

Supermarket Power in Australia

A Public Symposium

Thursday, 1 August 2013

1 MacArthur Street, East Melbourne



A Joint Initiative of University of Melbourne's Competition Law & Economics Network and Monash University's Centre for Regulatory Studies

Supermarket Power in Australia

A Public Symposium

Supermarkets occupy a powerful and increasingly controversial place in Australian society.

The commercial strategies being pursued by the major supermarket chains relating to acquisitions, private labels, diversification, pricing, supply chain management, advertising and packaging attract considerable comment and a divergence of opinion amongst the Australian community.

The issues raised by such strategies are wide-ranging. They are economic, social, environmental, regulatory and political in nature and have both short-term and long-term implications for consumers, businesses, workers and communities. At the heart of these issues, however, is the notion that the major supermarket chains wield considerable power over the ways in which food is produced, distributed and consumed.

This Symposium is intended to provide a picture of and facilitate an informed discourse about the power of supermarkets in Australian society. The Symposium will focus on the market power of the major supermarket chains, the implications for competition and consumer welfare and recent proposals for reform, drawing on related developments in the United Kingdom. The Symposium will also examine the role and effectiveness of government in regulating supermarket behaviour and pose the question as to whether there is emerging in Australia a contest between the State, the major supermarket chains and civil society for regulatory power over the food supply chain. The Symposium will provide an open forum and promote a balanced and rigorous discussion, capturing a wide range of perspectives on the issues raised for debate.

Organisers

The Symposium is organised by **Professor Caron Beaton-Wells** of the University of Melbourne and **Professor Christine Parker** of Monash University.

Venue

Treasury Theatre, 1 MacArthur Street, East Melbourne

Google map reference: maps.google.com.au/maps?q=1+MacArthur+Street,+East+Melbourne+&hl=en&sll=-37.860283,145.079616&sspn=1.741281,2.39502&hnear=1+Macarthur+St,+East+Melbourne+Victoria+3002&t=m&z=17

Time

Registration from 9am. Close at 5pm.

RSVP

Friday, 19 July 2013 (places are limited).

Online registration

www.law.unimelb.edu.au/clen/news-and-events/event-registrations/supermarket-symposium-1st-august-2013/
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Contact

CLEN Administrator
grogans@unimelb.edu.au

Catering provided



Programme

9am	Registration
9.30am	Welcome and introductions
Professor Caron Beaton-Wells	

9.35am	The State of Play in the Australian Grocery Sector
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Chair: Professor Caron Beaton-Wells

Speaker: Craig Woolford

Trends in the Australian grocery sector

■ Craig Woolford

The Australian supermarket industry is more concentrated than many other developed countries. This presentation traces the major developments in the sector over the last decade and examines the implications for existing profitability and returns to shareholders given the grocery market structure, drawing on comparisons with offshore markets. The presentation also provides insights about how the grocery landscape may change over the next five years.

10am	Supermarkets and Competition – Consumer Welfare or Detriment?
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Chair: Professor Caron Beaton-Wells

The Australian grocery sector: Structurally irredeemable?

■ Dr Alexandra Merrett and Dr Rhonda Smith

This presentation examines the structure of the Australian grocery sector to consider whether the major supermarket chains, Coles and Woolworths, are adequately constrained, by their suppliers or the independent sector. It considers the competition implications of the recent expansion by the major supermarket chains into other sectors, such as petrol and hardware. To the extent that the grocery sector is considered uncompetitive, is Australia's competition law framework: adequate and, if not, are there other alternatives?

Power without glory? Competition and Australian supermarkets

■ Professor Graeme Samuel AC and Professor Stephen King

Increasing supermarket concentration has been a concern in the UK, the USA and elsewhere. However, the Australian supermarket sector appears concentrated by world standards. Is this a cause for concern and if so why? Drawing on our background from the 2008 ACCC grocery inquiry, we consider the degree of competition, and issues of buyer power, own-brands, and mergers in the Australian supermarket sector.

11.15am	Short break
11.30am	Supermarkets and Competition – Consumer Welfare or Detriment? cont.

Satisfaction with the local grocery store mix: A consumer perspective

■ Professor Harmen Oppewal

This presentation discusses the range of factors determining consumer satisfaction with the local supply of grocery products, including the total mix of price, quality, range, and service levels, as well as from the ambience in store, offered in the local area. It presents results from a UK study into how consumers perceive and evaluate the total range of the grocery offer in their local areas, that is, across brands and formats, based on face to face interviews with consumers in different neighbourhoods. The paper explores the transferability of these results to the Australian context and their contribution to the debate about competition in the Australian retail grocery sector.

