Our members certainly do not want the added pressures that the big chains place on small business, especially the small retail business sector, to help that figure go from 78 per cent to 88 per cent as it is approaching.

We are here to expound what we believe is more the social aspect—the emotional aspect, the equity aspect or the fairness aspect—that our small businesses really want to see being present in Western Australia and certainly in the rest of Australia. Our presence here attests to the fact of the great concern that our members in the council generally have, and the small retailers have, about the dominance of the chains.

We heard the previous speaker talk about predatory pricing. Let me state, as the bigger organisation that Advantage is, it is able to compete and head-butt the bigger chains, but our people are small, micro retailers. They employ, together with themselves—the owners—five or fewer employees and cannot participate in the sort of competition and arm-wrestling that we heard Advantage being able to do.

They do not wake up in the morning, as Mr Gale said in one of his closing remarks, stating, ‘I look forward to the competition.’ Our people wake up in the morning and say,

‘How are we going to survive under the competition or with the pressures being imposed upon the small retailer? How are we going to survive? How are we going to compete? If we are in a shopping centre and there are 50 variety stores that sell the same products as Coles and Woolworths, how are we going to compete against our big neighbours, our co-tenants in that shopping centre?’ So we come more from that emotional aspect. We come more from the survival aspect. We come more from the aspect that we are seeing our businesses being killed off either by being purchased, by being integrated or by the excessive market power that is being held by the big chains. They see and we see regularly, as our members contact our office, that they have to dispense with jobs and give away employees.

There is the disappearance of the normal deli as we know it in Australia. What we affectionately know as the corner deli in Western Australia has local convenience and when it closes there is the lack of convenience for the ageing community we have in Western Australia and in Australia generally. Little stores providing specialty goods and products are disappearing, innovative marketing techniques are disappearing and with the disappearance of those the quality of life of the community is also disappearing.

We are very happy you are over here, by the way. We thought you were not going to get here for some reason or other. Western Australia particularly is a place where we seem to be able to fight off, if you like—I can quote you the trading hours—the deregulation of trading hours, and I hope we can do that forever and a day. We have been able to fight off the complete dominance, if you like, of the retail sector, although it is getting harder and harder to do that because 60 per cent of the market in Western Australia is a huge percentage to hold. If we allow things like deregulated trading hours and cheque book purchases to continue, we will certainly go from 60 per cent to 80 per cent and 85 per cent, as has been experienced in the eastern states.

Our people are concerned that Australia, as a nation—and Western Australia—is being controlled by three or four players in each industry. Three or four players dominate the Australian business landscape. We look at telecommunications, media, mining, retail—

**Senator FERRIS**—We are doing what we can to assist that.

**Mr Catania**—We are, yes, I agree with you.

**CHAIR**—Airlines.

**Mr Catania**—Airlines. I have got it down here, yes, your particular interest in that area. Motor vehicles, banking, property markets through property trusts: if you have a look at every sector of industry and commerce in Australia, there are three or four major players that control the particular field. Retail is one that is so dominated by the three chains. In Western Australia, fortunately, we do not have Franklins—thank God for that. I hope we can put up a barrier across the Nullarbor and make sure they do not come across. But research has shown that Coles, Woolworths and Franklins control 31 per cent of every dollar spent in Australia.

**CHAIR**—Can I just interrupt you for a moment. Senator Ferris has to return to the east coast, tragically!

**Mr Catania**—Tragically for you, yes.

**Senator FERRIS**—I agree.

**CHAIR**—Before she goes I think there are a couple of questions she would like to ask.

**Mr Catania**—Yes, by all means.

**Senator FERRIS**—I am just interested to explore very briefly with you the question of the advantage that your members have as a result of the regulated shopping hours. You would have heard the previous witness agree that when in Rockingham he was able to open his stores for longer periods of time, he got an increase in business of more than 20 per cent. In fact, I got the impression from him it was quite a bit more than 20 per cent. Would you concede that your members have an advantage in the sense that, unlike the eastern states, you still have those regulated shopping hours which build in a form of protection against, if you like, the voracious nature of the chains?

**Mr Catania**—We do. I think that is a protection and I do not think I would call it an advantage. It is a protection that it is a necessity to have.

**Senator FERRIS**—Do you think consumers believe that?

**Mr Catania**—They may not believe it, but can I tell you they would believe it very quickly if our small businesses, the people who actually compete with the big business chains, disappeared and the big chains—who control, as they do, 80 per cent and it goes to 90 per cent—will be telling the consumers what to buy, when to buy it, where to buy it and how much for. In Western Australia we have 9.7 businesses per every 1,000. New South Wales has 8.1.

**Senator BOSWELL**—Retail businesses?

**Mr Catania**—That is right, retail businesses.

**Senator MURRAY**—Per 1,000 people?

**Mr Catania**—Yes. If you brought in deregulated trading hours, we believe that 1.6 or 1.7 will survive because of the advantages given to them by being able to trade after hours, if you like. In Western Australia, if you allowed deregulation to take place, the percentage would go from 9.7 to 8.1 as exists in New South Wales. That would mean in Western Australia the closure of 2,000 businesses. Our businesses are micro businesses here, employing on average three people per business. If you multiply 2,000 by three you get the loss of 6,000 jobs.

**Senator FERRIS**—I have one other question to ask you.

**Mr Crawford**—Just before you go on, Senator, could I make a comment about consumers. It is interesting that you raised the subject of consumers, because I believe consumers are very fickle. In Western Australia I believe also that we have two types of

consumers that you can easily distinguish: country consumers and city consumers. Country consumers are much more aware of their local businesses than city consumers are. We sit on several committees with consumers and, unfortunately, consumers are not experienced in any particular field and particularly not in retailing. It is very difficult sometimes to take their opinions on board because they are coming from a 'no' background.

**Senator FERRIS**—This question relates to a position that has been put to us by NARGA, the peak body, which has called for a cap on the continued expansion of the big chains. But many of the smaller shops, such as your members would represent, are in fact the people who sell out to the big chains for one reason or another: either price or they have come to the end of their working life as they see it. I am just wondering how your members would feel if we were to impose a cap which would effectively, if not prevent the sale, would certainly affect the price that might be offered by other than a big chain purchaser.

**Mr Catania**—I would like to answer that in two parts. Firstly, can I say we fully support, endorse, encourage—whatever you like—the cap. The cap is, I think, a necessity. This committee's responsibility to recommend a cap I think is just imperative. Take it as advice, take it as a cry of concern, take it as a cry of help—whatever you like—but we need a cap. We join NARGA and we join the independent retailers in saying that the cap should be 75 per cent. In fact, what we state is that it should be 25 per cent by one particular operator or one particular concern in the market—no more than 25 per cent. We are being generous, because it is, for instance, 17 per cent in the UK and 12 per cent in Japan and 21 per cent in the United States, so we are being generous by saying 25 per cent. Yes, we endorse a cap.

In the United States, when they brought in their antitrust laws, they gave people seven years to shed the fat. We suggest, because Australia is a very small economy, that five years would be appropriate to shed the fat and bring it back to 75 per cent.

Why do they sell out? Because if you woke up in the morning and you were a small retailer located across the hall, across the common area in a shopping centre, from Coles and Woolworths and they sold the same product as you at lower prices and you had to play wonderful music and do clown tricks to bring in patrons to your shop, why would you not sell out? Why would you not sell out and just shed the worry?

**Senator FERRIS**—Why would you prevent them having the opportunity to do that?

**Mr Crawford**—I am just wondering whether that assumption that we are selling out to the larger organisations is correct. I think it is a cross-pollination of small businesses being sold to other small proprietors.

**Senator BOSWELL**—No, it is not, according to this—it is 2.85 per cent of your market.

**Mr Crawford**—Is that in Western Australia?

**Senator BOSWELL**—No, it is in your total market—2.85 per cent has gone across to the chains.

**Senator MURRAY**—Mr Crawford, I want to focus on pharmacies if I can, because pharmacies are an antithesis of the supermarket industry—highly regulated—and it is also a sector which the major chains want to get hold of. They want to become pharmacy controllers as they are controllers of every other aspect of retailing. The problem we face is not just a concentration of power in supermarkets; it is that those supermarket chains also control shoes and liquor and toys and all sorts of other goods. As I understand your regulated industry in Western Australia, there are about 500 pharmacies, and an individual can only own up to three?

**Mr Crawford**—Two.

**Senator MURRAY**—And you are able to operate them under banner groups and buying groups?

**Mr Crawford**—Yes, you join a group and it does not affect your ownership.

**Senator MURRAY**—The only goods which are exclusive to you are prescription goods?

**Mr Crawford**—Correct.

**Senator MURRAY**—All other goods in the pharmacy are open to competition?

**Mr Crawford**—Yes, open slather.

**Senator MURRAY**—The result of that, as I understand it, is a very healthy small business sector. The chains would argue that that is a restrictive practice, that they should be able to run pharmacies. It is essentially the same argument as to why they should control the market in every other respect. I would like you, just for our sake, to tell us what are the benefits to society at large of a highly regulated industry such as yours.

**Mr Crawford**—In order to get it into a very simple argument and not take all day, I believe that medications are not normal items of merchandise. That is really the clearing house for the whole argument. You need some sort of ethic or responsibility when you are distributing products which can be fatal. I just happen to have an advertisement that I pulled out of a paper recently which was put in by Woolworths and they are advertising a product called Dymadon, which is paracetamol. They have reduced the price of Dymadon by at least 35 per cent. As we know, paracetamol is possibly one of the most dangerous products in our society today and it causes more deaths, more hospital admissions, more liver cirrhosis, more stomach ulcer problems than most other drugs on the market, and here we have an organisation that is saying that it is reputable foisting that sort of product onto the public.

So when you buy two packets instead of one, isn't the natural inclination that when you take the product for your health you will say, 'Well, because I got two for the price of one virtually, I'll take two tablets instead of one,' and this is compounding the product? Pharmacy I believe needs to be restricted and in the hands of pharmacists, and I believe that the number of pharmacies owned should only be two—I do not agree with some of the regulations that are current in the other states—because you need a supervision of these

products, which just cannot be classified as being sold for gain; they are being sold for the health of the nation.

Pharmacy in Western Australia has exhibited a huge ability to restrict the sale of some of these products, and I will give you an example. Some time ago homebake was all the go in Western Australia. We had a crew of New Zealanders come over and they were making homebake and the raw material they wanted for that was a compound codeine tablet that could be bought in 25s, 50s and 100s. They were sending couriers around to all the pharmacies in this state, picking up packets of 100 compound codeine tablets, taking them back to the labs and making the homebake and selling it to our youth. The pharmacy as an industry got together—

**Senator BOSWELL**—Could you explain what homebake is?

**Mr Crawford**—They refine the other ingredients out of the tablet to produce a codeine base which is related to morphine, so it gives—

**Senator BOSWELL**—What is homebake?

**Mr Crawford**—Homebake is a street name for developing from a resource which has got other products, to refine—

**Senator BOSWELL**—I thought it was some bakery product. I was trying to get the association.

**Mr Crawford**—But let me tell you that pharmacy in Western Australia drew up a plan where we instigated control of the sale of these products. Anybody coming into any pharmacy in Western Australia had to record their name and address and driver's licence, or some other identification, before the pharmacist would even suggest to them that they could buy the product, and then they would ask, 'What do you want the product for?' If they did not have a suitable reason, they would be sold only a packet of 24. We cut the homebake industry out of Western Australia within 12 months. They have all gone.

**Senator MURRAY**—All right. Within your sales of a pharmacy, what percentage of your sales falls within these exclusive product ranges, which are prescriptions, and what percentage is open?

**Mr Crawford**—Prescriptions on the national health PBS system, where the government is the sole customer—and that is sort of a monopoly in reverse—we would do 20 to 25 per cent of our business. Over-the-counter sales of scheduled items would form at least 50 per cent of the business.

**Senator MURRAY**—So the fact that supermarkets can buy and sell deodorants and perfumes and scissors and whatever else much cheaper than you do does not result in driving you out of business, because not all customers come to stores just for price, do they?

**Mr Crawford**—No, that is true.

**Senator MURRAY**—They come for convenience as well.

**Mr Crawford**—They come for convenience and, hopefully, they come to the pharmacy because they have service and advice and counselling.

**Senator MURRAY**—All right. If that is true, what we are being asked to do is to quarantine off a quarter of the market for independents. Some of the arguments put by the independents to us is that they have to be able to compete on price as well. I do not necessarily agree with that, incidentally; life is not like that. Your instance indicates that, providing you are allowed to survive by regulation, even when there is heavy price pressure, you can still maintain a living. That is correct?

**Mr Crawford**—You can certainly survive by having added-on value available to your customers and you do that through service and other programs that you introduce. Pharmacy is a classic example. I can go into several programs in Western Australia. One is called Drug Aware. We now have Drug Aware pharmacies which indicate to people everything about illicit drugs. We have very explicit brochures which are available in every pharmacy in Western Australia, particularly for parents, friends and relatives of the younger generation who may be involved in the drug scene, and we believe that we have enabled our parents and the older generation to understand drugs and to be able to detect the signs that people are taking drugs.

**Senator MURRAY**—Let's move on from there because we have not got a lot of time. Mr Catania, the Master Butchers Association is a member of your association, isn't it?

**Mr Catania**—Yes, it is.

**Senator MURRAY**—Butchers in particular are an industry which has been taken over by the big supermarkets. In fact, Woolworths claimed to us, I think, that two-thirds or 40 per cent—some major figure—of all apprentice butchers go through their system; it is a very large figure that I cannot recall. Do you know what has happened to the independent butcher in Western Australia as a result of the supermarket industry taking them over?

**Mr Catania**—In the last five years in Western Australia I believe the statistics state that there are 60 per cent fewer independent butchers than there were.

**CHAIR**—In Western Australia?

**Mr Catania**—Yes—60 per cent less. I do not know the statistics in other states, but certainly in Western Australia the number of butchers has declined substantially and they have been taken over by the supermarkets, if you like. So that is of great concern.

**Senator MURRAY**—Why would that matter to society?

**Mr Catania**—For society it is the convenience, it is the familiarity of going to the local—

**CHAIR**—Convenience on what basis?

**Mr Catania**—Convenience of having butchers close to suburbs rather than going to the huge centres.

**CHAIR**—Isn't there the convenience of one-stop shopping?

**Mr Catania**—There is; there is a convenience. There is no doubt people like the one-stop shopping. However, the local butcher has been part of the local community and you have heard the argument about the contribution to the community. Being part of a community not only means that you service that community with your product, but you are there for a chat, you are there for social intercourse that the butchers and the corner stores have provided in the past. They no longer exist. Today, as has been stated, the responsibility of providing convenience, service and responsibility for staff and employees no longer matters to the corporations, where it did matter to the small people, to the butchers.

**Senator MURRAY**—So you are saying parliament should legislate or regulate as much for social concerns as for economic concerns?

**Mr Catania**—Absolutely. It is not only an economic decision; it is a social decision. More importantly it is the social decision, and the consequence of legislation should bear in mind more so the social consequences than the economic consequences in a lot of instances, and certainly legislative intervention is required in this area. There is an inconsistency—

**CHAIR**—You are asking this committee to make some legislative changes on the basis of the social consequences. In all fairness, in terms of the credibility of this committee, could we say that one of the reasons that we should be making these changes is because it is difficult for people to go down to the local butchers and have a chat?

**Mr Catania**—I would like to answer that. I think that is a very hard look at what I said. It was a comment on one of the social factors: having a social chit-chat. I would not like any member of the committee to home in and say, 'That's one of the reasons we should give or one of the foundations'—it is just one of the social consequences.

**CHAIR**—Okay. We would like to know the other social consequences.

**Mr Catania**—Let me give you those social consequences. There was a survey done in Western Australia late last year, the Capricorn report. Let us have a look at a service to the public, a social consequence. A survey was done of 755 households and this is one of the conclusions:

Large department stores seem to be most unhelpful. They don't know what they have in stock, they don't put themselves out to look for any help to give to consumers. Then the final insult is to have a queue to get a fitting room.

This is the consumer saying that there is no service in large department stores and that the person serving across the counter has no product knowledge. This is not so with smaller stores.

**CHAIR**—Isn't that a competitive advantage that the smaller stores then have? If the consumer is so concerned about that, wouldn't they then go to the smaller store where they do get that level of service?

**Mr Catania**—As the previous gentlemen who sat here said, consumers do look at price as well, unfortunately. This came out of the report as being one of the negatives in going to a large department store, that the service was lacking. However, consumers do look at many things. They do not look just at service. We are saying one of the social consequences of allowing the growth of big chains is the lack of service you will receive.

One of the social consequences with the growth of big chains is the employment factor. The ABS reported in September of 1997 that small business contributed 65 per cent of new jobs created; that in fact big firms had ditched jobs during the same period. I repeat: 'Ditched jobs during the same period'. One of the social consequences of allowing big chains is the lack of full-time jobs, the fact that they ditch jobs. Once, managers used to say, 'I've retained all my staff': now their success is judged on how many staff they can actually ditch.

