



**REPORT OF THE 2006/07**

**REVIEW OF THE**

**SHOP TRADING HOURS ACT 1977**

**BY ALAN MOSS LLB**

# Report of the 2006/07 Review of the Shop Trading Hours Act 1977

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# 1. INTRODUCTION

On 29 June 2006 the Hon Michael Wright MP, Minister for Industrial Relations, announced to Parliament that I was appointed to conduct an investigation and review of the operation of the *Shop Trading Hours Act 1977*.

The requirement for the review is contained in the Shop Trading Hours (Miscellaneous) Amendment Act 2003 which provides as follows:

“Review of the Act:

- 1) The Minister must, as soon as practicable after the third anniversary of the commencement of Section 11 of this Act, appoint an independent person to carry out an investigation and review concerning the operation of the Shop Trading Hours Act 1977 (as amended by this Act).
- 2) The person appointed under subclause (1) must present to the Minister a report on the outcome of the investigation and review within 6 months after his or her appointment.
- 3) The Minister must, within 12 sitting days after receipt of a report under this clause, cause a copy of the report to be laid before both Houses of Parliament”.

SafeWork SA was the government agency designated to provide me with appropriate assistance to conduct the review. I commenced the review on 7 August 2006.

## 2. REVIEW PROCESS

SafeWork SA provided me with all relevant government files on shop trading hours from 2001 to date and historical and other material going back to the passing of the Act in 1977.

SafeWork SA issued a news release on 15 August 2006 announcing the Review and posted a general call for submissions to the review on its web site and I caused advertisements calling for written submissions to be placed in "The Advertiser" on Wednesday 16 August 2006 and Saturday 19 August 2006 and in "The Sunday Mail" on Sunday 20 August 2006.

Fifty-three (53) submissions were received. A list of the persons who, and organisations which, made submissions is annexed hereto and is marked "**Appendix A**".

I also wrote to a number of persons whom the government files and information I received, led me to believe were major stakeholders in the shopping hours issue, inviting them to take part in an interview.

I also interviewed other persons whom I thought could assist in the review process.

I interviewed the following persons:

- *Mr Stirling Griff, formerly Chief Executive Officer, Australian Retailers Association;*
- *Mr John Brownsea and Mr Max Baldock, State Retailers Association and Mr Theo Vlassis an independent grocer;*
- *Ms Penny Gale and Mr Nathan Paine, Business SA;*
- *Mr John Chapman, Mr Paul Eblen and other Officers of the Motor Traders Association;*
- *His Worship the Lord Mayor of Adelaide;*
- *Mr Ben Wilson, Cabinet Office;*
- *Mr Michael O'Neil, Director, South Australian Centre for Economic Studies;*
- *Mr Robert Atkins, Chief Executive Officer, Harris Scarfe;*
- *Mr Michael Kennan, Consultant, Shop Distributive and Allied Employees' Association;*
- *Ms Lucy Gunn, Consumer Protection, Western Australian Government (by phone);*
- *Mr Robert Pearce, Director, Department for Retail Trading, Tasmanian Government (by phone);*
- *Mr Peter Souvertjis and Ms Beverly Newberry, Designer Direct;*
- *Mr Milton Cockburn, Australian Shopping Centre Council;*
- *Mr Nathan Paine, Property Council of Australia.*

Many of the persons to whom I wrote did not take up the offer of an interview. Some of them made written submissions.

Other sources to which I referred are listed in "**Appendix B**".

During the course of the review many private persons spoke to me and offered their opinions on the shop trading hours issue. I was prepared to listen to what they had to say, but did not formally record these discussions. Suffice it to say that their views covered the whole range of perspectives on the issue.

I have not prepared an "Executive Summary". Readers who wish to do so may go directly to my conclusions and recommendations which appear at the end of the textual portion of this document.

### 3. HISTORY OF SOUTH AUSTRALIAN SHOPPING HOURS LEGISLATION.

#### 3.1 1900 to 2003

Prior to 1900, there was no regulation of shop trading hours in South Australia. Regulation first appeared in the guise of industrial legislation designed to protect shop assistants from being required to work unreasonably long hours, while at the same time, attempting to ensure that the public's needs were catered for, particularly those of farmers who might have to travel long distances to shop.

The Early Closing Act, 1900 required shops in the metropolitan area to observe the following closing times:

Monday and Tuesday	6.00pm
Wednesday	1.00pm and 6.00pm, whichever is chosen by the shopkeeper.
Thursday	6.00pm
Friday	(a) 6.00pm. When the closing time on Wednesday was 1.00pm (b) 9.00pm. When the closing time on Wednesday was 6.00pm
Saturday	(a) 1.00pm. When the closing time on Wednesday was 6.00pm (b) 9.00pm. When the closing time on Wednesday was 1.00pm

Sunday trading was, of course, not even contemplated. In 1911 a new Early Closing Act repealed the 1900 Act and changed the closing times for shops in the "Saturday closing district". The new Act required shops to close at 6.00pm on Monday, Tuesday, Wednesday and Thursday, at 9.00pm on Friday and at 1.00pm on Saturday.

Amendments to this Act were made in 1923 and 1924 providing for slightly different hours for butchers and tobacconists and in 1926 a consolidating Act was passed. The Early Closing Act, 1926 maintained the existing closing times and these hours remained unchanged until the Second World War when labour shortages, rationing and black-out provisions led to shopping hours being restricted, pursuant to wartime regulations to 5.30pm on all weekdays and 12.30pm on Saturday. These closing times were confirmed by the Early Closing Act, 1945 and were incorporated into the Industrial Code 1967, and remained unchanged until 1977 when the Shop Trading Hours Act, 1977 ("The Act") was enacted.

The Act was the culmination of a decade of community and political debate about the possibility of extending shopping hours, fuelled in part by the fact that shops in the developing area of Elizabeth were not subject to regulation and stayed open until 9.00pm on Friday night.

In 1970 a referendum was held, asking metropolitan voters if shops in the metropolitan area should be permitted to remain open until 9.00pm on Friday. The referendum was answered in the negative and, as a result, the government legislated to include Elizabeth in the metropolitan shopping district.

During the early 1970's a number of Bills were introduced into Parliament to extend shopping hours, all of these Bills were either defeated, or they lapsed.

In 1977 the Governor appointed Industrial Commissioner WC Lean to conduct a Royal Commission into shopping hours and after a fulsome inquiry, the Commissioner recommended a relaxation on the restriction of shopping hours.

The 1977 Act repealed the provisions of the Industrial Code relating to shop trading hours, established a class of shops exempted from regulation and provided different trading hours for "Prescribed Goods", (fresh meat, motor vehicles, caravans, boats and trailers).

The Act regulated the closing times for "Non-exempt" shops (as at 1977) as follows:

**Central Shopping District:**

Monday to Thursday	6.00pm
Friday	9.00pm
Saturday	12.30pm

**Metropolitan Shopping District:**

Monday to Wednesday	6.00pm
Thursday	9.00pm
Friday	6.00pm
Saturday	12.30pm

**Proclaimed Shopping Districts:**

Monday to Wednesday	6.00pm
Thursday or Friday (One (1) late night only)	9.00pm
Saturday	12.30pm

In addition these shops were not permitted to trade on Sunday or Public Holidays.

*Section 5* of the Act gave the responsible Minister a discretionary power to issue a Certificate exempting a shop from some of the restrictions of the Act.

In 1980 the Act was amended to allow hardware and building material shops to trade on weekends and public holidays, (except Good Friday, Easter Sunday, Anzac Day and Christmas Day), from 10.00am to 4.00pm by permit issued by the Minister and the floor restriction for an exempt shop selling food was increased from 200 square metres to 400 square metres.

In 1990 the Act was further amended to allow Saturday afternoon trading in all shopping districts until 5.00pm. During the late 1980's and early 1990's increasingly broad use was made of Ministerial certificates of exemption to extend shopping hours, until in 1995 the High Court held that such certificates issued for the purpose of establishing general Sunday trading in the Central Shopping District, were invalid (High Court case reference - *Shop Distributive and Allied Employees Association v Minister for Industrial Affairs* (1995) 129 ALR 191, 69 ALJR 558).

In 1994 the Minister for Industrial Affairs established a Committee of Inquiry into shop trading hours. In its report the Committee recommended the gradual deregulation of shop trading hours by way of a gradually phased in process over four years. The purpose of the phased in process was to protect "the viability of the industry and in particular small traders in strip shops".

The government of the day did not adopt the Committee's recommendations, but in 1995, Sunday trading for non-exempt stores in the city centre was permitted between 11.00am and 5.00pm by amendment to the legislation.

A further review of the Act was undertaken by the Government in 1998 to coincide with the end (in June 1998) of the "moratorium" on shopping hours change agreed during the passage of the previous amendments in 1995. During the review, there was wide consultation with interested parties and over 700 submissions were received and considered.

The State Government introduced legislation to the Parliament on November 1998 and that legislation was passed through both Houses on 10 December 1998. The key changes, which came into effect on 8 June 1999, were:

- Trading in the City by non-exempt stores allowed until 9.00pm Monday to Friday.
- Trading by non-exempt stores in the suburbs allowed until 7.00pm on Monday to Wednesday and Friday, with no change to the Thursday night 9.00pm closing time.
- No change to trading hours arrangements on public holidays except that trading by non-exempt stores allowed on Easter Saturday, in the City only, from the year 2000 thereafter.
- Sunday trading in the City to remain unchanged but allowed in the suburbs between 11.00pm to 5.00pm on six Sundays per year – four before Christmas with two others prescribed following consultation.

In 2000, the Act was again amended by establishing the "Glenelg Tourist Precinct" with the same trading hours as the city centre.

In 2002, Parliament established a *Select Committee on Retail trading Hours in South Australia*. The Committee reported to Parliament in July 2003 as follows:-

"Throughout this inquiry the Select Committee was presented with conflicting evidence and submissions from parties with long held entrenched views on the impact of less restrictive trading hours. After considering the evidence the Select Committee was unable to conclusively make findings on many of the terms of reference.

Many submissions highlighted the experiences in other States following deregulation of trading hours as examples of the benefits or disadvantages of extended shopping hours. Although relevant to the deliberations of this Select Committee, the unique market and demographics of South Australia made a direct comparison difficult. The Select Committee found that extended trading hours, particularly Sunday trading, would lead to an increased share of the market for the Coles Myer and Woolworths chains, especially in the grocery sector. It was also likely that larger shopping centres would attract additional consumers to their facilities with extended trading hours.

It should not be assumed, however, that such outcomes necessarily mean that extended trading hours result in anti-competitive behaviour in the market. The Select Committee found that evidence regarding the impact on competitors, suppliers, prices and social issues was inconclusive.

However, in view of the recent enactment of the *Shop trading Hours (Miscellaneous) Amendment Act 2003* it would be premature for the Select Committee to make recommendations about the long term impact of changed trading hours, when there is no data available on the effect of the substantial increase in hours recently authorised (including Sunday trading).

In these circumstances the Select Committee recommends that consideration be given to re-convening a similar Committee after a period of operation of the new extended trading hours. Alternatively, the Independent Review required by the 2003 Amendment Act could be directed to report on the issues covered by the terms of reference of this Select Committee.

An important area that needs to be monitored in any further inquiry is the impact of the extended hours of trading recently approved on retail growth. The implications of increased market share for large retailers under less restricted trading hours needs to be carefully assessed against the effect on small retailers and the growth of the retail market share of overall expenditure. If overall retail expenditure increases, even with increased market share of sales by large retailers, the impact on small traders may not be as severe as in the case of where retail sales maintain their current share of overall expenditure across all sectors”.

In 2003 the Act was amended to establish the current trading hours.

### **3.2 Operation of the Act**

The *Shop Trading Hours Act 1977* is a technical piece of legislation. The Act does not contain any objectives, or any statement of the principles by which Parliament intends the Act to operate. Instead it is a legislative compromise. The differing views about shopping hours in both the business community and the general community are great and irreconcilable and Parliament has done its best to steer a middle course between these conflicting opinions.

The Act is also unusual in that a considerable number of its effective provisions appear in the “Interpretation Section”, *Section 4*.

The following definitions in *Section 4* are the most critical:-

- The definition of “exempt shop”, that is, a shop to which the Act does not apply.

I am informed by the officers of SafeWork SA that approximately eighty percent (80%) of all shops are exempt shops and hence are not subject to the Act.

The following shops are exempt shops:

- (a) a shop-
  - (i) the floor area of which does not exceed 200 square metres; and



- (ii) which does not adjoin, and is not adjacent to, a building, with a floor area exceeding one-half the floor area of the shop, that is used as a storeroom for the purposes of the shop; and
- (b) subject to subsection (2), a shop the business of which is the retail sale of all or any of the goods set out in any one of the following subparagraphs:
- (i) antiques (other than coins or stamps); or
  - (ii) live fish, fish food, aquariums, accessories for aquariums; or
  - (iii) paintings, reproductions, drawings, etchings, pottery, sculptures, artefacts, wood carving, leatherwear, weavings, hand-made goods of glass, iron, copper or silver; or
  - (iv) newspapers, books, periodicals, greeting cards, posters, wrapping paper, stationery; or
  - (v) pharmaceutical preparations, cosmetic and toilet requisites, first aid requisites, medical and surgical appliances; or
  - (vi) fresh flowers, living plants, floral arrangements, wreaths; or
  - (vii) non-alcoholic drinks, ice-cream, confectionery, light refreshments; or
  - (viii) household pets, pet foods or accessories; or
  - (ix) garden supplies; or
  - (x) food
    - for consumption on the shop premises; or
    - prepared on the shop premises for consumption off those premises;
  - or
  - (xi) souvenirs of a time, place or occasion, identified as such by inscription, stamping or marking; or
  - (xii) cigarettes, cigars, tobacco, smoker's requisites; or
  - (xiii) caravans; or
  - (xiv) trailers; or
- (c) a hairdresser's shop; or
- (d) subject to subsection (2) a shop-
- (i) the business of which is the sale of foodstuffs; and
  - (ii) which has a floor area that does not exceed 400 square metres; and
  - (iii) which does not adjoin, and is not adjacent to, a building, with a floor area exceeding one-half the floor area of the shop, that is used as a storeroom for the purposes of the shop; or
- (f) subject to subsection (2), a shop within the premises of a squash centre, ten pin bowling alley or golf club, the business of which is the retail sale of sporting goods of a kind used in the sport carried on in or about those premises; or
- (g) a garden shop of the kind referred to in subsection (3),
- but does not include any shop the business of which is solely or predominantly the retail sale of-
- (h) motor vehicles (other than caravans or trailers) or boats; or

- (i) motor spirit or lubricants;

The following qualification applies:

- (2) A shop is not an exempt shop by virtue of paragraph (b), (d) or (f) of the definition of “exempt shop” in subsection (1) unless during the immediately preceding period of seven consecutive trading days of the shop the aggregate price of all goods sold at the shop and that fall within any one or more of the classes of goods referred to in those paragraphs is 80 per cent or more of the aggregate price of all goods at the shop during that period.

The above list is obviously rather arbitrary and as will be seen later in this report, has the potential to give rise to grievances amongst some retailers who sell goods which are not in the exempt category.

- The definition of “Shopping Districts”.

*Section 4* establishes four (4) shopping districts, namely:

***The Central Shopping District***, which is the City of Adelaide contained within the Hundred of Adelaide, (which is essentially the area bounded by the Parklands and does not include North Adelaide).

***The Glenelg Tourist Precinct***, which is defined by map in Schedule 1A of the Act, (which is essentially the area surrounding Jetty Road from Brighton Road to Moseley Square).

***The Metropolitan Shopping District***, which is that part of the metropolitan area that does not include the Central Shopping District, or the Glenelg Tourist precinct. The metropolitan area is that part of Adelaide which falls under the jurisdiction of all the metropolitan councils, (listed in Schedule 1 of the Act), North Adelaide, (which fall under the jurisdiction of Adelaide City Council) and the District Councils of East Torrens and Stirling.

***Proclaimed Shopping Districts***, which mean all those areas of South Australia, apart from the three Shopping Districts mentioned above, which are still declared by proclamation under *Section 11* of the Act to be proclaimed Shopping District. *Section 12* of the Act gives Regional Councils the right to apply to the Minister to cease being shopping districts. The following districts have ceased to be Proclaimed Shopping Districts:-

Angaston	Kingston/Robe	Port Lincoln
Berri	Loxton	Port Pirie
Clare	Moonta	Quorn
Cobdogla	Mount Barker	Renmark
Crystal Brook	Mount Crawford	Waikerie
Goolwa	Mount Gambier	Walleroo
Hawker	Murray Bridge	Woodside
Jamestown	Penola	Yankalilla
Kadina/Kapunda	Port Augusta	

A list of the Proclaimed Shopping Districts, which remain, is annexed hereto and is marked “**Appendix C**”.

Some significant areas such as Whyalla and Victor Harbour were never proclaimed for distant historical reasons.

Only a Council may make an application under *Section 12* and the Council must first give interested persons, (residents and shopkeepers and shop-assistants resident outside the area, but employed or engaged in shops within it), the opportunity to express their views. In Millicent this consultation process led the Council to decide not to make an application, while in Port Lincoln a similar consultation process in 2004 did not produce a clear indication to the Council. Port Lincoln has just been deregulated, after again undertaking the required community consultations (July 2006), which indicated that nearly 80% support the abolition of the Shopping District, even though some sections of the community opposed deregulation.

It is likely that other regional councils have decided not to pursue an application under *Section 12* because there are no non-exempt shops in their areas.

- The “Greater Adelaide Shopping District” is defined as including the Central Shopping District, the Glenelg Precinct and the Metropolitan Shopping District.
- The definition of “shop” is very wide and includes:
  - the whole or any portion of a building, yard, place, structure, stall, tent or vehicle-
  - (a) in which goods are sold by retail (including sale by auction); or
  - (b) in which the business or a hairdresser or pawnbroker is carried on;
- Public Holidays, which are a critical issue for this review, are defined as days which are designated a public holiday by or under the Holidays Act 1910, but do not include Sundays.
- There are numerous other technical definitions, which are not necessary to mention for the purposes of this review.

*Section 5* gives the Minister power to grant exemptions from the operation of the Act. The power is a very wide one, but subsection 4 provides:-

(4) *However, an exemption-*

(a) that relates to-

- (i) a specified class of shops; or
- (ii) shops generally; or

(b) that applies-

- (i) generally throughout the State (to the extent that this Act applies across the State); or

- (ii) to shops (or a specified class of shops) in a specified shopping district or part of a specified shopping district,

cannot operate in respect of a period greater than 14 days.

(5) Subsection (4) (b)(ii)-

(a) does not apply if-

- (i) the Minister is satisfied (in such manner as the Minister thinks fit) that a majority of interested persons desire the exemption to be declared for a period greater than 14 days (or indefinitely); and
- (ii) the Minister gives a certificate to that effect; and

(b) does not apply if the exemption relates to a group of individual shops where each shopkeeper has made a separate application to the Minister under this section; and

(c) does not apply in any case prescribed by the regulations.

The definition of interested persons is the same as that already mentioned.

Subsection 8 of *Section 5* provides:

(8) In deciding whether to grant or declare an exemption, the Minister may have regard to such matters as the Minister considers relevant and is to have regard to the following:

(a) in the case of an application made to the Minister under this section-

- (i) the extent to which there has been consultation within the community, or the relevant part of the community, on the proposed application, and the outcome of that consultation;
- (ii) whether the application is being made to enable a shop or shops to be open at an exhibition or show, to facilitate or support a local or special event, or to conduct a special trade event (on the basis that an exemption is more likely to be appropriate in such a case);
- (iii) insofar as may be relevant, the extent to which the application, if granted, would meet the requirements of tourists and other visitors to the area where the relevant shop, or shops, are located;
- (iv) insofar as may be relevant, the amount and extent of notice that would be given to the community if the application were to be granted;

(b) in any case-except where an exemption is being granted in the circumstances described in subsection (5)(a), the policy that exemptions under this section should not be so extensive as to

undermine, to any significant degree, the controls on shop trading hours set out in this Act.

*Section 5* and *Section 5A* also give the Minister power to revoke exemptions and to require shops to be closed when it would otherwise be lawful for them to be open.

Since 1 January, 2004 there have been numerous applications for exemptions. A full list of those applications and outcomes is annexed hereto and is marked "**Appendix D**". It can be seen from that list that the majority of those applications have related to trading on public holidays and at Christmas time.

Applications for extended hours at Christmas time have generally been approved, but the Minister has held the line on public holidays and these applications have usually been refused.

There are currently eleven (11) public holidays in South Australia. In 2006 they were:

New Year's Day	2 January
Australia Day	26 January
Adelaide Cup	13 March
Good Friday	14 April
The Day After Good Friday	15 April
Easter Monday	17 April
Anzac Day	25 April
Queen's Birthday/Volunteer's Day	12 June
Labour day	2 October
Christmas Day	25 December
Proclamation Day	26 December

A full list of public holidays from 2005 to 2010 is annexed hereto and is marked "**Appendix E**".

*Sections 7,8,9* and *10* of the Act establish the inspectorate and give the inspectors power to ascertain whether the Act has been complied with. When exercising these powers, inspectors operate on a complaint based system and only conduct an inspection after a complaint has been received, or breaches of the Act have achieved some public notoriety; for example an alleged breach mentioned in Parliament, or aired in the media, would usually be investigated.

The SafeWok SA inspector's manual most helpfully sets out the inspector's practices and procedures and I reproduce the relevant portion here:-

- "1.13.1 Inspectors under the *Shop Trading Hours Act* need to be appointed by the Minister and produce a certificate of appointments if requested.
- 1.13.2.1 Inspections of premises in most instances will be undertaken following the receipt of a written letter of complaint, even if it is an anonymous complaint.  
Inquiries about compliance with the Shop Trading Hours Act and Regulations should in the first instance be referred to the Principal Inspector IR (Retail & Transport Team) in the metro area. In country areas

refer to the nearest Regional Office. Upon receipt of a complaint, the case will be allocated to an inspector within the Retail & Transport Team or relevant region. The details of the complaint will be entered onto InfoNET and placed in a file with a Running Sheet (see Appendix 12).

- 1.13.3.2 Most complaints will relate to shops allegedly trading outside of the permitted hours as prescribed in *Section 13* of the Act for that class or size of shop.

The process that needs to be followed in an investigation will be:

- Establish which Shopping District that the premises are located within (The 'Greater Adelaide Shopping District' which encompasses the Central and Metropolitan Shopping Districts and Glenelg Tourists Precinct, or any Proclaimed Shopping District).
- Determine whether the shop is exempt by reason of floor area or range/type of goods sold. In most cases this may require a measurement of the floor space of the shop (including store room and adjacent premises). In rarer cases the records of the sales will need to be inspected to ensure that 80% of sales of the past 7 days were within the specified class(es) of goods.

- 1.13.4.3 If, after inquiries, it was found that the shop had breached the requirements of the Act, the inspector should advise the 'shopkeeper' (as defined in the Act) as the correct trading hours for the business in question and direct them to comply with the Act. Such a verbal direction must be followed by forwarding a Letter of Compliance (see Appendix 6, L9) to reinforce the direction given. This letter should ideally be forwarded via Registered Mail (receipt required). At the inspection stage, the inspector should also offer advice, where practical, to assist the shop to comply with the provisions of the Act.

**NOTE: At no time is the inspector to give out any information relating to who has lodged the complaint.**

- 1.13.5 A follow up random visit to ensure compliance, after the letter of compliance has been issued, should be carried out by the inspector and the result documented (including photographs, evidence collected [and placed in evidence bags as required], notations etc) in the file and on InfoNET. If further breaches are detected, the inspector can issue a Prohibition Notice pursuant to Section 17A of the Act (see Appendix 16), or a prosecution brief should be prepared. The inspector would apply to have a Case Conference on this type of issue (see Appendix 7) for the Case Conference details.

STH Prohibition Notices must be issued at a time when a breach is actually occurring (eg after 9pm on Monday to Friday) and are usually issued after a breach has been detected and has occurred on more than one occasion. Also care must be taken with the wording used on Prohibition Notices in relation to what breach has been detected (eg is it in relation to an advertising breach or a trading breach?). If a review of a STH Prohibition Notice is sought, an inspector must notify their Manager,

the Principal Industrial Relations Officers Group and the Prosecutions Administration Officer (CALI) and they are not to have any discussions with any legal representatives who may be representing the shopkeeper. The inspector should direct any queries to CALI or the relevant Crown Solicitor (if one has been allocated).”

*Section 13* of the Act sets shopping hours.

Shopping hours for shops in the Greater Adelaide Shopping District are:

- (a) until 9.00 pm on every weekday; and
- (b) until 5.00pm on a Saturday; and
- (c) from 11.00am to 5.00pm on a Sunday.

Shopping hours for shops outside the Greater Adelaide Shopping District are:

- (a) until 6.00pm on every weekday other than a Thursday; and
- (b) until 9.00pm on a Thursday; and
- (c) until 5.00pm on a Saturday.

The reason for the 2003 amendment allowing Sunday trading in the Metropolitan Shopping District, not being extended to regional shopping districts is unclear. Presumably they were not seeking the extended shopping hours and, in any event, they had the option to apply to cease being a shopping district under *Section 12*.

*Sub-section (5a)* and *(5b)* set specific hours for the sale of boats and motor vehicles, namely:

- (a) until 6.00pm on a Monday, Tuesday and Wednesday; and
- (b) until 9.00pm on a Thursday and Friday; and
- (c) until 5.00pm on Saturday.

*Sub-section 5(e)* sets extra hours for shops, which sell:

- (d) hardware and building materials; or
- (e) furniture; or
- (f) floor coverings; or
- (g) motor vehicle parts and accessories.

These shops may open, in addition to the standard hours, from 9.00am until 5.00pm on a Sunday, or public holiday, (but not on Good Friday or Christmas Day).

*Sub-sections 6* and *7* provide that all other shops in shopping districts must be closed on all public holidays except for the Saturday after Good Friday when shops in the Greater Adelaide Shopping District may remain open until 5.00pm.

*Section 14* of the Act creates summary offences for breaches of the Act, with maximum penalties of \$100,000 and *Section 17A* gives the Minister a delegable power to issue a prohibition notice requiring a person to refrain from an act, or course of action, which is a breach of the legislation.

Since the present Act came into force there have been the following enforcement outcomes:-

#### Year 2003

- A total of thirty two (32) complaints were received.
  - 10 - Car yards not being closed and fastened on Sundays.
  - 16 - Automotive accessory outlets opening at 8.00am on Sundays when they are only permitted to open from 9.00am on Sundays.
  - 6 - Shops selling non-exempt goods opening on Sundays prior to 11.00am.