Unfair commercial practices and retailer buyer power:

The UK experience

■ Rona Bar-Isaac and Christine Tacon (by video)

This presentation addresses lessons learned from the UK experiences of seeking to establish a Groceries Supply Code of Practice, touching on questions that have arisen along the way, including what is the harm being addressed, what should a code cover, who should it extend to, what is the

appropriate level of oversight, what are the right mechanisms to resolve disputes, how to embed the code in day-to-day trading relationships and implications of failure to comply. The paper also canvasses key European initiatives including a voluntary framework sponsored by the European Commission and a green paper with a proposed directive on unfair commercial practices.

Rona's presentation will be followed by a video presentation by Christine Tacon, the recently appointed Groceries Code Adjudicator in the UK.

12.45pm	Lunch
1.30pm	Supermarkets, the State and Civil Society – A Regulatory Contest?

Chair: Professor Christine Parker

Supermarkets as a social institution: Playing a contradictory role in food producer communities

■ Jane Dixon and Bronwyn Isaacs

Supermarket chains have joined the church, schools and hospitals as indispensable pillars in all but the smallest and most remote communities. Their presence is taken for granted, and their very ordinariness makes them unremarkable to most citizens until they become newsworthy, generally for alleged predatory behaviour in regard to small retail competitors or exploitative behaviour in relation to their suppliers. There has been remarkably little academic attention to the role that supermarket chains play in the well-being of food producing communities. This presentation will describe the findings of an ARC funded study, Seedling to Supermarket, involving ethnographic research in the Shepparton district in 2011.

Supermarket power and the appropriation of animal welfare standards: The case of own-brand free-range egg labelling

■ Christine Parker and Gyorgy Scrinis

The rise of private or own-brand labels has given the supermarkets greater power over producers and generated controversy and conflict over their demands. The supermarkets currently appear to be exercising their power to drive improvements in animal welfare and production standards in relation to issues such as cage-free eggs, hormone free beef and stall-free sows. This presentation uses free range egg labelling to critically examine the way supermarkets are responding to and selectively interpreting certain demands of animal welfare activists and consumers in their private label products.

2.45pm	Short break
3pm	Supermarkets, the State and Civil Society – A Regulatory Contest? cont.

From hyper-globalisation to distributed localisation: A fair and resilient food system for Australia

■ Nick Rose

The highly centralised and concentrated global food system, of which the Australian supermarket sector represents an extreme example, is beset with tensions and vulnerabilities. This presentation will explore some of those tensions and discuss the rapidly emerging new food systems: creative and resilient food economies, founded on the principles of connection and fairness.

The Greens' approach to competition in retailing

■ Senator Peter Whish-Wilson (Greens)

Senator Peter Whish-Wilson is the Greens' spokesperson for competition policy and small business. He is an economist, the owner and manager of a successful vineyard business in northern Tasmania, and a tireless advocate for Tasmania's stunning natural environment. He was a lecturer and researcher in economics and finance at the University of Tasmania, and a former Senior Vice President at Deutsche Bank. He was appointed to the Senate in 2012.

Panel discussion and response

Facilitator: Professor Christine Parker

4.30pm	Wrap up and drinks
5pm	Close

About the speakers and organisers

Professor Caron Beaton-Wells

Caron Beaton-Wells is a specialist in competition law, and has been published widely in the area, including *Proof of Antitrust Markets* (2003) and *Australian Cartel Regulation: Law, Policy and Practice in an International Context* (2011), with Brent Fisse. She is a member of the Law Council's Competition and Consumer Law committee and on various international advisory and editorial boards. She has consulted to the OECD, ICN, ASEAN and the New Zealand government on matters relating to competition law. Caron is Director of the University of Melbourne's Competition Law & Economic Network and teaches Competition Law in the Melbourne Law School's Juris Doctor program and Cartels in the Melbourne Law Masters Program in which she directs the specialty in competition and consumer law.

Mr Craig Woolford, Citi

Craig Woolford has been an investment analyst for over ten years specialising in supermarket and discretionary retailing. He has consistently been ranked top of his field as a sell-side analyst with number one rankings in the Peter Lee survey of fund managers from 2009 through to 2012. He is also recognized for his forecast accuracy with a top three ranking in Starmine for the retail sector in 2010, 2011 and 2012.

Dr Alexandra Merrett, University of Melbourne

Alexandra Merrett is an experienced competition lawyer specialising in market power issues. Between 2006 and 2012, she was a senior enforcement lawyer for the Australian Competition and Consumer Commission. Since 2006, Alexandra has also been a Senior Fellow in the Melbourne Law Masters programme teaching Market Power and Competition Law. Alexandra now works as a private legal advisor exclusively in competition and consumer law, including merger submissions, strategic litigation advice, working with expert economists, and trade practices compliance training and audits. With Rhonda Smith, she is an author of the *State of Competition* online competition law news resource.