**Mr NAIRN**—Can I come in on that comment about service and consumers looking more particularly at price. Isn't part of the problem here a marketing problem that consumers are not being reminded about the advantages that are there with the smaller businesses? Isn't that part of the responsibility of your organisation? I will throw that in. My initial question that I wrote down was: what do you actually do for your membership in these sorts of regards?

**Mr Crawford**—Can I take up the question of public interest. I believe one of the factors this committee has to be looking at is the public interest. The chairman a moment ago mentioned one-stop shopping. I do not believe, particularly in Western Australia, that one-stop shopping is necessarily what all consumers want. It may be difficult for old people, invalid people, incapacitated people, people with no transport. I do not know whether you are aware that in Western Australia transport is fairly thin on the ground; if you do not have your own transport it can be very difficult to get to these major centres. The thing about the chains is that they are not concerned about public interest; they are only concerned about greater market share, and there should not be any confusion about that.

In Western Australia there is a move to increase the popularity of high streets—to bring high streets back into vogue, and it has been quite successful. I can list off many of them: Bayswater, Subiaco, Claremont, East Fremantle, Cottesloe, and King Street in Perth. The government is even backing King Street in Perth, and East Perth is one of the biggest developments being undertaken in a village context. So the one-stop shop is not necessarily what everybody is looking for and your committee has to be aware of supporting the idea that there needs to be involvement in public interest. And we feel that we are closer to the environment in retailing than some of our larger opposition.

You asked earlier about supporting the community. Who do people go to first for donations to support the community? Who is the most available? Who is the most readily available person to talk to? It is the small business.

**CHAIR**—How much do you average in terms of your members in donations to charities? Have you got a figure that you can quote?

**Mr Catania**—We have not got those figures, so I make this comment without statistics and figures to support it. But let me say that if we look at our members—with their very small incomes and large mortgages—and at their incomes and their assets relative to the big chains, they would contribute as much as if not more than the big chains to charities and community work.

**Mr NAIRN**—Can I come back to my question, because I think you just totally ignored it. Who is telling the old people that some of those services are available through the small retailer but not through the large chains? Who is telling the customers about all those other services?

**Mr Crawford**—My specific experience is in pharmacy and we are doing it all the time. We cooperate with the government; we do it on our initiative. This week I have been to two different committees organising the distribution of information to people about ‘stay on your feet’ and the problem with medication causing falls in people over 70 years old. That has been taken up by pharmacy and has been driven by pharmacy with the assistance of the Western Australian health department. That is just one example. I can give you a whole list. We are doing that all the time. That is how we survive. We have got to get people in through the door. That is the added-on value that I was talking about before.

**Mr Catania**—Can I just add that our people do get advised through their various organisations—the Pharmacy Guild, et cetera. However, we do not have the marketing dollars and the marketing power to attract and to romance the public as the big chains do. So we, with our small dollars and our small availability of marketing power, do our best—especially peak bodies like ours—to ensure that our members advise the consumer out there that they are there, and they offer something.

**Mr NAIRN**—Can you just tell me off the top of your head, or maybe provide the information, what your membership has done over the last 10 years?

**Mr Catania**—Let me give you a quick rundown. I have been with both organisations for two years, and one of them has been established since 1981, so we are about 17 or 18 years old. It is a constant battle in the offices of the council and the Retailers Association with landlords, with the big chains, to advise members of their rights under leases, to advise members of what they can do for predatory pricing, where to go—to the ACCC or whatever. It is a constant battle. We are preoccupied, as peak bodies, as advising bodies, with putting out the fires rather than providing what we should be providing, which is marketing support for growth and survival.

**Mr NAIRN**—Those comments were useful, but I do not think I explained exactly what I was asking, which was about the level of membership over the last 10 years.

**Mr Catania**—No, I understood that. Our level of membership has increased.

**Mr NAIRN**—You talked earlier about the number of businesses going out of business, and 75 per cent of all small businesses failing in the first 18 months, and we know all those figures. That is for an incredible variety of reasons, but certainly—

**Mr Catania**—There is always one there to take their place.

**Mr NAIRN**—That's right.

**Mr Crawford**—And I suppose it is also the effectiveness of the organisation as to whether people join.

**Mr Catania**—That's right. They have to join to protect themselves.

**Mr NAIRN**—There was evidence given earlier in the week that although the number of independent supermarkets may be reducing, the actual number of shops that sell all of the things that you will find in supermarkets has increased quite dramatically over the last five to 10 years.

**Mr Catania**—People buy themselves jobs. One small business fails and another one comes and takes over their place because they have a superannuation payout. They buy themselves jobs, so there is one to take its place, if you like. Our membership has continually increased because they see organisations such as ours as advice bodies and as places where they can hand over their problems.

**Mr NAIRN**—You were talking about a cap before. If there was a legislative cap it would be a first in the world, wouldn't it?

**Mr Catania**—How wonderful that is.

**Mr NAIRN**—No, from the way you were speaking before I got the impression that you felt that this has happened elsewhere, and the American legislation—which is constantly referred to by everybody—does not provide any caps at all.

**Mr Crawford**—Do we have to be daunted by that? Australians can always think of something—

**Mr NAIRN**—No, I understand that.

**Mr Crawford**—But if you are going to have a cap—and we support a cap—then it is essential that the wholesaling business is then allowed to be a vibrant part of the economy. The large organisations tend to divert their business away from wholesaling, and we, as small retailers, feel that it is absolutely essential that the wholesaling industry goes along with the retailing industry because of the added value that we can get from a wholesaler.

**Mr NAIRN**—Yes. I raised it in that way because whether a legislative cap is the right way—and this is what this committee has to look at—to address the issue that is before us, or whether it is really ensuring that the law as it relates to competition is correct and works properly so that people are competing on a fair basis—which is probably more the course

that most other countries have gone and which has then been interpreted as being a cap when it has not been.

**Mr Catania**—Let me say that one of the reasons why we endorse a cap is the inconsistencies of decisions from the ACCC. In this morning's newspaper, 'ACCC takes fizz out of Coke bid.' I am sure you have read this. It says that the proposed acquisition would see the share of Coke business move from 65 per cent to about 75 per cent. So the ACCC—rightly, by the way, but inconsistently—makes the decision to knock on the head Coke's bid for Schweppes.

**CHAIR**—About a week ago I think they did the same in terms of cigarettes, too—British Tobacco and—

**Mr Catania**—But they have not touched the retail sector. Nearly 85 per cent of it is controlled by three players. The inconsistency—

**Mr NAIRN**—It depends on what figures you use.

**CHAIR**—Part of the problem—

**Mr NAIRN**—Is those figures.

**CHAIR**—Yes—and part of the issue for us as well is that they can actually address the issue of large takeovers, so if they took over Foodland or whatever then that could be addressed. But when you have got this incremental creep, as I think Senator Murray identified very early in the piece, they do not have that ability—we have three ACCC people nodding in agreement—so that is an issue to bear in mind. Obviously that is of interest to this committee. Senator Boswell always has a question.

**Senator BOSWELL**—I have a number of questions, Mr Chairman. Firstly, the ACCC knocked the Foodland takeover in Western Australia right on its ear, and that was at a request from me and the Senate asking the ACCC to take action, which they did. So I think they do what they can under the terms of the legislation. Gentlemen, one of you represents the pharmacy industry and one represents the stores. You have said you have increased your membership. That would mean that you are not only representing the chemists and the grocers, but you are representing many more retail stores, I take it?

**Mr Catania**—Yes.

**Senator BOSWELL**—Across the whole spectrum of the retail industry?

**Mr Catania**—Yes.

**Senator BOSWELL**—If we establish a cap, what is going to be the reaction? The reaction will be that Coles and Woolworths and Franklins will move out of some of the smaller sites which they have. What is going to happen to your membership who are tagged into that site they move out of? Say we have a country town here of a certain size that has a small Woolworths, and attached to that Woolworths is the chemist and the butcher shop. We

have got a dynamic new place going ahead, like Rockingham, and this country town or regional area is not going ahead at all; it is holding its own and trading profitably but it is not going all that well. So we have the cap set up and they want to get into this new area, but this shopping centre has your chemist and your butcher shop and your paint store, and all of a sudden they are going to get out of that. Where is that going to leave your members?

**Mr Catania**—Let me give you an example. Let us take a typical country town in Western Australia: Nannup. I happen to have personal experience of it. It is 300 kilometres south of Perth.

**Senator BOSWELL**—How big?

**Mr Catania**—It is not very big. It is a timber town. It is a very small town.

**Senator BOSWELL**—With 500? 1,000? 2,000?

**Mr Catania**—Perhaps over 1,000. It has a liquor store which sells at the same price as in Perth. It has a hardware store that sells at the same price as what you get in Perth. I know, because I took some poly pipe down from Perth at 60c a metre and I ran out and I went into the hardware store in Nannup and I bought it at 60c a metre, and I had to transport it down there. In this particular town there is actually a Foodland store which sells goods at exactly the same price as in Perth. The only site in that town that has more expensive prices than in Perth are the two petrol stations, because there is no independent. Surely that answers the question?

**Senator BOSWELL**—No, it does not.

**Mr Catania**—Look, we do not want any special favours; all we want is the ability to compete. We do not want any favours.

**Senator BOSWELL**—No, that does not answer it. I think you are getting aggressive towards me—

**Mr Catania**—No, I consider you a friend.

**Senator BOSWELL**—and I think your organisation would tell you that I have been the one that stood up—

**Mr Catania**—I know that, Senator Boswell—I know that very well.

**Senator BOSWELL**—I am just trying to get my mind around how we do this thing, and how we put a cap on. If we force divesture, do we have to pay just terms under the Constitution? All these things you come up with, but we have to sort them out. No, you did not answer the question. My question was this: you have got membership across the board. We have a town that is just chugging along. It is not going backwards, it is not going forwards—there are plenty of them in Queensland I could name. And Coles or Woolworths or Franklins have got a shopping centre in that town. I am not arguing about the price or the merits of having independents in country towns.

But attached to that shopping centre, which has as its anchor tenants one of those three, you have 20 other stores. The cap bites; the board of directors of Coles or Woolworths says, 'We've got a cap. We've got 25 per cent' or, 'We've got 30 per cent. What are we going to do? Here's this huge market opening up down there in Mandurah. If we're going to get into Mandurah we're going to have to close something, so let's walk away from Collie'—a case in point, and I do not know how many people Collie have got, but I know there is a town called Collie. So they walk away and they open at Mandurah. What happens to all your members who are sitting there without the attraction there to pull the people in?

**Senator MURRAY**—Why would you think there is not another supermarket that will want to—

**Mr Crawford**—I cannot see the problem, Senator. I honestly cannot see the problem.

**Senator MURRAY**—I mean, that seems strange.

**Mr Crawford**—I would love that to happen—

**Senator MURRAY**—Why do you think Advantage would not buy it?

**Mr Crawford**—because I know a private individual would take over that site. He may not take over the whole site, he might partition it off because he cannot cope with the complete site, but he would step in and fill the gap, and you would not be able to stop them from doing it.

**Mr Catania**—I would like to go back a bit further, Senator Boswell, to ask how Coles or Woolworths or Franklins got to that position or got into that shopping centre or started off. It probably took over a number of stores or a number of stores closed because they could not compete with them. So what you did in the first place is close perhaps four or five or six or 10, or whatever number of stores, to get to Coles. You may in fact trigger some of those coming back into the market, trigger that that country town starts to get back some of the businesses that closed originally, starting to get back some of that social benefit of having 20 operators in the town instead of five with a Big W or Coles. So I do not see a problem—in fact I see an advantage.

**CHAIR**—What about the second part of that, though, in terms of your members if they find the price of their retail outlet drops as a result of the cap? Because especially those in small supermarkets and so on, or a reasonable size—

**Mr Catania**—I do not see that, can I say. I would say the price of a small independent would drop if their neighbour is Coles, Woolworths, or Franklins.

**CHAIR**—I am talking about generally. According to your own statement there have been a lot of chequebook purchases and so on around Australia, particularly in Western Australia. So if suddenly you take out those major groups that have been doing the purchasing, I think the law of economics means that the price will probably fall in terms of the market price.

**Mr Catania**—The ones that remain and have not been purchased will survive. If there is a cap, won't they be considered better business investments when Coles or Woolworths or Franklins or whatever cannot expand any more? It gives them a little bit more of the cake.

**CHAIR**—That is the other side of it.

**Mr Catania**—That is my side of it.

**CHAIR**—It is something in terms of thinking through for your members because not everywhere have we found people have been quite so sure of what they—

**Mr Catania**—I think the greater good will be served, with all due respect, if there is a cap and if there is a healthy small business—especially retail—sector that does not perhaps fall down every 18 months. Perhaps they do get a price. Perhaps the landlords will romance them more in their retail shopping centres than they do now where their main concern is to ensure that the big chains are well catered for and the small variety stores around them are providing all their support and providing most of the rent and variable outgoing costs. I want to give you a couple of examples. Obviously the time is moving.

**CHAIR**—Yes, we are actually out of time.

**Mr Catania**—Could you give me just a few minutes. I have given you the example of what will happen if there is deregulation and if there is not some control on the employment situation in Western Australia. You have statistics which state a one per cent growth in the big chains will cause 1,700 jobs to be lost, et cetera. I will not repeat those.

**CHAIR**—That is based on ABS figures, is it?

**Mr Catania**—That is a statistic compiled by COSBOA.

**CHAIR**—Which is, I think, a small business organisation, which is not entirely an independent source.

**Mr Catania**—I think their statistics were pretty well based.

**CHAIR**—I think it is important though that we try and base it on—

**Mr Catania**—Let me take Western Australia. Let us look at pricing in two suburbs. I am sure the Western Australians around here will know these two suburbs. One is North Perth and the other one is Balcatta. There are Coles and Woolworths, one in Balcatta and one in North Perth. These two particular suburbs are characterised demographically by a high ethnic content, a high population of Italians, Macedonians and Greeks. When a price watch survey was conducted, it revealed that in those two areas the prices of groceries were higher than others. It is generally a well-known fact that these ethnic populations are not as mobile or do not follow the specials as much as the mainstream population. They go to their local shop, they shop there, and they will take the price that is there.

Why were the prices in these two stores—one was Woolworths, one was Coles—in suburbia different? Had the big stores done their homework and said, ‘Well, these people don’t move. We’ll lump on them whatever price we get to have the highest margin.’ That was a general survey and a conclusion which I can provide to this committee at a later stage.

**CHAIR**—I would appreciate it if you could get that and provide it.

**Mr Catania**—Yes, I will. I want it to be well recognised that the big chains, the big operators, are not particularly concerned about providing consumers with the lowest price if they do not have to. They can get away with it. Tasmania is another example. If you look at Adelaide, for example, where there are regulations, there is greater competition. So if the big chains do not have to they do not provide the lower prices. I just needed to make that point because they are two well-known metropolitan area suburbs where this peculiarity exists.

The third example I give you relates to a member of the committee of the WA Retailers Association that once worked for a company called Osborne Metal Industries. I am sure the Western Australian people here will know that company. It dealt in metal products. He was selling a particular tumbler and he was selling it to Coles. It became a very popular product. At the end of that year the Coles purchasers came to him as a salesperson for Osborne Metal Industries and said, ‘Look, this is very popular. We’d like to buy more of it. We’d like to have a contract. However, we want a decrease in price because we want to sell it very cheaply,’ or ‘We want to sell it but perhaps we keep a bigger margin’ is more likely what was said.

This particular gentleman, whose name is George Sulcs, who has made a submission to this committee and is a member of our association, said ‘I can’t sell it to you for less because there’s no margin in it.’ The response was, ‘If you don’t sell it at that price to us we’ll get it made overseas.’ Because they could not sell it any cheaper, in fact that product was made overseas and Coles supplied it from an overseas destination. I want to bring that example to you because—

**CHAIR**—What is the name of the company again?

**Mr Catania**—Osborne Metal Industries.

**CHAIR**—If there is a submission we will see it.

**Mr Catania**—There is a submission by George Sulcs, who relates that in his submission. The points we make are point 1, pricing; point 2, employment; and point 3, the social consequences of a reduction in the number of retailers and the purchase of those by the big chains. These are all consequences that can be adequately dealt with by a cap. We are promoting that a cap be placed on it, with all due respects to Senator Boswell. If we are a first, how wonderful that is. We are setting the example and setting the benchmarks for other OECD countries. I do not see anything wrong with that at all. We should not be afraid of that at all and we can do it.