**Note:** As a result of the car yard complaints, the SafeWork SA Retail and Transport Team undertook a project to advise/inform a total of 300 motor vehicle dealers throughout the State of the provisions of the Shop Trading Hours Act, 1977 as they relate to retail car yards and this appeared to help reduce the number of alleged breaches in the subsequent years.

#### Year 2004

- A total of twelve (12) complaints were received.
  - 4 - Car yards not being closed and fastened on Sundays.
  - 6 - Shops selling non-exempt goods opening on Sundays prior to 11.00am.
  - 1 - Automotive accessory outlet opening prior to 9.00am on Sundays.
  - 1 - Retail motor-campervan outlet opening on Sundays.

#### Year 2005

- A total of twenty (20) complaints received.
  - 5 - Car yards not being closed and fastened on Sundays – including 1 car auction outlet which also sells motor vehicles by retail.
  - 12 - Shops selling non-exempt goods opening on Sundays prior to 11.00am.
  - 2 - Non-exempt shops opening on days/times during Easter not permitted.
  - 1 - Retail sale at Royal Adelaide Showgrounds opening at times both on weekdays and weekends, outside of permissible hours.

#### Year 2006

- A total of seven (7) complaints received up to 30 June 2006.
  - 1 - Car yards not being closed and fastened on Sundays.
  - 2 - Shops selling non-exempt goods opening on Sundays prior to 11.00am.
  - 1 - Pawnbroker which also has a retail outlet open outside of permissible hours.
  - 3 - Sales – 1 at a Council town hall and 2 at the Royal Adelaide Showgrounds opening at times both on weekdays and weekends, outside of permissible hours.

#### Prosecutions

During the period in question a total of seven (7) prosecution actions were undertaken – five (5) court decisions found breaches had occurred and two (2) prosecution briefs are currently awaiting court hearings. Two (2) prohibition notices have been issued.



*Section 15* of the Act effectively exempts retailers of spare parts for agricultural machinery and auction houses for fine art from the operation of the Act. The reason for this is obvious in relation to agricultural machinery parts, but is more obscure in relation to the auction of fine art. It may simply be that there are aspects of that business, which are incompatible with fixed hours, for example, taking bids from international bidders in different time zones.

*Sections 16 and 17* give the Minister power to grant licences to shopkeepers selling motor spirit and lubricants on Sundays and public holidays, subject to certain conditions.

The balance of the Act is technical and procedural.

There are Regulations promulgated under the Act. These Regulations basically consist of a long list of items, which constitute hardware and building materials and specifications for fences where they constitute the boundary of a retail premises yard.

## 4. INTERSTATE COMPARISONS

### New South Wales

Retail trading hours in New South Wales are regulated under the Shops and Industries Act 1962. Shops are separated into three classifications:

- Small shops - shops with no more than four (4) staff working any one time.
- Scheduled shops – include bookshops, chemists, cake and pastry shops, restaurants, refreshment shops, take away food shops, fruit and vegetable shops, garden shops, newsagencies, pet shops, vehicle service shops and video shops.
- General shops – all shops, which are not small shops or scheduled shops.

Small shops and scheduled shops may trade an unrestricted number of hours on any day including Sundays and public holidays.

General shops may trade in an unrestricted fashion on any day except Sundays and public holidays.

Public holidays are defined as New Year's Day, Australia Day, Good Friday, and Easter Sunday, Anzac Day, Christmas Day and Boxing Day. However, it is usual for the Minister to issue orders under the NSW Act to allow trading on Australia Day and after 1.00pm on Anzac Day.

General shops may trade on Sunday if granted an exemption by the Director General of the Department of Commerce. General exemptions are granted on the two Sundays before Christmas. General shops selling furniture, electrical goods, hardware or which service tourist and visitor trade will usually be granted exemptions for limited trading hours on Sundays.

Exemptions for Sunday trading have been widely granted. Officers from the NSW Department of Commerce have advised that the majority of General Shops have been granted exemptions to trade on Sundays, normally between 8.00am and 8.00pm.

### Victoria

Victoria law specifies that there are only three and a half restricted trading days each year:

- Good Friday
- Easter Sunday
- Christmas Day
- Between 0001 and 1300 hours on Anzac Day.

On these particular days only exempt shops may open. Exempt shops are shops, which meet the following criteria: -

- they have fewer than twenty (20) people employed on any restricted trading day, and

- the number of persons employed by the shop is no more than 100 at any time during the 7 days immediately before the restricted trading day.

On Easter Sunday hardware shops and plant nurseries may open, irrespective of employee numbers. Some tourist areas are also exempt from Easter Sunday restriction. Certain shops are exempt from any restricted trading days. They can open whenever they wish throughout the year. They are: -

- Chemists
- Service stations
- Restaurants
- Cafes
- Takeaway outlets
- Service providers
- Hire outlets (including video stores).

## **Western Australia**

The Retail Trading Hours Act 1987 applies to retail shops in Western Australia south of the 26<sup>th</sup> parallel. The following regulation applies: -

General retail shops: - these shops may only open during the following “standard hours”.

- 8.00am – 6.00pm Monday, Tuesday, Wednesday and Friday
- 8.00am – 9.00pm Thursday
- 8.00am – 5.00pm Saturday.

These shops cannot open on Sundays or public holidays.

Car yards may open: -

- 8.00am – 6.00pm Monday, Tuesday, Thursday, and Friday
- 8.00am – 9.00pm Wednesday
- 8.00am – 1.00pm Saturday.

Car yards cannot open on Sundays or public holidays.

“Tourist precincts” in Perth and Fremantle may stay open slightly later (until 7.00pm) and trading is permitted on Sundays between 12.00 noon and 6.00pm. They cannot trade on public holidays.

Small shops: These are –

- shops owned by up to six (6) people who operate no more than three (3) shops;
- in which up to ten (10) people work at any one time.

These shops must have a certificate from the Ministry of Fair Trading.

Shops in this category may trade up to 24 hours a day, 7 days a week.

Special retail shops: These shops include –

Newsagencies, chemists, garden nurseries, hardware shops, video shops, art and craft shops, souvenir and duty free shops, shops at sports venues, marine shops, motor vehicle spare parts shops and shops at international hotels.

These shops may trade between 6.00am and 11.30pm 7 days a week. These shops must also have a certificate from the Ministry.

Service stations: - Service station trading hours are completely deregulated throughout the State.

## **Tasmania**

The Shop Trading Hours Act 1984 governs shopping hours in Tasmania. Certain classes of shops are not regulated in that they are not covered by the Shop Trading Hours Act 1984 (as amended) they include: -

- Shops at sporting events, agricultural or horticultural Shows, fetes, bazaars, markets or trade exhibitions.
- Car yards or shops selling spare parts for motor vehicles.
- Auctioneer's premises.
- Business in which liquor is the principal class of goods sold.
- Premises, which sell, cooked food both eat-in and take-away.
- Service stations.
- Hairdressers.

The Shop Trading Hours Act 1984 essentially applies to large shops and includes shops, which at any time on a weekday employ more than 250 people, or shops, which sell goods pursuant to a franchise with a "major retailer".

These shops may not open on Christmas Day, Good Friday or before noon on Anzac Day.

In addition shops to which the Act applies may be "prescribed shops".

If, in any Council municipality, a majority of persons entitled to vote in Council elections, vote at a poll that one or more, or all shops to which the Act applies in the municipality remain closed on Sundays, or public holidays, or between certain hours on these days, then the responsible Minister will, by notice in the Gazette, require those shops to be closed on those days.

To date there has not been any instance of this occurring.

## **Queensland**

Shopping hours in Queensland are regulated by the Trading (Allowable hours) Act 1990 and by orders made by the Queensland Industrial Relations Commission. The Commission has power to allow trading hours in excess of the minimum allowable hours.

The Commission may consider issues such as locality, tourism needs and the interests of the public, consumers and business.

The Commission has approved trading on Sundays and certain public holidays in South Eastern Queensland and on the North Coast in such places as Cairns and Hervey Bay.

The Act sets up the following regulation.

### Exempt shops

The trading hours of exempt shops are totally unrestricted and the operators of these shops may trade whenever they wish, however, hours of trade may be restricted by some other Act or contract. For example; licensed premises, tenancy contracts etc.

The following shops are listed as exempt: -

- antique shop
- aquarium and aquarium accessories shop
- art gallery
- arts and crafts shop
- bait and tackle shop
- book shop, newsagency
- bread shop, cake shop, pastry shop
- camping equipment shop
- chemist
- confectionery shop
- cooked provisions shop (where the provisions are cooked or heated on the premises immediately before sale)
- delicatessen
- fish shop
- flower shop
- fruit, vegetable or fruit and vegetable shop
- funeral director's premises
- hair salon, beauty salon or barber shop
- ice-cream parlour
- licensed premises within the meaning of the Liquor Act or Wine Industry Act
- marine shop
- milk bar
- plant nursery, shop for selling garden plants and shrubs, seeds, garden and landscaping supplies or equipment and associated products
- pet shop
- photographic shop
- premises which are licensed under the Pawnbrokers Act
- restaurant, café, refreshment shop
- service station
- shop for selling motor vehicle spare parts and/or motor cycle parts
- soap shop
- souvenir shop
- sporting goods shop
- temperance beverages shop
- tobacconists
- toy shop

- veterinary supplies shop
- video cassette shop (blank or pre-recorded).

### Independent Retail Shops

Independent retail shops have unlimited trading hours provided they meet the following criteria:

- The business is run by an individual, partnership or a proprietary company (does not include a public company or a related corporation).
- The number of people engaged at any one time in the shop including the owner is not over 20.
- The number of people engaged by the owner of the business in all shops throughout the State is not more than 60 at any one time.

The only restrictions on these shops are that they remain closed throughout the whole of 25 December (Christmas Day) and Good Friday. They are also to remain closed until 1.00pm on 25 April (Anzac Day). Independent retail shops that are predominantly food and/or grocery shops are allowed to open on these days.

The definition excludes certain types of shops and arrangements including:

- exempt shops
- offices
- shops selling wholly or partly wholesale products
- shops selling motor vehicles or caravans
- stalls in a market.

### Non-Exempt Shops

Generally, allowable trading hours in Queensland are: -

- 8.00am – 9.00pm Monday to Friday
- 8.00am – 5.00pm Saturdays.

In localities where the Commission has granted extended hours the additional trading hours are: -

#### South East Queensland

- 9.00am – 6.00pm Sundays and some public holidays

#### North Coast Areas

- 9.00am – 6.00pm Sundays
- 8.30am – 5.30pm some public holidays

Non-exempt hardware shops are also permitted to trade on Sundays.

Non-exempt shops cannot trade on Christmas Day, Good Friday, Anzac Day and Labour Day. Additionally non-exempt shops in South East Queensland must close on Easter Sunday.

## **Northern Territory and Australian Capital Territory**

Shopping hours in both territories are wholly unregulated.

## 5. ISSUES RAISED IN SUBMISSIONS RECEIVED

As previously stated, fifty-three (53) submissions were received during the course of the review, I conducted fourteen (14) interviews, I commissioned an economic study by the South Australian Centre for Economic Studies and the submissions contained details of a number of surveys and studies, both recent and historical.

I was somewhat surprised by the relatively small number of submissions received. Only seven (7) of the submissions came from members of the general public who were not traders, or who had some other vested interest in the outcome of the review.

By way of contrast, the Royal Commission of 1977 received one hundred and eighty (180) written submissions and ninety-eight (98) persons presented oral evidence to the Commissioner. While that was a very different process, there can be little doubt that much of the heat has gone out of the debate as far as the general public are concerned. The debate on shopping hours today exists primarily between the big retailers, the smaller retailers and the trade union variously supported by the media and interested persons and groups. These groupings had entrenched positions in 1972 and thirty years later, these positions have not changed.

Essentially the big retailers support further deregulation and the smaller retailers and the trade union oppose any further extension of shopping hours.

Emotions can run high on this issue, but I felt quite satisfied that all the submissions I received were genuine and most were well thought out and well researched. They just came to different conclusions.

Similarly, at the end of the interview process I was left wondering how it could be that a group of pleasant, intelligent, genuine and well meaning persons could be so completely opposed. The answer is probably a complex mixture of ideology, self-interest and a genuine belief that their views are in the best interest of the community.

I set out below the issues and arguments, which I distilled from the submissions. I discuss many of them in detail later in this review, but it may be helpful to the reader if I set them out together, in summary form, to demonstrate the range and conflictual nature of the submissions.

The issues and arguments are:

- Since 1977 the retail industry has been gradually deregulated. Full deregulation is the next logical step. Governments are not good at setting shopping hours and this should be left to the industry. Many other industries can operate whenever they chose, why should retailing be different?

On the contrary it is argued that governments are under a duty to regulate to achieve a retail environment which is fair, which protects competition, which protects workers' rights, which sustains social and cultural institutions and which is in the best interests of the whole community.

- Deregulation only increases the dominance of the big retailers, which is too great, and deregulation is inimical to competition. The big retailers are the only ones that want it because they know it will increase their market share at the expense of small business.



On the contrary it is argued that deregulation increases competition, increases activity in the retail sector and boosts the State's economy.

- Deregulation will damage small business, which cannot compete against the advertising and buying power of the big retailers. Small retailers are important to the economy, but can only survive in a regulated environment, which compensates for the unfair competition. Deregulation simply increases the cost of running a small business and imposes intolerable working hours upon their owners and employees.

On the contrary, it is argued deregulation will assist small business forcing it to become more competitive and to focus on niche markets and specialist services.

- It is asserted that deregulation in Victoria and Tasmania has not harmed small business, however, surveys of small retailers in those states purport to show that the majority of those retailers perceive that their businesses have suffered and are not happy with deregulation.
- Motor vehicle dealers strongly oppose any extension of trading hours.
- The media is biased in favour of extension of shopping hours because the big retailers are major advertising clients, however, the media articles assert that the views represented therein are in the best interests of the State.
- Extension of the market share of the big retailers will hurt local suppliers, who already struggle to get their goods onto supermarket shelves. On the other hand, the big retailers assert that they are major supporters of South Australian producers.
- The State has too many shops. Shops should be licensed and allocated a certain number of trading hours. The shops could open whenever they liked but could not exceed their number of trading hours. The allocated hours would be tradeable and new businesses could not open unless they purchased an existing allocation of hours.
- The public want deregulation. The public don't want deregulation. Recent consumer surveys were produced to support both arguments.
- A survey was produced to demonstrate that employees support extended hours, however, the union that represents them opposes extended hours, for a number of reasons.
- It is asserted that regulation makes South Australia's retail market uncompetitive, however, retailing is strongest in Western Australia, which is the most regulated market.
- Deregulation will damage the communities' cultural and social fabric. On the contrary it is argued that deregulation will reduce stress on families by enabling them to shop as a family and at their convenience.
- Re-vitalised shopping strips such as Jetty Road, Glenelg and Semaphore road will suffer if they have to compete with the big retailers trading "24/7".
- Adelaide's Central Business District should be given exclusive extended hours to promote tourism and to revitalise the precinct. On the contrary it is asserted that, while

tourists may like to wander the shops, they don't buy much. The suggestion is strongly opposed by suburban shopping centre operators.

- The police submit that Sunday trading has increased crime in shopping centre areas and that extended hours will increase this trend and place further demands on already stretched police resources.
- The introduction of Sunday trading was essentially driven by fear of loss of Commonwealth Competition Policy payments. These payments are no longer made.
- Public holidays have lost their significance and shops should be open. Others argue that public holidays are precious and important and should be available to all while others argue that only Anzac Day, Good Friday and Christmas Day should be preserved.
- I received surveys, studies and data variously demonstrating that deregulation will: -
  - boost the economy
  - damage the economy
  - make no difference to the economy.
- South Australia's shopping hours make us "an international laughing stock", however an examination of the facts demonstrates that the State's shopping hours are amongst the most liberal in the developed world, including countries, which are major tourist destinations.
- The Act creates unjust anomalies for individual business and some shopping areas.
- Extended hours have increased the employment of cheap junior casuals on weekends and have caused the loss of full-time adult weekday jobs.
- Sunday trading has hindered the staging of sporting and other events, which require road closures. Earlier Sunday opening would make the staging of such events impossible.
- Full deregulation works well in country areas.
- Late night trading in regulated regional areas should be moved from Thursday night to Friday night.
- The shopping hours currently available are not fully utilised because the demand is not there. On the contrary, it is argued that retailers are the best judges of demand and should be allowed to open when they believe the demand is there.
- Large shopping malls are unfriendly to the environment and use large amounts of power and water while the community is being asked to conserve resources.

Thus it can be seen that there is no unanimity of views and no clear picture emerges. Shopping hours are like the old soldier's joke about military kit, that "one size fits nobody". In the absence of total deregulation, government is always going to have to strike a balance that best serves the community and causes the least harm.

## **6. DISCUSSION**

### **6.1 Is Deregulation Ultimately Inevitable?**

The proponents of deregulation, or extension, of shopping hours argue that full deregulation is ultimately inevitable, as if it were some inexorable law of nature.

They point to the history of the gradual extension of shopping hours, which I have already described, as evidence that full deregulation (ie that shops be entitled to open twenty-four hours a day on every day of the year), is only a matter of time.

Of course this is not actually the case. In Australia only the two territories are in fully deregulated mode. As has already been seen, all State Government's have maintained some measure of regulation. True it is that shopping hours have been generally relaxed, but every State has drawn the line somewhere, albeit they have all drawn it in different places. Presumably they have done this for a reason and that reason can only be that state governments believe that full deregulation is not in the public interest. Notwithstanding creeping commercialism and longer working hours, Australians still enjoy a relatively relaxed and healthy lifestyle that is the envy of many other countries and entices visitors to our shores and South Australia is a particularly pleasant place to live. Some proponents of deregulation and some journalists, lament that South Australia is a "backwater" and is not "keeping up with" other States. As will be seen later in this review, that is not necessarily so. While it is a primary duty of governments to grow their communities' economies it is not their only duty. Governments also have a duty to nurture and preserve their social and community fabric and institutions. It does not serve us well if, in the end, we become materially wealthy and spiritually impoverished. I have noticed that those arguing in favour of deregulation, or extension, of shopping hours, very often describe their proposals as "reforms", in the sense that adoption of their proposals would be a change for the better. Of course changes are only reforms in that sense if they benefit the community as a whole. If the changes have the potential to benefit some members of the community at the expense of others, then they are unlikely to be reforms.

Governments should only pass laws which have this potential if it is clearly in the interests of the vast majority of the community. At the end of the day there are more important human activities than shopping.

### **6.2 The Current Battleground**

I have no doubt that the introduction of limited Sunday trading has been of benefit to the community. Although many smaller retailers assert that they have been hurt by its introduction and some would like to see the clock wound back to pre-2003, upon balance the legislation has been a success in that it has brought an added level of consumer convenience which has been appreciated by Adelaide shoppers. Virtually all submissions accepted that some form of Sunday trading was here to stay. It is true that we live in more stressful times, in which both parents, or the caring parent, work or works, to make ends meet, or to provide the lifestyle they wish for their family and during the course of this review scores of people have told me that Sunday trading has been to their convenience. That is not to say that they do not regret the loss of family time, or time for themselves, or their partner, they do, but of course increasing time poverty is caused by multiple factors, of which the necessity to shop is only one. While many shops have set up playrooms for

children nobody suggested that a trip to the shopping centre with the children amounted to “quality family time”.

The options available now are:

- no change
- only technical changes to facilitate the operation of the Act,
- extend Sunday trading,
- allow trading on some public holidays, but preserve some, (many suggested Anzac Day, Good Friday and Christmas Day),
- allow trading on all public holidays,
- repeal the Act and fully deregulate the retail industry.

As previously seen the submissions contain vigorous support for all options.

### **6.3 Competition and Monopoly Power and Control**

It must be accepted that government regulation of the retail industry is discriminatory and can lead to inequity. Under the Shop Trading Hours Act, 1977 the majority of retail outlets are exempt from its operation either because of size or because they are in regions not subject to the Act. Of those retailers which are controlled by the Act, some have been given significant trading advantages, eg. hardware stores.

The proponents of deregulation argue that this is simply unfair. They assert that there should be no restriction on trading hours at all. Shops, should be allowed to trade whenever it is profitable for them to do so and customers will shop in those stores which have hours which best suit their needs. The market will find its own level and those businesses which can't compete will go out of business. That is the market economy. Government regulation, they argue, only provides protection from competition.

The Commonwealth Government (Hilmer) competition policy essentially adopts that view. The Report of the Independent Committee of Inquiry into National Competition Policy, 1993 stated: “There should be no regulatory restrictions on competition unless it is clearly demonstrated to be in the public interest. Governments which choose terms and conditions should demonstrate why this is necessary in the public interest.”

All of the retailers to whom I spoke agreed with the principle of competition in the market place, however they were far from being in agreement about what they meant by competition. The big retailers and their advocates mean “competition” in its rawest form, where the strong survive and the weak go to the wall. Those supporting the smaller retailers argue that “competition” means “fair competition” and that market places which are dominated by a handful of major players are not a truly competitive environment.

A large part of the problem is that there is no effective anti-trust/anti-monopoly legislation in Australia.

While the Australian Competition and Consumer Commission is active in preventing corporate mergers which could lead to anti-competitive, monopoly situations, the Commission really has no power, or policy interest, to prevent a business from simply growing enormous and totally dominating the market place. This is a problem which

governments of all persuasions have been unwilling to tackle for fear of being labelled “anti-business”.

For example, it is widely reported and accepted that, between them, Coles and Woolworths control between 70% and 80% of the retail grocery market in Australia. In the United States of America, the home of capitalist free-enterprise, such a situation would be totally unacceptable and the courts would order those companies to be broken up into much smaller entities. Anyone in any doubt about this should have reference to the recent Microsoft anti-trust litigation. By comparison with Australia, the mighty Wal-Mart chain has less than 5% of market share in the United States.

This is not intended to be a criticism of the two Australian companies. Indeed their directors are under a duty to grow their companies and to maximise returns to shareholders. They have reached a size where the only way they can do this is to extend into other areas, as they have in petrol and liquor, or to expand their market share in the grocery market. As the domestic grocery market is only expanding slowly they can only do this at the expense of their smaller competitors. Naturally these big retailers favour extended trading hours.

Anti-monopoly legislation is based on the concern and experience that when a company gains a monopoly in the market place it becomes free to maximise its profits at the expense of consumers. Whether this will ever happen in Australia remains to be seen and while they survive, these big retailers will still be in competition with each other.

There is, however, a more immediate concern which effects South Australia’s economy today.

Coles and Woolworths are massive buyers of fresh produce from South Australian suppliers. Coles provided the review with the following figures:-

- Coles has over 500 fresh food suppliers in South Australia
- Coles purchases over \$350 million of product each year from these suppliers.
- Annual purchases include:-

30,000	Cattle
300,000	Pigs
350,000	Lambs
400,000	Dozen eggs
4 million	chickens
12 million	litres of wine
30 million	Litres of milk
Tens of thousands of tonnes of fruit and vegetables	

These figures give the reader some notion of what the small retailers are competing with.

In one sense South Australians can be very grateful that this powerful company supports our local producers to this extent, but it is a mixed blessing. The enormous buying power of the big retailers means that they effectively set the price at which they purchase produce and suppliers have little option but to accept these prices. The big retailers naturally want to buy at prices which allows them to put goods on their shelves at lower prices than their competitors. This inevitably means that farm gate prices are continually being forced down to levels which are barely viable. In recent times this has been

particularly noted in the egg producing and dairy sectors. In a state like South Australia, which is heavily reliant on its agricultural sector, it behoves us to at least be wary of the growth of monopoly power.

The small retailers cannot hope to buy produce at these prices and steadily become less competitive.

The other part of the problem is that the big retailers are more and more producing, or processing, their own in-house brands. They have large economies of scale, as well as buying the ingredients at low prices and can put these in-house brands on their shelves at very low prices.

In doing this they compete directly with local manufacturers and processors who either struggle to get their goods onto the big retailer's shelves, or are forced to do so at very marginal prices.

While the consumer may be the short-term beneficiary from this situation, it damages the State's economy when local companies struggle, or go to the wall.

I am not suggesting that the big retailers are doing anything wrong. The current state of competition law in Australia allows, even encourages, them to use their market power in this way.

#### **6.4 Will Deregulation, or Extension of Shopping Hours Hurt Small Retailers?**

The simple answer is; of course it will. It is almost a mathematical certainty. An examination of the figures compiled by the Australian Bureau of Statistics upon retail turnover for South Australia and Australia from June 2004 to June 2006, (annexed hereto and marked "**Appendix F**"), shows that, overall, retailing in South Australia has had a modest rise, although some areas remain flat and activity has gone backwards in others. The State's Department of Treasury and Finance calculated the through year growth in our retail sector at 4.2% as at June 2006 (see "**Appendix G**").

In this environment small retailers are assisted in their viability by being able to be open at times when the big retailers are required to be closed. Every time shopping hours are extended the big retailers inevitably increase their sales. The overall market is not expanding rapidly enough to absorb this and hence the big retailers increase their market share at the expense of the smaller ones. The big retailers know that increased shopping hours will increase their sales and so they support it. Smaller retailers know that their sales will decrease and are opposed to it. Coles Myer South Australia advised me that since the extension of shopping hours in 2003 their staff numbers had increased by 9%. It is beyond the capacity and expertise of this review to analyse the company's figures, in so far as they are public, nor is it the case that an increase in staff is entirely due to the extended hours, but one can be pretty certain that this increase in staff numbers reflects an increase in business activity since the extended hours were introduced.

The State Retailers Association conducted a survey of its members in May 2006.

- 67% of those responding reported either no increase, or a decrease, in turnover since the introduction of extended hours in 2003.

- 73.9% reported that their costs had increased. There may be a number of reasons for this, but it obviously costs more to trade longer. Of course some exempt shops were already open anyway, but those in shopping malls, shopping centres and supermarket complexes almost certainly felt obliged to open to match their competitors. Their costs increased, but their turnover did not. Approximately 95% of those surveyed opposed any further extension of hours.

Victoria largely deregulated shop trading hours in 1996. Two years later the Retail Confectionery and Mixed Business Association of that State surveyed its members.

- 53.7% reported a decrease in sales over the period, while 34.3% reported no change. Only 11.9% reported an increase.

Tasmania largely deregulated shopping hours in 2002. Six months later the Tasmania Independent Wholesalers group conducted a survey of its members. Only 10% reported an increase in sales, 65% reported a decrease in sales and 25% reported no change.

