



THE UNIVERSITY OF  
MELBOURNE

Melbourne Law School

# Supermarket Power in Australia: Looking back and ahead

## Public symposium

**Friday, 27 October 2017**

Organised by Melbourne Law School,  
hosted by State Library of Victoria  
328 Swanston Street, Melbourne



**SUPERMARKET**  
POWER PROJECT



Competition Law  
& Economics Network  
MELBOURNE LAW SCHOOL

## Program

<b>9:00am</b>	<b>Registration and coffee</b>	
<b>9:30am</b>	<b>Welcome and introductions</b>	<b>Professor Caron Beaton-Wells</b>
<b>9:45-11:15am:</b>	<b>Panel 1: Competition</b>	
	<p>The debate relating to the competitiveness of grocery markets over the last decade has been an evolving one and at times has been highly charged, with a wide divergence and contest of views regarding the extent to which these markets are working as they should, to what ends, in what time frame, and in whose interests. There have been substantial concerns associated with retail concentration and market contestability; however, competition amongst retailers has intensified significantly in recent years and many predict further intensification, with some predicting disruptions to product offers, store locations and delivery methods with the entry of competitors such as AmazonFresh. At the same time, overtaking these concerns to some extent, there have been supply chain issues – vertical reverberations associated with the buyer power of the major chains and consolidation of intermediaries. This panel will trace and reflect on major developments over the past ten years and look ahead to forecast the future trajectory and nature of competition across the sector. It will highlight key trends and the forces that have shaped and will be likely to influence them in coming years, including the role played by our competition and consumer laws and by the Australian Competition and Consumer Commission in their enforcement.</p>	<p><b>Moderator: Professor Christopher Arup</b></p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>■ <b>Craig Woolford</b>, Managing Director and Head of Consumer Sector, Citi</li> <li>■ <b>Sarah Court</b>, Commissioner, Australian Competition and Consumer Commission</li> <li>■ <b>David Brewster</b>, Legal Director, Coles</li> <li>■ <b>John McQueen</b>, Interim CEO, Australian Dairy Farmers</li> </ul>
<b>11:15-11:45am:</b>	<b>Morning tea</b>	
<b>11:45am-1:15pm:</b>	<b>Panel 2: Fair Trading</b>	
	<p>Competing for public attention with the debate about competition in the grocery sector has been a separate but related debate in recent years about whether trading in the sector is fair. To a significant extent, the focus has been relations between the major supermarket chains and their direct suppliers, with particular concern regarding imbalances in bargaining power. However much of the political discourse has also been preoccupied with the plight of primary producers and the implications of retail concentration for farmgate prices. In response to these various concerns, we have seen multiple inquiries, a raft of regulatory initiatives and heightened enforcement and other activity by the Australian Competition and Consumer Commission. This panel will focus on the emergence of and role played by codes of conduct in this mix – the Horticulture Code of Conduct and the Food and Grocery Code of Conduct, in particular. It will explore the economic, social and political ‘problems’ to which these instruments responded and will analyse their effectiveness in addressing those problems and incorporate insights from experience in the European Union and the United Kingdom in grappling with the challenges posed by unfair trading in grocery markets.</p>	<p><b>Moderator: Professor David Merrett</b></p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>■ <b>Professor Caron Beaton-Wells</b>, University of Melbourne Law School, with video presentation from UK Grocery Code Adjudicator, Christine Tacon</li> <li>■ <b>Neil Rechlin</b>, Director, NextGen, in conversation with <b>Jo Paul</b>, University of Melbourne Law School</li> </ul>
<b>1:15-2:00pm:</b>	<b>Lunch</b>	
<b>2:00-3:00pm:</b>	<b>Panel 2: Fair Trading (continued)</b>	
		<ul style="list-style-type: none"> <li>■ <b>Professor David Merrett</b>, University of Melbourne Faculty of Business and Economics</li> <li>■ <b>Assistant Professor Victoria Daskalova</b>, University of Twente</li> </ul>
<b>3:00-4:30pm:</b>	<b>Panel 3: Consumers as Citizens</b>	
	<p>The overarching objective of the <i>Competition and Consumer Act 2010</i> is the enhancement of the welfare of Australians. However, in practice, the primary focus is on consumers and consumers are intended to benefit from the well-functioning markets that competition, fair trading and consumer protection, in combination, produce. This panel will take consumers as its focus; however Australians are not just consumers and the public benefits that the law is or should be seeking ultimately to serve are broader and more multi-faceted than the concept of consumer welfare, as defined through the neo-liberal lens of economic efficiency. The discussion will provide a range of perspectives on the notion of public benefit and the regulation that is designed to achieve it in the context of the grocery sector – in particular, perspectives on public health, animal welfare, social amenity, town planning, environmental sustainability and cultural inclusiveness. It will promote critical reflection on the extent to which various regulatory schemes governing the sector, including but not confined to competition and consumer laws, are sensitive to and serve this wider set of interests important to Australian citizens, and will draw attention to proposals and initiatives by which such schemes might be strengthened or supplemented to this end.</p>	<p><b>Moderator: Associate Professor Jane Dixon</b>, Australian National University</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>■ <b>Professor Christine Parker</b>, University of Melbourne Law School</li> <li>■ <b>Dr Nick Rose</b>, Executive Director, The Australian Food Network</li> <li>■ <b>Dr Marcus Spiller</b>, Principal and Partner, SGS Economics and Planning</li> <li>■ <b>Judith Fox</b>, CEO, Australian Shareholders Association</li> <li>■ <b>Natalie Davis</b>, Chief Customer Transformation Officer, Woolworths Group</li> </ul>
<b>4:30-5pm:</b>	<b>Wrap up and close</b>	<b>Professor Caron Beaton-Wells</b>