**Mr JENKINS**—Mr Chair, we repeatedly get this cap thing. I am wondering whether organisations such as the two that are before us have looked at other alternatives and,

because there is a mass campaign based around the cap, whether associations are not actually looking at alternatives. Under the present Trade Practices Act what are the deficiencies? Obviously if you are putting a case that things are wrong and it is the major piece of legislation that controls market domination or misuse of market power or unconscionable conduct, there are deficiencies in that legislation. Why is it that we do not look at that as either an alternative or also a necessary addition?

**Mr Crawford**—I believe that we would be very anxious to do that and put in a submission, if we may. I came thinking that I was going to have to convince this committee that there was a need to do something but I would say that the committee is actually aware of that.

**Senator BOSWELL**—We are just trying to find the way.

**CHAIR**—We are trying to find the solution.

**Mr Crawford**—I have come ill-prepared but I am sure—

**CHAIR**—No, that is fine but I think it is probably worth while, as Mr Jenkins says, that your members at your committee meeting think about other ways because we have a monosolution at the moment. If you look at one of the majors yesterday who took on this committee because we were even investigating such a thing as a cap and questioned the whole credibility of the exercise, it is not easy to suddenly say that is what we are going to do—especially when it would be the only place in the world and you have a hostile media.

**Mr Crawford**—We would like to research that. Can we have a time line so that we can get that information to you?

**CHAIR**—Yes, as soon as possible obviously. The time for submissions is closed but we are asking for supplementary information.

**Mr Crawford**—Are we talking 10 days, two weeks?

**Mrs ELSON**—Two weeks.

**Mr Crawford**—Two weeks?

**CHAIR**—Yes, that is fine.

**Mr Catania**—I come from a little different perspective than my good colleague here. I am still of the opinion that a cap is possible.

**CHAIR**—We hear what you are saying and that has been loud and clear and it has been repeated around the place. What we are saying is: if you did not have a cap, how else would you like us to approach that situation? It is not that we are not hearing what you are saying; it has been very loud and clear and we understand the reasons for it and the arguments that you have put forward are logical. We can hear what you are saying.

**Mr NAIRN**—One of the most difficult aspects of going down the line of a cap which has come out in the hearings all this week is: a cap on what? There are major definitional problems.

**Mr Catania**—Is there a definitional problem with the retail industry? Is there a difference with regard to groceries, food?

**Mr NAIRN**—Absolutely.

**Mr Catania**—Why is there? I do not see the complication.

**Mr NAIRN**—We could argue from here unto eternity as to what defines it.

**Mr JENKINS**—Can I just give an example of why there is the difficulty? We have had a bit of a discussion about pharmacy but if you look at the 105 categories that are in the A.C. Nielsen dry-packaged grocery market definition, about 25 to 30 of them are some of the front-of-shop things that pharmacies carry, yet the pharmacies as a channel are not within the survey. Somebody did suggest that if the 80 per cent figure is wrong you adjust the percentage figure. I understand that, but the point is that it shows the difficulty, if this is an inquiry about the retailing sector, if we are picking off supermarkets but it is supermarkets in competition against other supermarkets and supermarkets in competition against the local corner store/convenience stores. This question of definition is very difficult.

**CHAIR**—If you take the A.C. Nielsen figure that people quote in their submissions—80 per cent market share—strictly speaking it depends on how you define it. If it is dry goods, yes it is 80 per cent, but if you move into these other areas and take a broader definition, it is either 43 per cent or 47 per cent, even if you use the Nielsen figure. If you put a cap of 80 per cent on and you use the broader figure, you allow them to almost double. So these are some of the issues. I think in terms of the interests of time, we need to cut it off.

**Mr JENKINS**—This is a very specific thing. It arises out of the A.C. Nielsen list and the fact that a number of the items are front-of-shop pharmacy stuff. Do you go through your pharmaceutical wholesalers for everything in the shop? Do you have a comparison about wholesaling these types of items like acne preparations, hair styling aids and all that sort of thing, as against what the wholesalers for the independents can do?

**Mr Crawford**—Do you mean the amount of money they have in their margin?

**Mr JENKINS**—What the base price to you as a retailer is.

**Mr Crawford**—I am not sure what you mean. I was interested to hear before that somebody said wholesale price had disappeared. In pharmacy it has not.

**Mr JENKINS**—I have seen the way the pharmacy wholesalers do it. It is their flat price with a margin for volume of goods and so on.

**Mr Crawford**—They make nine per cent, they say publicly. I think they probably make more but that is the figure.

**Mr JENKINS**—I was wondering whether their prices are similar to Foodland as a wholesaler, or to Davids.

**Mr Crawford**—We can go to Foodland and buy it cheaper than through our wholesaler.

**Mr NAIRN**—Do you do that?

**Mr Crawford**—Many of the pharmacies do.

**Mr NAIRN**—That was the question that Harry just asked.

**Mr JENKINS**—So that is the answer.

**Mr NAIRN**—You know, ‘Do you buy from your pharmacy wholesaler?’ But no, you also buy from—

**Mr JENKINS**—For many of those over-the-counter things you go to Foodland because it is cheaper.

**Mr Catania**—I would like to conclude by saying we will make a submission, as a support to our cap proposal, on how we think the Trade Practices Act ought to be strengthened to handle perhaps a situation where there is a difficulty, as you stated, in defining certain areas.

**CHAIR**—We have different problems. There is the question of the definition of the cap, how the cap would work in practical terms and whether there are other ways of doing it.

**Mr Catania**—We are quite happy to put that submission.

**CHAIR**—Thanks very much, gentlemen. We really appreciate you coming in. It is very worth while to come to Western Australia and to see the key peak body in terms of retailers because this has been very much driven by retailers and there is a strong interest in seeing what we can do.

**Mr Crawford**—We appreciate the opportunity.

[11.30 a.m.]

**CUMMINGS, Mr John Watson, Vice-President, Western Australian Independent Grocers Association**

**CHAIR**—Welcome, Mr Cummings. Having spoken to you on the phone, I know you were keen for us to come to Western Australia. We are delighted to be here, not only to hear the witnesses; it is also good to enjoy your good weather over here. The committee prefers all evidence to be given in public but you may at any time request that your evidence be taken in camera—part of it or the whole of it—but the only rider we have is that evidence taken in camera may subsequently be made public by order of the Senate. The committee has before it submission No. 151 dated 25 March 1999. Are there any additions or deletions you want to make?

**Mr Cummings**—No, there are not.

**CHAIR**—Thanks very much. I would now like to invite you to make an opening statement and we will follow that with questions.

**Mr Cummings**—Thank you very much for the opportunity. I will not take too much time in giving statements. I think a lot of it is in the submission and everybody would have read that. I am the vice-president of the WA Independent Grocers Association. It is a voluntary position. In the submission is an outline of our association, who we represent and the amount of business that we represent in the state of Western Australia. Just to go over those figures, the independent grocery sector in Western Australia accounts for about \$1.2 billion of retail sales throughout the whole of the state. We employ more than 15,000 people, we have well over \$22 million invested, and we transact about \$1.75 million customer transactions per week.

Our membership is fairly diverse. It ranges from an organisation that I think has already presented to you—Advantage Supermarkets is a member of our organisation, which is a very successful, very large turnover organisation—down to the very small stores in rural towns throughout the whole of the state. Of our membership, 40 per cent is metro and 60 per cent is country.

I am a part owner of two supermarkets in Perth. One is Dewsons Duncraig and the other is a Rules store in Leederville. Interestingly, just for the committee, our store at Duncraig was originally started up by Woolworths in Western Australia as a Food Fair store. I am not sure of the time because we were not involved with it, but I think it was some 15 years ago. It did not fit the footprint of what Woolworths saw as the future of their business so they sold it. At that stage Foodland bought the business and they on-sold some stores to Charlie Carters and some were put out to tender for independents to purchase, and Duncraig was bought by an independent and has been run as an independent store since then.

Our other store at Leederville was in a similar situation—it was originally a Charlie Carters store. Foodland then bought the Charlie Carters chain. They took a number of those stores into their own Action group and put out to public tender the stores that did not fit into

what they wanted. So the Leederville store was then sold to an independent via tender, and we then purchased it from that store. So that is the history of our stores.

In our business there are three partners. We have between us some \$2½ million invested. We have borrowings of \$1.2 million and, like most small businesses, our borrowings are fully secured by our personal homes, our wives' assets, our families' assets—and the dog's paws on one of the documents, I am sure. It just goes on and on and on. So everything we own is invested in our business. From an employment point of view, through our two stores we employ 35 full-time people and we have 75 casuals working in an average week. That 110 could be 140, and over a 12-month period that could even go to 200, with turnover of staff and the number of casuals. The casuals we employ are basically local schoolkids doing four hours work after school and on Saturdays and Sundays.

The reason I mention that is that I know there has been some discussion, as well as comments in various submissions, about some criteria as to what is a small business, a medium business or a large business. On that criteria, some people might say that our business is a large business. I think to try and compare me with Coles or Woolworths is really pushing it a bit too far. We are small business, and all of our membership, even Neville Gale, should be recognised as small business compared to Coles or Woolworths.

On the market share, I will not bore you with what the national market share is or comparisons to overseas because I am sure you have had enough of that and you are fully aware of it, but in Western Australia the two major chains, Coles and Woolworths, maintain 60 per cent of the market. The other 40 per cent, and I am talking dry goods groceries in that, is distributed by Foodland, of which approximately 10 per cent goes to their own chain, Action, and 30 per cent goes to the true independents, being us. We agree with NARGA in the call for a cap. Having heard some of the previous discussions of what a cap means and all the rest of it, we believe that we need to have a cap because our source of supply needs to remain viable so that our businesses can remain viable for the immediate future and for the long-term future.

I will give three examples of what this means and how it can all fall down around our personal ears. Some three years ago, some independent supermarket operators went around Australia and spoke to everybody who was a possible supplier of wholesale groceries to see if they would consider setting up an alternative warehouse or supply chain in Western Australia. Those independents also went to Coles and Woolworths, as well as Davids, IHL, Composite and everybody who was in the wholesale grocery business at the time. They could deliver to an individual or a company some \$200 million worth of groceries a year. The response came back from all of those people that it would not be viable, they could not make money out of it, and they would not do it.

So that must mean that at some stage there is a critical mass that goes through the warehouse that we buy from, that when it falls below that critical mass their efficiencies must fall, their economies of scale must fall and, ultimately, the service costs they charge to us as independents—the prices they charge to us as independents—must rise. If they rise, we then must put those costs on to our customers, which means that some of our customers will go to Coles or Woolworths, our competitors, and which means that the mass will fall again, the warehouse withdrawals will fall, the economies will fall, the prices will go up and it will

be a self-accelerating circle down which we go. Through absolutely no fault of any individual who owns a supermarket today, he will go broke without a chance of even having a look-in. It will not be because of his inefficiencies, it will not be because he cannot run a business: it will be simply because he cannot source his product at the right price.

A similar scenario happens in the fruit and veg industry or the fresh produce industry. In Western Australia we as independents buy all of our fresh produce through the market system out at Canning Vale. The two chains, Coles and Woolworths, bypass the market for well in excess of 50 per cent of their requirements—they do not go through the market. That has been occurring for some years. In the last 10 years, 10 people who were acting as agents and suppliers through the markets have gone out of business because of the lack of volume going through the market. A similar scenario to case goods would happen with fresh produce, where, if the market share shifts and the mass going through the markets at Canning Vale falls, obviously inefficiencies occur and their prices go up, and you will get the situation where some of our rural members could not buy a box of tomatoes, a crate of lettuce or a box of bananas at a competitive price that they could on-sell to their customers.

The same situation occurs in the meat industry in Western Australia. Coles and Woolworths both buy most of their livestock live and they either contract buy it from the farm or they buy it through the saleyards. They then have a contract kill through an abattoir. In Western Australia my understanding is that Woolworths contract kill all of their beef through an abattoir, Walsh, and Coles contract kill all of their beef through Greens. We buy from the independent abattoirs that are left around to buy our carcass meat or our boxed meat. One of the people I was talking to, a Max Panizza from Dardanup Butchering Co., said that if there was any more significant market shift from the independents in Western Australia to the chains, he could see at least four independent abattoirs closing down in Western Australia.

Again the self-fulfilling prophecy comes about. If there are no abattoirs for us to buy carcass meat from, how can we buy meat, how can we sell it? In the meat industry in Western Australia it is a little different to the eastern states, where the supermarkets—and one of the reasons is the dominance of independents in this market—account for about 75 per cent of all meat sold through the state of Western Australia, which is, I think, close to the reverse in the eastern states.

One of the things that there has been a lot of comment about is pricing and why an independent sector needs to be in the marketplace to be a watchdog for pricing. There have been a number of surveys and a number of things that have occurred, but I will just mention the price of milk. I do not know the full chronological occurrence of this, but I think some of you, especially from New South Wales, will remember the occurrences. I think late last year the supermarket chains and other people argued for the deregulation of the milk industry in New South Wales. One of the reasons was that Victoria was deregulated and they could buy milk cheaper from Victoria. My recollection—and there was not a lot of press over here about it—is that the farmer dropped about 2c a litre for the price of his milk through deregulation. Some short time later, the major chains put the retail price of milk up by some eight per cent.

I happened to be in Sydney visiting relatives in January this year and saw a current affairs program on which the New South Wales Minister for Agriculture appeared, talking about this disparity of the retail price going up while the producer got less. Do any people recall this? At the time, the Australian supermarkets industry came onto the same program and argued that the major chains, Coles, Woolworths and Franklins, could not afford to sell milk for less than 20 per cent gross margin. The argument went along the lines that it was a short-life product, it was a chilled product that needed refrigeration, special handling, and it would not be viable for them to sell at under 20 per cent.

In Western Australia, through independents, milk is about 4½ to five per cent of our total turnover—a very substantial amount of our turnover. Of that, two-litre milk is 3.8 to four per cent of our total turnover: that is total turnover from everything we sell. Last month, an average for selling two-litre bottles was 12.77 per cent gross margin in Western Australia. If we take the argument from the chains that it is not viable—not that they cannot but that it is not viable for them to sell milk at less than 20 per cent—I then checked with suppliers of the milk market in Western Australia, and the chains pay exactly the same; the wholesale price that we pay is the same as the chains pay. The retail price is exactly the same. It is one of those wonderful things in the supermarket industry that is surveyed every two weeks to four weeks. If somebody moves half a cent, everybody else moves half a cent, so for that time the milk was the same. So that brings us to the obvious conclusion that Coles and Woolworths were happy to sell milk in Western Australia for that month at a 12.77 per cent gross margin, whereas they argued in January that it is not viable for them to sell it for less than 20 per cent.

The conclusions are that power is cheaper in Western Australia, refrigeration is cheaper in Western Australia, they are more community spirited, or they have to be because there is an independent on every corner that forces them to. If in five years time there is not an independent, and we talk about the milk market, would it mean that they would say, 'Well, okay, for the last five years we've been selling milk at 12.77 per cent in Western Australia, so that must mean we now are able to in New South Wales, so we'll drop the price,' or do you think they would say, 'Well, I think we should put the price up in Western Australia,' and to get to that 20 per cent would we see a retail price rise of over 20c a bottle for two-litre milk? So we believe, and we strongly put forward the belief, that pricing is there because of the presence of the strong independents in Western Australia.

In regard to jobs, and I mentioned the number of people we personally employ, we did some figures of typical stores of independent grocers in Western Australia and we tried to relate it more to the number of full-time job equivalents per \$100,000 of turnover, which was similar to the small business authority figures. In a metro store we employ some 17½ to 18½ full-time job equivalents per \$100,000 of turnover. In the country that goes up to 20. In the case of the chains we estimate them to be at about 15, and those figures are in our submission. The interesting one is full time versus casual. In our store in Duncraig, 65 per cent of the full-time job equivalents in our stores are filled by full-time people—65 per cent. I believe in the grocery industry it is the reverse: 40 per cent is full-time, with the rest being casual.

There is some confusion in this job market, to my mind, as to who employs whom. I would like to quote from an article in the *Business Review Weekly* of 22 March. This is in

an article referring to downsizing, where Mr Allan Williams, Managing Director of Coles Supermarkets, puts it more bluntly that 'Downsizing was bullshit'. I agree with him on that one.

There is some confusion in this job market, to my mind, as to who employs whom. I would like to quote from an article in the *Business Review Weekly* of 22 March. This is in an article referring to downsizing, where Mr Allan Williams, Managing Director of Coles Supermarkets, puts it more bluntly that 'Downsizing was bullshit'. I agree with him on that one. A company's people are its most important asset. We have been saying this for years and we have been putting on more permanent staff to prove it. That was his comment and I think that is admirable. If we go to the *Business Review Weekly* of one week later, 29 March, Mr Dennis Eck says that he 'is also adamant that the presence of Coles Myer is a major stimulus to employment growth in regional Australia. Coles Myer's groundbreaking attempt at decasualisation—a plan to hire more full-time workers—is being piloted at Langwarrin in rural Victoria.' I do not understand whether they have been doing it for years or they are just starting to.