The Motor Trade Association of South Australia (“MTA”) conducted a survey of its members in 2006. These were the results obtained:-

<b>1 Easter Saturday Trading For the Sale of New and Used Vehicles</b>				
<b>Strongly Support</b>	<b>Support</b>	<b>Neutral</b>	<b>Oppose</b>	<b>Strongly Oppose</b>
<b>2.2%</b>	<b>7.7%</b>	<b>5.9%</b>	<b>14.3%</b>	<b>70.3%</b>
<b>2 Sunday Trading For the Sale of New and Used Vehicles</b>				
<b>Strongly Support</b>	<b>Support</b>	<b>Neutral</b>	<b>Oppose</b>	<b>Strongly Oppose</b>
<b>1.1%</b>	<b>1.1%</b>	<b>2.0%</b>	<b>4.5%</b>	<b>92.1%</b>
<b>3 Public Holiday Trading For The Sale of New and Used Vehicles</b>				
<b>Strongly Support</b>	<b>Support</b>	<b>Neutral</b>	<b>Oppose</b>	<b>Strongly Oppose</b>
<b>1%</b>	<b>3.3%</b>	<b>3.3%</b>	<b>2.2%</b>	<b>90.1%</b>
<b>4 Late Night Trading to 9.00pm On All Trading Days?</b>				
<b>Strongly Support</b>	<b>Support</b>	<b>Neutral</b>	<b>Oppose</b>	<b>Strongly Oppose</b>
<b>1%</b>	<b>4.4%</b>	<b>4.4%</b>	<b>10%</b>	<b>80%</b>
<b>5 If Sunday Trading Was Deregulated Would You?</b>				
<b>Roster existing staff on Sunday</b>	<b>Employ Casual Staff</b>	<b>Employ extra full time staff</b>	<b>Would stop trading</b>	
<b>77.8%</b>	<b>6.2%</b>	<b>6.2%</b>	<b>9.9%</b>	
<b>6 Do You Trade Thursday/Friday nights?</b>				
<b>Yes</b>			<b>No</b>	
<b>26.4%</b>			<b>73.6%</b>	
<b>Average closing time between 5pm and 9pm</b>				
<b>7 Are You In Favour of an Industry Code to Establish Trading Hours?</b>				
<b>Yes</b>	<b>No</b>		<b>Unsure</b>	
<b>81.9%</b>	<b>12.5%</b>		<b>5.7%</b>	
<b>8 Your Postcode</b>				
<b>Metro</b>			<b>Non-Metro</b>	
<b>61</b>			<b>30</b>	

I was advised by the MTA officers that the almost universal experience of their members has been that extended hours have meant no increase in sales, increase in costs and dissatisfaction and family stress amongst their employees.

Naturally one has to treat trade surveys with some caution but together, they provide strong evidence that many retailers believe they will suffer from further extension of shopping hours and when the public reads, or hears, assertions in the media that “Retailers are demanding deregulation”, they should ask the question: “Which retailers do you mean?”

Proponents of deregulation, or extension of hours, often say that there has been extension of hours in the past and “The sky hasn’t fallen as some predicted”.

In a sense that is true, but they are simply ignoring the complaints of a large sector of their industry and are overlooking the fact that since 2003, shops have been operating in circumstances of unprecedented national prosperity. When the Commonwealth Treasurer warns that the decade of economic boom-times may be ending and there are signs that this is the case, then small retailers may find it much harder to survive the pressures that more shopping hours will inevitably bring.

It is also argued that deregulation helps small business to “define its position in the market place and to provide specialised goods and services”. Small business people tend to be resourceful and resilient and many have managed to do this in some measure, but it doesn’t always work. The last ten years have seen the disappearance of many small hardware and paint stores, run by former tradesmen with a wealth of knowledge and experience. They were simply unable to compete with the big hardware chains which import huge quantities of cheap Chinese goods. While there will always be some people who are prepared to pay more for quality, the large majority of buyers are driven by price.

There are also limits to the capacity of small business to continually re-invent itself and this is largely a factor of establishment cost and product availability.

It behoves me to point out, however, that the SA Centre for Economic Studies reports that the limited data available provides no evidence that the 2003 changes produced a net decline in the overall number of small businesses. There has been a decline in expenditure in small retail establishments, but this downward trend appears to pre-date the changes to shopping hours. (See 6.5 “Economic Considerations”).

Interestingly, while there has been this decline in expenditure in small retail establishments, there has been a strong growth in expenditure in large retail establishments.

## **6.5 Economic Considerations**

The retail industry is important to the State’s economy. It is not, however, a wealth creating industry, in that it doesn’t actually produce anything, or add to the real value of products. It does not have the same real impact upon the economy as fishing and farming, mining, manufacturing and processing. Nevertheless retailing is a very efficient way of circulating money about the community and of course, it provides the ultimate market without which the production of goods would be largely pointless and it is an important employer. A thriving retail industry is a clear indication of a strong economy.



Those who argue in favour of increased shopping hours invariably claim that increased hours will benefit the retail industry and provide a boost to the economy. If this hypothesis is correct, then one would have expected to see a significant increase in retail activity after the extension of shopping hours in 2003.

During the review process, I heard many assertions that this was the case and that South Australia was “not competitive” with Victoria, which has largely deregulated shopping hours. I was somewhat surprised when I examined the Australia Bureau of Statistics June key figures for retail for June 2004 and June 2005 (see “**Appendix H**”). These figures demonstrate that South Australian retailers have experienced “modest growth”, much in line with the national trend. Allowing for the enormous difference in population, South Australia appears to have performed at least as well as, if not better at times, than Victoria, but not nearly as well as Western Australia with its booming, mining driven, economy and strongly regulated shopping hours. In particular the 2003 changes did not appear to make any particular impact on the overall retail industry. This would tend to suggest that consumers did not spend more money overall. Rather it would appear that they simply continued their former spending patterns, but spent their money at different times and possibly, in different establishments.

As this conclusion was so much out of line with what I had been hearing and indeed reading in the newspapers, I decided to have recourse to an independent expert. Accordingly I had SafeWork SA commission an independent report from the South Australian Centre for Economic Studies. A copy of that report is annexed hereto and is marked “**Appendix I**”.

The report concludes:-

“Based on the experience of the previous extension of shopping hours, there is no evidence to suggest that further liberalisation would increase either state income or employment levels, but nor is there any evidence that it would have a negative effect on the number of small businesses (in aggregate).

Whilst it is likely that there is still scope to increase consumer welfare by further liberalising trading hours, there is no reason to believe that there are a substantial number of consumers who wish to shop at an hour which is currently not available to them (at least in the store of their choice) and which would be made available to them were the legislation to be amended.”

Further comment by me on this issue of economic consideration would be superfluous, except to say that shopping hours seem to have very little effect on the overall retail economy.

Rather, a strong retail sector is a result, not a primary cause, of a strong economy. Hence Western Australia, which has the most regulated system of shopping hours in the nation, has the best performing retail sector.

Interestingly, at the time of writing, a Westpac report states that a strong retail sector is performing well in a situation of widespread strength in the South Australian economy, “with retail sales showing strength and outperforming the national trend” (*The Advertiser*, 19/12/06).

## 6.6 Environment and Changing Shopping Patterns

Some of the written submissions expressed concern that extended shopping hours would cause an increase in use of electricity, water and other resources at a time when, as a community, we are being asked to cut back on these resources. Several other people also aired these concerns to me directly. I do not have figures on the level of consumption of the big, air-conditioned, shopping malls, but commonsense would suggest that they are very large users of electricity and water, apart from any other resources. The State is currently challenged in the supply of these commodities and there would seem to be no doubt that extended shopping hours would lead to an increase in use, but in reality we are only talking about a maximum of eleven extra days per year and one would have to assume that the big shopping malls and centres continue to use large amounts of resources even when they are closed. The net increase may not really amount to all that much.

In my opinion the real problem with these huge shopping malls and centres is that they are a concept which arose at a time when it was generally believed that future resources would not be a problem. Unfortunately for us all things do not seem to be turning out that way.

Firstly shopping centres were designed upon the premise that increasingly affluent shoppers would travel to them by car, sometimes over long distances, driving past their corner shops and shopping strips for the convenience of being able to do all their shopping under one roof, in air-conditioned comfort.

While there was a fuel scare in the late 1970's, fuel returned to being plentiful and relatively cheap and we motored about, happy in the knowledge that, if petrol ever did become scarce it wouldn't be in our life-time. 2006 has taught us that real fuel shortages and ever increasing prices have probably arrived. During the recent price hikes people started having to make choices about how they used their cars. It may not be too long before we are glad that we can drive a short distance to our local shopping strip or walk to the corner shop. Technology may solve the problem, but it won't solve it soon.

Secondly, as already suggested, shopping malls and centres use large amounts of electricity. They were built at a time when it was assumed that Australia would always have abundant electricity because we had huge amounts of cheap coal to burn and plenty of water to drive hydroelectric schemes. Hence nobody saw anything wrong with designing huge malls which could only function if air-conditioned, using cheap plentiful electricity. Nobody except scientists had heard of greenhouse gasses and anyone who suggested that our endless use of fossil fuels might one day harm the planet was mocked as a radical "greenie".

Thirdly, I have assumed that shopping malls and centres are significant users of water. Those of us old enough can remember water restrictions in the 1950s. Infrastructure development in the 1950s and 1960s led us to believe that Adelaide was "drought-proofed" and that water restrictions were a thing of the past. Nobody had ever heard of global warming and only now is it becoming widely accepted that we will have to be much more frugal with our water than ever before.

I am not going to be a doomsayer and predict the end of the monolithic, air-conditioned shopping centres. They are run by intelligent people who may well be able to design and implement strategies to keep them viable. Certainly shopping centre managers are aware

of the problem and aware that malls may become targets of community resentment as over-users of scarce resources.

Readers may have noticed that some sections of the media have begun carrying articles, which appear designed to promote shopping malls as a vital part of the community, not just as places to shop, but as places to meet, relax and be entertained. If you like, the new town square, or the new parish pump. Readers may draw their own conclusions about these assertions.

The other problem facing shopping malls and centres is the advent of the internet and direct marketing. This is an area which is growing rapidly as affluent and savvy young people realise they don't need to spend their precious, non-working hours in shopping centres. They do their shopping "on-line" in a few minutes and high quality goods are delivered to their door.

It may cost a little more, but for them it's worth it. The internet may never be a substitute for traditional shopping, but it will certainly provide a challenge.

Facing these various challenges it is not surprising that the big retailers and the owners of shopping malls and the like wish to squeeze every possible advantage for themselves while they can. One of the ways they can do this is to trade for longer and increase their market share, hence they support extended hours, or full deregulation.

As a community, however, we should ask ourselves whether we are wise to risk putting all our eggs in the shopping mall basket, or whether we should preserve our current regulation which tends to offer some protection to small retailers, is more environmentally friendly and helps to retain shopping diversity.

## **6.7 Sunday Trading and Public Holidays**

As already stated, the current regime of Sunday trading appears to have been an overall success. The current Sunday trading hours are between 11.00am and 5.00pm and the public has taken advantage of this added convenience. Nevertheless some retailers and their lobbyists are now calling for longer Sunday trading and suggest that shops should be able to open at 7.00am on Sunday and remain open until 9.00pm. In effect, to just make Sunday like any other trading day.

It is therefore necessary to ask whether there is anything special about Sunday for it to be treated differently from the rest of the week?

From ancient times the Sabbath has been regarded as a sacred day of rest, contemplation and renewal. "So God blessed the seventh day and hallowed it, because on it God rested from all his works which he had done in creation", Genesis 2.3. Certainly throughout the Christian history of the English-speaking people and Europeans, Sunday has been regarded as a day to rest and attend to religious duties. It is true and perhaps sadly true, that this long Sunday tradition has been degraded in recent decades by the growth of secular materialism and an endlessly rising tide of commercial pressure.

Most civilised societies, which are based upon Christian traditions and ethics still value Sunday. In spite of what is said by those in favour of further deregulation of shopping hours, a visitor to England, Europe or North, or South, America will find that many shops

are closed on Sundays. England and Germany have recently experimented with limited Sunday trading. The Catholic and Orthodox European countries have not.

There is a deep division of opinion in Germany about whether Sunday trading should continue, while in Britain the government, faced with a powerful “keep Sunday special” campaign, has recently refused to extend Sunday trading.

I have already said that there are more important things in life than shopping and I do not regard shopping together as a family on weekends as quality family time. Australian society is still structured upon the basis that we need time to attend church, or to participate in sport, community activity, volunteering or social activities and we predominantly find this time on Sunday and public holidays. Saturday was also once such a day, but it has become so eroded by work and business that, for many people, Saturday is just another working day. I received a number of submissions urging me to safeguard people’s right to attend church on Sunday morning. On the other hand it was said that “no-one goes to church anymore” and so shops might as well be open. While it is certainly true that congregations are shrinking in some mainstream denominations, the congregations of some of the newer, evangelical churches are large and growing rapidly. I also received a number of submissions from sporting bodies and sports promoters requesting that Sunday morning trading hours not be extended. Events such as marathons and triathlons require street closure and utilisation of public spaces, which would be virtually impossible to reconcile with open shops and trading. The West Lakes area is a prime example; its lake and street configuration makes it ideal for triathlon events, but West Lakes Shopping Mall sits right in the middle of the area.

On balance it seems to me that there are still significant reasons to keep Sunday different from the rest of the week. I am therefore not in favour of extending Sunday morning shopping hours, however there would seem to be no great harm involved in a modest extension of Sunday evening trading hours to say, 6.00pm or 7.00pm.

Public holidays are a more serious matter and constitute the prime target for those seeking further deregulation.

The more extreme of those protagonists wish to have Adelaide “open for business, 24 hours a day, 7 days a week, 365 days of the year”. Most people, however, including supporters of extended trading hours, accept that there will be restrictions upon trade on “iconic public holidays”. In the submissions I received it seems to be generally accepted that those days are:-

- Christmas Day
- Good Friday
- Easter Sunday
- The morning of Anzac Day.

I think that this is probably a good starting point for a discussion on public holiday trading.

Christmas Day, Good Friday and Easter Sunday are true “holy days”. They are the days, which encapsulate the essence of the Christian faith, and even non-Christians are constrained to accept that these days are culturally important to our society. Retailers already make a great deal of money out of Christmas and Easter and why anyone would wish those holidays to be degraded is a mystery to me. I was quite surprised recently to see a campaign beginning in one section of the media to allow trading on this coming

Good Friday. The reason given for this is that there will be “cashed-up” tourists in Adelaide for the rugby. Presumably it is intended that we should use the day on which we recollect Christ’s crucifixion to take as much of the tourist’s money as possible. That does not seem to me to be a satisfactory reason for degrading Good Friday.

Boxing Day, Easter Saturday and Easter Monday are also days which are targeted as days upon which trading should be allowed. There is always a fuss on Boxing Day that shops in Adelaide are closed while shops in some other states and territories are open. It is asserted that Adelaide is backward compared with these other places and that Adelaide traders are losing huge sums of money. There is very little weight in these assertions. Quite frankly it makes little difference whether people spend their money at sales beginning on 26 December, or at sales beginning on 27 December. It all depends on whether the community wants public holidays, or not and I shall discuss this in due course.

The same can be said for Easter Saturday and Easter Monday.

The Australian Government website describes Easter as follows:-

***“The four-day ‘weekend’***

*In addition to its religious significance, Easter in Australia is enjoyed as a four-day holiday weekend starting on Good Friday and ending on Easter Monday.*

*This extra long weekend is an opportunity for Australians to take a mini-holiday, or get together with family and friends. Easter often coincides with school holidays; so many people with school-aged children incorporate Easter into a longer family holiday. Easter is the busiest time for domestic air travel in Australia and a very popular time for gatherings such as weddings and christenings”. (Australian Government Department of Communications, Information Technology and the Arts).*

Our regional communities benefit greatly from the Easter holidays and there are clearly great family, social and economic reasons for preserving our four-day weekend. As a community we should be careful about making changes which may detract from it.

The other public holidays can be categorised as National Days and States Days.

The National Days are:-

- Australia Day
- New Years Day
- Anzac Day
- Queens Birthday
- Labour Day.

Opinions vary about the relative importance of those days. For myself, I happen to consider Anzac Day and Australia day as the most significant, but that is only my opinion.

I am well aware that other people would make different choices. What matters is that all of those days are important to large percentages of our population. Together they are part of our national and social fabric. They are not simply extra days for retailers to make more money.

The State Days are:-

- Proclamation Day
- Adelaide Cup Day.

Proclamation Day celebrates the founding of our State. In 2006 it was effectively foregone in favour of keeping Boxing Day a holiday and the fall of the calendar made that a sensible outcome. I for one, however, would be sorry to see Proclamation Day forever lost from our holiday calendar.

Adelaide Cup Day is an important tourism event and important to South Australia's struggling racing industry. Many people enjoy horse racing and even if they do not go to the race track follow the Adelaide Cup meeting on the radio, at the TAB, or at their local hotel.

People who come from interstate to attend the Adelaide Cup have not come to go shopping. They certainly spend a lot of money on travel, accommodation and restaurants and at the track, but shopping would be, at best, an incidental activity.

It was put to me during the review that it was unfortunate that, when there were tens of thousands of people at Morphettville racecourse, the Marion Shopping Centre was not open. I, for one, would be prepared to place a bet that nobody at Morphettville on Adelaide Cup Day had the slightest intention of leaving the races to go shopping at Marion.

The real issue is whether the South Australian public want public holidays, or not. Public holidays, by definition, are holidays for the public to enjoy. There will always be essential services and industries whose workers cannot take these holidays.

Police and emergency services must continue to operate for the well being of our society. Similarly some industries such as mining, some production lines and some sections of the media are necessarily geared to continuous operation.

The same cannot be said of shops. For generations people have managed perfectly well with shops being closed on public holidays. It is simply a question of a small amount of forward planning.

The problem with allowing shops to open on public holidays, is not only that shop assistants lose their holidays, but also that there is a knock-on effect. When big retailers and shopping malls are open they have the potential to demand a large amount of services. For example they may need access to warehouses and delivery vehicles, they may need service industries, electricians, air-conditioning engineers, plumbers, etc, etc. The list could be very long indeed. If car yards are open on public holidays, then it will not be long before finance providers will feel constrained to offer services. If the big retailers are open then many small shops, whose owners would probably like a break themselves, feel forced to open to compete. It may be drawing too long a bow to say that the position could be reached where only politicians, public servants and teachers will be able to enjoy public holidays, but it underlines the point that if, as a community, we value our public holidays we should be on guard against their gradual erosion.

As far as I can ascertain this desire by some people and some sections of the media, continually to intrude business into public holidays and festivals is a peculiarly Australian

phenomenon. The Americans' protect 'Independence Day', the French would not countenance the erosion of 'Bastille Day', the British love their 'Bank Holidays' and the Jews and Muslims protect their holy days. Perhaps we should have the confidence to do so too.

## **6.8 Do the Public Really Want Further Extension of Shopping Hours?**

It is continually asserted by those pressing for further extension of shopping hours that the public is wanting, or even demanding, more hours for shopping.

I am constrained to say that, during the whole six months of this review, it is not a demand which has been communicated to me. Of the fifty-three (53) submissions which I received, only seven (7) came from private citizens. The rest came from retailers and other persons or bodies connected with the retail industry. Of those seven (7) submissions, two (2) wanted more shopping hours, two (2) wanted religious holidays protected, one (1) wanted all public holidays protected and two (2) wanted technical changes to the Act.

As the review was well advertised and often referred to in the media during its course, the lack of response from the general public suggests strongly to me, that the public is not greatly interested in further shopping hours. It is probably the case that the introduction of Sunday trading has provided members of the public with all the shopping hours that they need.

I found the post Christmas sales in Adelaide an interesting snapshot in this regard. There was much dismay in the media about the fact that Adelaide shops were not open on Boxing Day, while post Christmas sales were well attended in Melbourne and Sydney. This, it was asserted, demonstrated that customers were demanding Boxing Day trading and that Adelaide was behind the times. When the Adelaide shops opened next day, sales were reported as "disappointing". People had almost certainly spent their money in the generous pre-Christmas trading period and were enjoying their holiday, rather than attending at sales.

Recent referenda in Australia have not tended to support the view that the public are constantly demanding more shopping.

In 2005 the Western Australian government held a referendum asking the public if they wanted extended shopping hours on weeknights and on Sundays. The public voted a firm "no" to both.

Early in 2006, as a result of a request from Woolworths for Sunday trading, the Millicent Council conducted a "community questionnaire" (sic) to test public reaction to the request. Sixty-six (66) percent of respondents voted against the proposal.

At the time of completing this review I became aware that a community consultation in Port Lincoln showed community support for deregulation, but I had no opportunity to examine this.

I received the results of a consumer shopping survey conducted by Square Holes Evaluation and Insight, commissioned by interests favouring deregulation of shopping hours. The results of the survey purport, inter alia, to show that a majority of people support public holiday trading and total deregulation of shopping hours.

I won't annexe the whole survey, as it is too bulky, but will release it when I present this report, together with all the submissions. However I have concerns about some of the questions, which were asked, and I annexe the questionnaire and it is marked "**Appendix J**". In particular I invite the reader's attention to question 13 which reads:-

13. Some retailers would like to trade on public holidays. Which of the following shopping destinations do you believe should be permitted to trade on public holidays? (Multiple choice).

City	1
Major Regional Centre (eg Westfield)	2
Local Precinct	3
Do not support public holiday trading (do not read out)	4
Don't Know	5

It is upon the basis of answers to this question that it is asserted that the majority of people favour public holiday trading. Of course the question assumes a favourable response to public holiday trading and instead asks which locations should be permitted to open. The actual question, "Do you, or do you not, support public holiday trading" is positively avoided. I don't claim to be an expert in this area, but I think it is fair to say that the question lacks objectivity.

I also received a survey conducted by McGregor Tan Research commissioned by the Shop Distributive and Allied Employee's Association. Again I shall not annex the whole survey and will release it later, but I annexe the questionnaire and it is marked "**Appendix K**".

The reader will see that the question asked was: "The Government has recently instituted an independent review of shopping hours to determine if there is a need to see the hours expanded even further. Do you believe the existing shopping hours are sufficient? It seems to me that, like the other survey, the question subtly invites a positive response. A staggering 70% of people answered the question in the affirmative. A specific question about public holiday trading was not asked.

The two surveys are quite irreconcilable. At the end of the day there is simply no evidence that the public wants, or alternatively doesn't want, a further extension of shopping hours.

Assertions in the media that the public is demanding more shopping hours are simply assertions unsupported by facts. If you ask people if they would like more facilities and convenience they will usually answer that they do. Perhaps we should be asking them what they actually need!

## 6.9 Tourism and the Central Business District

On 3 January, 2007, it was reported in "The Advertiser" that *'Adelaide has made a major British newspaper's top 10 holiday destinations this year'*. Apparently the Daily Telegraph rated Adelaide highly for its simple and easy way of life. Graham Boynton, one of Britain's most influential travel writers, wrote, *"Adelaide is city life as it should be"*.



It is helpful for us to be reminded that not everybody is attracted by commercial hustle and bustle.

I have already expressed a general view that public holidays should be protected and valued.

Having said that, however, there is no doubt that tourism is a very important industry for our State. The current South Australian Strategic Plan contains the following tourism target:-

*Increase visitor expenditure in South Australia's tourism industry from \$3.7 billion in 2002 to \$6.3 billion by 2014 by increasing visitor numbers and length of stay and more importantly by increasing tourist spending.*

The South Australian Tourism Commission in its helpful submission to me provided me with the following information:-

Recent research by Tourism Australia highlights the economic importance of tourist shopping. The following information is derived from the National Visitor Survey (NVS), the International Visitor Survey (IVS) and credit card expenditure data from VISA International:

- Tourism is worth \$73 billion per annum to the national economy (\$51 billion domestic/\$21 billion international);
- Visitors spend \$13.6 billion on shopping a year (\$7.34 billion for domestic overnight visitors, \$4.2 billion for domestic day visitors and \$2.06 billion for internationals);
- Tourism provides 536,000 jobs, including 140,500 jobs in retail
- For the domestic market, shopping expenditure is increasing, whilst total expenditure excluding shopping is decreasing. This demonstrates the important contribution of shopping to overall expenditure by domestic overnight visitors.
- Shopping for pleasure is a popular tourist pastime – an increasing number of overnight visitors are partaking in this activity.
- Retail represents the greatest proportion of spending by visitors on Visa Cards (excluding cash withdrawals). This was \$88 million in December 2004 (compared to \$60 million for accommodation).

Tourism & Transport Forum (TTF) Australia, *National Tourism Retail Forum Discussion Paper*, May 2005

These are big figures and compel an examination of the desirability of further relaxing shopping hours to cater for tourists. At the same time it is important to guard against deregulation by accident.

History shows us that this can happen very easily and is difficult for government to control. Readers will recall that the Central Business District of Adelaide was designated a tourism precinct and weekend shopping regulation there was relaxed.

Subsequently, Glenelg was also designated a tourist precinct, placing irresistible pressure on government for further general deregulation. As it transpired, Sunday trading has proved to be a success, but it should be clearly understood that a repeat of that process would probably result in total deregulation, which I consider not to be in the communities' best interests. For that reason I could not recommend the re-introduction of tourist precincts.

If there were to be some relaxation where should it be? The answer must be that this should only occur in genuine tourist areas that need it. Whether they like it or not, suburban shopping centres are not tourist areas. Of course they will be very upset if another area receives a perceived benefit that they miss out on. No one likes to see the opposition get a free kick!

I also cannot understand why Glenelg was designated a tourist precinct for the purpose of shopping hours. Glenelg is certainly a great tourist attraction, but it did not need to be designated. It had almost no non-exempt shops and it still doesn't and nor do any of the other popular mainstreet shopping strips. Such non-exempt shops as exist in those areas are not tourist magnets.

If any area is to be afforded some relaxation in shopping hours for the purpose of tourism, then it should be the Adelaide Central Business District.

All of the tourism related submissions, which I received, emphasised the importance of being open to allow tourist shopping in the CBD, at least at times of major events.

The Adelaide Convention and Tourism Authority advised me that delegates at Adelaide conferences enjoy shopping and are disappointed when shops are closed. On average interstate delegates spend \$1471.00 and international delegates spend \$3861.00 when attending a conference in Adelaide.

Of course tourists don't come to Adelaide and stock up on homeware items, or groceries or any other items commonly available in their home states, or countries, rather they want to buy things which are unique, portable and which may have some value as a memento of their stay in Adelaide. Generally speaking, such items are sold in smaller, specialist exempt shops, but some of the larger; more up-market retailers also carry such items.

The Adelaide City Council seeks an exclusive right for city shops to open for normal trading hours on the following public holidays:-

- New Year's Day
- Australia Day
- Adelaide Cup Day
- The Day after Good Friday
- Easter Monday
- Queens Birthday
- Labour Day
- Proclamation Day.