# Supermarket Power in Australia: Looking Back and Ahead

## Public Symposium

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2018 marks important milestones in the ongoing debate about the role and impact of the major supermarket chains in Australia's grocery sector, economy and society.

Next year is the 10th anniversary of the Australian Competition and Consumer Commission's significant report into grocery prices, the year in which there will be a government review of the Food and Grocery Code of Conduct introduced in 2015 and five years since the first Supermarket Power Symposium convened by the University of Melbourne and Monash University.

Hosted by the University of Melbourne in 2017, this academically guided symposium brings together representatives from industry, government, the legal profession and civic society to explore key issues relating to competition, fair trading and consumers, reflecting on significant

developments over the last decade and looking ahead to foreshadow future directions in the sector.

Inspired by a major research project being conducted by the University, the symposium has a particular focus on analysing and assessing the approach taken to regulation of competition and fair trading in the sector and draws for this purpose on insights from overseas experience.

### Organisers

The Symposium is organised by Professor Caron Beaton-Wells, in conjunction with Emeritus Professor David Merrett of the University of Melbourne, Adjunct Professor Christopher Arup of Monash University, Honorary Associate Professor Jane Dixon of the Australian National University, and Research Fellow Jo Paul of the University of Melbourne.

### Venue

The Experimedia Room  
Swanston Street entrance  
State Library of Victoria  
328 Swanston Street, Melbourne

Google map reference  
<http://tinyurl.com/y9naseah>

### Time

Registration from 9am. Program commences, 9:30am. Program closes, 5pm.

### RSVP

Friday, 13 October 2017 (places are limited).

### Online registration

<https://tinyurl.com/yak43un5>

### Contact

CLEN administrator  
[law-clen@unimelb.edu.au](mailto:law-clen@unimelb.edu.au)

### Catering provided

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## About the organisers and speakers

### Adjunct Professor Christopher Arup

Christopher is a Professor in the Department of Business Law and Taxation at Monash University. His research, supervision and teaching interests take in innovation, intellectual property, international trade and competition law; the regulation of financial and professional services; and labour law. Chris is interdisciplinary in his work and has long-term experience in regulatory studies and socio-legal studies.

### Professor Caron Beaton-Wells

Caron is a Professor in competition and consumer law at the Melbourne Law School and Director of the University of Melbourne's Competition Law & Economics Network. Caron's research and teaching includes the institutional, political and sociological dimensions of competition regulation and her current research focuses on competition and fair trading issues in grocery supply chains. Caron engages globally on significant competition law-related issues, and in fostering constructive debate amongst stakeholders. She is a

member of national and international editorial and advisory boards, an advisor to intergovernmental organisations and a member of the Law Council of Australia's competition and consumer and small business committees.

### David Brewster

David joined Coles as their Legal Director in early 2016 having been a long standing partner at Allens Arthur Robinson. Prior to joining Allens David worked with the ACCC for over four years, including in the mergers and acquisitions units, and was the Assistant Director of the ACCC's Queensland office.

### Sarah Court

Sarah, a former senior executive lawyer and Director with the Australian Government Solicitor, has been a Commissioner of the ACCC since April 2008. She has extensive experience in Commonwealth legal work, including restrictive trade practices, consumer protection and law enforcement litigation, and oversees the ACCC's enforcement and litigation program. Sarah

is chair of the Enforcement Committee and the Legal Committee and engages closely with investigating teams and lawyers on Commission policies and enforcement investigations. She also sits on the Merger Review Committee, the Adjudication Committee and the Infrastructure Committee.

### Assistant Professor Victoria Daskalova

Victoria is an Assistant Professor in the Department of Governance and Technology for Sustainability, in the Faculty of Behavioural and Management Science of the University of Twente. Her research is on the intersection of law and economics, including a particular focus on the application of the EU antitrust rules to the exercise of monopsony and buyer power. Her areas expertise include the food (retail) sector, energy and health markets. Victoria is also an extramural fellow at the Tilburg Law and Economics Center and a member of the Netherlands Institute for Governance.