The reality of employment in Western Australia, full-time versus casual, is that if you want to be a checkout operator the chains do not employ full-time people in those positions. We employ some 10 in our stores. We have a number of young people, especially when they hit 20 years of age, come to our stores asking us for full-time jobs. They have been trained by the chains, they have worked 15 to 18 hours and some have worked 25. When they get to 20, their hours are cut back and they are looking for full-time jobs. For 20- to 30-year-old people, whom we employ a lot of, to not have a full-time job just really amazes me. I do not think that is what I would want my children to do. I do not know how a 20- to 30-year-old casual employee gets a mortgage to buy a house, considers getting married and raising kids, or even gets finance to buy a car. How do you do it on a casual job? I think that is a very important thing in the employment of our independent sector.

This is a final comment on employment, again quoting from *Business Review Weekly*—I do read other magazines every now and then!—of 16 November 1998. It is the *BRW* 'Master 1000' and it says:

Woolworths, net revenue \$17,291 million, which was an increase of 8.8 per cent; net profit \$279.4 million, an increase of 8.3 per cent; number of employees 97,000, a drop of three per cent.

A lot is said about community service and the role that the independent or small business plays in the community. As I said, I am sure that you have read enough submissions and I am sure you all know the importance of small business to our economy and to our society. Our store in Duncraig is next to an old people's village. They rely upon us for all of their requirements. The nearest major shopping centre is some distance away, and I imagine that I could give any of you whatever bus timetables you wanted, as much money and as much time as you would like to try and get there from our place, and it would be the best of luck as to whether you got there and got back. It would really be very difficult. Because of our numbers, and where we sit, we are servicing the elderly of the community and we are servicing the disadvantaged, the people without motor vehicles. Perth is a very hard city to get around great distances without a motor vehicle.

Another vital part of our community service is the donations we give. I did hear somebody saying, 'Can it be quantified?' We have quantified it. We went to one store, an independent store called Farmer Jacks Leeming, that has quantified that in a year it gives about \$60,000 in donations to communities.

**CHAIR**—That is one store.

**Mr Cummings**—One store—\$60,000. This is in the submission as well. It is a combination of actual goods and cash. A prime example is our local school, St Stephen's Primary School. It had a fete two weeks ago and they came along and said, 'We would like to get the Coke cans from you to sell at our drink stall.' They wanted two pallets of Coke. The normal margin that we would make on that would be some \$900. I sold it to them for cost. That occurs week in, week out. In country stores the local footy club would buy all their soft drink—as they do their beer from the local publican—from the local supermarket and they would pay cost for it. They would put that in their bid.

It is a substantial amount of money. I assure you that it is not on a weekly or a monthly basis; it is on a daily basis, and can I say that we love doing it. It is my community, I live in it, why would I not want to do it? It is what I am there for.

**CHAIR**—You have got in your submission on page 8 that the community donations are \$10,000 to \$60,000 per store. So there is one at \$60,000 and the others—

**Mr Cummings**—Yes. We took a typical store, being Farmer Jacks, and we said, 'How much would you give?' and he quantified it. It is hard for us to poll all of our members and collate that information. We took it that maybe he would be at the upper end of the scale, so we said there is \$60,000 from there, and then we went—and it was actually Richard Dymond from Toodyay—and said to Richard, 'How much would you give to a town of 2,000 people?'

**CHAIR**—I wonder whether you would mind putting in a supplementary note on how much at each store you have got, because we have already put the majors on notice about this particular aspect and the suggestion that there has been a lack of involvement in the local community and that they might be involved in some generic giving but not into the local community, so I would be interested in that information.

**Mr Cummings**—Sure. In closing, as independent supermarkets we really are behind the eight ball when we start off, and it is actually on page 8 in the submission, which I just noticed, and it was not really meant to be that way. If we look at the disadvantages we have versus chains, the fact is that our borrowings are high and we pay in Western Australia about 8½ per cent interest. That would be a good interest rate for us to be paying on our borrowings whereas chains pay 5.3 per cent. Occupancy costs, that is the total occupancy costs of us being in our premises—

**Mr NAIRN**—Sorry, could I interrupt.

**Mr Cummings**—Sure.

**Mr NAIRN**—I think you said 8½ per cent. Would that be for capital development or is that an average figure?

**Mr Cummings**—Cash flow, purchase of the business, overdraft.

**Mr NAIRN**—Bills?

**Mr Cummings**—No, 8½ per cent on borrowings.

**Mr NAIRN**—So that is an average figure, because you are probably paying slightly more than that on your overdraft.

**Mr Cummings**—Yes, indeed.

**Mr NAIRN**—But you would be getting something better than that for some capital.

**Mr Cummings**—That would be difficult to clarify, but yes—

**Mr NAIRN**—I just wanted to clarify what the 8½ per cent was.

**Mr Cummings**—The 8½ per cent would be what we would see as the core borrowings of the business to buy the business and fund it.

**Mr NAIRN**—Because Mr Gale commented before that he is getting better than six per cent—below six per cent—for new development money.

**Mr Cummings**—I think I have a car leased at 5.9 per cent. Yes, if you shop around I am sure you can do that.

**Mr NAIRN**—So 8½ per cent is an average cost of the various sorts of borrowings?

**CHAIR**—We may check that out with one of the major banks.

**Mr Cummings**—Ours with BankWest is 8.75 per cent. If you can get cheaper, please give us a ring and I will be in touch. Occupancy costs, and that is our total rental, as we have put there, is an average of 2½ per cent. For the chains, their budget is two per cent, but they really try and work on under two per cent and they have the muscle to go in to a developer like Westfield and say, ‘If you want us, fella, this is what we’ll pay.’ For labour costs as a percentage of dollar turnover, nine per cent would be the average for independents in Western Australia. I know one chain has a budget of 7.25 per cent, so 7½ per cent and less would be what we estimated there. Then we have the community donations.

**CHAIR**—One would argue in terms of some of these employment figures that this is obviously some of the economies of scale that you get and that can be passed on in terms of lower prices at the end. The two lines we have in terms of the price of the majors is that they go up and exploit their market position—and you have been talking about the milk example—and that they are predatory and undercut others and, of course, it depends on where the consumer is in all of this as well.

**Mr Cummings**—One of the reasons why our wages would be higher would be the number of full-time people we employ. That will add to the cost of superannuations, ongoing workers comp, et cetera. The second reason is that every store has its own administration, and I could bring you in a week's invoices and the pile is about that high—you go through a cheque book a month and that sort of thing. That is being done in each individual store. It is not being done in a head office environment and, in a lot of cases, administration is not totally computerised.

**CHAIR**—Maybe that is a suggestion of how your costs could be lowered. I will ask Mrs Elson to head off the questioning. She has to leave to get back to Queensland tonight.

**Mr Cummings**—Sure.

**CHAIR**—Not only has she got 17 functions on this weekend but I think she also has to see a new grandchild.

**Mrs ELSON**—Yes, thanks very much, Mr Cummings. I noticed in your submission that you state there are 285 independent stores in metropolitan areas and 425 in your regional areas. Over, say the last two years, has there been a massive decrease in those figures? Are there more in the city area closing or being acquired? Just give us a bit of an idea whether they are being squeezed out of the market, or whether predatory pricing has done that, or whether they have been actually purchased by the large chains.

**Mr Cummings**—The biggest change would be the purchase of Charlie Carters by the Coles group in Western Australia. One of the things about Western Australia—and this is why we are so adamant that something needs to be done—is that we have been fighting for so long and we have retained the market over here. We still are on every corner because we have had viable distribution.

**CHAIR**—Deregulation?

**Mr Cummings**—Deregulation is something we are arguing against as well.

**CHAIR**—Do you think that has helped you a lot?

**Mr Cummings**—No, deregulation of trading hours will not help us.

**CHAIR**—No, I mean the fact that you have got a pretty restricted trading hours environment.

**Senator BOSWELL**—What are the trading hours for Western Australia?

**Mr Cummings**—The trading hours are just general trading hours. All general stores are eight until six, Saturday eight to five and no Sunday trading. The majority of independent supermarkets, that have fewer than 10 people employed at one time, are trading seven days a week and that does give us an advantage.

**CHAIR**—A competitive advantage.

**Mr Cummings**—Yes, indeed.

**CHAIR**—Senator Boswell, on that particular point, did you want to say something?

**Senator BOSWELL**—No, thank you. John gave us the trading hours.

**Mrs ELSON**—Yes, I think I got your answer: that there is not a lot.

**Mr Cummings**—No, there is not, and again it is because the reality is that today a guy at Toodyay can buy a box of cornflakes at a competitive price that he can put on the shelf, so it is not worth while for somebody to drive from Toodyay to Northam to get it. They will still do the shopping in that rural town but the problem occurs if, down the track, he cannot buy the cornflakes at a competitive price. That is when you see the whole thing fall over. We have got it and we are holding on to it. We are holding on like hell; we are fighting like hell. We agree with free competition, we agree with free enterprise, but we need to ensure that our supply remains for us so that we can remain in the marketplace.

**Mrs ELSON**—That is your wholesale supplies you are talking about?

**Mr Cummings**—Yes, indeed.

**Mr JENKINS**—Do your stores compete against the Action group?

**Mr Cummings**—Yes.

**Mr JENKINS**—Are you satisfied that Foodland has that sort of retail arm as well as being your wholesaler?

**Mr Cummings**—Again, we are not against free enterprise, as I said. We do not mind competing against Coles or Woolworths provided we are competing on the same basis. Providing we can buy milk and providing the wholesale price of milk is always the same to us, we are fine, we are happy. That is when free markets occur. It is only if we cannot buy the product at the right price that we are behind the eight ball.

Further, we also in some instances find independents competing against independents. With franchises, here is a prime example: the closest supermarket to our supermarket in Duncraig is a Rules supermarket some 800 metres away.

**Mr JENKINS**—In Mr Gale's evidence he suggested that about 42 per cent of his business he sources direct from suppliers. For you, what percentage would it be about?

**Mr Cummings**—If you take all of the meat, all of the fruit and veg, all of the deli it would be about the same—40 per cent.

**Mr JENKINS**—In that relationship that you have to have directly with suppliers, how much evidence do you have that there is a problem in you getting a competitive price as against (a) the majors and (b) larger independent competitors?

**Mr Cummings**—Today, as I said, there is none, because we can buy now at the same price. If you take fresh produce, that comes back to a pricing thing where Coles and Woolworths bypass the market chain.

**Senator BOSWELL**—Yes.

**Mr Cummings**—I think we would have to assume that they have got it at a cheaper price, wouldn't we? I mean, otherwise, why would you bother doing it? So we obviously must be paying more for some produce than they do, but we compete on a daily basis with them. We can live on reduced margins in some areas to make sure that we are competitive with them. This is the fruit and veg industry, right? An average independent supermarket in Western Australia would have some 200 deliveries per week at their back door. A lot of those suppliers supplying specialty stuff—prepared foods, sushi rolls and all that sort of gear as an example—can only supply the independent sector over here because they are shut out of the national chains with their centralised buying. If the independent sector falls and those people no longer have a viable business—

**Senator BOSWELL**—That is a very good point.

**Mr Cummings**—it further cuts down the variety that you can sell to the people. As an independent supermarket in Western Australia, we have some 15½ thousand individual items in our store, and what we are saying is we need to be kept viable, or we need our supply chain to keep viable, to continue to supply us with the 15½ thousand items. If you cut it down and you say, 'Well, with economies of scale, if 10 of you get together you can still ring up and get a pallet or a truckload of cornflakes and then divvy them up in the car park and you will still have cornflakes,' that is not going to help you with all the rest of it, is it?

**Mr JENKINS**—What has been the trend with local suppliers? Are they on the decline?

**Mr Cummings**—Again, there is a local supplier—Cannon Foods is their name—which started in Western Australia supplying to independent supermarkets. They now have contracts to supply Coles and Woolworths nationally, and I say best of luck to them, but—

**Senator BOSWELL**—What do they supply?

**Mr Cummings**—They supply prepared foods—schnitzels, chicken, value-added meat products—and they are a very successful Western Australian company and, as I said, good luck to them.

**Mr JENKINS**—Yesterday in Adelaide we had evidence that with, for instance, fruit and veg, if the majors have to go to the market for whatever reason, or they have contracted at a price too high they want to enter back into the market to get a lower price—is there any evidence that that happens here in Western Australia?

**Mr Cummings**—In Western Australia my understanding—it is more than an understanding, it came from a guy at the markets; we do not like to talk too much about these things, because of course Coles and Woolworths are very big customers of theirs—is that Coles and Woolworths, as I said, bypass the markets with in excess of 50 per cent of their requirements. They buy the rest through the markets, and their joint purchases through the market system in Western Australia is about a third of the total market turnover as it currently sits. That is my understanding. The way they would work is that they would contract to a supplier of, let's say, lettuce. So they say, 'To the best of our intent, we think we're going to use 1,050 pallets of lettuce next week.' Then suddenly it gets hot and they need another 100 pallets. They would then go to the market to top up that extra 100 pallets.

Conversely, the grower might have a problem and be able to deliver only 1,000 pallets and they might have to go to the market to top up on that. They use the market to buy all of their smalls—hydro lettuce, lebanese cucumbers, things like that that you do not buy by the pallet, no matter who you are. They still would buy that through the market situation.

**Mr NAIRN**—Regarding wages, what is the situation here in Western Australia? Do your employees come under a state award? Are you able to access the very flexible, new industrial relations laws passed by the federal government recently?

**Mr Cummings**—No. There are two ways you can work in Western Australia. You can play by the state award, which is what we choose to do—and there are a number of reasons for that, and for me personally it is a fair issue situation with our employees—or you can negotiate a business-to-employee workplace agreement. I think there is a state award that allows you to do that. So they are the two things. On payments, I have actually had the union executive of the SDA come to my business and say to me—this is an exact conversation—'Are you using workplace agreements?' I said, 'No.' He said, 'Why not?' I gave the example: I said, 'Well, that woman, Merryn Brindley, who has worked here for 10 years, I don't think I could go to her and say, "Look, we've been happy to pay you 425 bucks a week for 10 years but we'd like to bring in a workplace agreement and pay you 375"—I just don't think I could possibly do that.'

He said, 'Well, you realise that through our union and the contracts that we have with'—and he quoted Coles—'we could save you some five to seven per cent on your wages bill, and we would actually do the negotiation of the workplace agreements on your behalf.' I just said, 'Look, I just don't think that's a very good idea.'

**Mr NAIRN**—So you feel that you, from a wages point of view, are probably at a slight disadvantage to the bigger guys in that respect?

**Mr Cummings**—Sure.

**Mr NAIRN**—I mean, in many respects you may see it as an advantage—

**Mr Cummings**—Sure. Nobody has ever left our business—

**Mr NAIRN**—because of your relationship with your employees, which I understand totally.

**Mr Cummings**—Yes. We pay on the award and none of our employees have ever left to go and work for one of the chains because of a money issue.

**CHAIR**—What is your annual staff turnover?

**Mr Cummings**—On permanents there might be a natural growth thing. At Duncraig, we have had one this year; she has gone around Australia.

**CHAIR**—Okay,; that is pretty good.

**Senator BOSWELL**—What is the effect on the growers of a third of the market being bypassed?

**Mr Cummings**—I honestly do not think I am qualified to answer that. I can tell you that in our submission—and it is there—the WA Chamber of Fruit and Vegetable Industries have joined us and are happy to say that they would like to see the independent sector remain exactly the same as it is. So I assume that they do not want to see a diminished number of customers that they can sell to. At the end of the day, if I was growing lettuce and there was only Coles or Woolworths to sell to, I think I know what price I would be selling it at, compared to today.

**Senator BOSWELL**—Yes, I understand that. I was just wondering whether there was anyone qualified to give us a response to what does happen when the market is bypassed. Anyhow, if you cannot do it—

**Mr Cummings**—No.

**Senator BOSWELL**—we will find someone that can. I think your submission has been very good, and you have obviously got a good business. Have you ever thought of any other way, other than a cap or a divesture, of actually stabilising the market so there can be a fourth sector in the market, which is the independent sector—or over here where you have got three in the market? Have you ever given any thought to whether Trade Practices can be amended to give some sort of a stabilisation?

**Mr Cummings**—That is a good question, and I honestly do not know the answer. I think the reason that we are calling for a cap is, quite frankly, because of the inactivity that has occurred in the past. The fact is that in some of these locations two players have got far too much dominance. Under the legislation Coles or Woolworths could come along to John Cummings and say, ‘Here you are, pal. Here’s a pot with some money. Give us your store.’ They do not even have to go before any regulatory body. They just do it, don’t they?

**Senator BOSWELL**—There is a market test which says you cannot substantially lessen competition in a substantial market, which would not apply to independents, and then that is when you get your creeping acquisitions or your chequebook acquisitions.