The Council makes a strong case for this in its submission and I reproduce some of it here:-

*“...from a tourist point of view the City must be an open and lively shop front to the State that showcases and provides access to all the attractions of the State. The City can no longer afford to remain closed on public holidays or for extended periods depending on those days where those holidays fall.*

*More importantly, tourists and consumers should not have to put up with a City that is closed, particularly during periods where they have the time to shop at their leisure.*

*The City has a rich culture, which is demonstrated in its galleries, theatres and many festivals – including the Adelaide Festival of Arts and Fringe Festival. In the first quarter of this year, the City hosted visitors attracted to the Jacobs Creek Tour Down Under, Schutzenfest, Australia Day, Carnevale, Circus Oz, The Adelaide Festival, Fringe Festival and Buskers Festival and WOMADelaide and the Clipsal 500.*

*World-class convention facilities are just minutes away from accommodation, attractions, recreating and sporting facilities and the hills, beaches and airport, are just a short drive from the city’s business district. The City is home to the state’s seven most visited attractions – Rundle Mall, the Adelaide Central Market, State Library of South Australia, Adelaide Botanic Gardens, South Australian Museum, Art Gallery of South Australia and the Adelaide Zoo. The majority of these are owned/operated by either the State Government or by the Adelaide City Council. They are key assets that must be given every opportunity to perform at optimum levels.*

*The City is the major destination for tourists during the peak holiday season and during “long weekends” which requires the area to be active, vital and offer a level of shopping and visitor amenity. The City is the tourism gateway to the wider metropolitan area and the State during this busy holiday season. It is the central destination and accommodation base for approximately 70% of all tourists to South Australia. Furthermore, 86% of all international tourists visit the City.*

*Given the central role the City plays for tourists and visitors alike, it is critical to ensure it is open for business and offers the maximum level of services and accessibility possible”.*

I must say that I also found the Lord Mayor’s personal presentation on the topic quite compelling.

I have struggled with this issue. The Council’s proposal would undoubtedly provide greater amenity for tourists and may help the tourism industry. It would certainly assist some of the City’s traders, but would almost certainly harm others, including those small exempt stores, which have specialised in catering for tourists. The proposal would constitute an erosion of public holidays, but then again, it is a fairly limited one. I think that most Adelaide people would like to see their inner city prosper and be regarded as a vibrant place for tourists to visit and would probably favour the Council’s suggestion.

My problem with the submission is that I think it would be impossible to hold the line. There is an inherent inequity in giving the Central Business District this advantage and the resulting pressure to allow the suburban shopping malls and centres to also open would be so great and continuous that any government would find it difficult ultimately to avoid extending public holiday trading across the board. That would effectively be the end of regulation and perhaps the beginning of the end for meaningful public holidays. As I have continually said, public holidays are days of social significance. They are not simply days off and have nothing to do with shopping. If they become so, why wouldn't we simply get rid of them?

There is a compromise, which I would support.

The Minister already has power under the Act to exempt a shopping area to some extent, for a limited period. This power has not been widely exercised except at Christmas time. It may be appropriate for the Minister to grant the CBD some relaxation in shopping hours when major events attract large numbers of visitors to the city.

## **6.10 Employment**

The Australian Retailers Association, which has more than 12,000 members across Australia, advised me in its submission that the retail industry is the nation's largest single employer.

I have no reason to doubt this and I entirely accept that the retail industry is an important employer. I have already said that there is no evidence that further extended trading would benefit the State's economy, however the question remains as to whether it would lead to an increase in employment.

The simple answer is that it must. If shops are open for longer then, either current employees will work longer hours, or extra employees must be taken on to cover the extra time.

Coles Myer, in its helpful submission, advised me that it employs over 11,000 employees in all the various arms of its business in South Australia. The 2003 introduction of Sunday trading in the suburbs has increased its staff levels by 945 workers; some 9%.

In Tasmania where trading hours relaxation was greater its increase in staffing was 18.4%.

While permitting trading for more hours on Sundays and some public holidays would obviously not produce such a marked effect as the general introduction of Sunday trading, it must be assumed that, across the board, deregulation would produce an increase in job numbers and hours worked.

As new jobs created would be largely taken by young workers at the lower end of the salary scale that can also be seen to be a good thing. As always in this debate there is however, a reverse side of the coin.

These new workers, being young, are vulnerable and ill equipped to resist demands that they work unreasonable hours for poor pay and conditions. Most retailers are good and fair employers but, inevitably, not all are so. The Commonwealth Government's changes to industrial relation law may exacerbate these problems.

Another problem with moving trading to traditional leisure times is that full time adult week-day jobs are lost as they are taken up by holiday casuals.

It was submitted to me that people do not have to work on Sundays and public holidays if they do not want to.

For some employees that is true, however for many the option not to work is illusory. In any area where experience and product knowledge are important it is almost impossible to replace them with inexperienced casuals. They can be placed in a very difficult position if they do not want to undertake work in family holiday time.

It was also put to me that, as casual employees are not well paid, they are always “desperate” to get more hours and hence it is always easy to get people to work at holiday time. I think that is attacking the problem the wrong way. It is no answer to the problems of lowly paid workers to simply say that deregulation will give them the opportunity to work longer for poor pay.

I have not spent long on this issue. It is very much a “two-edged sword”.

The South Australian Centre for Economic Studies did not see any evidence of extended hours significantly increasing employment, however I consider that it is likely that there would be a modest increase in overall employment, although some full time adult jobs may be lost and replaced by holiday casuals.

## **6.11 Unjust Anomalies**

### **6.11.1 Boundary Anomalies**

The establishment of a geographic shopping district always has the potential to create difficulties at its boundaries. As I have already mentioned, this occurred in 1970 when Elizabeth was not included in the then metropolitan shopping district. Shops in Elizabeth were not subject to regulation and stayed open late on Friday nights. The government of the day solved this issue, which had become the subject of heated debate, by legislating to bring Elizabeth into the metropolitan shopping area.

A similar situation has now arisen. Mount Barker used to be a quiet country town, well out of Adelaide. On the old roads the journey from the city to Mount Barker took some time. The town had a hotel and some small shops. Times have changed. Metropolitan housing development has extended east, past Mount Barker and the freeway has made the trip to Mount Barker quicker than a trip to Elizabeth. The town has, for all intents and purposes become part of suburban Adelaide. It has a large and busy shopping precinct and yet remains a country town for the purposes of the Act and the shops are not subject to regulation. Not surprisingly this upsets retailers in the neighbouring council districts of Stirling and East Torrens which are part of the metropolitan shopping district and hence subject to regulation.

In my opinion there are three (3) available options in respect of this anomaly. They are:

- (i) Leave things as they are and accept that geographical shopping districts must necessarily create some problems at the boundary
- (ii) Abolish shopping hours regulation altogether

- (iii) Maintain the concept of regulation of metropolitan shopping hours and extend the metropolitan shopping districts to include Mount Barker.

While implementation of the last option might be politically difficult it is clearly the fairest and most logical solution, if regulation is to be maintained. We need to accept the fact that the metropolitan area is continually growing and from time to time adjust the boundaries of the metropolitan shopping district to accommodate this fact.

### **6.11.2 Anomalies under the “80% rule”**

As previously mentioned, subsection 5(e) of Section 13 of the Act grants extended shopping hours to shops that sell: -

- Hardware
- Furniture
- Floor coverings
- Motor vehicle parts and accessories.

However subsection 5(f) provides: -

- 5(f) Subsection (5e) only applies to a shop if, during the immediately preceding period of seven consecutive trading days of the shop-
- (a) the aggregate price of all goods sold at the shop that fall within any one or more of the classes of goods referred to in paragraphs (a), (b), (c) and (d) of that subsection is 80 per cent or more of the aggregate price of all goods sold at the shop during that period; and
  - (b) the aggregate price of all hardware and building materials of a kind prescribed by regulation for the purposes of this paragraph sold at the shop during that period does not exceed the percentage (prescribed by regulation) of the aggregate price of all hardware and building materials sold at the shop during that period.

In effect, provided 80% of the shop's sales are of the prescribed class, eg furniture, hardware etc, and then the shop may also sell other things.

One only has to go to one of these shops to see that they take utmost advantage of this rule. I would not go so far as to say that some are in breach of the 80% rule but it is, of course, difficult to police and checks are not often made.

The evolution of subsection 5(e) was gradual. Shops selling hardware and car parts were the first to be included. The reason for their relative exemption is obvious. It was essentially about doing it yourself. People wanted to be able to perform home maintenance and fix their cars on Sundays and public holidays and this relaxation of the Act was not unreasonable. With respect, however, I think that the inclusion of shops selling furniture and floor coverings was a mistake. These shops had continually sought exemptions for public holiday trading and these applications had a history of being granted. The exemptions were sought upon the basis that shopping for furniture and floor coverings was a “family decision” and that public holidays provided a rare opportunity for a family to go and choose their new lounge suite or carpet. I think this argument is completely specious.

Why is choosing a lounge suite different from choosing a refrigerator, or a television? In any event the introduction of Sunday trading gave plenty of opportunity for family shopping.

The inclusion of furniture and floor-covering outlets in sub-section 5(e) has caused real problems, which are going to be difficult to solve. I have the permission of the company in question to offer this particular example. Designer Direct is a highly successful homegrown Adelaide company that specialises in selling manchester. The company's success has meant that its store has grown to a size too large to qualify for exemption and Designer Direct is caught fairly and squarely by the Act. The shop must stay closed on public holidays while furniture shops sell manchester to compliment the furniture they sell. Provided they sell 80% furniture it is quite lawful for them to sell manchester on public holidays, while Designer Direct, which is in direct competition, must remain closed.

The operators of Designer Direct feel strongly that the situation is unfair and I find myself forced to agree. The trouble is that it is not easy to find a solution.

It would be easy simply to add manchester to the categories in sub-section 5(e), but that simply shifts the boundary of inequity somewhere else. Why wouldn't electrical goods also be included and so on and so forth, until regulation is effectively eroded?

Furniture and floor-coverings could be removed from sub-section 5(e), but it can be equally unfair to take away a right which has been given and these shops may well have budgeted and invested upon the basis of the trading hours permitted by the sub-section. Complex and technical issues of compensation might arise.

It was suggested to me that a new category of "home-wares" might be added to sub-section 5(e). I gave this suggestion considerable thought, but in the end came to the conclusion that the category is simply too wide and big. General emporiums could probably adjust their stock ratios to bring themselves with the 80% rule.

A provision like sub-section 5(f) is necessary to ensure that only genuine 5(e) category shops can open. If the provision were not there then there would be nothing to prevent the large stores from simply opening, for example, their furniture departments.

The only remedy that I can think of which might work is that specialty shops, which sell only one product category, like manchester, be included in sub-section 5(e). The vast majority of such shops would be exempt anyway, but there is at least one large national chain that sells only electrical goods which would become eligible to trade and I received a strong submission from a long established Adelaide family run electrical store which caused me to doubt that it would be able to survive in the fact of unbridled competition from the big national chains.

Unfortunately there would not appear to be an easy solution to this issue.

## **6.12 Miscellaneous**

### **6.12.1 Licensing shops**

One person made a submission that there are too many shops in Adelaide and that the endless proliferation of new shops should be curbed. He suggested a regime of licensing

of shops allowing them to trade for a restricted number of hours. The hours would be tradeable and a new shop could not be opened until it had purchased sufficient trading hours.

Although ingenious and carefully thought through, I consider the proposal too restrictive upon trade.

### **6.12.2 Late Night Trading in Country Areas**

A submission was made that Thursday night shopping in country areas covered by the Act should be changed to Friday night so that children are not tired at school on Friday.

The proposal seems sensible, but advice would have to be sought from regional Councils before such a change could occur. The Adelaide City Council was the only Council, which made a submission to the review.

## **6.13 Proposed Legislative Changes**

Officers from SafeWork SA charged with the administration of the Act (the views expressed were not necessarily the formal policies of the agency) made the following proposals for practical changes to the Act: -

- When explaining the regulatory regime for shop trading hours to the public or retailers it would be useful if the Act had clear objectives.
- *Section 4(1)* “exempt shop” (a)(ii) delete the word and at the end of that sub-section. It causes confusion and appears to be a drafting error when last amended.
- *Section 4(1)(i)* – delete this sub-section in relation to motor spirit or lubricants. See later explanation for Section 16 and 17.
- *Section 4(2)* and *Section 13(5f)* – consideration be given to deleting the reference to during the immediate preceding period of seven consecutive trading days, and replacing it with “during the immediate preceding period of seven days”. This will bring the wording in line with the offence Section 14 (11)(a) and remove any doubt for those shops that do not trade 7 days a week or on consecutive or regular days. Special provisions will also need to be made for shops that have not traded in the 7-day period prior to the date in question.
- *Section 5(4)* and *5(5)* – sets the period for exemptions so that they cannot operate for more than 14 days. In practise, the exemptions that have been granted since this amended section was enacted in 2003 for regions outside of the metropolitan area, have mainly related to additional trading in the lead up to Christmas and during the busy summer school holiday period. Many of these exemptions go beyond 14 days and require the issuing of multiple exemption certificates. To minimise the administrative workload of processing multiple exemptions and to reduce the confusion for the applicants who are issued with part-exemptions, it is suggested that this 14-day period be extended (say 30 days or one calendar month).



- *Section 5(8)* – As exemptions need to be specifically approved by the Minister or his nominated delegate (Executive Director, SafeWork SA) and the requirements to be satisfied by the applicant are more onerous than the previous legislation, the processing of applications for exemption can be time consuming. From an administrative point of view it would be useful to have a statutory deadline for receiving applications. It is suggested that Section 5(8) contain a provision that the Minister has a specific discretion not to consider an application for exemption unless it is received at least 4 weeks before the date of the claimed exemption.
- *Section 11* – It is proposed that the Governor be empowered to issue a Proclamation to allow a Proclaimed Shopping District (PSD) to vary the hours prescribed by Section 13 with limitations. Currently a Council can apply to have the PSD abolished altogether or to vary the area of the PSD. Many of the regions that enquire about trading hours in reality are seeking the middle ground and only want certain additional trading hours and not total deregulation. This suggestion could assist in these areas and require the same process by the relevant Council (Section 12) to alter the trading hours as it would for the abolition of the PSD. To avoid confusion a PSD should be limited to the hours prescribed for the Greater Adelaide Shopping District.
- *Section 13* – Consideration could be given to simplifying this section by amalgamating 13(1) and 13(2) into the hours for the Greater Adelaide Shopping District and removing the transitional provisions for Sunday trading in the suburbs. Similarly Section 13(5a) and 13(5b) could also be combined.
- *Section 13(5e)* – these 4 classes of shops are internally known as partially exempt shops, as they are required to comply with the normal trading hours for non-exempt stores during the week, but can trade additional hours on Sundays and on most public holidays. There appears to be an anomaly in the wording of the provisions between 13(5e) and 13(5f)(a). 13(5f)(a) also appear to be inconsistent with the exemption criteria of Section 4. 13(5f)(a) allows the 80% of sales to be a combination of the 4 classes, 13(5e) and the general exemptions (Section 4) confine the 80% sales rule to one class of goods only.

This also has the affect that Section 13(5f)(b) seems to be meaningless. It is recommended to reduce confusion 13(5f)(b) could simply state that the list of products considered to be “Hardware and Building Materials” is set out in the regulations. (See later comment on regulations.)

- *Section 13(5e)* – Anzac Day trading. This sub-section allows partially exempt stores to open from 9.00am until 5.00pm on public holidays, excluding Christmas Day and Good Friday. Other non-exempt stores cannot open on public holidays. In recent years at the request of the RSL the Minister has used Section 5A to require partially exempt stores to remain closed on Anzac Day until 12noon. If it is likely that the Government will continue to issue these closure notices in future years, it is suggested that Section 13(5e) be amended to reflect this position and that in addition to not trading on Christmas Day and Good Friday, partially exempt shops can open from 12 noon until 5.00 pm only on Anzac Day. This will provide certainty for the retail industry and not require the issuing of a closure notice on a recurring basis.

- *Section 13(7)* – Christmas trading arrangements. The majority of exemptions sought each year occur around Christmas. The exemptions sought by PSD do not require any change and are processed on their merits under Section 5. Since the 2003 amendments and the advent of Sunday trading in the suburbs the overall number of exemptions sought has reduced. However, with the new requirements for applicants under Section 5(8) the exemption process is burdensome and time consuming for both the retailers and the Government. As the Minister in the last couple of years has approved exemptions within the Greater Adelaide Shopping District on the days prior to Christmas and for the post-Christmas sales, it would seem to be beneficial for these regularly granted exemptions to be legislated. This will avoid the need for applicants to apply for exemptions and the need for assessing and processing of exemptions by SafeWork SA.

There would still need to be protections to prevent retailers being coerced to trade and for employees to be given the option of working the additional hours. In line with recent exemptions, on the basis that such exemptions are likely to continue to be granted, Section 13(7) could also allow non-exempt shops in the Greater Adelaide Shopping District to trade a maximum of 3 hours extra on the 3 trading days immediately prior to Christmas Day and 3 trading days immediately after Christmas. The closing time on Christmas Eve would need to be excluded from these provisions.

- *Section 13* – Sunday trading commencement time. Many callers making enquiries about shop trading regulations comment about the discriminatory rules for non-exempt stores which allows the 4 nominated classes of shops under section 13(5e) to trade longer hours on Sundays and on most public holidays. It has also been expressed by callers to SafeWork SA that the different opening times on Sunday are confusing to the consumer and especially for visitors from outside South Australia. Leaving aside the question of trading on public holidays, to remove some of the concerns about different opening times on Sunday in the metropolitan area it is suggested that a standard opening time be set for non-exempt and partially exempt shops on Sundays (either 11am or 9am).
- *Section 13A* – This section provides protections so that retailers and employees cannot be forced to trade or work on Sundays. It would seem sensible for the section to have some sort of penalty attached to it for non-compliance. This could especially be important for employees with the advent of the Federal Work Choices legislation.
- *Section 16* – Prescribed goods. This section could be considered for repeal, as it no longer seems to serve any specific purpose. Motor vehicles and boats have other special provision in the Act [4(1)(h) and 13(5a) and (5b)]. Motor spirits and lubricants are currently adequately covered in Sections 4 and 17, but see following comments for proposals on these goods.
- *Section 17* – Motor Spirits and Lubricants. SafeWork SA currently issues free licences to service stations to trade unrestricted hours with very little vetting of applications. These licences are renewed every 2 years as an administrative process. To avoid red tape for these retailers by having to apply and renew these easily obtained licences and SafeWork SA having to process these licences and renewals without cost, it is suggested that consideration be given to repealing Section 17. It is further proposed that retailers of motor sprits and lubricants be

include in Section 4(1) as a class of exempt shop, but retain the restrictions under Section 17(4a) in that exempt definition. These premises are also regulated by other legislation administered by SafeWork SA.

- Regulations - Clause 4,5 and Schedules – Hardware and building materials. Following on from earlier comments under Section 13(5e), it is suggested that Clause 4 simply refer to Schedule 1 (delete reference to Schedule 2) and that Clause 5 be repealed as Section 13(5f)(a) would have the percentage set at 80% already. Also the list of products in Schedule 1 and 2 should be combined and Schedule 2 repealed.

I have discussed these with the Principal Information Officer, SafeWork SA and agree with them all except for the proposed alteration to Section 13 regarding Sunday trading commencement time. I believe that Sunday opening hours should remain unchanged.

## 7. CONCLUSIONS AND RECOMMENDATIONS

The legislation under which this review was established requires the reviewer to be an “independent person”. While this expression primarily means a person not connected with the retail industry, I take the view that it must also mean that the reviewer must approach the task in an objective way. I have therefore taken into account all the oral and written submissions I have received and the evidence and opinions which they contained or which I otherwise obtained. The actual amount of objective evidence produced has not been enormous and where I have relied upon it I have either specifically referred to it or included it in the annexed appendices.

The large majority of the material I have received has been in the nature of opinions, or assertions and I have assessed this material as well as I have been able. In making my assessments I have taken into account the possibility of benefit and detriment to the retail industry and its various sectors, but that has not been my primary test.

In reaching my conclusions I have asked myself two questions: -

- (a) What outcome in relation to shopping hours would be best and fairest for the community as a whole?
- (b) What technical changes are necessary to make the Act work more satisfactorily?

Where I have reached conclusions I have done so upon the basis that I consider those conclusions more likely than not to be correct.

### 7.1 Conclusion

My conclusions are: -

1. There is no clear evidence of public demand for further extension of shopping hours.
2. There is no evidence that a further extension of shopping hours would benefit the State’s economy.
3. Further deregulation of shopping hours would increase the market share of the large retailers at the expense of the market share of the small retailers.
4. Further deregulation of shopping hours would further erode the leisure time and quality of life of operators of small retail businesses.
5. The current Act helps to provide some protection to small businesses and shopping strips. This is in the community’s interest.
6. Further extension of shopping hours would cause significant difficulties to the motor trade (including boats).
7. Public holiday trading would tend to erode the social significance of those holidays.

8. Sunday trading has been a success, but the public still regards Sunday as a special day. There are significant reasons to retain the 11.00am opening time. Closing times on Sunday evenings could be extended.
9. Tourism and the Central Business District (CBD) would gain benefit if CBD shops were open on public holidays and the social cost would not be great, however such a relaxation for the CBD alone may prove to be the trigger for total deregulation.
10. Further deregulation of shopping hours would lead to a modest increase in employment.
11. The current Act creates inequities at the border of the Greater Metropolitan Shopping District and Mount Barker. The Act also creates inequities under the 80% rule (Sections 13(5e) and 13(5f)).
12. The current regime to enforce the Act is adequate.

## **7.2 Recommendations**

I make the following recommendations: -

1. I consider that the current Act strikes a satisfactory balance between the competing interests of the various sectors of the retail industry and the larger interests of the community and I therefore recommend that the current shopping hours be retained, with the possibility of consideration being given to a later Sunday closing time.
2. While general public holiday trading is not desirable, the Minister should from time to time consider exempting the Central Business District from the operation of the Act in special circumstances, such as when major events are occurring in Adelaide where there are a large number of interstate or overseas visitors. Such exemptions should not involve the “iconic public holidays” identified in 6.7 of this report.
3. Consideration should be given to including the Mount Barker district in the Greater Metropolitan Shopping District.
4. Consideration should be given to solving the problem of the inequities created by Sections 13(5e) and 13(5f). I have not been able to come up with an answer, but others may well be able to do so.
5. Those technical amendments to the Act put forward by officers from SafeWork SA which I have endorsed, should be made (see pages 47 to 50).

.....  
**Alan Moss, Reviewer**  
**February, 2007**

## APPENDIX A

	<b>Organisation Name and/or Person's Name</b>	<b>No of Pages</b>
1	Balaklava Foodland	1
2	Bart van der Wel	2
3	Foodland Supermarkets	3
4	Ardrossan Foodland/Coastline Clothing/Mensland	1
5	Family First Party SA	2
6	Colonial First Property Management	2
7	Jetty Road Mainstreet Board – Glenelg	1
8	Westfield Shopping Centres (SA)	1
9	South Australian Police –Prosecution Services Branch	2
10	Bernard Finnigan MLC	8
11	Shopping Centre Council of Australia	31
12	City of Onkaparinga	1
13	Australian Retailers Association	5
14	Foodland – Millicent	1
15	Centro Properties Group	1
16	Coles Myer Ltd	12
17	Bunnings Group Ltd	4
18	SA Tourism Commission	3
19	Adelaide City Council	3
20	Harris Scarfe Australia Pty Ltd	2
21	Norwood Foodland	2
22	State Retailers Association of SA	183
23	Hope Valley Foodland	2
24	Property Council of Australia (SA Division)	1
25	Shop Distributive & Allied Employees Association	98
26	Keith Bowden Electrical Pty Ltd	71
27	Adelaide Convention & Tourism Authority	2
28	Stamford Grand Adelaide	1
29	Harbour Town (West Beach)	5
30	Shiels	1
31	Brighton Foodland	1
32	Romeo Retail Group	2
33	Ian L Thorpe	2
34	Designer Direct (SA) Pty Ltd	2
35	Business SA	11
36	Triathlon SA	1
37	B J Brand	2
38	Johannes Eijndhoven	1
39	Event Strategies	1
40	Independent Supermarkets Council of SA	2
41	Leonie Shaw	2
42	Bill Adams	1
43	RSL	4
44	David Jones	2
45	Chelsea Modra	1
46	Paul Morgan	1
47	Dr Bob Such MP	1
48	Independent Supermarket Council of SA	2
49	SafeWork SA	4
50	Theo Vlassis	1
51	Ryan Finnimore	1
52	Andrew Allen	1
53	John Sharp	1

### Sources

“Report of the Royal Commission into the law relating to Shop Trading Hours and Ancillary Matters 1977”.

“Report of the Committee of Inquiry into Shop Trading Hours – 1994”.

“Report of the Select Committee on the Shop Trading Hours (Miscellaneous) Amendment Bill, 2002”.

“Report of the Select Committee on Retail Trading Hours in South Australia, 2003”.