Dr Rhonda Smith, University of Melbourne

Rhonda Smith is an economist and Senior Lecturer in the Economics Department at the University of Melbourne. She is a former ACCC Commissioner, was a member of the Copyright Law Reform Committee, and is presently a member of the Australian Copyright Tribunal. She is a lay member of the High Court of New Zealand, and has recently been appointed to the Commonwealth Consumer Advisory Committee. Rhonda is also a member of the Law Council of Australia's Competition and Consumer Law Committee and Deputy Director of the Melbourne Law School's Competition Law & Economics Network. Rhonda is regularly engaged by private parties to provide economic input, particularly in relation to mergers and Part IV litigation.

Professor Graeme Samuel AC and Professor Stephen King, Monash University

Graeme Samuel AC is a Vice Chancellor's Professorial Fellow and Stephen King is a Professor, both in the Faculty of Business and Economics at Monash University. Graeme was the Chairman of the Australian Competition and Consumer Commission from 2003 – 2011 and Stephen was a Commissioner from 2004 – 2009. Both were members of the ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries (2008). Graeme and Stephen have recently established the Monash Business Policy Forum which is conducting research into matters of contemporary relevance to Australian business, including a detailed review of National Competition Policy and the competition provisions of the Competition and Consumer Act.

Professor Harmen Oppewal, Monash University

Harmen is Professor and Head of the Department of Marketing at Monash University. He has conducted numerous studies on consumer decision-making and shopping behaviour with funding from the ARC, ESRC and European Union. His presentation at the Symposium is based on work conducted as an international visiting fellow of the Advanced Institute of Management Research in the UK and on research conducted at Monash University. The research is being conducted with Professor Ian Clarke, University of Edinburgh, and Professor Malcolm Kirkup, University of Exeter.

Ms Rona Bar-Isaac, Addleshaw Goddard

Rona Bar-Isaac is a Legal Director specialising in UK and EC competition law. Rona has particular experience in the consumer goods sector having advised supplier clients in relation to the Competition Commission's 2000 and 2008 groceries market inquiries; delivered training and advice to sales associates in relation to the application of the groceries codes that resulted from those inquiries; Morrisons in relation to the OFT's tobacco and dairy investigations; Hasbro in the OFT's toys and games investigation, and a major multinational of FMCG goods, to devise and implement its global competition compliance strategy. Rona is a regular speaker at events focussing on antitrust and consumer goods, including those organised by the British Institute for International and Comparative Law and by the British Brands Group.

Ms Christine Tacon, Groceries Code Adjudicator

Christine Tacon has had a wide ranging career combining her commercial expertise with her deep understanding of the food chain and the public sector. She is a Chartered Engineer with 12 years experience in sales and marketing of fast moving consumer goods (Mars, Anchor and Vodafone) and ran the Co-operative Group's farming business, the largest in the UK, for 11 years until 2012. She was awarded a CBE for services to agriculture in 2004. Christine is a Non-Executive Director of Anglia Farmers and Farmway Ltd, both farm supply businesses, Chair of UK Farming plc, an investment business, a member of DEFRA's Strategic Regulatory Scrutiny Panel, a Governor of Harper Adams University (which specialises in agribusiness) and is on the Business Advisory Board of Living with Environmental Change, a partnership of the Research Councils. She chairs the BBC Rural Affairs Advisory Committee and has joined the UKTI Environment and Water Sector Advisory Group.

Dr Jane Dixon, Australian National University

Jane Dixon is a food sociologist and public health social scientist. She has been studying supermarket dynamics in supply chains for fifteen years, but has recently turned her attention to the health and well-being impacts of supermarkets as social institutions.

Professor Christine Parker, Monash University

Christine Parker teaches and researches business regulation and lawyers ethics. She has recently turned her attention to the contestation, regulation and ethics of the food system. Her books include *Explaining Compliance* (2012), *Inside Lawyers Ethics* (2007) and *The Open Corporation* (2002).

Dr Gyorgy Scrinis, University of Melbourne

Gyorgy Scrinis lectures on food politics. His research focuses on the science and technology of food production and nutrition. His book *Nutritionism: The Science and Politics of Dietary Advice* was published by Columbia University Press and Allen & Unwin in June, 2013.

Dr Nick Rose, Australian Food Sovereignty Alliance

As co-founder of the Australian Food Sovereignty Alliance in 2010, and national coordinator of the People's Food Plan process begun in 2012, Nick is one of Australia's leading fair food activists. He is also Director of Food Connect Foundation.

Senator Peter Whish-Wilson, Greens

Senator Peter Whish-Wilson is the Greens' spokesperson for competition policy and small business. He is an economist, the owner and manager of a successful vineyard business in northern Tasmania, and a tireless advocate for Tasmania's stunning natural environment. He was a lecturer and researcher in economics and finance at the University of Tasmania, and a former Senior Vice President at Deutsche Bank. He was appointed to the Senate in 2012.