**Mr Cummings**—Sure.

**Senator BOSWELL**—But you can stop that.

**Mr Cummings**—But the point I am making, Senator Boswell, is that that has already occurred, and we have gone past the point of no return, virtually. It would be great today if we could wind the clock back and keep the vibrant independent sector in every market. Wouldn't that be better? I personally believe that would be. Conversely, if we do nothing today, in five years time we could say, 'Gee, those blokes over in Western Australia didn't do a bad job. Where are they?'

**Senator BOSWELL**—I think we recognise the problem, but it is the solutions we are looking for. You guys are at the coalface and you know what it is all about. I can see problems in stopping acquisitions. The first guy that misses out on 18 times the value of his business will be coming to us and he will need a double bed sheet to cry on.

**Mr Cummings**—I do not necessarily agree with that. I think we are all realists at the end of the day. It is like the personal home, isn't it? Let us say my house is valued at \$350,000. If Mrs Elson likes Perth and she came over here and offered me \$1.5 million for it today, I think I would have to say, 'Best of luck. Here it is.'

**Senator BOSWELL**—That is my point, exactly.

**Mr Cummings**—But, conversely, if I wanted to sell the house and I put it on the market, I would be in Disneyland if I advertised it at \$1.5 million, wouldn't I?

**Senator BOSWELL**—My question is that you are preventing Mrs Elson from paying you \$1.5 million for your house.

**Mr Cummings**—I think that would still occur, but—

**Senator BOSWELL**—If you put a cap on it, it will not.

**Mr Cummings**—No, sure. Right, I will go back on that. Yes.

**Senator BOSWELL**—Look, I do not want to go into this because I have put the question to everyone and I think some people have said, 'Yes, I want to sell. I'd like the opportunity to get out,' and others have not. You seem to be a pretty switched-on operator, and what I am asking you is whether there is an alternative way to maintain, for various reasons—market, countervailing power reasons; who services the smaller country towns if the independents are not there and are too small for Coles and Woolworths—the fourth independent sector. There are probably eight or nine reasons in my mind why you would not want to maintain the fourth independent sector, but I am not sure how to do it. I mean, I am listening, and we are all listening, for contributions.

**Mr Cummings**—I think one way would be some form of divestiture, if a cap is too difficult to come to grips with.

**Senator BOSWELL**—If you think a cap is difficult—

**CHAIR**—Divestiture is about one stage more.

**Senator BOSWELL**—Divestiture is about 20 times harder.

**Mr Cummings**—Is it? Coles and Woolworths do not only have one brand; they market several brands. They could sell off stores. As I said, one of our stores was started off by Woolworths. It was a Food Fair store. If you look at the history, they got rid of it because it was not big enough for them. Now they are saying, ‘Gee, all these big stores are probably a bit too big for us. Maybe we had better get back down into the little ones,’ so they are coming back down, hunting us out of what they gave away several years ago.

**CHAIR**—Yes. I think Senator Murray had some concluding questions.

**Senator MURRAY**—I have a number of questions. I do not know if they will conclude anything.

**CHAIR**—No, but they will conclude this session. We are actually now into an area that you would appreciate most of all—food time.

**Mr Cummings**—It is a good time to be in.

**Senator MURRAY**—Now let us cut back to the chase, if we can.

**Mr Cummings**—Yes.

**Senator MURRAY**—Every country in the world which has a competition policy restrains market power in the interests of greater competition, essentially.

**Mr Cummings**—Yes.

**Senator MURRAY**—It seems to me on page 14 of your submission that WA is wrongly listed as having the largest independent sector, because essentially you have a number of chains.

**Mr Cummings**—Yes.

**Senator MURRAY**—The focus is primarily on Woolworths and Coles in this because of their size, but really the issue is not about Woolworths and Coles—professional and capable companies that they are; the issue is about a few people having a lot of power.

**Mr Cummings**—Yes.

**Senator MURRAY**—And in Western Australia isn't it true that you have got Woolworths, Coles, Bi-Lo, Action, and Advantage at least as major chains?

**Mr Cummings**—Yes.

**Senator MURRAY**—Which I would guess from what we have been told amounts to 75 per cent. So in other words the real independent sector is 25 per cent.

**Mr Cummings**—Twenty-five per cent—sure.

**Senator MURRAY**—All right. Now, having said that, we have to return to the critical mass issue. I will ask the question of Foodland later, but it is my assumption that they in fact do not have critical mass here because if they did they would not need to invest in New Zealand and have Action and so on. In other words, they have many other arms to their business in order to get of a size where they can run the total thing profitably and well. I want to know whether you agree with me or not, as I go through.

**Mr Cummings**—I am with you, yes.

**Senator MURRAY**—And I do not think from my analysis of the figures that we can conclude that of all the states Western Australia is presently the least stressed. I have the feeling that you are as much stressed as any other state.

**Mr Cummings**—Yes, indeed, I would go along with that. Yes. There is as much pressure upon us as there is anywhere else.

**Senator MURRAY**—That is right. Now, frankly there is no way to prevent additional acquisitions other than to prevent people acquiring more stores.

**Mr Cummings**—That sounds logical to me.

**Senator MURRAY**—And, notwithstanding all the questions about solutions, you must arrive at a situation where, from what you have said, if you want to preserve a competitive wholesale sector, and you want to preserve a competitive independent sector, you cannot allow the majors to grow significantly more.

**Mr Cummings**—To keep on going—I agree. I think another adjunct to that, Senator Murray, is that if the value of the business comes back because people are confident that that independent sector is viable and ongoing, and is going to be there for another hundred years, individuals like me will take the punt and put the \$2½ million into the business. I have to admit, sitting here today, that if I did what I did 10 years ago, which was put everything I owned into the supermarket business, with what I know now I would sort of think, ‘Gee, is this going to be the absolute right move?’

**Senator MURRAY**—Right. My next question is a hard one. The theory could be that four chains could end up controlling 100 per cent.

**Mr Cummings**—Yes.

**Senator MURRAY**—But in practice that is never possible because there are kinds of store operations that a chain would never want, could never run profitably. Have you a feeling from your membership of what kind of percentage would always be independent just simply because it is not attractive to a chain because it only has five permanents, or it is only a certain square metreage or it is a small country town?

**Mr Cummings**—To answer that I think you would be talking about locations, and it is pretty obvious that there are locations that would not attract the chains. To get back to the original argument, without a viable supply to those stores they cannot be there anyway—they cannot actually procure the product to sell—so you force consumers to go away from that store to another store. In the case of our supermarket at Duncraig—let us use that as an example—it turns over \$175,000 a week, and serves some 12,000 customers a week. If we could not buy produce at the correct price, if we were to put our prices up by five per cent, we may lose half of our customers. If we put them up by 10 per cent we would lose three-quarters of them. If we put them up by 20 per cent, there would be no customers.

**Senator MURRAY**—All right. That is all I have, Mr Chairman.

**CHAIR**—Thanks very much. Mr Cummings, there are questions I would like to ask but I do not think my colleagues would appreciate it, as we are 20 minutes late for lunch. We appreciate you coming. Thank you for your contribution. I think it was significant and worth while. Thank you for ranging across the whole board of issues that we have before us. If you have anything supplementary you would like to say to us, then please feel free to do so. Good luck.

**Mr Cummings**—Thank you for the opportunity.

**Proceedings suspended from 12.20 p.m. to 1.09 p.m.**

**ALTY, Mr Barry James, Managing Director, Foodland Associated Ltd**

**CHAIR**—I would like to welcome you, Mr Alty. It is great to have you here. The committee prefers all evidence to be given in public but you may at any time request that information be given in camera, but of course you need to bear in mind that the Senate may request that the information that is obtained at that time be made public.

The committee has before it submission No. 190, dated 26 March 1999. Do you wish to make any additions or deletions to that submission at this time?

**Mr Alty**—No, Chairman, but I have placed in front of you some papers which I will speak to in the course of my opening comments. I will refer to those.

**CHAIR**—Fine. I would now like to give you the invitation to make an opening statement and we will follow that with questions.

**Mr Alty**—Thank you. As a background, I would wish the committee to know that I have 27 years experience in retailing and wholesaling in Australia, in New Zealand and in New Guinea and I have been, during that period, on both sides of the fence, so to speak: with chains and with independents. My intention today is to speak to some of the key points of Foodland's submission and to some of the issues which arise from it, and then be prepared to respond to questions from members of the committee.

I want to acknowledge that we pursue an element of self-interest and an element of the mutual interest of us and our majority customer group, which is independent retailers. We support our customers as individual operators and we support them through their various associations such as WAIGA and NARGA, both of which have already prepared submissions. We do so because our collective wellbeing is inexorably intertwined. We and our independent retail customers are vertically integrated as a matter of common interest, rather than as a matter of common ownership, as applies to chains.

We support NARGA in bringing the issue of increasing chain domination into the public arena because in doing so they raise issues of genuine public concern: issues of competition or lack thereof; issues of readily available consumer choice; issues of price; and issues of social significance and importance. They also raise an issue of perceived self-interest, which is the fairness of the market. Do independent retailers have a fair or equal opportunity to compete with chains? I think the answer is self-evident. Independent retailers do not have equal access to sites, they do not have equal access to equity capital or debt facilities at low cost, they are seriously disadvantaged by the current sales tax system, and they do not have the ability to spread risk as do chains, because they are single-site or few-site operators. They are also supplied by a wholesaler who is entitled to make a profit but who pays the same price for stock as chains, and that is acknowledged in both the Coles and Woolworths submissions.

The result of this situation is also self-evident. If you do not have equal opportunity, you cannot enjoy equal success. It is quite simple. As a consequence, the independent market share has diminished consistently for the last 20-odd years. This has led to chain domination and it continues; there is increasing domination. In recent times, probably because of our

relatively mature low-growth society, chains have found some difficulty in establishing greenfield sites and have turned to the acquisition of successful independents—and I stress the word ‘successful’ independents—to expand their share. The constant erosion of the independent share through unequal opportunity and through acquisition strategy places the entire independent sector under threat. If growth in chain dominance continues unabated or unchecked, there will not be a viable independent sector at some time. The result of that is, quite frankly, unthinkable. How will small stores and rural towns be supplied at any form of reasonable cost? What are the price and choice impacts in the marketplace of duopoly or oligopoly? What are the social impacts, particularly in rural Australia? Thus, in our view, there has to be a cap. There is no other way of protecting genuine public interest.

Much has been made of the present competitiveness of the Australian retail food market. I want to refer you to appendix 35 of the NARGA submission, page 3, which refers to the behaviour of oligopolies, and for ease of reference I have had a copy of that placed in front of you. I now wish to refer you to an article which appeared in the *Australian* newspaper on Wednesday, 7 April, and I quote from this article:

Woolworths’ chief executive Roger Corbett, and Mr Williams, also told the inquiry yesterday that neither had a policy of undercutting competitors, only matching prices. ‘As a policy we would never reduce our prices below their prices for a particular item. Our policy would not drive prices down,’ Mr Corbett said.

That looks very much to me like the behaviour of large oligopolies. So much for the purportedly intense price competition that exists between chains. Other submissions that have been placed before you clearly indicate that chain pricing is opportunistic rather than altruistic.

Much is also made of how customers voted with their feet and chose Woolworths or Coles, as the case may be. Well, if you are a customer and you do not have much choice because the chains got the best sites or bought out the independent or just kept building more and more stores and shut down the independent, what choice do you actually have? There has also been significant commentary on the relative profitability of food retailers in various parts of the world. We wish to add to this debate by tabling some figures which originate from the US based Food Marketing Institute.

**Senator BOSWELL**—Which ones are these?

**Mr Alty**—This is the set of figures shown there. I will not speak to these, but they are for the reference of the committee. We also submit some figures which were prepared internally by Foodland and which attempt to proportion interest and tax to Woolworths and Coles supermarket EBIT to generate an NPAT—net profit after tax—figure. This seems more relevant than EBITDA—earnings before interest and tax and depreciation amortisation—or more relevant than EBIT figures—earnings before interest and tax—as this is what the owners or the shareholders of a business actually get. We would accept that these would be open to challenge, but it would be within the power of the committee to ask Coles and Woolworths to submit their own assessment and apportionment of interest and tax to the supermarket EBIT.

In closing this introductory statement I want to comment further on the so-called level playing field insofar as buying price is concerned. Before the advent of chains there was a wholesale price—that is, a price at which wholesale resellers were supplied—and there was a retail price at which retailers could purchase direct from manufacturers if they met minimum quantity criteria. As the chains developed they used their buying power to pressure manufacturers to supply them at wholesale prices, using the argument that the wholesale price differential was actually a distribution allowance and as the chains operated distribution centres, just the same as wholesalers, they were entitled to get the same price.

The majority of manufacturers succumbed to either the logic or the market power behind the argument and caved in. Some manufacturers held firm, but the chains purchased small wholesalers to get around that. So now we have a situation in which Foodland as a wholesaler pays the same price as Coles or Woolworths for all of the goods we buy and we actually struggle to get the same price. Coles and Woolworths have to get one profit between cost of goods ex manufacturer into distribution centres and retail sell because they are vertically integrated by ownership. Independents have to get two profits, one for the warehouse and one for the retailer.

Some people have said, ‘Well, the alternative to that is to cut out the middleman, cut out the wholesaler.’ How, pray tell, would hundreds of manufacturers then manage to get goods to the thousands of retailers in rural Australia, at what cost and with what regularity of supply? Frankly, all the arguments about level playing fields and fair and equal competition leave me cold. The playing field is tilted very severely against the independent sector and it is actually of credit to the tenacity and resilience of wholesalers and independent retailers that we have held up against overwhelming odds. We do not, in appearing before this committee or making submissions, seek protection but we seek a fair go so that there is a competitive market, so that consumers have choice and so that rural Australia is adequately serviced at low cost.

I also wish to comment on the economic rationalism argument that is being run at the present time. This argument has as its basic tenet that the market is fair, that there is equal opportunity for all the players, so let the market sort it out. It implies a perfect market and I have not seen those since Economics I and Samuelson at university. In other words, we are saying let the law of the jungle prevail; let the strongest survive. I have already pointed out that there is not fair or equal opportunity for all the participants. Those who have become strong have significant institutionalised and intrinsic advantages. Unfettered economic rationalism will allow unfettered chain dominance, with the consequences I have related previously.

I do not know how we can allow this to happen. It is a bit like saying, ‘We should apply the same principles to society. Let the strongest survive,’ but we are civilised and we have rules that protect the weak and the economically disadvantaged. There are also rules in business, rules that are supposed to provide for fair competition, rules that are supposed to allow consumers the opportunity to choose between competing offers—and the offer is not just price. There are many other things, among them convenience of location, convenience of access, range, service, quality, presentation, hygiene, food safety, general ambience. ‘Choice’ is the operative word in a competitive market, but the current rules are not working. Choice is being diminished.

In short, enough is enough. We need a cap and we need new rules. That concludes my opening remarks.

**CHAIR**—Thanks, Mr Alty. I might kick off the questioning and say congratulations on the presentation. It was original and it was also very well written. You have talked about the unfair oligopolies that exist. Having heard the evidence of one of the people whom you supply this morning, Mr Neville Gale, it sounds like you have got a bit of an oligopoly going yourself.

**Mr Alty**—Foodland in fact is a monopoly in supply to independent retailers in Western Australia, not an oligopoly. It is a monopoly.

**CHAIR**—But don't you think that if the ACCC was still sitting up here behind us, perhaps there are grounds for saying that perhaps they should be looking at the wholesale situation in Western Australia to find out if there is fair competition existing; whether the market is skewed towards one major wholesaler and the result is that the prices are not as fair as they could be otherwise?

**Mr Alty**—As a monopoly we would adopt the philosophy that was stated by Harold Geneen when he was Chairman and CEO of ITT, that the greatest threat to our business lies in the failure to provide service. We operate a very highly responsive warehouse. We allow retailers, for example, to nominate the day of delivery, the number of deliveries they require per week and the hour of dispatch availability on our warehouse floor. So we allow them to dictate our production schedule. That means, by the way, that our main grocery store has of the order of 145,000 cartons of grocery output on a Monday and about 85,000 on a Tuesday. That is not smart production planning but we manage that in the desire to provide high levels of service.

We also accept orders transmitted up to midnight for following day delivery so that retailers can minimise their inventory. We operate, by my knowledge, one of the most cost-efficient warehouses of conventional type in the world. We are very close to peer companies in the UK and America, among them Hayes Distribution in the UK who operate Safeway, Tesco, Sainsbury and Waitrose warehouses under contract. We are also very close to Super Value and Fleming of the US, who between them have about \$US30 billion in grocery distribution. So we share knowledge, expertise and benchmark ourselves against these people in terms of KPIs in the industry.