South Australian Government files

## APPENDIX C

### Current Proclaimed Shopping Districts

1	Binum
2	Blyth
3	Bute
4	Booleroo Centre
5	Caltowie
6	Cowell
7	Cleve
8	Georgetown
9	Lameroo
10	Lock
11	Melrose
12	Minlaton
13	Morgan
14	Orroroo
15	Pinnaroo
16	Pt Broughton
17	Streaky Bay
18	Tailem Bend
19	Willimington
20	Yorke Peninsula
21	Balaklava
22	Burra
23	Gladstone
24	Grace
25	Hansen
26	Kingscote
27	Laura
28	Mannum
29	Millicent
30	Mintaro
31	Mt Bryan
32	Peterborough
33	Pt Wakefield
34	Spalding
35	Upper Wakefield



## APPLICATIONS FOR SHOP TRADING HOUR EXEMPTIONS SINCE 1/1/04

APPLICANT	AREA	DATES	STATUS
Kingscote Retail Traders	Kingscote Shopping District	Sundays; 4, 11, 18 and 25 January 2004 (10am – 4pm)	Approved – Michele Patterson
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln Shopping District	Fridays; 2, 9, 16, 23 and 30 January 2004 Mondays; 5, 12 and 19 January 2004- Tuesdays; 6, 13, 20 and 27 January 2004 Wednesday s; 7, 14, 21 and 28 January 2004 (6pm – 7pm) Monday 26 January 2004 (11am – 5pm) Sundays; 4, 11, 18, 25 and 1 February 2004 (11am – 5pm)	Approved – Michele Patterson
David Jones Ltd (23/2/04)	David Jones – West Lakes	Sundays 9am – 3pm (AFL Matches at AAMI Stadium)	Not Approved – Minister requested additional information in support of application
Australian Retailers Association	Central Shopping District & Metropolitan Shopping District	Saturday 20 March 2004 (5pm – 9pm) Sunday 21 March (7am – 11pm & 5pm – 7pm) (Clipsal 500)	Not Approved - Minister
SDA	All Shopping Districts	Close shops at 6pm (not 9pm) for Easter – 8 April 2004	Not Approved – Minister
Millicent Business Community Association	Millicent Shopping District	Saturday 10 April 2004 (7am – 5pm) (Easter)	Approved – Michele Patterson
Balaklava Business and Traders Association	Balaklava Shopping District	Saturday 10 April 2004 (8.30am – 6pm) Monday 12 April 2004 (8.30am – 6pm) (Easter) (Easter)	Approved – Michele Patterson

## Exemptions 2004

APPLICANT	AREA	DATES	STATUS
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln Shopping District	Saturday 10 April 2004 (6am – 5pm) Sunday 11 April 2004 (11am – 5pm) (Easter)	Approved – Michele Patterson
Kingscote Retail Traders / KI Council	Kingscote Shopping District	Saturday 10 April 2004 (9am – 4pm) Monday 12 April 2004 (9am – 5.30pm) (Easter)	Approved – Michele Patterson
Minister for Industrial Relations	All Shopping Districts	Shops closed from 5am – noon on Sunday 25 April 2004 (Anzac Day)	Approved – Minister Gazetted 8/4/04
Port Lincoln Chamber of Commerce & Tourism	Port Lincoln Shopping District	Sunday 13 June 2004 (11am – 5pm) (Queen's Birthday Weekend)	Approved – Michele Patterson
Millicent Business Community Association	Millicent Shopping District	Sunday 19 September 2004 (10am – 4pm)	Approved – Michele Patterson
DMG World Media (Australia) Pty Ltd	Sunday Mail Home Show & Adelaide Flower & Garden Show	Saturday 23 October 2004 (5pm – 6pm) Sunday 24 October 2004 – (10am – 11am and 5pm – 6pm)	Approved – Ashleigh Moore
Millicent Business Community Association	Millicent Shopping District	Sundays; 28 November, 5, 12 & 19 December 2004 (8am – 5pm) Friday 24 December 2004 (6pm – 9pm) Tuesday 28 December 2004 (8am – 5pm)	Approved – Ashleigh Moore

## Exemptions 2004

APPLICANT	AREA	DATES	STATUS
Port Lincoln Chamber of Commerce & Tourism	Port Lincoln Shopping District	Sundays; 14, 21, 28 November and 5, 12, 19, 26 December 2004 (11am – 5pm) Mondays; 15, 12, 29 November and 6, 13, 20 December 2004 (6pm – 7pm) Tuesdays; 16, 23, 30 November and 7, 14, 21 December 2004 (6pm – 7pm) Wednesdays; 17, 24 November and 1, 8, 15, 22 December 2004 (6pm – 7pm) Fridays; 19, 26 November and 3, 10, 17, 24, 31 December 2004 (6pm – 7pm) Wednesday 22 December 2004 (6pm – 9pm)	Approved – Michele Patterson
Trims	Trims – City Store	Tuesday 28 December 2004 (10am – 5pm) (Closed Door Sale)	Approved – Michele Patterson
Cleve and Districts Future Directions Group	Cleve Shopping District	Friday 17 December 2004 (6pm – 9pm)	Approved – Michele Patterson
Kingscote Retail Traders / KI Council	Kingscote Shopping District	Sundays; 5, 12 and 19 December 2004 (10am- 4pm) Friday 24 December 2004 (6pm – 9pm) Monday 27 December 2004 (10am – 4pm) Tuesday 28 December 2004 (10am – 4pm)	Approved – Michele Patterson
Westfields	Marion Shopping Centre	Thursday 23 December 2004 (9pm – midnight)	Approved – Minister
Good Guys (Bruce Cutler)	Good Guys Store at Pooraka	Monday 27 December 2004 (9am – 5pm) Tuesday 28 December 2004 (9am – 5pm) (Amended to 9pm – midnight on Thursday 23 December and Wednesday 29 December 2004)	Approved – Michele Patterson

## Exemptions 2004

APPLICANT	AREA	DATES	STATUS
Minlaton and District Business Group	Minlaton Shopping District	Monday 27 December 2004 (8.30am – 5.30pm) Tuesday 28 December 2004 (8.30am – 5.30pm)	Approved – Michele Patterson
Harris Scarfe	1 City and 7 Metro stores	Wednesday 29 December 2004 (9pm – midnight)	Withdrawn- will trade as part of Rundle Mall Precinct and at Marion.
Lord Mayor	Rundle Mall Precinct	Thursday 23 December 2004 and Wednesday 29 December 2004 (9pm – midnight)	Approved - Minister
Balaklava Business & Traders Association	Balaklava Shopping District	Friday 24 December 2004 (6pm-9pm)	Approved – Michele Patterson
David Jones Ltd	West Lakes and City Stores	Thursday 23 December 2004 (9pm – midnight)	Withdrawn- will trade as part of Rundle Mall Precinct and at Marion
David Jones Ltd	West Lakes, City and Marion Stores	Wednesday 29 December 2004 (9pm – midnight)	Withdrawn – will trade as part of Rundle Mall Precinct
Rowe & Jarman Pty Ltd	Marion, Tea Tree Plus and City Stores	Tuesday 28 December 2004 (noon – 4pm) (Restricted access – public holiday)	Approved – Michele Patterson
Coles Supermarkets	Glenelg and Grote St Stores	Thursday 23 December and Wednesday 29 December 2004 (9pm – midnight)	Approved – Michele Patterson



## Exemptions 2005

APPLICANT	AREA	DATES	STATUS
DMG World Media (Aust) P/L	Royal Adelaide Showgrounds	Saturday 23 April 2005, Sunday 24 April and Monday 25 April 2005 – Adelaide Home Ideas and Lifestyle Expo.	Approved – Michele Patterson
Esprit Clothing	Esprit Harbourtown	Easter Monday trading – 28 March 2005	Not approved – Michele Patterson
Balaklava Business & Traders Association	Balaklava Shopping District	Saturday 26 March and Monday 28 March 2005 8.30am – 5pm. (Easter)	Approved – Michele Patterson
Port Lincoln Chamber of Commerce and Tourism	Pt Lincoln Shopping District	Wednesday, 23 March 2005 – 6pm – 9pm ( prior to Easter)	Approved – Michele Patterson
Millicent Business & Community Assoc	Millicent Shopping District	Saturday, 26 March 2005, 7am – 5pm (Easter Saturday)	Approved – Michele Patterson
RSL	All Districts in State	Monday, 25 April 2005 5am – noon (Anzac Day)	Approved Minister – Notice issued requiring S13(5e) shops to close until noon.
Kingscote Retail Traders	Kingscote Shopping District	Saturday, 26 March (9am- 4pm) and Monday 28 March 2005 (9am-5.30pm) - Easter	Approved – Michele Patterson
Designer Direct	Mile End shop	Exemption to trade most public holidays	Not approved - Minister
Adelaide Motors	West Tce dealership	Trade until 8pm on Wed 25/5/05 until Friday 27/5/05. (trading until 9pm already allowed on Thurs- Fridays)	Approved – Michele Patterson (Wed only)
Boating Industry Association	Adelaide Convention Centre	Trading from 5-9pm on Sat 23/7/05 and from 10am until 6pm on Sunday 24/7/05. Other hours on Thurs- at. (21/7-23/7/05 covered in Act.	Approved – Michele Patterson
Rowe and Jarman Sports Superstores	Marion, City, Tea Tree Plus and Colonnades	Trade from 12noon until 4pm on Monday 13/6/05. Privilege Customer only on public holiday	Approved - Michele Patterson
Westfields	Marion, TTP and West Lakes centres	Trading 9pm- midnight on Thursday 22 December 2005. (additional day Friday 23/12/05 also sought from 9pm - midnight)	Approved - Minister.

## Exemptions 2005

APPLICANT	AREA	DATES	STATUS
Westfields	All centres (3)	Trade on Tues. 27/12/05, Monday 13/3/06 and Monday 17/4/06 (Easter) – Public Holidays	Recommended for non approval
DMG World Media	Royal Adelaide Showgrounds	Trade until 6pm on Sat 22/10/05 and from 10am until 6pm on Sunday 23/10/05 for the Adelaide Home show 2005	Approved – Michele Patterson
Millicent Business Community Association	Millicent Shopping District	Trade from 9am- 5pm on Sundays, 27/11, 4/12, 11/12 and 18/12/05, until 9pm on Friday 23/12 and until 6pm on Saturday 24/12/05. (originally sought to open at 8am on Sundays)	Approved – Michele Patterson
Lord Mayor (Adelaide CC)	City of Adelaide	Trading sought from 9pm until midnight on Wed 21/12, Thursday 22/12, Friday 23/12 and Wed 28/12, Thurs 29/12 and Friday 30/12/05 (Effectively allowing 24 hour trading on those days)	Approved - Minister
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln Shopping District	All Sundays from 13/11/05 until 5/2/06 (11am – 5pm), -not Xmas day- also during this period weeknight trading until 7pm. Extra hours sought for Easter and June long weekends also – to be considered separately (withdrawn)	Approved – Michele Patterson, except for Sun 1/1/06
Balaklava Business & Traders Association	Balaklava SD	Trade until 9pm on Friday 23/12 /05 for Xmas pageant.	Approved – Michele Patterson
Cleve and Districts Future Directions Group	Cleve SD	Trade until 9pm on Friday 23 December 2005	Approved – Michele Patterson
Minlaton & District Business Group	Minlaton SD	Trade from 8.30am until 5.30pm on 3 public holidays – 26/12, 27/12 and 2/1/06	27/12/05 only approved – Michele Patterson
Kangaroo Island Council for Kingscote Retail traders	Kingscote SD	Trade from 10am until 4pm on Sundays; 4/12,11/12,18/12/05 and 8/1/06,15/1, 22/1, 29/1/06: on Tuesday 27/12/05 from 10am – 4pm and until 9pm on Friday 23/12/05.	Approved – Michel Patterson

## Exemptions 2005

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APPLICANT	AREA	DATES	STATUS
Coles Supermarkets	Glenelg supermarket	Trade from 9pm until midnight on (2)Wed –Friday 21/12 – 23/12 and 28/12 – 30/12/05	Approved - Minister
Coyote Retail P/L	Rowe and Jarman Sport Superstores at Marion, City and TT Plus	Closed door sale to Privileged Customer Club Members on Tuesday 27/12/05 – noon to 4pm	Approved - Michele Patterson
Elizabeth Shopping Centre	Elizabeth Shopping Centre	Trade from 9pm until midnight on Thursday 22/12 and Friday 23/12/05.	Recommended for approval by Minister



## Exemptions 2006

APPLICANT	AREA	DATES	STATUS
Westfields	All centres (3)	Trade on Monday 13/3/06 and Monday 17/4/06 (Easter) – Public Holidays	Recommended for non approval
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln Shopping District	All Sundays from 13/11/05 until 5/2/06 (11am – 5pm), -not Xmas day- also during this period weeknight trading until 7pm. Extra hours sought for Easter and June long weekends also – to be considered separately	Approved – Michele Patterson, except for Sun 1/1/06. 15/4 and 16/4 (Easter) approved – Michele Patterson (10/4/06). Sunday 11/6 (Queens Birthday) approved – Michele Patterson (24/5/06)
Minlaton & District Business Group	Minlaton SD	Trade from 8.30am until 5.30pm on public holiday –2/1/06	Not approved – Michele Patterson
Kangaroo Island Council for Kingscote Retail traders	Kingscote SD	Trade from 10am until 4pm on Sundays; 8/1/06,15/1, 22/1, 29/1/06	Approved – Michel Patterson
Kangaroo Island Council	Kingscote Foodland	Weeknight trading until 7.30pm, 10am-5pm on Sundays and trading on most public holidays	Returned for application in accord with Sect 5 Exemptions or sect 12 abolition of Shopping District.
2120 Enterprise	Premises in Metro area	Mid November sale from premises over 200sm? 80% classed as craft item (hand made glass products)	No exemption necessary – withdrawn (section 4(b)(111))
Millicent Business Community Association	Millicent SD	Trade from 7am until 5pm on Easter Saturday (15/4)	Approved – Michele Patterson
Minister	All Districts in State	Tuesday, 25 April 2006 9am – noon (Anzac Day)	Approved Minister – Notice issued requiring S13(5e) shops to close until noon.
Dianne Siebel (Vic)	Adelaide Showgrounds	Boxing Day – large clothing sale (over 200sm)	Not proceeded with. (requirements of sect 5(8))

## Exemptions 2006

APPLICANT	AREA	DATES	STATUS
Gouger Rugs	Adelaide Showgrounds	Seeking to trade until 10pm on weekends and Public holiday (12/6/06) from 10/6 – 25/6/06.	Withdrawn after requirements of sect 5(8) discussed.
Coyote Retail Pty Ltd	4 Rowe and Jarman Sports Stores (City, TT Plus, Marion, Munno Para)	Closed door sale to Priveleged Club Members from 12 noon until 4pm on public holiday – Monday 12 June 2006	Approved – Michele Patterson
Romeo's Retail Group	Glenelg South Foodland	Closed door sale by invitation only to local Glenelg residents on Sunday 18/6/06 from 5.30pm until 9pm.	Further information on number of invitees sought. Withdrawn.
Boating Industry Assoc.	Adelaide Convention Centre	5-9pm Saturday, 22/7/06 and 10am – 6pm Sunday 23/7/06 (Adelaide Boat Show)	Approved – Michele Patterson
Woolworths Supermarkets	40 Metro stores	5-9pm Saturday 23/12/06 and 6am-11am Sunday 24/12/06. Revised application submitted only seeking to trade from 7am until 11am on Sunday 24/12.	34 Exemptions Approved (6 in Shopping Centres also) - Minister
Woolworths Supermarkets	Millicent Store	7am- 9pm from 4/12/06 until 28/1/07 (7am – 7pm on public holidays on 26/12/06, 1/1/07 and 26/1/06)	Not recommended – did not satisfy Section 5(8) criteria
Westfield Shopping Centre Management Co (SA) Pty Ltd	Marion, West Lakes, TTP and TT Plus	ALL – 9pm to midnight on Thurs 21/12/06, Friday 22/12 and Sunday 24/12 from 7am until 11am. Marion only- Saturday 23/12/06 from 9pm until 7am Sunday 24/12.	Approved Minister – Marion not approved from 5pm (23/12) until 7am (24/12) – Westfield amended application after discussions with SDA.
Designer Direct (SA) Pty Ltd	Thebarton Showrooms	Trade from 10am to 5pm on Monday 2 October 2006 Labour Day Public Holiday	Not approved - Minister

## Exemptions 2006

APPLICANT	AREA	DATES	STATUS
Lord Mayor – Adelaide City Council	City of Adelaide	Trade on Labour Day 2/10/06 – normal trading hours? Also exemption to trade until Midnight from Thursday 21/12 until Saturday 23/12/06 and Sunday morning 24/12 from 7am until 11am. Trade until Midnight on Tuesday 26/12 – Proc. Day Public Holiday. Trade until midnight on Wednesday 27/12 and Thursday 28/12/06.	Labour Day – Not approved Minister.  Approved Minister - did not include trading after 5pm on Saturday 23/12 nor trading on Proc Day holiday 26/12/06
Adelaide Motors	West Terrace Showrooms	Special invite event on 12/10 (Thurs) and 13/10 (Friday) fro 6.30 pm until 9pm.	Open trading until 9pm permitted already – exemption not required
Harris Scarfe Australia Pty Ltd	Stores at City, Marion, Colonnades, Elizabeth and TTP	Closed door sale to VIP account customers from 5.15pm until 7.30pm on Sunday 24 September 2006	Approved –Michele Patterson
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln SD	Seeking to trade all Sundays from 5/11/06 until 4/2/07 from 11am until 5pm, in addition 6-9pm on Friday22/12 and Wednesday 27/12, and until 7pm on other weeknights during that period	Approved Michele Patterson (exemptions to be issued on a staged basis due to abolition request)
Millicent Business Community Association	Millicent SD	Seeking to trade from 8am- 5pm on Sundays 3,10 and 17 December 2006 and from 7am until 6pm on Sunday 24/12.	Approved - Michele Patterson (opening time for 1 <sup>st</sup> 3 Sundays –9am and closing on Xmas Eve 5pm.
Balaklava Business & Traders Association	Balaklava SD	To trade from 6pm until 9pm on Friday 22/12/06	Approved _ Michele Patterson

## Exemptions 2006

APPLICANT	AREA	DATES	STATUS
Harris Scarfe Australia Pty Ltd	Stores at City, Marion, Colonnades, Elizabeth, TT Plus and West Lakes	Closed door sale to account customers (Invite only) on Sunday 19 November 2006 between 5.15pm and 8.30pm.	Approved – Michele Patterson
Cleve & Districts Future Directions Group	Cleve SD	Trade from 6pm until 9pm on Friday 22 December 2006 for annual Xmas pageant	Approved – Michele Patterson
Centro Properties Group	Arndale, Colonnades and Hollywood Plaza Centres	Trade from 9pm until midnight on Thursday 21 December and from 9am until 11am on Sunday 24 December 2006	Approved - Minister
Coles Myer	Metro area – 56 Coles or BiLo supermarkets 23 Kmart, Target and Officeworks stores	55 Coles or Bilo supermarkets and 23 Kmart, Target or Officework stores seeking to trade from 7am until 11am on Sunday 24 December 2006. Glenelg Coles Supermarket seeking to trade from 9pm until midnight on Wed (20/12), Thurs (21/12) and Friday (22/12; from 5pm until midnight on Saturday (23/12); from 7am until 11am on Sunday (24/12) and from 9pm until midnight on Wednesday (27/12), Thursday (28/12) and Friday (29/12/06).	Approved – Minister  Approved – Minister (Glenelg) trading on Wed 20/12, sat 23/12 and Friday 29/12 declined.
Harbour Town Centre Management Pty Ltd	Harbour Town Centre – West Beach	To trade from 11am until 5pm on Boxing Day public holiday – Tuesday 26 December 2006	Not Approved - Minister
Elizabeth Shopping Centre	Elizabeth Shopping Centre	To trade until midnight on Thursday 21/12/06 and from 7am until 11am on Sunday 24/12/06.	Approved - Minister
Golden Grove Village Shopping Centre	Golden Grove Village	To trade from 7am until 11am on Sunday 24/12/06.	Approved - Minister
Danoz Directions Smithfield	Shop 87 – Munno Para Shopping Centre	Trade 7am – 11am on Sunday 24/12/06	Advised by phone that exemption was not necessary – shop only 89sm.
Designer Direct	Thebarton Showroom	Trade on Tuesday 26 December 2006-Proc Day Holiday	Not Approved - Minister

## Exemptions 2006

APPLICANT	AREA	DATES	STATUS
Chapley Retail Group	Foodland Supermarkets at Munno Para, Sefton Park, Frewville, Norwood, Pasadena	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister
Drake Foodmarkets	25 Metro Foodland Supermarkets	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister
Romeos Retail Group	7 Foodland IGA Supermarkets	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister
Croydon Foodland	Croydon Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Valley View Foodland	Valley View Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Brian Rugless P/L	Happy Valley	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Hove Foodland	Hove Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Hope Valley Foodland	Hope Valley Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Colin Rugless P/L	Brighton and Flagstaff Hill Foodlands	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
West Lakes Shore Foodland	West Lakes Shore Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Ingle Farm Shopping Centre	Ingle Farm Shopping Centre	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister

## Exemptions 2006

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APPLICANT	AREA	DATES	STATUS
Harris Scarfe Australia P/L	Stores at Parabanks, Colonnades, Elizabeth and Arndale	Trade from 9pm until midnight on Thursday 21/12/06 and Friday 22/12/06 and from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister
Prospect Plaza Foodland	Prospect Supermarket	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved – Michele Patterson
Castle Plaza Shopping Centre	Castle Plaza Shopping Centre	Trade from 7am on Christmas Eve, Sunday 24/12/06	Approved - Minister
Port Lincoln Chamber of Commerce and Tourism	Port Lincoln SD	Trade from 7am on Christmas Eve, Sunday 24/12/06 (already granted trading from 11am – 5pm that day)	Approved – Michele Patterson
Woolworths Limited	6 Big W stores	Trade from 8am-11am on Sunday 24/12/06	Approved – Michele Patterson

## Exemptions 2007

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APPLICANT	AREA	DATES	STATUS
Progressive stores Australia Pty Ltd	Fishing tackle shop at Salisbury	Seeking additional hours on Sundays and to trade on public holidays	Under consideration
Lord Mayor	City of Adelaide	Seeking to trade on Easter Sunday (8/4) and Easter Monday (9/4)- public holidays	Under consideration





## South Australian Public holidays 2005 - 2010

Holiday	2005	2006	2007
New Year's Day	Mon 3 Jan	Mon 2 Jan	Mon 1 Jan
Australia Day	Wed 26 Jan	Thu 26 Jan	Fri 26 Jan
Adelaide Cup	Mon 16 May	Mon 13 Mar	Mon 12 Mar
Good Friday	Fri 25 Mar	Fri 14 Apr	Fri 6 Apr
The day after Good Friday	Sat 26 Mar	Sat 15 Apr	Sat 7 Apr
Easter Monday	Mon 28 Mar	Mon 17 Apr	Mon 9 Apr
Anzac Day	Mon 25 Apr	Tue 25 Apr	Wed 25 Apr
** Queen's Birthday / Volunteer's Day	Mon 13 Jun	Mon 12 Jun	Mon 11 Jun
Labour Day	Mon 3 Oct	Mon 2 Oct	Mon 1 Oct
Christmas Day	Mon 26 Dec	Mon 25 Dec	Tue 25 Dec
Proclamation Day	Tue 27 Dec	Tue 26 Dec	Wed 26 Dec

\* Subject to formal proclamation (*Section 5, Holidays Act 1910*)

\*\* On 14 February 2006 the Minister for Volunteers announced that the day for the recognition and celebration of the achievements of South Australia's volunteers will be held on the second Monday of June coinciding with the Queen's Birthday celebrations.

Holiday	2008	2009	2010
New Year's Day	Tue 1 Jan	Thu 1 Jan	Fri 1 Jan
Australia Day	Mon 28 Jan	Mon 26 Jan	Tue 26 Jan
* Adelaide Cup	* Mon 10 Mar	* Mon 9 Mar	* Mon 8 Mar
Good Friday	Fri 21 Mar	Fri 10 Apr	Fri 2 Apr
The day after Good Friday	Sat 22 Mar	Sat 11 Apr	Sat 3 Apr
Easter Monday	Mon 24 Mar	Mon 13 Apr	Mon 5 Apr
Anzac Day	Fri 25 Apr	Sat 25 Apr	Mon 26 Apr
** Queen's Birthday / Volunteer's Day	Mon 9 Jun	Mon 8 Jun	Mon 14 Jun
Labour Day	Mon 6 Oct	Mon 5 Oct	Mon 4 Oct
Christmas Day	Thu 25 Dec	Fri 25 Dec	Mon 27 Dec
Proclamation Day	Fri 26 Dec	Mon 28 Dec	Tue 28 Dec

### Related Information

### Emails

### Holidays Act

### Ask the SafeWork SA Help Centre ...

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### Changes to Public Holidays

Days fixed as public holidays may change in the following circumstances.