### **Natalie Davis**

Natalie joined Woolworths in 2015 and in May 2017 was appointed Chief Customer Transformation Officer. Prior to working with Woolworths Natalie was a Partner at McKinsey & Co, where she worked in the UK and Australia for 15 years advising on strategy and commercial transformation. Natalie led the McKinsey Women's Initiative in Asia and was a member of the global McKinsey Women leadership team. Natalie holds an MBA from INSEAD France, and Bachelor of Commerce and Law degrees with Honours, from the University of Sydney.

### **Honorary Associate Professor Jane Dixon**

Jane is based at the National Centre for Epidemiology and Population Health, Research School of Public Health at the Australian National University, where she was Senior Fellow between 2011 and 2016. Taking place at the intersection of sociology and public health, her research focuses on the cultural dynamics behind ways of living. In particular how corporate strategy, government policy and civil society influence cultural transitions and impact social and health inequalities. As a Leverhulme Trust Visiting Professor, she spent much of 2016 at the Centre for Food Policy, City University of London. Jane has been advising the International Union on Health Promotion and Education on their Food Security policy.

### **Judith Fox**

Prior to becoming CEO of the Australian Shareholders Association in early 2017 Judith was the National Director, Policy & Advocacy at the Governance Institute of Australia. Judith represented the Institute on the ASX Corporate Governance Council, is a member of Standards Australia's Risk Management Committees, ASIC's Business Advisory Committee and the Business Reporting Leaders Forum. In 2014 Judith was named as one of the Australian Financial Review and Westpac 100 Women of Influence. Judith is also a published author and has been shortlisted for the Miles Franklin Award.

### **John McQueen**

John returned to Australian Dairy Farmers as Interim Chief Executive Officer in June 2016. Formerly ADF CEO from 1987 until 2007, John joined the ADF team in 1982. As well as developing policy for national

and international issues affecting dairy farmers, he has represented Australian dairy farmers at national and international meetings and conferences over the past 20 years. John is a former Board member of the Cooperative Research Centre for Innovative Dairy Products, was previously Chairman of the Animal Health Australia Industry Forum and was Secretary of the Dairy Group of the International Federation of Agricultural Producers from 1996 to 2000.

### **Emeritus Professor David Merrett**

David is an Emeritus Professor in the Department of Management, Faculty of Business and Economics at the University of Melbourne. His areas of research include the internationalisation of Australian firms, the evolution of 'big business' in Australia, and the history of the Australian banking system. David is a highly regarded and widely published scholar in this field.

### **Professor Christine Parker**

Christine is a Professor at Melbourne Law School and has written, researched and consulted widely on how and why businesses comply with legal, social and environmental responsibilities, what difference regulatory enforcement makes and how businesses can work with lawyers and compliance professionals to build internal corporate social responsibility systems that work. Professor Parker's current research focuses on the politics, ethics and regulation of food.

### **Jo Paul**

Jo is the Research Fellow for the Supermarket Power project. Prior to becoming a lawyer Jo had a lengthy career in commercial book publishing. She has also conducted training research and worked in change management for a variety of industries, before working with a Melbourne-based copyright and trademark law firm. Jo holds a Bachelor of Psychology degree from UWA, a Masters of Arts (History) from UNSW and a Master of Laws (JD) from Monash University.

### **Neil Rechlin**

Neil is a Partner at NextGen, a strategy and capability consultancy working extensively with major retailers and manufacturers. For the past two years, Neil and the NextGen team have been working with the Australian Food and

Grocery Council supporting manufacturers in their understanding of the Food and Grocery Code of Conduct. To date NextGen have trained in excess of 1,300 individuals across almost 150 companies and is currently supporting over 20 companies in renegotiating their terms with the major retailers to ensure Code compliance.

### **Dr Nick Rose**

Nick has extensive policy, research and practical experience with food systems, food security and food sovereignty. A Churchill Fellow and a global advisor to the United Nations Global Compact Cities Programme, he has extensively researched the potential of urban agriculture in the United States, Canada, Argentina and Australia to address food security, resilience and sustainability challenges. He was the principal founder and former national co-ordinator of the Australian Food Sovereignty Alliance.

### **Dr Marcus Spiller**

Marcus is a founding partner at SGS Economics and Planning. SGS aims to shape policy and investment decisions to achieve sustainable places, communities and economies. Marcus has extensive experience in public policy analysis as an urban economist and planner and specialises in providing high level advice on metropolitan planning issues and processes, housing policy, the analysis of urban infrastructure and planning delivery systems. A recognised leader within the urban policy community, Marcus is the past National President of the Planning Institute of Australia and a former Board member at VicUrban (now Places Victoria) and an Adjunct Professor at the UNSW and RMIT University.

### **Craig Woolford**

Craig Woolford is Managing Director and Head of Consumer Sector Research at Citi. Craig has been an analyst for over 15 years and specialises in the retail, food and beverages sectors. His work focuses on unique industry insights about supermarkets, department stores, specialty retailers and food and beverage producers. Craig's role includes leading a team of more than 50 analysts and associates providing insights about companies listed on the ASX. Citi's research team has been consistently ranked top three by fund managers for the past four years.