We have made a very significant investment in our Canning Vale facilities. Our main warehouse, as noted in our submission, is 550,000 square feet in floor area. It carries an enormous range—larger than would be the case if we were operating a chain business alone—because of the demands of independent customers and various types of markets. We were the first warehouse in Australia to go to full scan verification of picking, whereby we scan verify every pallet received, every pallet put away, every pallet let down, every carton picked and every pallet dispatched. Our operations have been subject to oversight from the ACCC. We have made changes to rebate structures over the last few years and I assume this is what Mr Gale was referring to.

It became apparent to me when I became chief executive of the organisation in 1994 that there was some disparity in the prices being charged to customers which did not relate to their profitability and did not relate to the income generated from them. There had been no activity based costing undertaken in Foodland till that time, so we conducted a very thorough investigation as to the revenues derived from individual types of retailers and the revenues then disbursed. What we discovered was a quite complex issue which I will try to explain in simple terms.

Foodland acts as the marketing agent for the majority of its retailers. We act as the marketing agent for franchisers and we collect co-op revenues on their behalf from manufacturers. We then arrange promotional programs for them and their various banner groups—Dewsons, Rules, Supa Valu, Foodland and Four Square. On a monthly basis we make a rebate to them which in effect represents the over-recoveries of the co-op incomes, and that is quite a normal thing in the grocery segment.

There are a number of other retailers for whom we also collect revenues. They are very small retailers in rural towns who never actually see a rep or a manufacturer or anything but built into their cost of goods as we purchase them is some form of marketing allowance from the manufacturer. So we collect that money and we rebate it back to those retailers. In Mr Gale's case, Mr Gale had approached manufacturers direct and he was reporting to them, 'I run my own marketing campaigns. I want you to give me all the co-op money that is due to me.' So the manufacturers were forced or induced to pay the co-op marketing funds direct to Mr Gale's Advantage group. As a consequence he was in effect double dipping. We were paying him a rebate based on money that had been collected on behalf of franchisers and what we call non-promoting independents and associates and paying it to Mr Gale.

We conducted investigations internally on this matter for a number of years. Mr Gale was at the time on the board. He was chairman of the retail subcommittee which ultimately unanimously recommended that changes be implemented to the full board. We had those changes analysed by our own internal auditors. They were also submitted to the ACCC for scrutiny because we are very concerned to be ethical, honest, open and fair, and to treat all customers fairly. That is a very important requirement of a monopolist. The ACCC indicated that they would take no action in the matter. It was EBIT neutral as far as Foodland was concerned. We did not derive any additional profitability. All we did was redistribute rebates around the various parts of our retail constituency to ensure that those who earned the money got the money.

**CHAIR**—That is interesting. What is the situation today? Do they still negotiate direct with the manufacturer to get it?

**Mr Alty**—Mr Gale still negotiates direct with the manufacturer. There is one other marketing group in Western Australia who does the same, and that is Farmer Jacks.

**CHAIR**—If you are getting the same price as Coles and Myer directly dealing with the manufacturers, then by definition, if you come in as a wholesaler, the price to the retailer is going to be higher.

**Mr Alty**—Yes.

**CHAIR**—Doesn't that suggest that perhaps you should be looking at full vertical integration yourself in order to compete fairly? I know you have stores yourself, but in terms of across the board—

**Mr Alty**—We would not have the capacity or the ability to buy all of the independent stores in the sector. We would not have the capacity to manage the smaller stores.

**CHAIR**—In order to directly compete, that is what you would need to do to a certain extent, wouldn't you?

**Mr Alty**—One could argue that, but it is very difficult for chains to run small stores because of the management infrastructures involved. One thing we can say about the independent: he is the owner; it is his business. As John Cummings would have indicated, he has the mortgage, the marriage and everything on the line. Believe me: these guys work long hours; they have family members involved in the business. We as a wholesaler are probably somewhat similar. We run on the smell of an oil rag. We do not have big infrastructures.

**CHAIR**—You talked about the consumer choice being influenced by a number of factors: convenience, service, et cetera. If in fact the retailers are able to compete on that basis by offering those areas, what is the concern?

**Mr Alty**—The concern is that an individual operating one site can very easily be made marginal by the development of a new chain supermarket in his locale. This is particularly so in the country. We have a number of instances in Western Australia where the development of a new supermarket has closed the independent alternative. Perhaps a very good example was Cheap Foods at Altone Road in Perth. It was in a small shopping centre surrounded by green fields, mostly grass and cows, and a new Woolworths was built on the end of that. That in effect closed that Cheap Foods within a matter of weeks. In fact, the owners had to abandon the lease and were sued as a consequence of abandoning the lease, because it had performance guarantees. So there is now no choice in that shopping centre.

**CHAIR**—I find that particular example very interesting. I wonder whether we could ask your people if they could submit that particular case to us as an example.

**Mr Alty**—Certainly.

**CHAIR**—That is the type of thing that stands out.

**Senator MURRAY**—Mr Alty, I heard you say you were a supporter of a cap.

**Mr Alty**—Yes.

**Senator MURRAY**—Caps are established all over the world and they are established in Australia. There is a cap on the number of banks. There is a cap on how many soft drink manufacturers there can be, or beer manufacturers. ACCC enforces caps all the time and so does every competitive authority in the world. I would gather from your understanding of world markets, in particular those of the three countries you mentioned, that you believe that

the only way in which you can preserve a viable independent sector is eventually to enforce a cap.

**Mr Alty**—Yes.

**Senator MURRAY**—At what percentage should that cap be? My assumption from your operation is as follows—and I want you to tell me if I am right or wrong: Foodland could not operate solely as a wholesaler because without your New Zealand retail operations, without your New Zealand wholesale operations, without your Action supermarket chain, you would not have the spread of business interests to maintain your infrastructure and to maintain your profitability. In other words, my assumption is that this marketplace already is very close to critical mass vulnerability, if you like.

**Mr Alty**—Okay. Let me respond to that question. There are no real synergistic benefits between our Australian operations and New Zealand operations. We do cross-fertilise. We do benchmark. We do try to avoid reinventing the wheel. But they are quite distinctly different businesses. Our progressive business in New Zealand is primarily a chain business with about \$NZ1.5 billion in chain turnover and about \$600 million in wholesale turnover. Our other business in New Zealand is a general merchandise department store business with about \$NZ800 million turnover.

The two businesses that we have here are essentially the Action retail business, which is a wholly owned chain, and the wholesale business which also supplies Action. The wholesale business is a viable business, as is Action. Action is a growing business but the wholesale profitability has plateaued. Sales have been static for in the order of five years. That is because of erosion of market share and the loss of the Charlie Carters and Newmart chains to Coles. The business is quite profitable but, as I say, it has plateaued.

The difficulty we face is that we have taken just about every cost we can out of the business. We think we are as efficient as any similar warehouses on any kind of world basis, so there is no more fat we can take out of the place. As we lose volume we will lose profitability and we cannot further reduce the overhead. We can reduce the marginal costs. If you lose some volume you can reduce the labour cost of picking that volume but I cannot eliminate the capital cost of the warehouse and its wheeled equipment, nor the overhead costs of the IT systems that support it, nor the head office infrastructure. So any significant further erosion of our share in Western Australia would lead to reductions in profitability of the wholesale operations or, conversely, increases in price to maintain that profitability.

**Senator MURRAY**—I work out the percentage of the market not buying from you, assuming Coles and Woolworths do not buy from you, as about 65 per cent.

**Mr Alty**—Correct.

**Senator MURRAY**—If you take Woolworths, Coles, Advantage—and Farmer Jacks you have added—it would be about there. If it reached 70 or 75 per cent would you have a feeling as to when it would become impossible for you to run your business as presently constituted?

**Mr Alty**—I do not think anybody really knows the answer to that question. There has been a lot of commentary and a lot of analysis put before the Trade Practices Commission in its earlier days, and now the ACCC, in relation to the proposed acquisitions of QIW composite buyers in relation to what is the threshold at which an independent warehouse can be profitable, but it has never been tested. The figure is bandied around as \$200 million. I question that. I do make the observation that in the east coast states, where there have in the past been two independent wholesalers, only one has ever been profitable and it has ultimately led to their mutual demise because, in simple terms, a small segment of the market is supporting two warehousing and distribution infrastructures. It seems crazy.

The cost of entry is often referred to as being quite low and that therefore there is this sort of easy money to be made in wholesale. The cost of entry in capital terms is not theoretically terribly high. All one needs is a tin shed with some pallet trucks and fork trucks. Our 550,000-square-foot facility here cost \$25 million to build, including all the wheeled equipment, so in theory that capital cost is not a huge barrier to entry. The barrier to entry is having to build all that special purpose facility which does not have ready resale value or, alternatively, lease it for a long term, have all that sunk capital and then hope you can pick up sufficient business to justify it.

**Senator MURRAY**—And have the expertise to run it.

**Mr Alty**—Yes.

**Senator MURRAY**—You can approach this from one of two ways. You can either approach it from the way in which we have been, and I think your submission does as well, and that is that the majors should have a ceiling of 25 per cent but in theory they could end up with four chains of 25. Or you could reverse it the other way and say that any non-chains—banner groups would be all right—must be at least 25 per cent. In Western Australia the chains are 75 per cent because, once you add Action in, that is where you get to. Which is the better way for people like us to be examining this issue? Why is it fair to say to Coles and Woolworths, ‘You can only be 25’? Why couldn’t one be 40 and the other 20 and somebody else has 10? Where do we go with this?

**Mr Alty**—We do not see Action in quite the same context as Coles and Woolworths. This is a 24-store business which is owned by an independent wholesaler. Its sales, I think, are this year of the order of \$420 million, which is somewhat minuscule in the context of Coles and Woolworths, but the development of Action, which was originally almost by reactive rather than proactive means, has allowed us to maintain and strengthen the relative position of the independent sector against the chains in this state. I say it was reactive because Foodland bought in the early days—and I am speaking now of the eighties—what one might call a motley collection of independent stores that were for sale. Some were also sold to us by other failed organisations.

At the time I became involved Action had something of the order of 27 stores. I rather facetiously said, ‘No—three of them look like they belong to the same company,’ because they were just so different in terms of what had been acquired. Subsequent to that time we have actually sold or closed seven of the Action stores. We have sold smaller stores to independents because independents can run smaller stores extremely well. But they have

difficulty taking on the single-site risk and going head to head with the Woolworths and Coles. We have said, 'We will get Action out of these small sites where an independent can make a good dollar and we will refurbish and upgrade and expand those stores that are going head to head with Woolworths and Coles and in fact we will build more of them.' Whereas an independent cannot get a site or a lease in a major shopping centre, Action might be able to sneak in there as the second or third player and we can sustain the competition from Woolworths or Coles.

**Senator MURRAY**—This is the difficulty we have. I am sure the committee by now accepts that Woolworths and Coles will never take over the small store sector, because it is just unattractive to them to operate.

**CHAIR**—Unless they operate a separate chain.

**Senator MURRAY**—But the people like Mr Cummings are telling us that the small store sector on its own is not capable of—

**Mr Alty**—Sustaining a warehouse.

**Senator MURRAY**—sustaining a warehouse, so you have got to have the small store sector plus a percentage of medium sized chains, if you like.

**Mr Alty**—Yes.

**Senator MURRAY**—The Farmer Jacks, and Advantage and others.

**Mr Alty**—Yes.

**Senator MURRAY**—Really the question for us is: how big should that be? Of course, we are looking at this in different parts of the country and, whether it is by volume or whether it is by numbers, unless people with expertise like you guide us we are going to be left in the dark.

**Mr Alty**—We still, as I say, see Action as an independently owned chain. We see it as complementary to the independent offer in this state, and the independents for the most part are happy with that because they see Foodland as taking the big site risk and going up against Woolworths and Coles on a head to head basis and so protecting the warehouse volume. Ultimately it is the warehouse volume that leads to the efficiency and therefore the prices at which we can supply independent retailers.

**Senator MURRAY**—Mr Chairman, I have more questions on profitability, but I do not want to hog the question time.

**CHAIR**—Maybe we can come back to it. Mr Nairn has some questions.

**Mr NAIRN**—Just on that point you were making—the argument for your market share at the wholesale end because there needs to be a critical mass to sustain a certain level of service and a certain pricing structure to the independents so that they can remain

competitive as well—taking that to the next step, that is to help the consumer. How is that argument any different to the argument being put by Coles and Woolies at the retail end, that, if they are going to deliver benefits to the consumer in the range of products and pricing—and certainly the ABS stats demonstrate that the price of food has come down substantially in real terms over the last 20-odd years—they also need to be at a certain size. You cannot argue it in both sectors.

**Mr Alty**—I think a 75 per cent share of the national market creates such massive economies of scale that it does not matter. It should also be remembered that a chain warehouse is very much easier to run than an independent warehouse. I run a chain warehouse in Auckland and I can tell the stores when they are going to place their orders. I get absolutely even production flow 24 hours a day, seven days a week. I have less than a quarter of the pallet trucks and fork trucks operating in that warehouse. It is highly efficient. The chains have got all the scale that is necessary.

**Mr NAIRN**—But the competition argument is really what I am getting at. If you take the wholesaling possibly to the retailing, surely the argument has to apply in both areas. You have a pretty big share of the market. As you say, you have a monopoly of the independent market.

**Mr Alty**—Yes, but we are only 40 per cent of the market.

**Mr NAIRN**—Of that market, though, it is still a monopoly in that independent market.

**Mr Alty**—Yes. One can argue that we should not be ashamed of the fact that it is a monopoly.

**CHAIR**—Coles might do the same.

**Mr Alty**—I liken independent wholesaling in effect to government, because once upon a time there were a whole lot of fragmented independent retailers out there and post-war there were dozens of wholesalers in every state—dozens of agent wholesalers. They gradually merged and fell over and rationalised until, in the sixties and seventies, the last great mergers took place. In Queensland it was Tickle and Foodstuffs and in this state it was Foodland and Associated in about 1972. That created monopoly wholesalers. South Australia, Western Australia and Queensland were still oligopoly, or duopoly in New South Wales, Victoria. These things happened—these were all cooperatives at that time. They had the problems of cooperatives: no access to capital and owners rewarding themselves on the basis of their purchases rather than on the basis of their ownership. So it was quite an inappropriate structure to compete in any other than a monopoly or licensed industry.

During this period what was happening was that the chains were rolling out of their Melbourne and New South Wales bases and by the eighties the critical mass of the independent wholesalers was no longer competitive. There were attempts to merge them, but merging cooperative wholesalers is a bit like rationalising councils—we are all in favour of it as long as everybody joins us! So ego, emotion and parochialism did not allow the independent sector to get together and achieve industry competitive scale in the eighties.

I say that this situation is a bit like government because on the one extreme you have anarchy and at the other extreme you have dictatorship, and somewhere in the middle—and it sort of shifts from left to right—is democracy. The independent retailers, in forming these cooperatives, were actually saying, ‘Let’s have some form of government here because we can’t, you know, sort of all operate independently competing with these chains.’ That has led to an element of monopoly in this state, but then a benevolent monopoly, or a benevolent dictatorship, if you like, is a very effective form of government.

**Mr NAIRN**—So you have got a guided democracy there.

**Senator BOSWELL**—As long as it always remains benevolent.

**Mr Alty**—Exactly. We do have an ACCC and we are a very open and ethical company. I am not putting myself or any of my board at risk by indulging in inappropriate, unethical or illegal practices.

**Senator MURRAY**—And Mr Cummings made the point that you buy 40 per cent direct anyway.

**Mr Alty**—Yes, the retailer does buy a lot of his fresh produce direct and many of them also buy packaged groceries direct, but using charge-through facilities where their accounts are guaranteed and paid by Foodland. Perhaps what is not understood is that we actually take a lot of the risk for many of the independents. In the case of Mr Gale, he has two very large stores, one at Joondalup and one at Rockingham. Foodland owns the head lease on both those stores. Mr Gale could not have got those tenancies unless we guaranteed his head lease. So we took in both cases a 20-year risk on the lease. Had his business failed I would have copped a downside. If it succeeds, of course, he gets the upside.

**Mr NAIRN**—Can you give us a snapshot of the break-up of your shareholding?

**Mr Alty**—Our shareholders are essentially Australian institutions. The major shareholder is Bankers Trust, which presently has in the order of 12 to 13, and that is Bankers Trust Funds Management. The second biggest shareholder is Colonial First State with about 11 or 12 per cent. About 85 per cent is held by Australian institutions.

**Mr NAIRN**—Do you have any employee sorts of shareholdings between you?

**Mr Alty**—Yes, we do. We have an employee share option plan and options were offered to all permanent employees, including permanent casuals and permanent part-timers who had more than two years service. There are 740 people who work in the wholesale division of the company and roughly a third of them are employee option holders.

**CHAIR**—What is the percentage of full-time as opposed to casual workers?

**Mr Alty**—The ratios vary from section to section. I would not have the precise figures.

**CHAIR**—But roughly.

**Mr Alty**—Full-time employment is relatively high in the wholesale division. The part-time employment in Action is quite high and in our head office it is essentially full time, but we could provide those figures to the committee.