- The Public Holidays Act may fix another day in lieu when a public holiday is due on the weekend
- The Governor may proclaim a day in substitute for another, or an additional day

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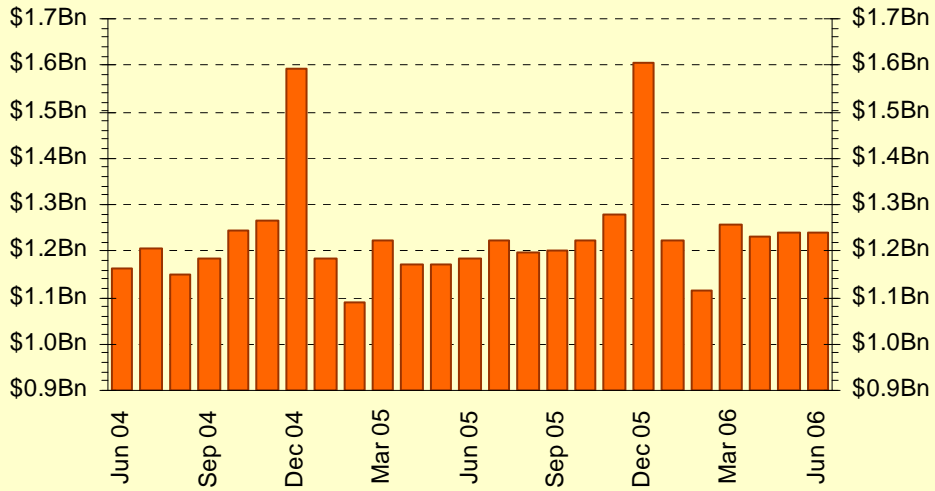
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**South Australia and Australia**

June 2004 to June 2006

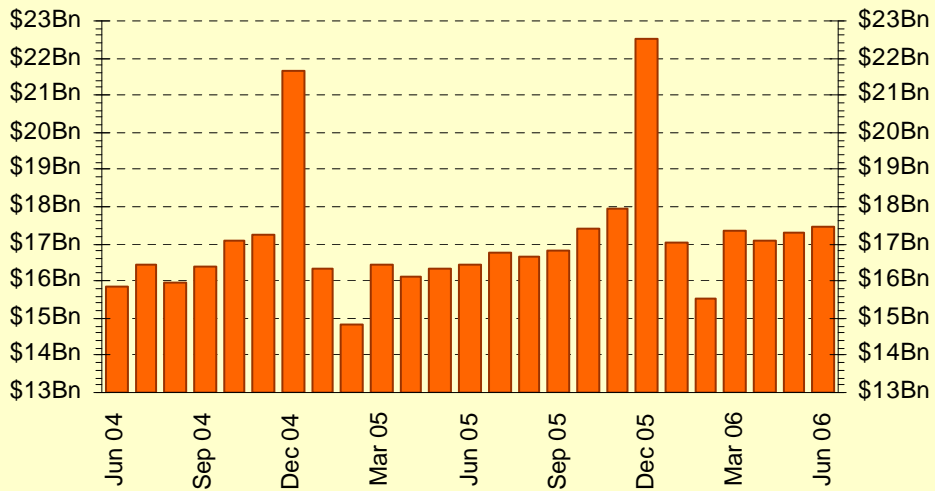
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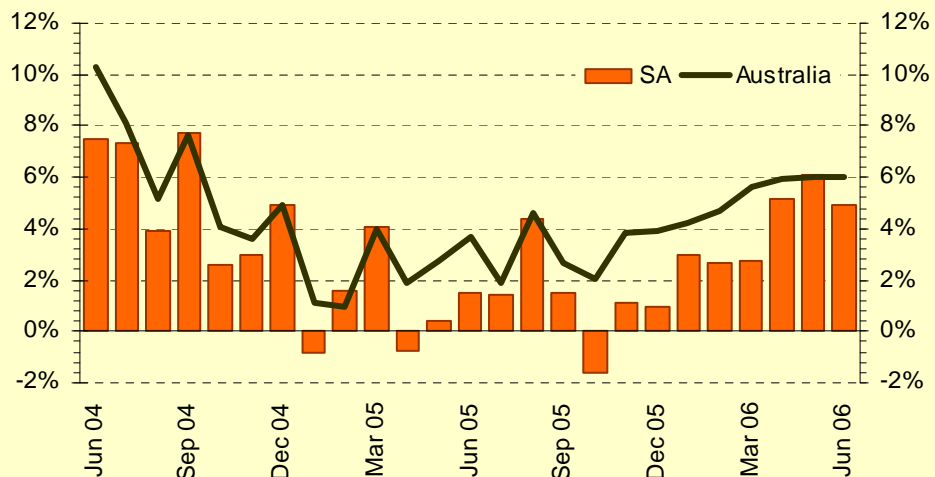
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Original, Monthly Level



**ALL SECTORS, AUSTRALIA**  
Original, Monthly Level

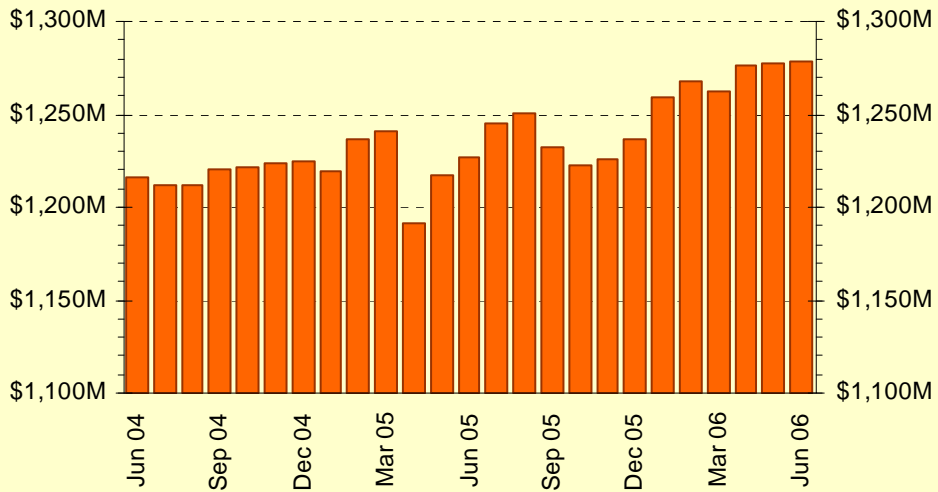


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Original, Annual % Change Compared

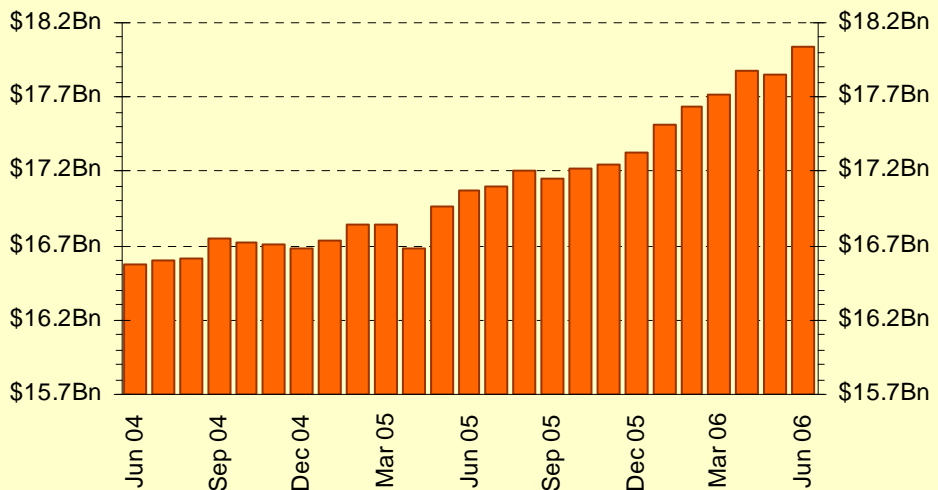


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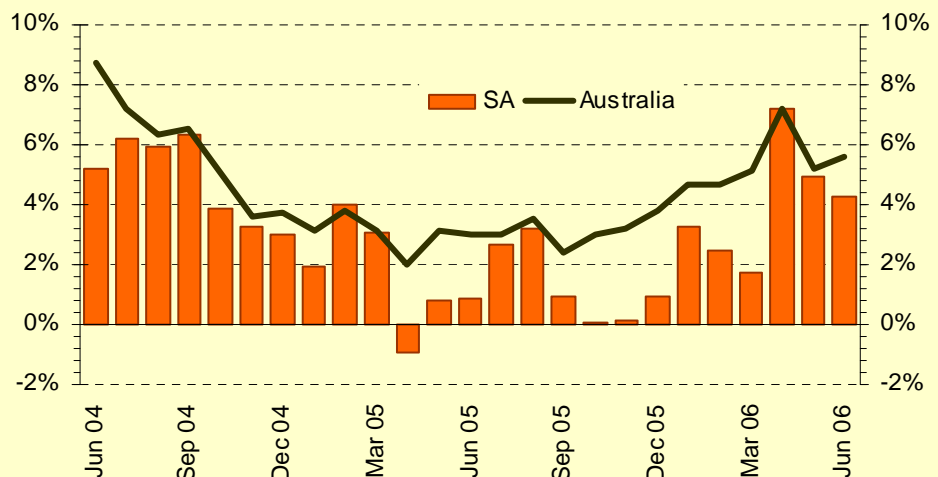
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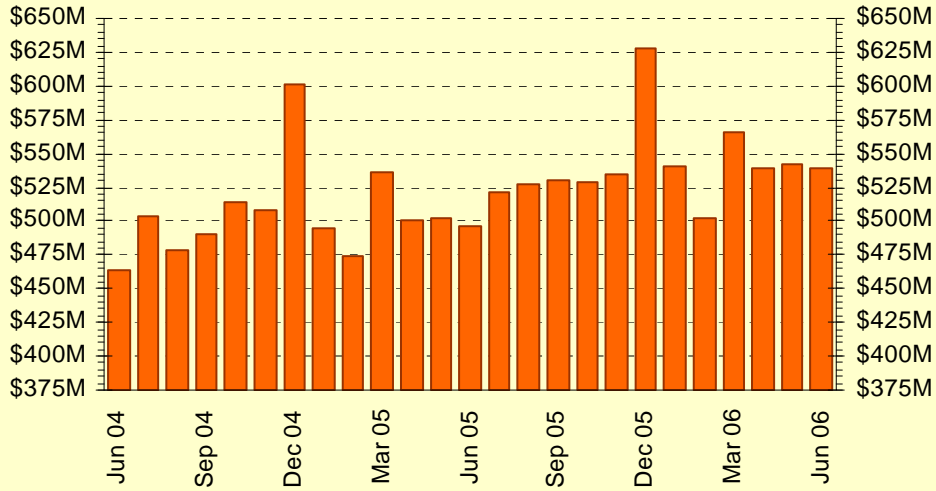
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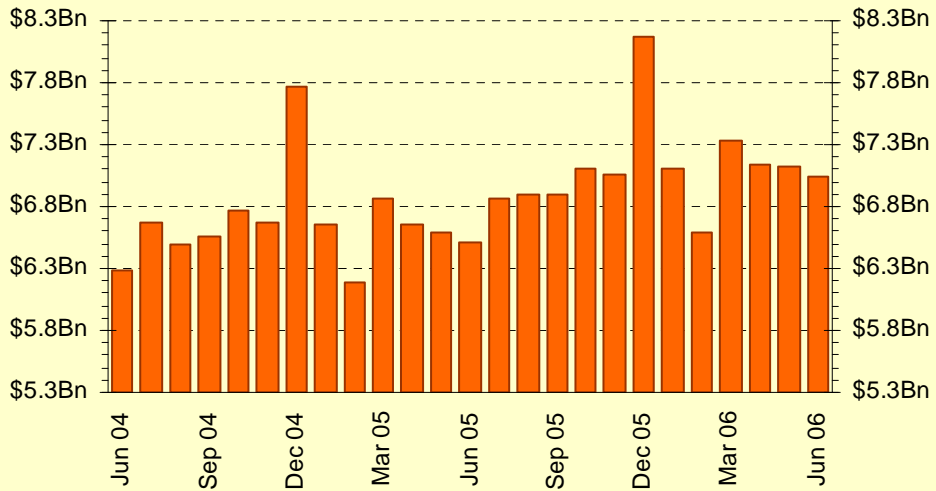
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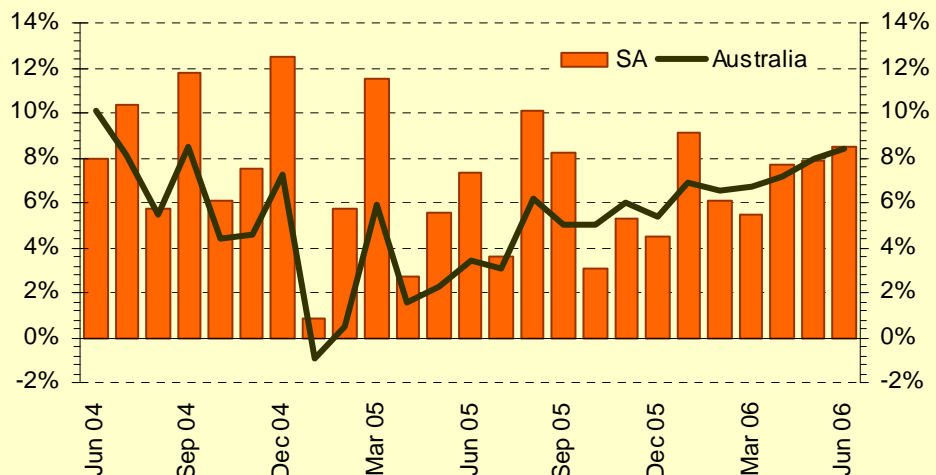
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Original, Monthly Level



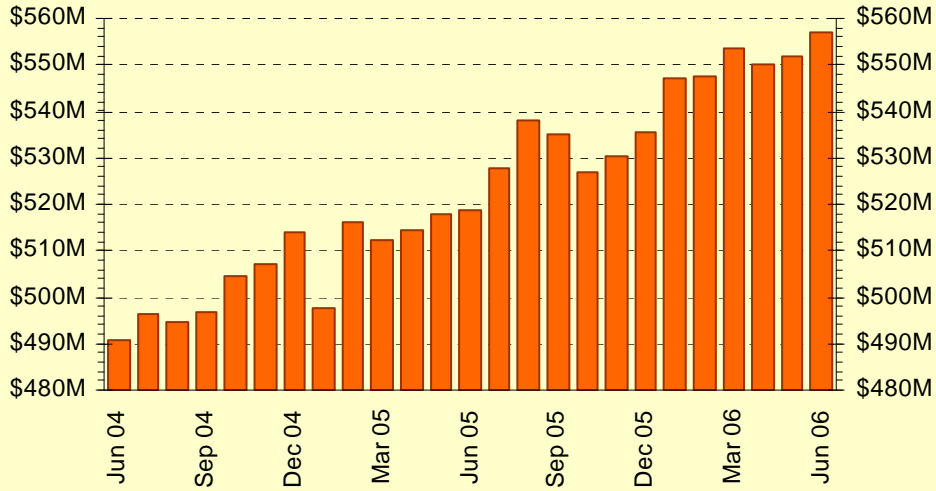
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Original, Monthly Level



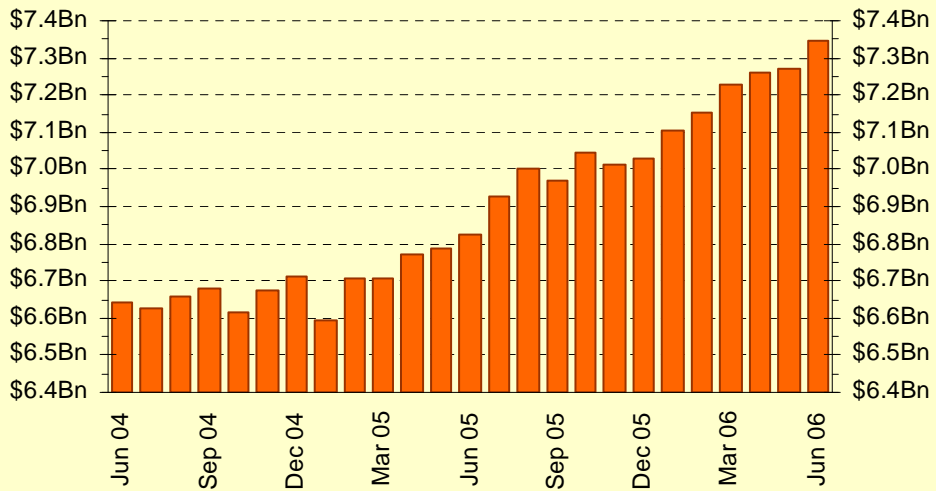
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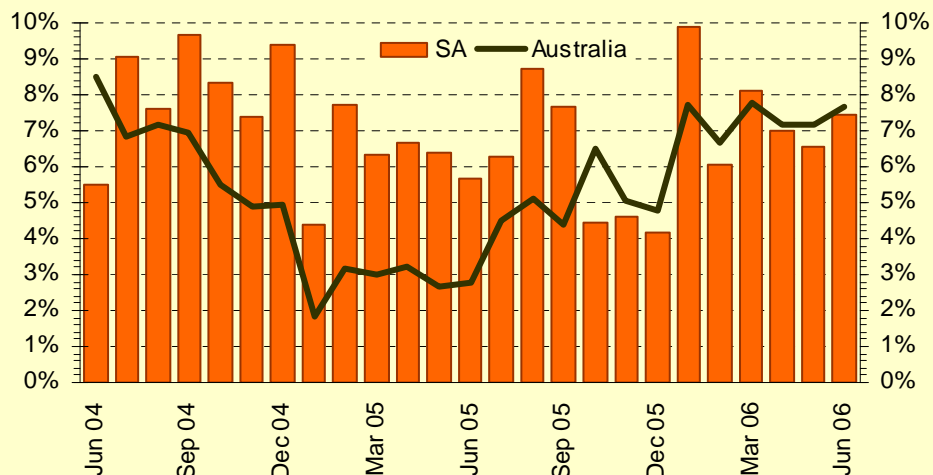
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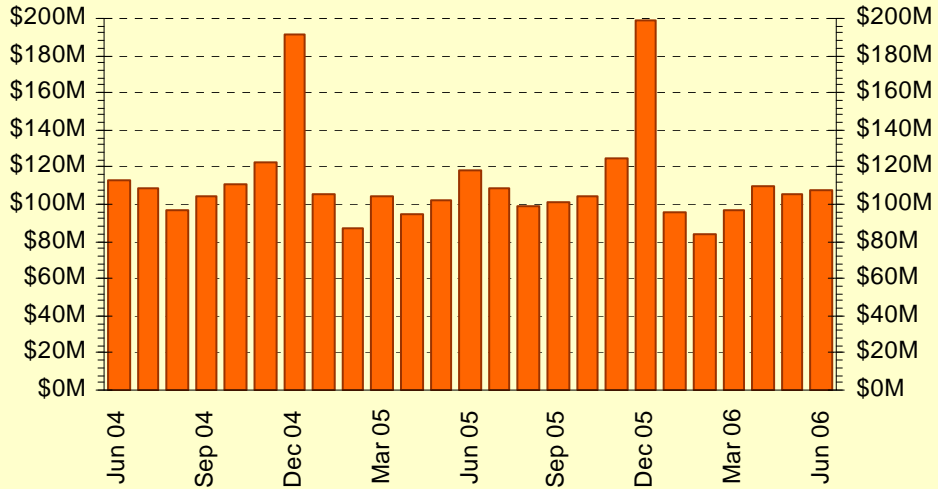
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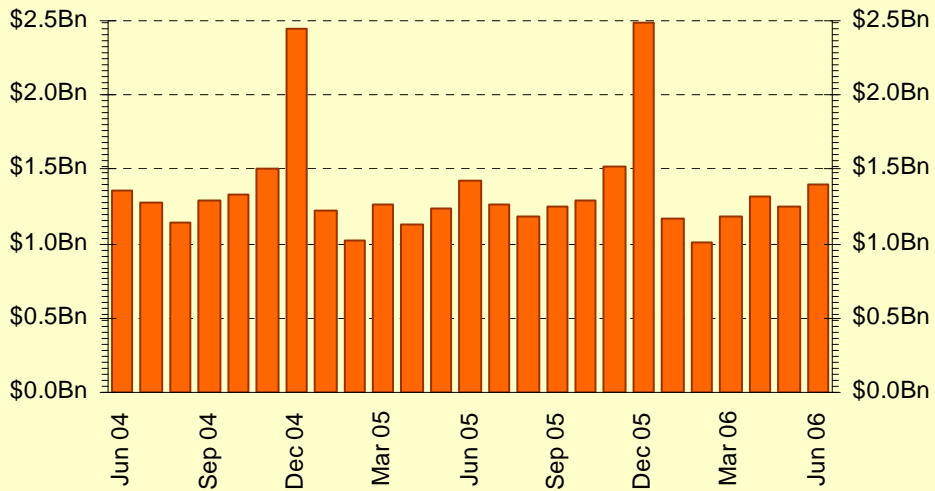
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Seasonally Adjusted, Annual % Change Compared



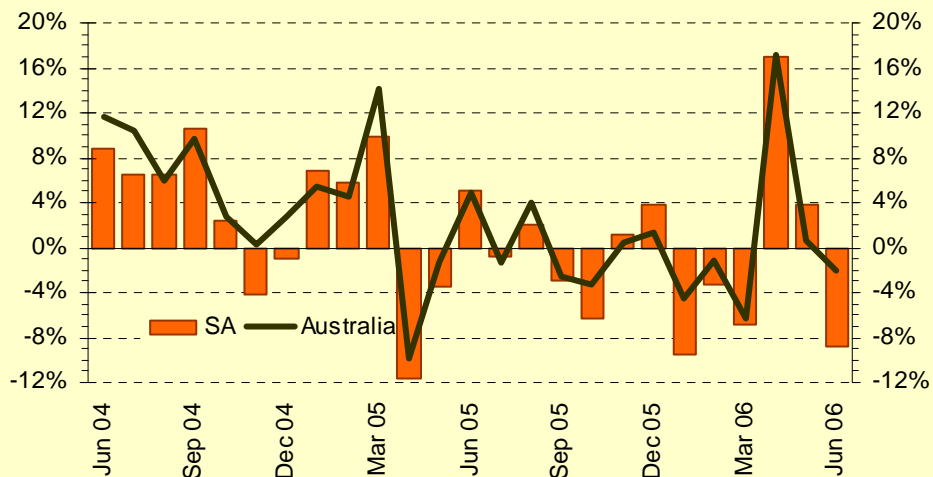
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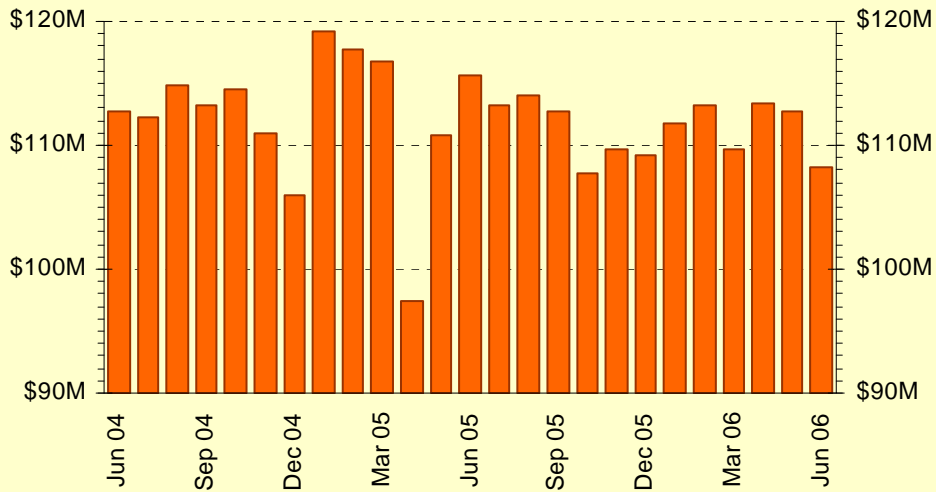
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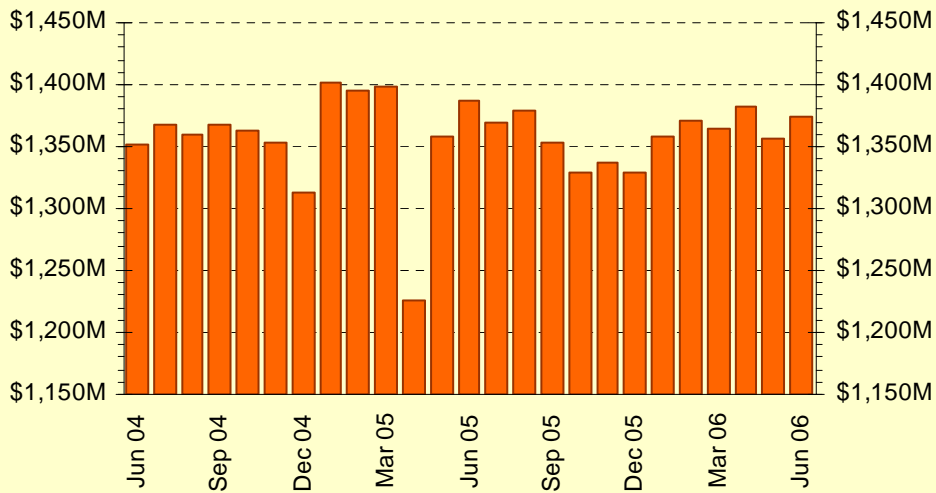
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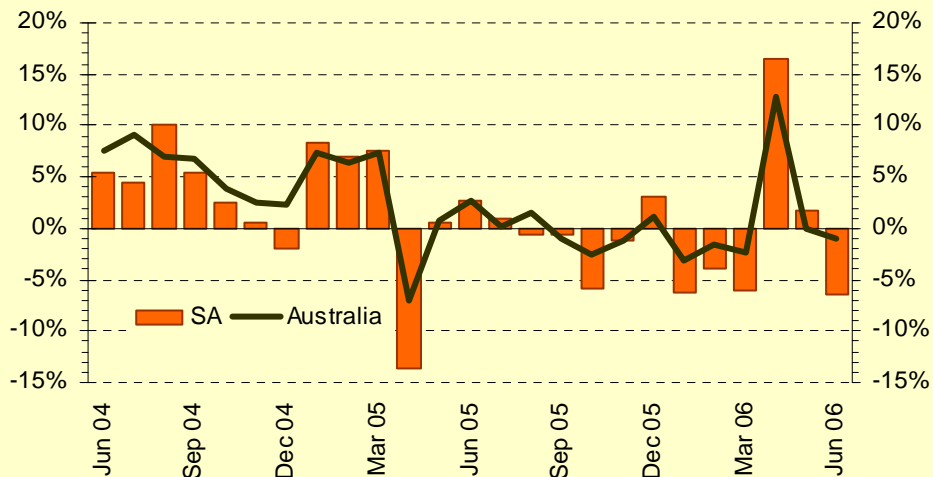
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Seasonally Adjusted, Monthly Level



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Seasonally Adjusted, Monthly Level

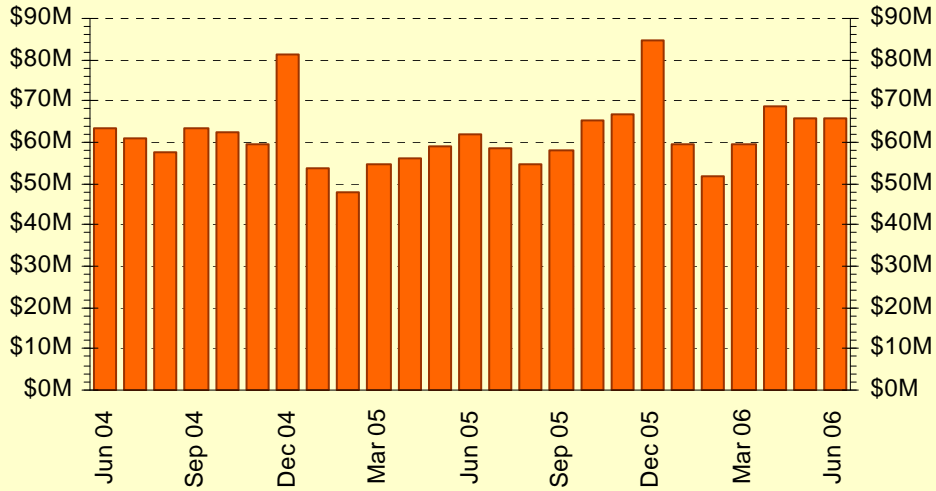


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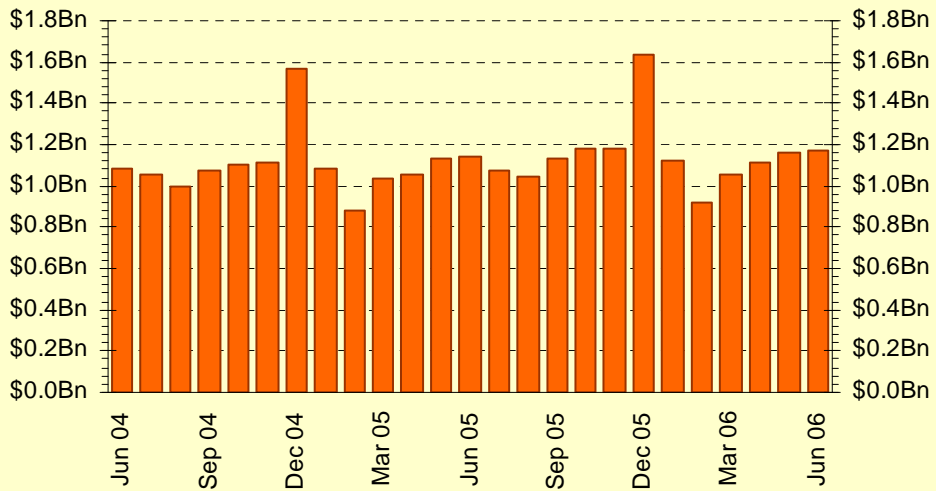




