

6th March, 2015

Committee Secretary
Senate Economics References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Secretariat,

Re: Nature of Disputes and Dispute Resolution between Large Retailers and Landlords

I write to provide the Australian National Retailers Association (ANRA) response to a question from Senator Xenophon during ANRA's appearance before the committee at Parliament House on Friday 13th February, 2015:¹

Insofar as there are disputes between your larger members and landlords, can you provide examples of what dispute resolution procedures are used by your members and whether you think there is scope for improvement?

It is general practice that large retailers negotiate directly with landlords to resolve disputes and may use mediation or legal dispute resolution avenues as a last resort. This is quite rare and the approach to dispute resolution is dictated by the specific circumstances of the dispute.

Where disputes occur between large retailers (as tenants) and landowners they generally either:

1. On the allocation and attribution of outgoings by landowners; and
2. The interpretation of appropriate maintenance and/or capital investment responsibilities of the tenant and landowner respectively.

Disputes of the nature described in point one (1.) above might be overcome with greater detail negotiated in leasing contracts; and that disputes of the nature described in point two (2.) above might be overcome by specifying through negotiation the effective asset life or performance criteria for critical pieces of plant and equipment – notably air conditioners – within leasing contracts.

Sincerely,

Anna McPhee
Chief Executive

¹ Proof Committee Hansard (13/02/2015), Economics references Committee: Retail Leasing Arrangements page 5.