**CHAIR**—Okay, fine.

**Mr JENKINS**—In the activities that we could describe as you acting as a de facto head office for some of these independents, do all our customers get the type of business services you have listed in part 6 of your submission?

**Mr Alty**—No, the independents who choose to run their own promotional activity—that is, Advantage and Farmer Jacks—do not get our assistance in that regard, in terms of arranging promotional activity. But we still provide them with specials because we have specials available to all customers whether they are a franchise or a self-promoting external franchise, as we call them. But we do provide their price makings, their price files. We design their stores for them. We supervise construction. We make funding available to them to develop their stores. All independents have available to them all of those facilities and it is their option to use them. It is, in the ultimate, freedom of choice.

**Mr JENKINS**—You do not offer contract access to fruit and veg or meat?

**Mr Alty**—Yes. We do operate a produce distribution facility. That is, again, not compulsory. We will source produce on behalf of independents either through the market system or direct, principally through the market system, and use the collective buying power to get a better deal.

**Mr JENKINS**—So what percentage of your customers would avail themselves of that?

**Mr Alty**—Could I refer that to one of my colleagues?

**Mr JENKINS**—Certainly.

**Mr Boyd**—Very few.

**Mr Alty**—We actually lose money on the produce distribution operation.

**Mr JENKINS**—The head lease thing with Advantage led me to exploring what other things did. With that example of taking the risk through the head lease, was FAL involved in the negotiations of the contract, or was that something between you and Advantage?

**Mr Alty**—No. When we negotiate a head lease on behalf of an independent retailer, three parties are involved—the lessor, the lessee and Foodland—because obviously we cannot negotiate a head lease and then flick it on to the independent in the form of a sublease if he is not happy with the principal terms.

**Senator MURRAY**—Are you the guarantors?

**Mr Alty**—We are the guarantor, yes. In certain circumstances we may also be involved in rental subsidies for a period of time to help the independent through the period of negative cash flow, with the proviso that those rental subsidies need only be paid back to Foodland from future profits. Obviously, if there are no future profits, we do not get the subsidies back.

**Senator BOSWELL**—Have you ever got caught on the head lease?

**Mr Alty**—We have a number of stores that we currently operate that are failed independents and operate under Foodland head leases where we have had to take them back and cop the operations of those stores as a loss. We have gradually been wearing them out. Obviously we try to do a deal with the landlord, looking at the net present value of continuing to trade and take losses, or just pay it out. So we are always reviewing it, but at the present time I could give the committee details of one store that we have running on a head lease that goes through to 2007. We have had it for the last six years. I think it loses of the order of \$300,000 a year and we have to continue operating it because it has a must-trade clause.

**Mr JENKINS**—Senator Murray has been moving towards a conclusion that I had been coming to as well, in that there were certain sections of the independents, because of their size and their site, that probably were not of interest to the majors. However, I want to just pick up on something that you have put in your submission at page 20 about the major change to developing new medium size formats—Woolworths Metro, Coles Express—and whether by extension at some stage they might rebadge a product or do something that might mean they would go into those reasons.

**Mr Alty**—That is a matter of grave concern to us. It is not too long ago that Woolworths, in trade magazines, referred to their store at Crows Nest in New South Wales as the ‘new Mighty Mouse’ format, which was the smaller store format they could put in the suburbs to take on the independents. This sounded to me like, ‘When we take over an independent this is how we will reformat the store to maximise the turnover and profitability of it.’ We have also got Coles experimenting with one of the petrol companies in a small store format. So I guess we operate in what I characterise as a mature low-growth market. It is a mature low-growth society. Most markets for services are also mature. As I indicated earlier it is hard for chains to find sufficient greenfield sites to keep expanding share and one then tends to look at other sites that are available to marketplace and other opportunities. I certainly see, as a consequence of comments that have been made publicly by both Woolworths and Coles, that they intend to move into the small store arena.

**Senator BOSWELL**—Last time I looked you had a 50 per cent market share in Western Australia.

**Mr Alty**—Yes.

**Senator BOSWELL**—Looking at your submission you have lost 10 per cent. How long has it taken you?

**Mr Alty**—I think our peak market share was actually 53 per cent and that was in 1993. So it has diminished in the order of 40 per cent in the last six years.

**Senator BOSWELL**—The gentleman you previously mentioned said it is going down very rapidly.

**Mr Alty**—Mr Gale, yes. It is going down for a number of reasons: the increasing development of chain stores. There have been a number of new Coles and Woolworths built in Perth in the last five years. The result of that has been some closures of independent stores and the erosion of trade of other independent stores, but additionally we lost two major customers to Coles. One was the Newmart chain that had ex-wholesale purchases from us in excess of \$30 million annualised. That was purchased by Coles. The other was the Charlie Carters chain, which had wholesale purchases of the order of \$34 million per annum, which was also purchased.

**Senator BOSWELL**—How many stores were there?

**Mr Alty**—Fifteen, I think, were purchased by Coles. Newmart was, at the time, six stores. They also both, because of their relative size, purchased a high proportion of merchandise direct rather than through wholesale.

**CHAIR**—Did that by the way trigger ACCC? ACCC looked at them, thank you.

**Senator BOSWELL**—You have gone down by 10 per cent or 13 per cent. Where is your base?

**Mr Alty**—I do not know where the base is. We have indicated to the market that our wholesale profit has plateaued—I mean it is static. We have taken, in our view, every conceivable cost out of the business. We have got the world's best practice in terms of our technology and our methodologies. We benchmark ourselves against the best operators in the world.

**Senator BOSWELL**—Is this the rule of thumb: the higher volume the more efficient you become?

**Mr Alty**—Yes, very much so. As I indicated, one can eliminate the variable labour, which is the picking labour, but you cannot eliminate part of the big tin shed and part of the wheeled equipment and you cannot eliminate part of the computer and part of the head office infrastructure. To put it crudely, if we lose 10 per cent of the business we do not slice off 10 per cent of Barry Alty, for example, or my colleagues out there. There is a substantial fixed cost involved even in a wholesale business which operates on very high velocities and relatively low margins.

**Senator BOSWELL**—What difference would it make—I do not suppose it makes much difference to you but it would to your customers—if this problem of the wholesale sales tax was addressed?

**Mr Alty**—If the issue was addressed, it would make about a 1.2 per cent difference in cost of goods.

**Senator BOSWELL**—What would that do for the average store—\$30,000 a year?

**Mr Alty**—Yes, possibly. It is a figure we could come up with if the committee requires it. It is a subsidy to the chains of the order of \$120 million a year. We look at it as a subsidy of the chains rather than as a benefit to us. We are saying the playing field should be level. Obviously, one of our hopes is that GST is brought in with food included. That will level the playing field in respect of wholesale sales tax but it does have a fairly high compliance cost for small business, but I know that government is addressing that issue.

**Senator MURRAY**—Just on profitability, I think these figures you have provided us are very helpful and, frankly, they are prepared in a far better way than the figures provided by Woolworths in particular, I remember, because they focused on EBIT and EBITDA. You have got here NPAT, net profit after tax. I had put to Woolworths my understanding of supermarket retailing—that a percentage on sales between 1½ per cent and 3½ per cent before tax meant that it was a successful business and was operating profitably, and after tax would revert to these figures. This seems to me to indicate that, contrary to their claims, they were actually running less profitably or at lower margins than international competition; that they are pretty well running to scale. Would you confirm that judgment?

**Mr Alty**—I think that is a judgment best made by people more qualified than me, but I did note in various submissions that there were claims as to relative profitabilities in the world and I looked at these and I thought this did not relate to my understanding of the American industry, so let us get some information from the independent source which is reflective of the American industry and not just selected American participants and have a look at the profit.

**Senator MURRAY**—Why do you think that is really a concern of this committee? If we have basically a free market economy and the profitability of various chains, why do you believe that? It is still not excessive.

**Mr Alty**—It is up to the committee to determine whether it is relevant or important.

**Senator MURRAY**—Can I stay with my question?

**Mr Alty**—My reason for placing that submission was to say, ‘Hey, you have had a lot of figures thrown in front of you. There’s claim and counterclaim. Here is a different view, looking at it on a different basis,’ but it is certainly within the power of the committee to use its resources and—

**CHAIR**—No, we appreciate you putting it forward. I am just interested—

**Senator MURRAY**—Can I stay with my question and I will answer the question at the same time. Woolworths put that to us because they are saying, ‘Look, the whole idea that we have got this market stitched up together with Coles is wrong. We’re actually exceptionally competitive and that is reflected in very low profitability.’ That is why it is relevant because,

if they are making the same profits or better profits than elsewhere in the world, it is indicative of market control and abuse of market power. It is very much our concern because this is a committee inquiry about concentration.

I want to return to these figures, if I may. The key question I asked Woolworths then was that in retailing it is not EBIT which is often the most important measure, but in fact the return of capital, and they would not give me the answer as to what their return on capital is. You have not provided here any comparative data on that. Is that available in the market or is that closely held to trends?

**Mr Alty**—Yes, financial analysts at broking companies would be able to provide relatively accurate data in terms of return on capital.

**Senator MURRAY**—I would appreciate it—asking you on notice through the chair—if you could think of doing the same exercise for us as you have done on profit after tax on sales on return on capital just so that we can have a comparative view.

**Mr Alty**—Certainly.

**CHAIR**—We would appreciate it but I do think it is appropriate that at some point we do get an independent, if such a person exists, to advise.

**Mr Alty**—That would be more appropriate, yes.

**Senator MURRAY**—But, if you give us a starting point, we can ask them questions.

**Mr Alty**—We will certainly do so, Senator.

**CHAIR**—Thanks very much, Mr Alty. I must say we were all impressed by the quality of the Western Australian spokespeople. I am sure you and Mr Gale must have very interesting debates together.

**Mr Alty**—I think you have summed up the situation fairly well.

**CHAIR**—Obviously you have presented your case very well. It was a thoughtful presentation. We appreciate your input and we look forward to your further contributions. If there is anything else that you think is appropriate, please forward it on to our secretary. Thanks for attending today. Thanks also for being here and listening and we appreciate the opportunity.

**Mr Alty**—Thank you, Chairman. The other thing I wish to say is, if there is any information the committee requires from Foodland, we would be very happy to provide it. We are also prepared to provide any financial data the committee requires, on a confidential basis.

**CHAIR**—Thank you very much. We will have a short break.

[2.13 p.m.]

**HANKINS, Mr Jeffrey Duncan, Western Australian Tobacco Retailers Association Inc.**

**STANTON, Mr Barry Gerald, Secretary, Western Australian Tobacco Retailers Association Inc.**

**STANTON, Mr Robert Thomas, Chairman, Western Australian Tobacco Retailers Association Inc.**

**CHAIR**—I call on Mr Bob Stanton, Mr Jeff Hankins and Mr Barry Stanton, and welcome you here to the committee. The committee prefers all evidence to be given in public but at some stage if you wish to give evidence in private then the committee will look at that situation, but we should warn you that the Senate may require that the evidence be made public at a subsequent stage. The committee has before it submission No. 164 dated 25 March 1999. Are there any alterations or additions that you wish to make to the evidence before you?

**Mr R. Stanton**—Yes, there are. I would like to hand you an addendum showing some graphs of current tobacco trends.

**CHAIR**—Thank you very much. I invite you to make an opening statement, and following that there will be questions from the committee.

**Mr R. Stanton**—Thank you. We appreciate the committee giving us the time to present or expand on our submission to you. I will just introduce myself as not only Chairman of the WA Tobacco Retailers Association, but a small corner store/delicatessen/mini-mart owner. I have been in that business for 11 years now, and we are just finding it hard. My background is the previous 20 years with the Westpac Banking Corporation. Mr Jeff Hankins has been in his business since 1991. It is a lottery kiosk-cum-tobacco retailing-cum-magazine store in the Murray Street Mall here. Prior to that Jeff was with G.J. Coles. Barry is also a delicatessen owner out in Forest Lakes-Thornlie. He has been in that for just over three years now. Prior to that he was with Telecom Australia.

We are just small businessmen here, representing the tobacco retailing industry. We, as an association, were formed in 1993 as a result of the WA Tobacco Control Act and its associated restrictions on tobacco advertising et cetera. Since then we have grown in membership. We represent some approximately 5,000 tobacco retailers in WA and it is on behalf of them that we made this submission to the committee and that we are here today to expand on our views.

**CHAIR**—We are particularly interested in the tobacco end of the market, and how you feel the chains are impacting on your market share in the tobacco area.

**Mr R. Stanton**—Yes. We are worried about the increasing domination of Coles and Woolworths—not Franklins in WA, as we all know. Our biggest problem comes with the enormous—

**CHAIR**—There will be time for questions but, in terms of some of the evidence we have heard this morning regarding the other smaller chains in Western Australia, are you concerned about those at all?

**Mr R. Stanton**—Yes. We have members right across independent supermarkets, service stations, newsagents, delicatessens—basically anybody in Western Australia that retails tobacco products.

**CHAIR**—But you are not concerned about some of the smaller chains, only Coles Myer and Woolworths?

**Mr R. Stanton**—They are the only ones that generally affect us, yes, because of their ability to dictate retail pricing of tobacco products in this state. That is our greatest concern. Small business operators are unable to compete effectively and efficiently with the larger companies. We believe that 70 per cent of grocery sales are held by the Coles Myer and Woolworths group in Western Australia. I think we have since corrected that. I think it is about 65 per cent. But I would point out that four of the top 10 products sold out of grocery are all tobacco products.

**CHAIR**—Four of the top 10?

**Mr R. Stanton**—Four of the top 10 products—any product you like—are tobacco products; are cigarettes.

**CHAIR**—In volume terms or profitability?

**Mr R. Stanton**—In volume—dollar turnover and volume. I make a point here that one tobacco manufacturer in the last 15 months has removed 22 stores in Western Australia from its IPC—independent price cutting—list as a direct result of its reduced volume. Mainly those have come from the lottery kiosks. Western Australia is unique in tobacco retailing in that we do not have tobacconists as such. They are generally mini-marts or corner stores. They used to be very strong in lottery kiosks in the middle of shopping centres, and I think that is where we get the greatest amount of competition from the chains. The only true tobacconists in Western Australia are the Smokemart group. I will get on to them shortly. But, generally speaking, the lottery kiosks are no longer independent price cutters because their volumes have been dramatically reduced.

Tobacco products account for between 25 and 50 per cent—in my own instance, 55 to 60 per cent—of total sales that go out of our shop. We rely on tobacco products to get the customers through the door so that you can on-sell the Mars bars, and the litre of milk that hubby has to pick up on his way home. The value of tobacco products to small businesses—and lottery kiosks as well—is paramount. We would not survive at all without tobacco products in our shop to sell.

As a separate issue, under the WA Tobacco Control Act implemented in 1993, tobacco advertising was not to be visible from a public place. Now, because most tobacco retailers in the small business sector, the small retailing sector, are pretty much stand-alone stores, to have any visibility of tobacco products for sale, to collect our pricing to see if it is

competitive with grocery, et cetera, you actually have to physically come into our shop. We can no longer even have a price board out the front, so we cannot communicate to the consumers, unless they come into our shop, pricing competitiveness, et cetera. The supermarkets in this time have found it beneficial to their businesses to take their tobacco or their cigarette selling sections from the end of each aisle and make it one very visible tobacco kiosk, still within their store—so it is clever, and I congratulate them on it—that fronts a shopping centre mall.

You are likely to get—in Garden City—anything up to a quarter of a million people going through that place a week, so the visibility to quarter of a million people as against my business just down the road of 6½ thousand a week means they are at a great advantage there. That is an issue that we are taking up with the state government under the Tobacco Control Act. We have now learnt that Woolworths Carousel are trialling a new system where they are actually taking that tobacco kiosk and making a centre island right in the middle of the front of their shop bordering on the shopping centre mall.

I reiterate: it is still within their leased premises, but they are going not only to have a huge visibility of tobacco products but they are going to sell a full range of flowers, so that is going to affect any florist that might be in Carousel. They are going to sell confectionery—and a wide range of that, I do believe—and cool drinks and ice-creams, all in this kiosk. So, as you can see, we are not only being affected in the tobacco retailing area; it is affecting us in all other products that we might sell.

**Mr NAIRN**—Mr Stanton, could I just ask before you continue on there: is your argument to the Western Australia government that the mall area should continue to be a public place? Is that the problem, the definition, because the public place is actually out in the street somewhere?

**Mr R. Stanton**—No, under the WA Tobacco Control Act the mall area is a public place.

**Mr NAIRN**—Didn't you say, though, that you can't be visible from—

**Mr R. Stanton**—Advertising cannot be visible.

**Mr NAIRN**—Yes, advertising cannot be visible, but aren't all the packets together in a way that constitutes advertising?