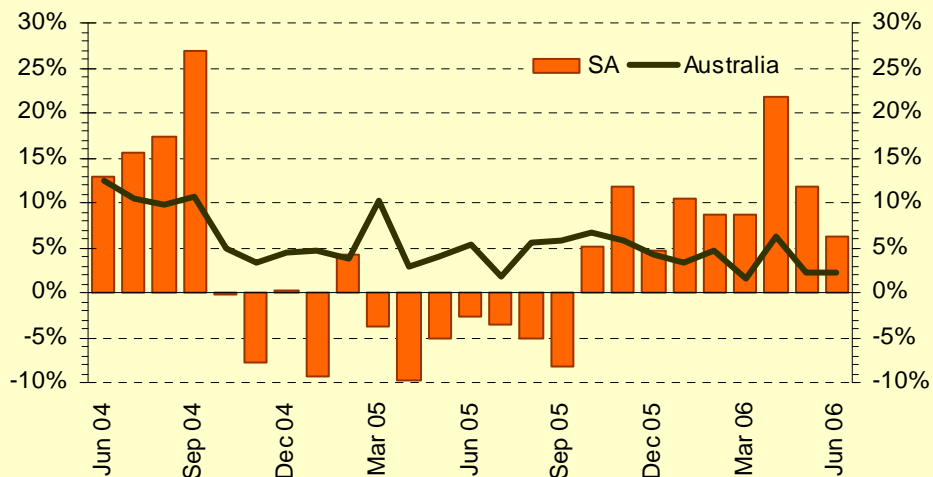
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Original, Monthly Level



**CLOTHING & SOFT GOODS, AUSTRALIA**  
Original, Monthly Level

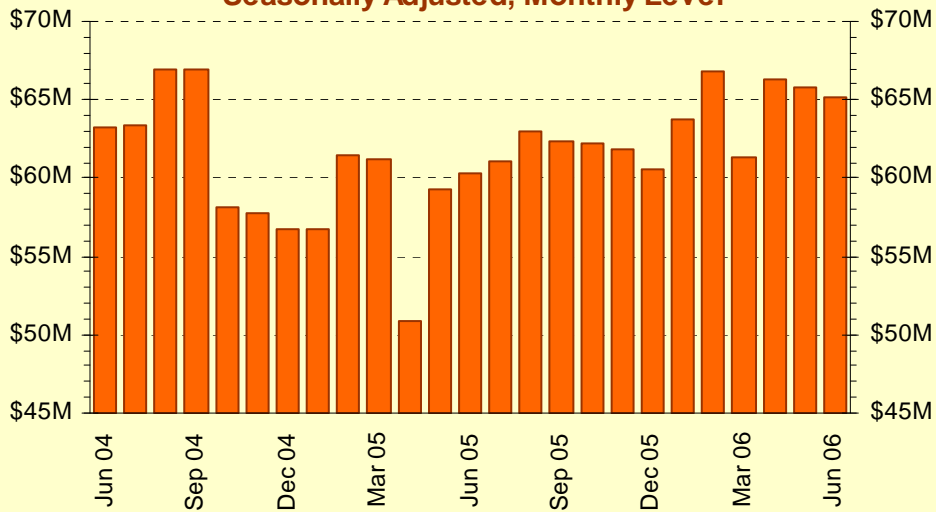


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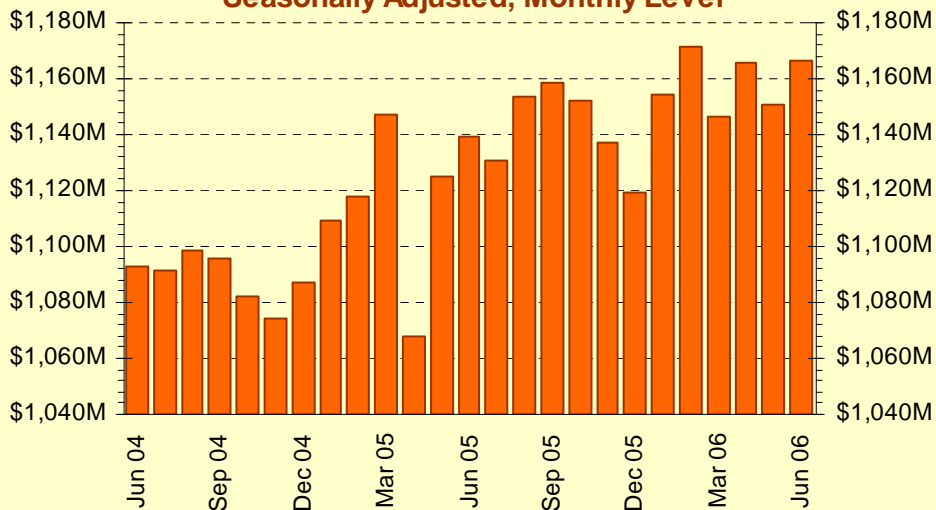


RETAIL TURNOVER

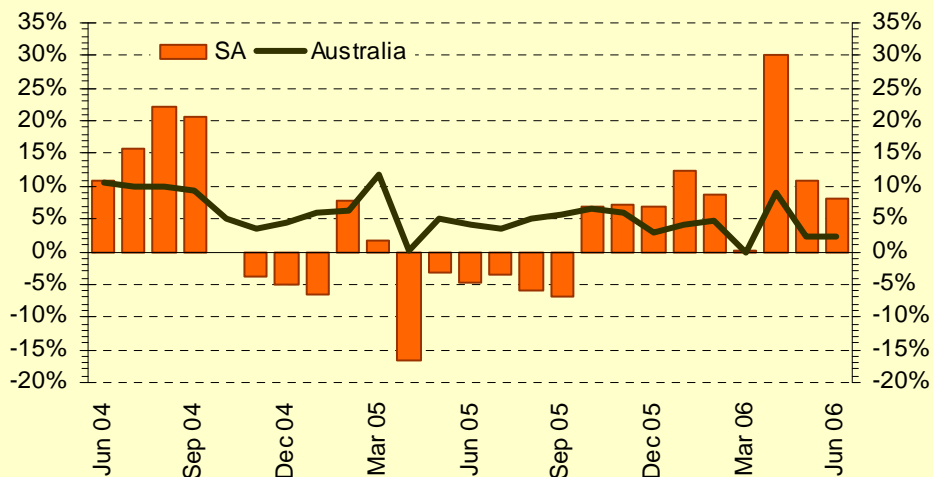
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Seasonally Adjusted, Monthly Level



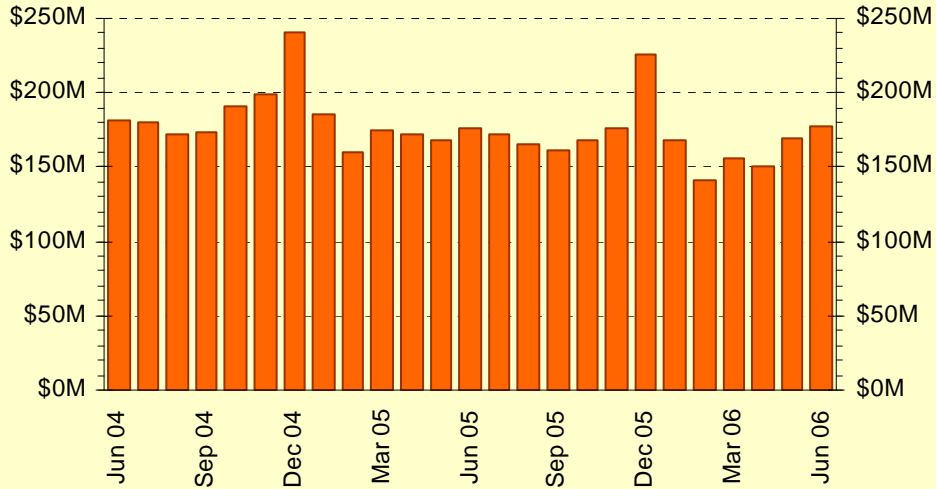
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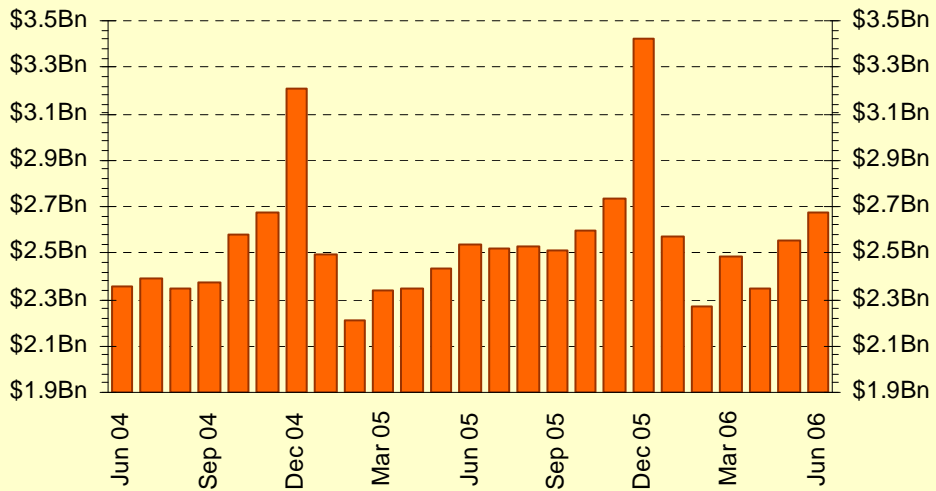
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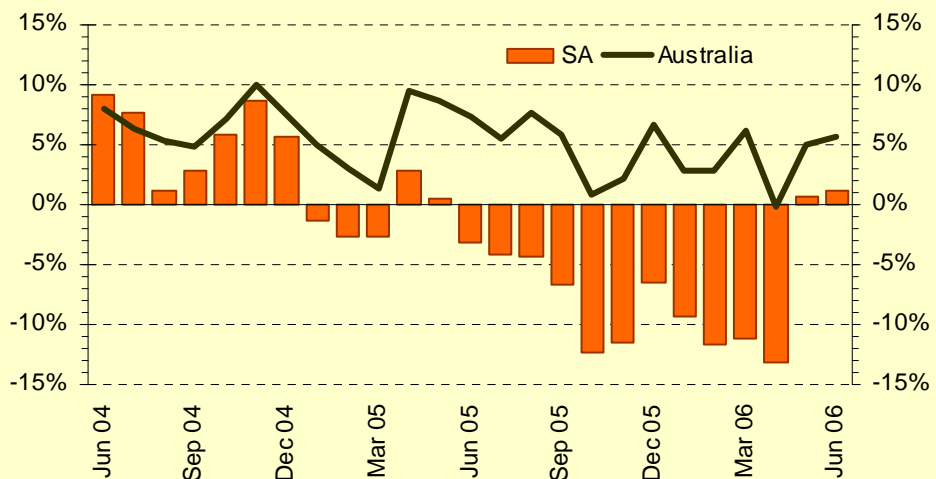
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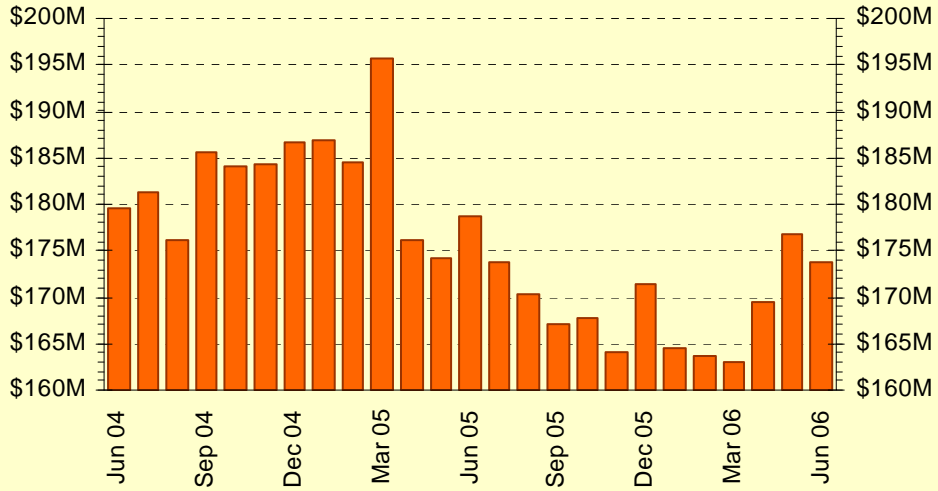
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Original, Monthly Level



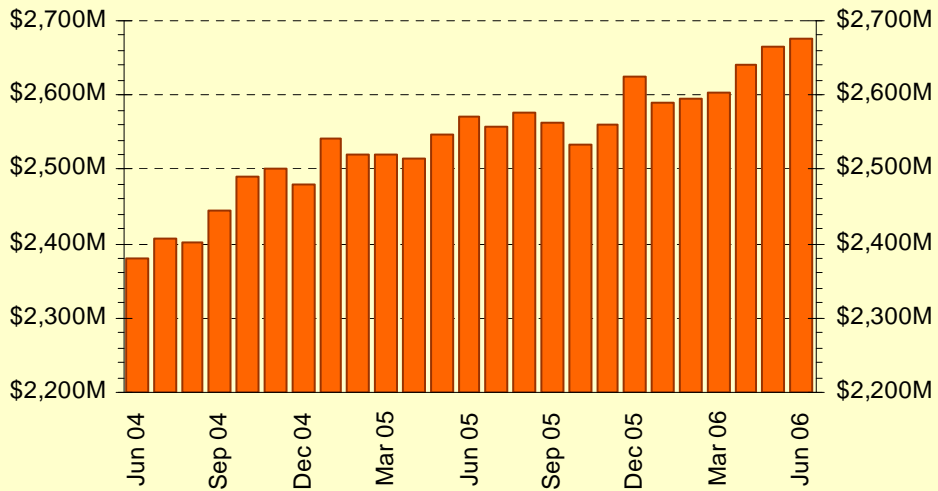
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Original, Annual % Change Compared



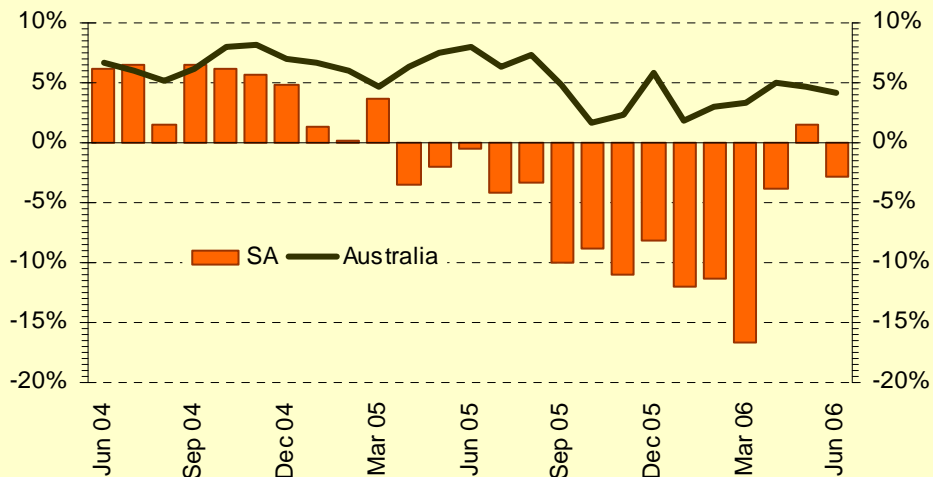
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Seasonally Adjusted, Monthly Level



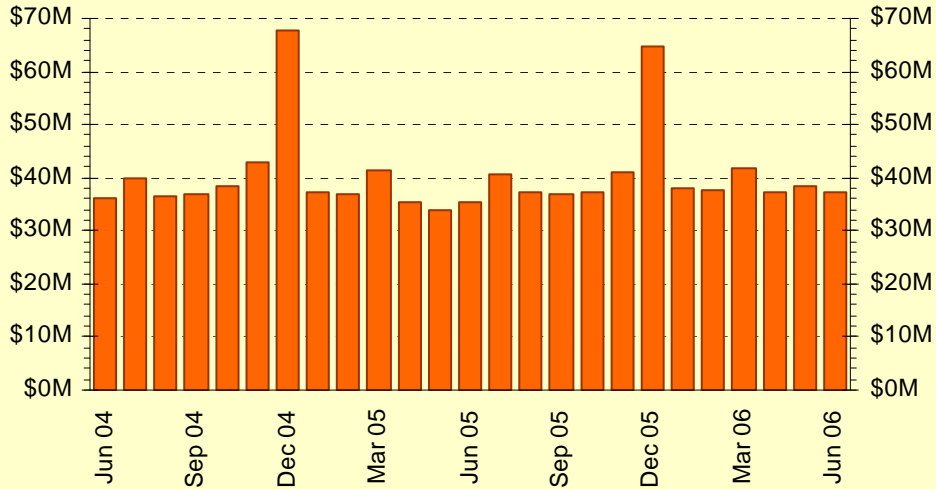
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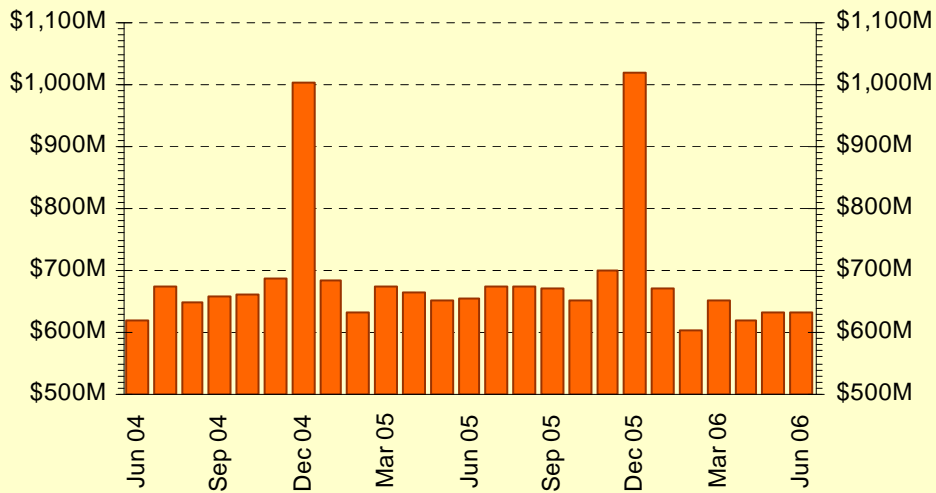
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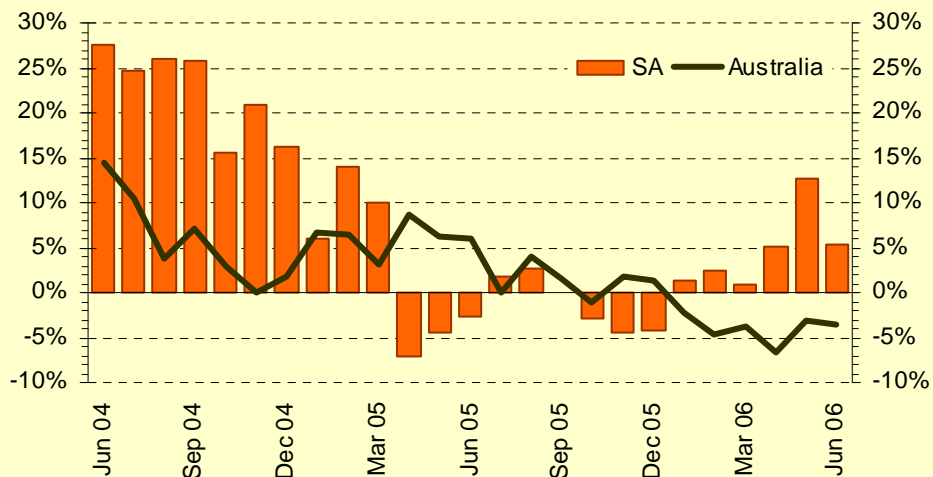
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Original, Monthly Level



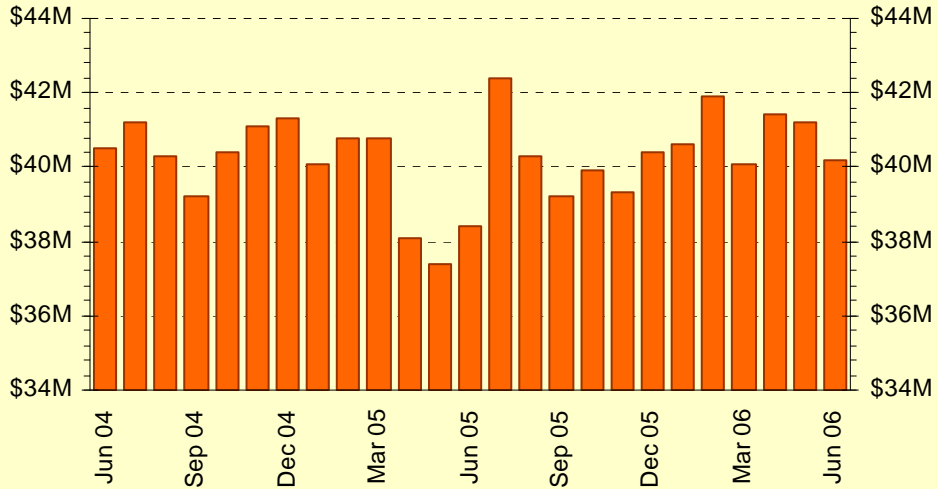
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Original, Monthly Level



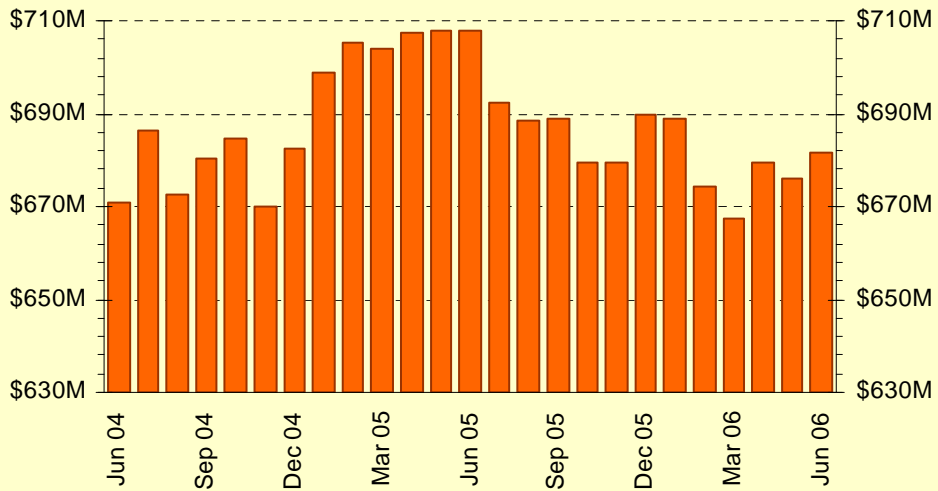
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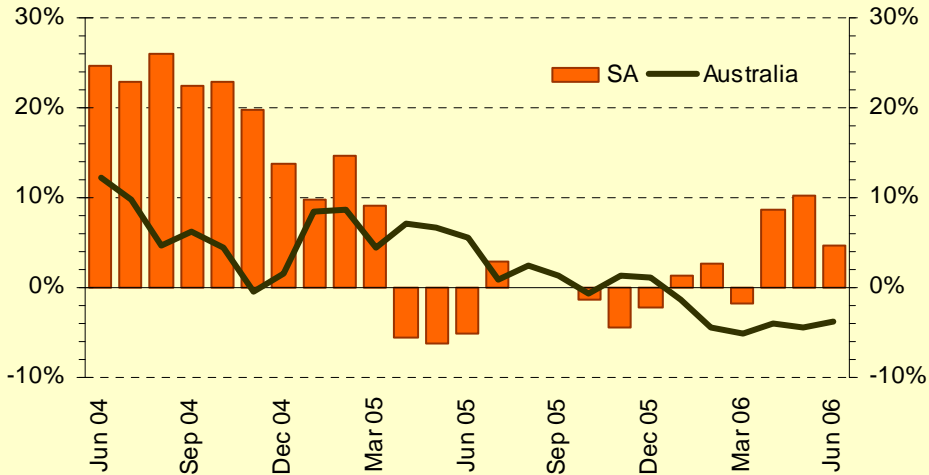
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Seasonally Adjusted, Monthly Level



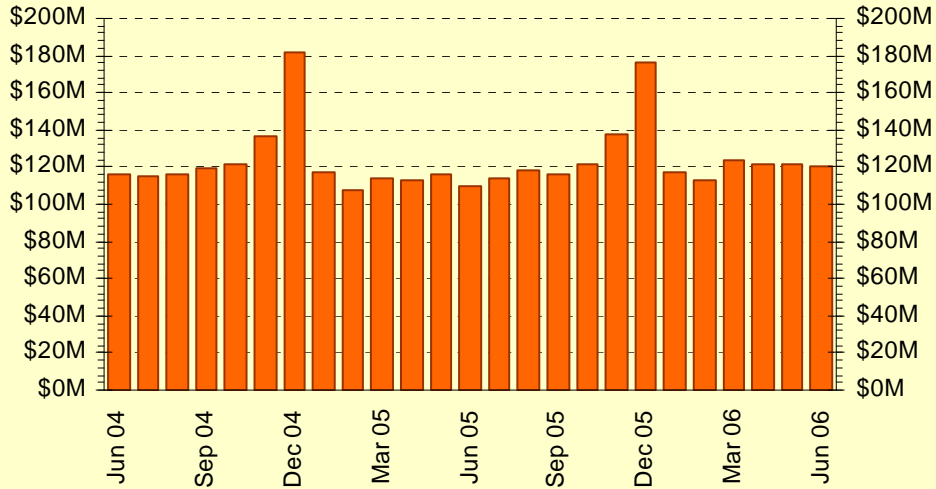
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Seasonally Adjusted, Monthly Level



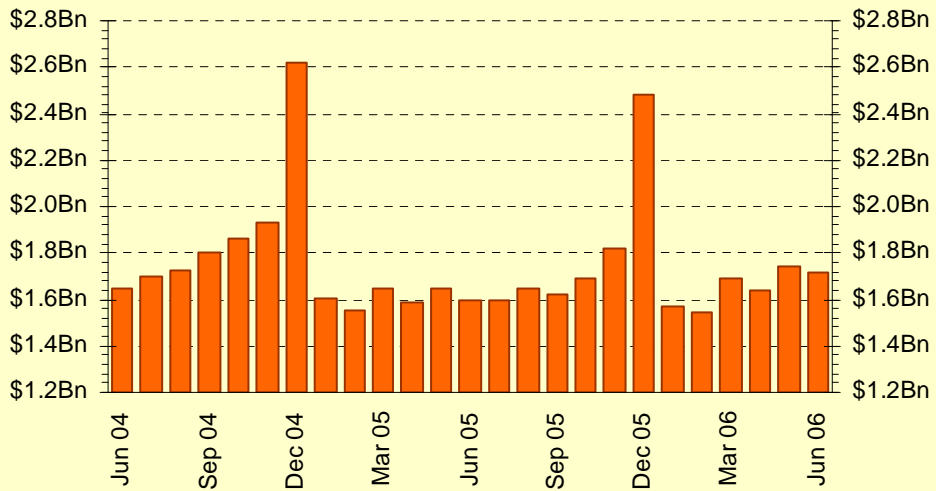
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Seasonally Adjusted, Annual % Change Compared