**Mr R. Stanton**—No. There is an exemption under the Tobacco Control Act for live stock to be exempted and it is not advertising. So, obviously, with the assistance of the tobacco manufacturers, they do exactly that: they form a great big display of tobacco products which advertises to those people in the shopping mall.

**CHAIR**—That is a state government responsibility, though.

**Mr R. Stanton**—Of course. It is not your responsibility.

**CHAIR**—All right.

**Mr R. Stanton**—Supermarkets are able to retail tobacco products—and in our investigations up to three per cent—below the wholesale price. As small business people, we are unable to purchase many brands on an ongoing basis at anywhere near the prices that the major chains can sell them at. That is a major concern to us. Tobacco products are a very expensive product now and, because the federal and state governments have continually increased taxes on them, it has made them a product where the consumers are very price conscious, and that price consciousness creates the will to go out and find a cheaper price.

We know what competition is all about, and that is probably a good thing for the consumer. But I think we have come down in margins so much over the last three years from around 12 per cent on packets to where we are now selling at five and six per cent, and that is just about break-even by the time we take our holding costs, et cetera, into it. The consumer will go out and hunt down a cheap packet or a cheap carton of cigarettes, and the major chains are just simply using their ability to sell at wholesale or below wholesale price to buy in all our customers. Okay, that is an overview at this stage.

**CHAIR**—Thanks very much, Mr Stanton.

**Mr JENKINS**—Tell me, on the wholesale side, what advantages do the larger supermarkets have? Is it like other product lines where there will be discounts or incentives for shelf space and things like that?

**Mr R. Stanton**—Yes. I believe—but the tobacco companies are not too forthcoming with these sorts of figures—there are warehousing discounts, distribution discounts, display bonus payments to the chains. If you look at the situation through a manufacturer's eyes, they can deal with one head of a category that can distribute to many hundreds of stores, so it is obviously more beneficial to the manufacturer to deal with that person and get the same sort of promotional price right throughout the metropolitan area at all the chain's separate stores. That allows them to sell at prices that are probably generally unrealistic for us to even buy them. We, as small businessmen, have had to use that in certain circumstances to endeavour to remain competitive. We have actually gone to the supermarket chains themselves to buy our own product, taken it back to our shelves, and put it on our shelves, because we cannot source the product at a price anywhere near that.

**Mr JENKINS**—You have reps? It is still an industry where reps come and visit?

**Mr R. Stanton**—Yes.

**Mr JENKINS**—What do the reps say when you put that to them?

**Mr R. Stanton**—They know. They just simply say, 'Yes, we know that is the case.' They know we can go down to grocery chains and purchase a lot of the tobacco lines, a lot of the cigarette lines, at below what the manufacturers can actually provide us with.

**Mr JENKINS**—These companies also supply confectionery lines and other lines?

**Mr R. Stanton**—No, tobacco manufacturers provide us with tobacco only.

**Mr JENKINS**—I might need you to interpret those graphs for me then. The point of your graphs was where you were showing the increased sales.

**Mr R. Stanton**—That is tobacco products only.

**Mr JENKINS**—Right.

**Mr R. Stanton**—The left-hand numbers here are millions of sticks, counted on a bi-monthly basis. You have food with the little triangles on them. That is the major chains. Are you looking at food and confectionery?

**Mr JENKINS**—Yes, right, so you are showing your share of each of the suppliers, the decrease over the three—

**Mr R. Stanton**—Yes, that is tobacco products only.

**Mr JENKINS**—Right.

**Mr R. Stanton**—Where it can be seen there is an actual crossover in July-August 1997.

**Mr JENKINS**—On the supply of non-tobacco lines, do you go through wholesalers or do you have reps visit?

**Mr R. Stanton**—Yes, a bit of both. For confectionery, for instance, we have a confectionery distribution company that calls. A rep calls on us and we give them an order over the full range of all the manufacturers of confectionery. As far as grocery items, we go to our friends at FAL with a station wagon and pick up a station wagon full of grocery goods and take them back and put them on our shelves. Coca-Cola have reps call and we get deliveries from them, the drink manufacturers. That is how it all happens in our stores.

**Mr JENKINS**—And is it a similar sort of problem for you to get the same price for those other lines, the non-tobacco lines?

**Mr R. Stanton**—Yes, on many occasions.

**Mr JENKINS**—This is as a result of the greater bargaining power because of size, but are there other instances where they actually take on your members so some of the bigger players might enter into predatory pricing/discount war type—

**Mr R. Stanton**—Barry is probably the best to answer this because he is in exactly that position.

**Mr B. Stanton**—I am in a shopping centre and I have a supermarket down the other end. They do regular price checks on my cigarette prices—probably once a week—and go back and within 24 hours their prices will change or match. Nine times out of 10 it gets below. We have a couple of members in Carousel as well. I checked with him this morning and one product in Carousel at the moment, Longbeach 40s, is \$38.50 a carton. The wholesale price is \$39.66. The cheapest I can buy it at the moment is through FAL with a

dollar off at \$38.66, and they are retailing stuff like that across the board with their cigarettes—the majority—all the time.

**Senator BOSWELL**—Who is Carousel?

**Mr B. Stanton**—Westfield shopping centre.

**Senator BOSWELL**—And there is one of the chains doing that?

**Mr B. Stanton**—Yes. Woolworths and Coles in Carousel. They work on about, on cartons, cost less one or sometimes cost plus 0.67.

**Senator BOSWELL**—And they are coming under your prices?

**Mr B. Stanton**—They are under our prices all the time. I have now got to a situation where I just work at my four or five per cent and sit there and just hope I can survive, because I cannot compete any further with them.

**Senator BOSWELL**—What else do you sell in your store?

**Mr B. Stanton**—My store is a deli/mini mart type of thing. I carry groceries, ice-creams, drinks—the sorts of thing most delicatessens carry. We are quite a large one and we try to compete, but we are getting to the stage where it is very difficult.

**CHAIR**—Has your association taken up this issue with the ACCC?

**Mr R. Stanton**—Yes, not with the ACCC, but we have certainly had a solicitor look into the predatory pricing angle. It is very difficult.

**CHAIR**—Well, this example that Barry has mentioned must come close to it.

**Mr R. Stanton**—If that price on Longbeach was ongoing for three, four, five or six months and we could prove it with price checks, with a hidden camera—if we could prove that it was that price ongoing—we would have something to go to the ACCC with. It has been explained to us quite simply that all that has to happen is for that particular tobacco product to go back above the wholesale price for a week, and that fixes it. We cannot do anything. And that is what happens.

**Mr NAIRN**—Then it will just be deemed to be a sort of price—

**Mr R. Stanton**—A loss leader.

**Mr NAIRN**—A loss leader or whatever they call it.

**Mr R. Stanton**—Yes. I do not know the figures offhand, but Philip Morris have 10 or 12 brands, Rothmans have anything up to 30 different brands, and Wills probably have 15 different brands. Of those you have three or four Philip Morris which are leading brands, Rothmans have Winfield and a couple of others that are reasonable sellers and Wills have

Benson and Hedges and Horizon. So you can see by simply swapping around all the time that you can cover the ACCC angle. For the life of me, I am at a total loss as to why anybody would want to sell something and make zero percentage out of—it might be one per cent over the year—a product that is costing you \$45 or \$50 per carton to buy. Why would you not want to make any profit out of it unless you are just trying to destroy your competition? There is no other reason for it.

**Senator MURRAY**—How do you know they are not making a profit out of it? How do you know that the supplier has not actually given them a very preferential price?

**Mr R. Stanton**—We do not know for sure. Yes, I concur with that. We do not know, but what the manufacturers tell us is that the supermarket chains do not get any more than we do.

**CHAIR**—In terms of just pure marketing, if cigarettes occupy such a significant part of your turnover, would you not see that that is an ideal product to do lead lossing on?

**Mr R. Stanton**—Sure, we agree with that too. Let me make a point there, though, that it is not enticing people into their stores. Their tobacco kiosk is placed out the front, away from the checkouts. You do not even have to go through the checkout, through a turnstile, so you are not in a position where you can buy anything else except tobacco products at the tobacco kiosk.

**Senator MURRAY**—With a long experience in retailing, I must tell you, Mr Chairman, that big retailers do not loss lead. They are either making a profit or they are trying to fix somebody with a price, but you do not loss lead.

**Mr R. Stanton**—I totally agree with that, Senator, yes.

**Mr JENKINS**—Barry, do they take you on on non-tobacco goods?

**Mr B. Stanton**—No, not really.

**Senator BOSWELL**—Surely Coles and Woolworths would have bigger fish to fry than you guys. I mean, I can see them trying to knock off—

**Mr R. Stanton**—Individually Bob Stanton? Yes, sure. It probably does not mean a piss in the ocean to them. But, collectively, 5,000 retailers? Yes, why wouldn't they want to? Once they get to a situation where small groups of tobacco retailers or the independent tobacco retailers are not there, they pick up my X dollars per week, they pick up Jeff's X dollars per week, and in the overall scheme of things it is a lot of money, and then they can start setting their own pricing.

**Senator MURRAY**—Are you sure it is not just the natural competitive training they are given? Really, major chain people are taught to compete, to find out who has the lowest price and to match or beat them wherever they can, and that is natural. So, whether you are little or big or whatever, they are not necessarily displaying unusual behaviour in targeting you; they are displaying competitive behaviour.

**Mr R. Stanton**—There is competitive behaviour. We had a group three years ago called Smokemart, which is a South Australian family-owned business, and they have got a number of tobacco outlets. They are pure tobacconist outlets in South Australia. They have expanded to Queensland, New South Wales, and Western Australia, and it is his competitive nature—Mr Shahin, who runs this—that he will set up his small tobacconist opposite a Woolworths or a Coles kiosk. Now, in Western Australia, until Mr Shahin came in here doing exactly that, giving Coles and Woolworths some competition on tobacco products, Coles and Woolworths were never a bother to us. We were able at times to match and sometimes beat them on our specials. They did their thing; we did ours. They made profit and we made profit. It all ran along very smoothly. We might have had Longbeach 40s on for a month with a discount from the manufacturer. There was no idea that Coles and Woolworths would want to match my price, or other independent retailers' prices. It just never happened.

As soon as Mr Shahin got into Perth—I think he started off with six stores; he very quickly got to 20 stores—it is common knowledge, as much as we can figure it out and as much as we have been told, that Woolworths were going to ruin this guy or get this guy out of the state, and from that day onwards their pricing has been such that nobody can compete with them, and the Smokemart chain is now down to 13 stores.

**Senator MURRAY**—But, Mr Bob Stanton, the only way in which somebody like us could be informed that the manufacturers are actually not giving a better price to Woolworths or Coles is for your association to ask them to give us affidavits on that basis. If your association went to the manufacturer and said, 'All right, you're saying you're not giving them a preferential price. Give us a sworn affidavit'—and you know that is contempt of court if it was wrong—do you think they would? Or do you think they are just telling you little porkies?

**Mr R. Stanton**—Who can trust a cigarette manufacturer? I do not know. I do not know. But it would be very interesting to put it before them.

**Senator MURRAY**—But you can see it is perfectly reasonable for Coles or Woolworths to price in the way they are if they are in fact still making a profit, and if they are buying better.

**Mr R. Stanton**—Yes, I understand that, but the word out of the manufacturers is that they get no more than we do.

**Senator MURRAY**—But, you see, for us as a committee, this is now just allegation and counter-allegation, unless you can actually prove it, and the only way to prove it is for a manufacturer to give an affidavit or some other means, and we are left in the difficult position of having to make a judgment.

**CHAIR**—Maybe the thing to do is to ask one of the cigarette manufacturers to come and give some evidence before the committee. We might put that down as a suggestion to look at. Barry, did you mention that you actually know that the people from Coles and Woolworths actually come down and check out your prices?

**Mr B. Stanton**—They do it in Carousel. I think there are three discounters in Carousel. They walk around with a price board and they stand out the front and take the top 20 prices down of what each store has, and then they go back to their stores. In my store, someone will just come in and have a look at the pricing. In my area, I know they actually do it on about a five-kilometre radius. There are three or four different shopping centres within about five kilometres. It is not what you were getting at earlier, Senator: they are not just having a go at me as a small fish; they are pricing in the whole area. They are being competitive with the whole area.

**CHAIR**—Mr Hankins, is that your experience as well?

**Mr Hankins**—It is a different situation in the city. We do not have a Coles or a Woolworths supermarket as such in the city. Our competition is largely other independent retailers such as me.

**CHAIR**—What are the numbers again over the last five years? How many of your type of store was there around five years ago and how many are around now?

**Mr R. Stanton**—That I could not answer correctly.

**CHAIR**—If you would not mind sending us something on that, we would be interested to know. If there is a campaign to move you out, it would be nice to see what the results have been.

**Mr B. Stanton**—Something else that they have, because they are strong enough and have the ability to dictate to manufacturers and that sort of thing, is that they do not have to carry the full range of things like magazines and cigarettes. They can carry the top 10 or 15 cigarettes and the top 10 or 15 magazines. They do not have to carry all the also-rans that most newsagents and tobacco retailers like I have to. In my contract with Rothmans and Philip Morris and so on, I have to carry every brand that they have.

**Senator MURRAY**—So the terms of trade are different.

**Senator BOSWELL**—Why do you have a contract?

**Mr B. Stanton**—We have off-invoice rebates and that sort of stuff. As discounters we get a little bit extra, but obviously the supermarkets get more.

**Senator BOSWELL**—And you have got to sign a contract to get that?

**Mr B. Stanton**—To be an independent price discounter—and you take on the contract that you will work at a certain percentage, and your margin will be no higher than that; that sort of thing.

**Mr R. Stanton**—I think the most obvious area of business that is being affected is in the lottery kiosks. There is basically one lottery kiosk in the middle of every shopping centre. Their lottery products are their No. 1 product. Their cigarette products were their No. 2 product. Most of those lottery kiosks were independent price-cutters and recognised as

independent price-cutters by the manufacturers, which means that, if there is a special the manufacturers want to run, they run it through the IPC. That is just something that has been historical. The IPC will discount off his own bat, but gets some assistance from the manufacturer to also do the same.

There are only six lottery kiosks that are now IPCs in the state. The number prior to that I do not know but, as I said earlier, in the last 15 months one manufacturer alone has removed 15 small businessmen from their IPC list because their volumes have decreased so significantly, and that is borne out by the content of those graphs. I do not think that is because their businesses are run any differently or poorly or anything like that; it is simply the competitive nature of the beast, if you like—the pricing of the grocery—and the consumer who is so price conscious of tobacco products now that they head straight to where they can get it the cheapest. And why not? I understand that.

**CHAIR**—Previously you mentioned that 22 stores were removed from the IPC list.

**Mr R. Stanton**—Yes.

**CHAIR**—And now you are saying 17.

**Mr R. Stanton**—Did I say 17?

**CHAIR**—Yes.

**Mr R. Stanton**—Sorry, 22 is correct.

**CHAIR**—Okay. Gentlemen, are there any more questions at this stage?

**Senator MURRAY**—There is one other area I want to ask you about, and I think, Mr Barry Stanton, you could help me on this. In a previous committee the allegation was made that one of the ways in which chains target small businesses which have profitable merchandise which they want eventually to go into the supermarket business is the knowledge that they are on much higher rentals.

**Mr B. Stanton**—Yes.

**Senator MURRAY**—You said you were in the Carousel shopping centre?

**Mr B. Stanton**—No, I am not. I am in the Forest Lakes shopping centre.

**Senator MURRAY**—How many shops are in there?

**Mr B. Stanton**—Twenty-two.

**Senator MURRAY**—Do you know what each other's rentals are?

**Mr B. Stanton**—Through just general conversation, yes—pretty similar to mine.

**Senator MURRAY**—Do you have a substantially different rental structure to the supermarket? Would you know that?

**Mr B. Stanton**—No, I would not know for sure. No, I could not give you any proof or say that they had it cheap or cheaper. I would suggest that as they are being used as a drawing power to the centre their rent would be far less than I pay per square metre.

**Senator MURRAY**—But it is not an open market?

**Mr B. Stanton**—No.

**Senator MURRAY**—There is no printed price list, if you like?

**Mr B. Stanton**—No. Generally each retailer negotiates his own lease.

**Mr R. Stanton**—And the confidentiality clause.

**Mr B. Stanton**—Yes, that's right.

**Senator MURRAY**—Okay. That is all I have, Mr Chairman.

**CHAIR**—Thanks very much, gentlemen. I think we found that particularly interesting. Obviously some of the facts that you brought out to us regarding the significant undercutting of price over a period of time attracts our attention. I think the committee would like to see a strong and viable small business sector, so anything that threatens that obviously attracts our attention. Thanks for your submission. Thank you for being here today and the way in which you have expressed yourselves very openly and honestly. Thank you for that. You are the last for today, the last from Western Australia.

**Committee adjourned at 2.46 p.m.**