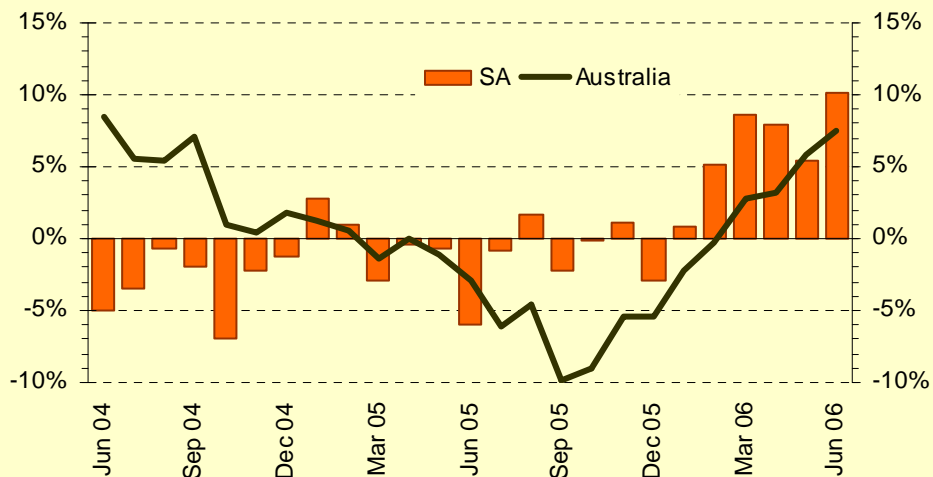
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Original, Monthly Level



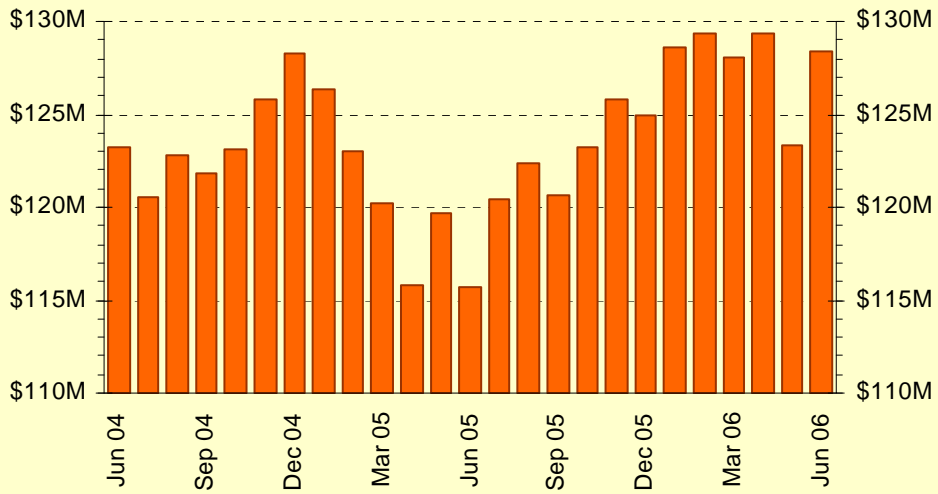
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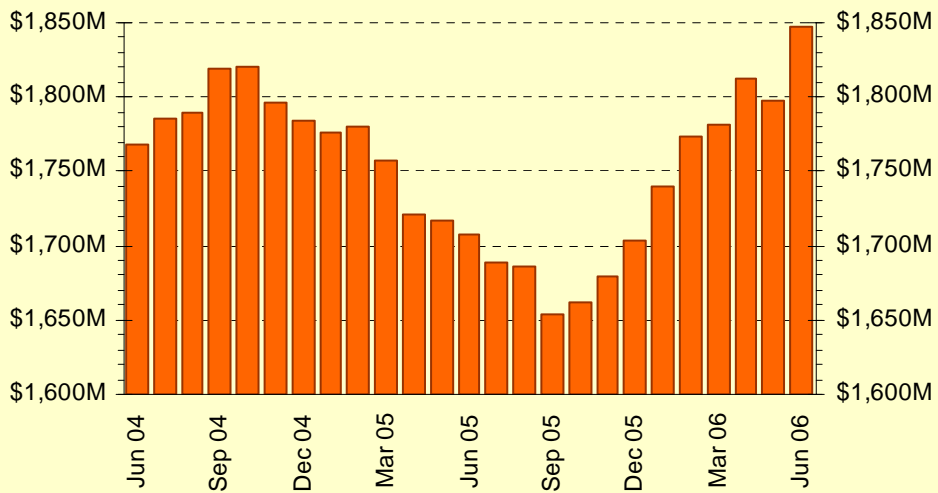
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Original, Annual % Change Compared



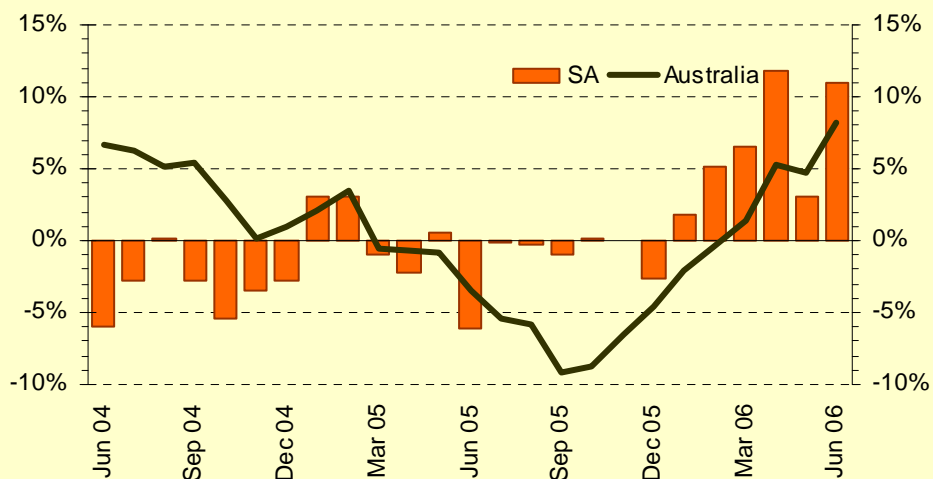
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**OTHER RETAILING, AUSTRALIA**  
Seasonally Adjusted, Monthly Level

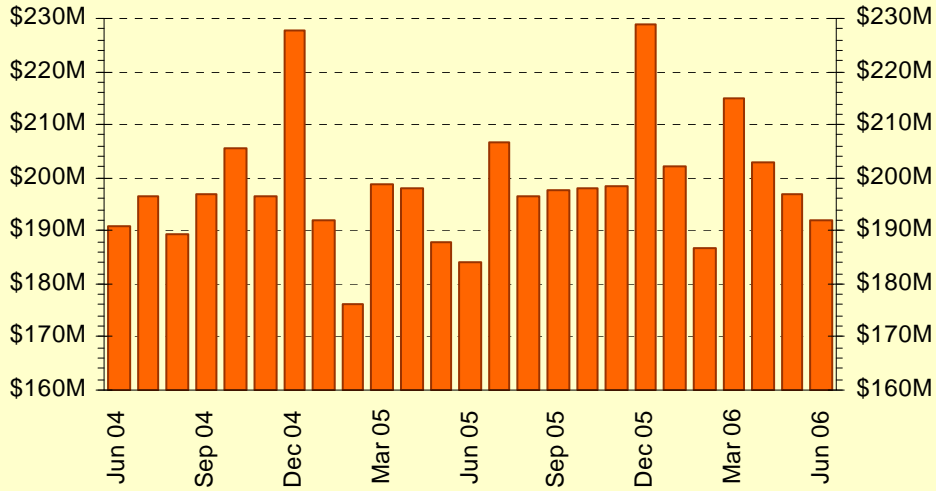


**OTHER RETAILING, SA & AUSTRALIA**  
Seasonally Adjusted, Annual % Change Compared

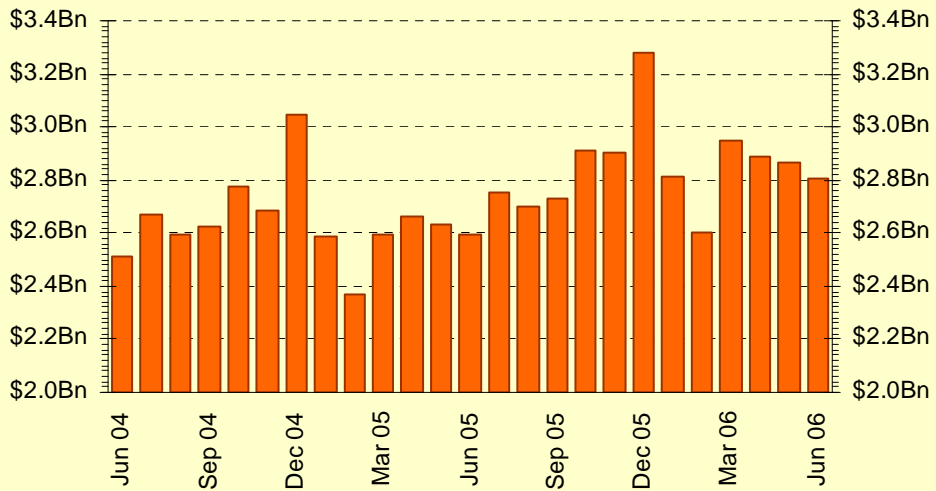




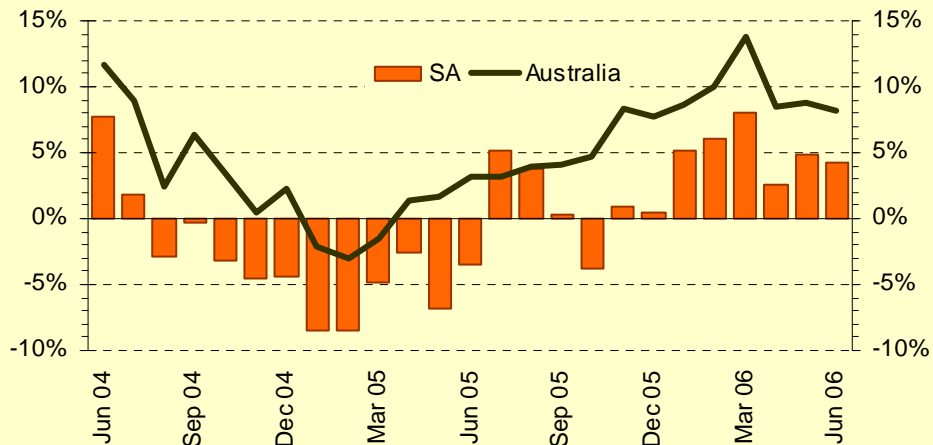
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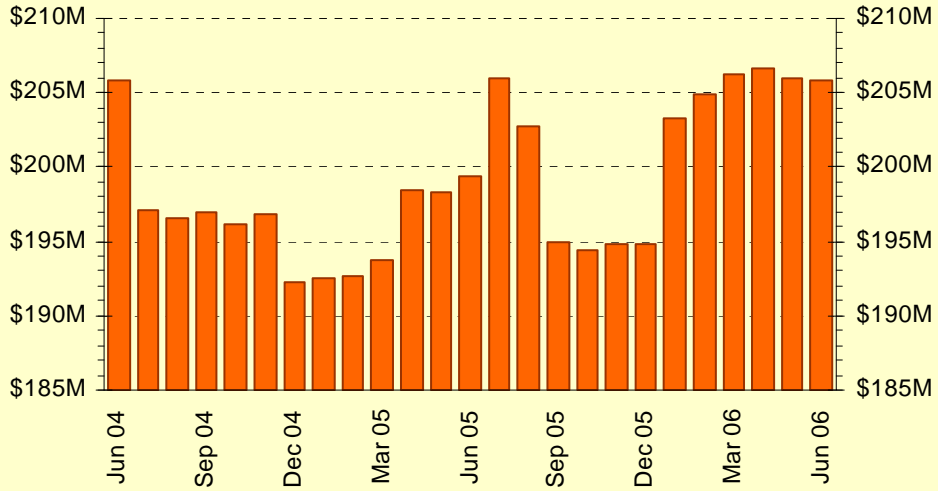
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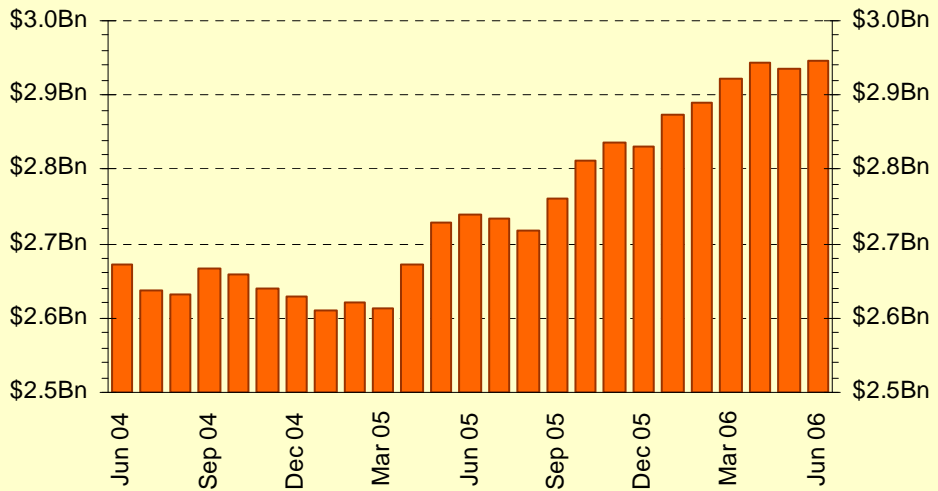
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Original, Annual % Change Compared



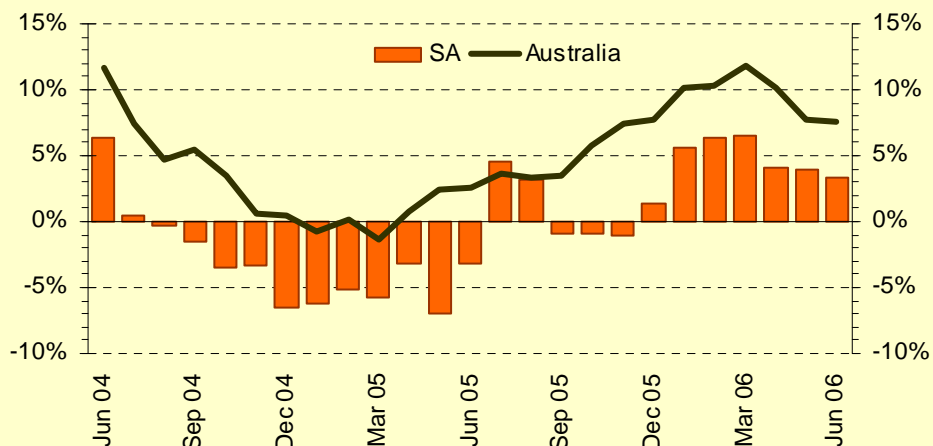
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Seasonally Adjusted, Monthly Level



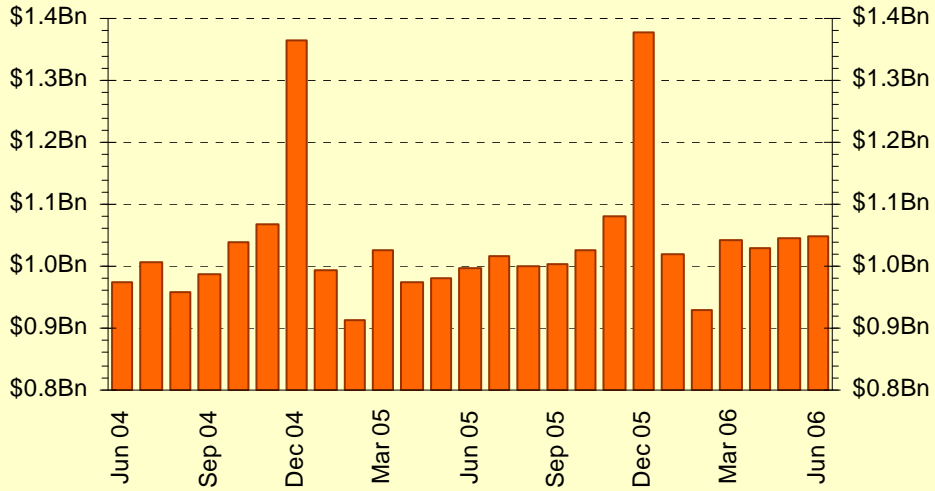
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Seasonally Adjusted, Monthly Level



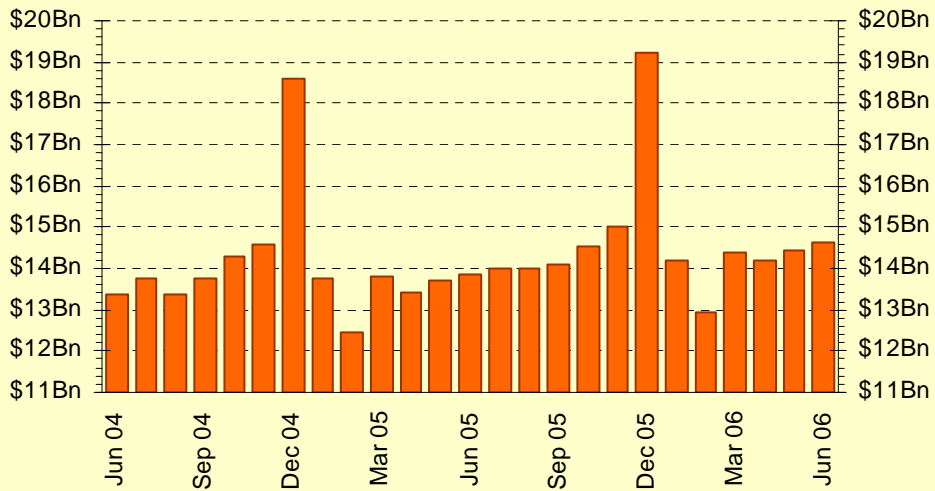
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Seasonally Adjusted, Annual % Change Compared



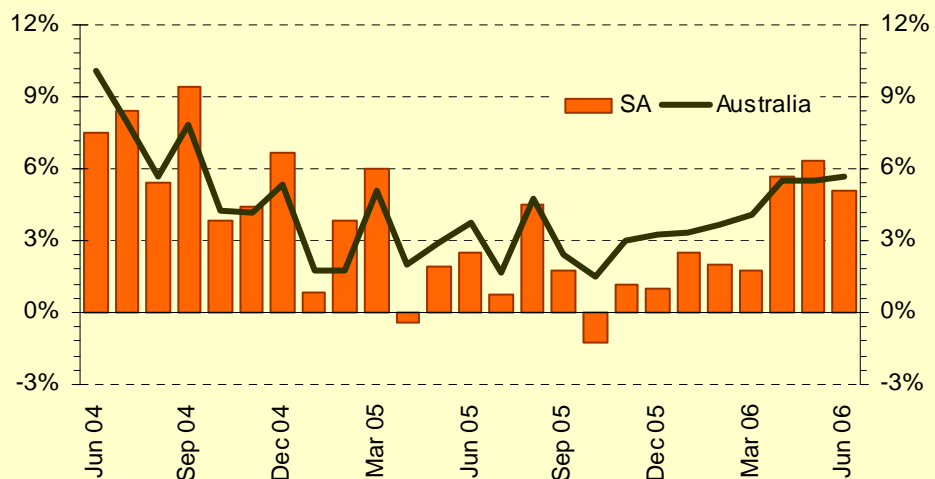
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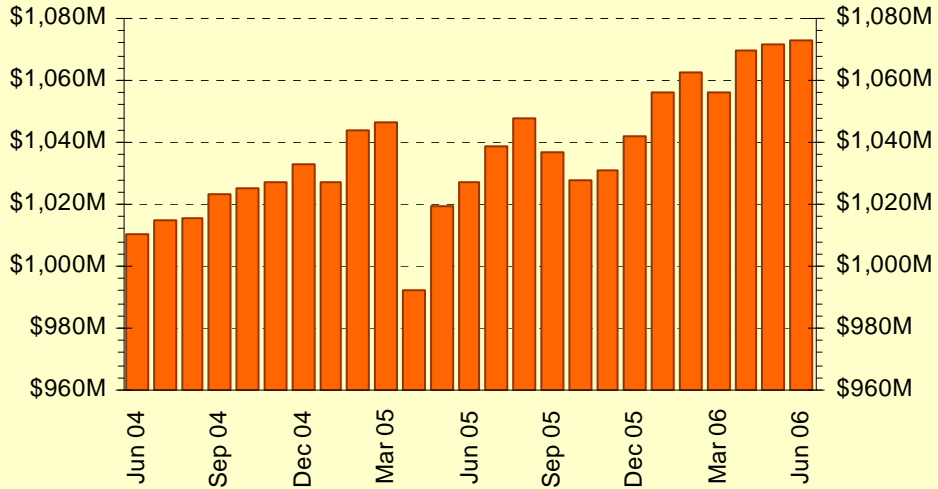
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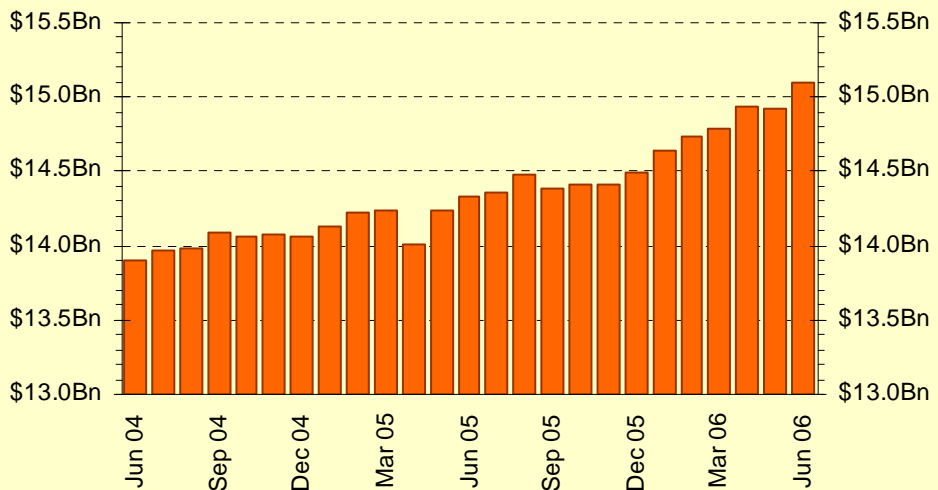
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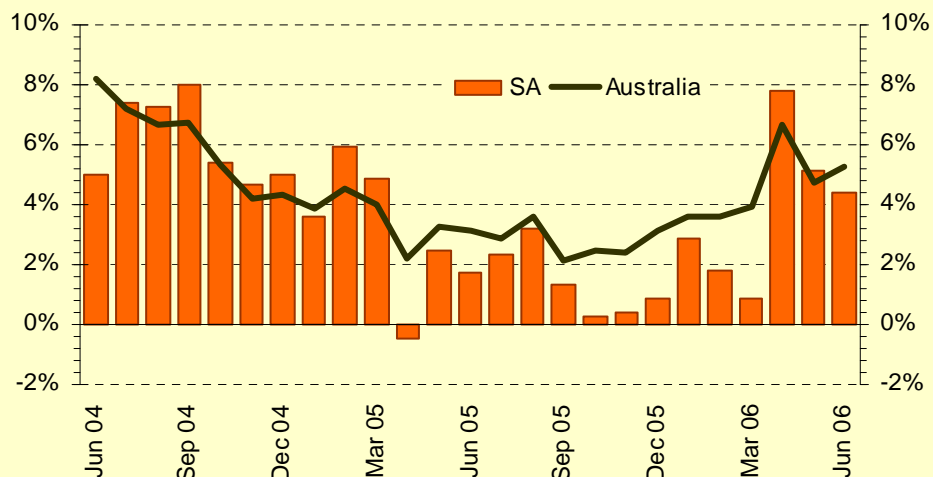
**ALL EXCEPT HOSPITALITY, SOUTH AUSTRALIA**  
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**ALL EXCEPT HOSPITALITY, AUSTRALIA**  
Seasonally Adjusted, Monthly Level



**ALL EXCEPT HOSPITALITY, SA & AUSTRALIA**  
Seasonally Adjusted, Annual % Change Compared





## RETAIL TRADE, JUNE 2006

- In real seasonally adjusted terms, South Australian retail turnover increased by 0.3% during the June quarter 2006, following growth of 2.3% in the March quarter 2006. National real seasonally adjusted retail turnover increased by 0.6% in the June quarter 2006, and follows 1.9% growth in the previous quarter.
- During the month of June, seasonally adjusted nominal retail turnover increased by 0.1% in South Australia, and 1.0% nationally. A large portion of the difference in through year growth between South Australia (4.2%) and Australia (5.6%) was attributable to strong growth in household good retailing in Queensland and Western Australia.
- The Reserve Bank of Australia raised the official interest rate by a quarter of a percentage point today in response to increasing underlying inflationary pressures. The rate rise combined with high petrol prices may serve to dampen retail spending growth in coming months.

**Note:** Retail turnover in current prices incorporates both changes in prices and sales volumes. Because the chain volume measures use relative prices of retail sales in 2004-05 as weights, the impact of the large drop in bananas is reflected in the June quarter 2006.

In addition to the monthly release of nominal retail turnover data, the ABS has this month also released chain volume retail turnover data for the June quarter 2006. Chain volume or 'real' data removes the effect of price movements, and therefore provides a measure of the volume of retail trade.

### **Real retail turnover - Seasonally adjusted**

South Australian real retail turnover rose by 0.3% in seasonally adjusted terms during the June quarter 2006. This followed growth of 2.3% during the March quarter 2006. Nationally, a rise of 0.6% was recorded in the June quarter 2006, following a 1.9% increase in the March quarter 2006.

Through the year (June quarter 2006 compared with the June quarter 2005), real retail turnover was 2.5% higher in South Australia and 3.6% higher nationally.

### **Real retail turnover - Trend**

In trend terms, real retail turnover rose by 0.7% in South Australia during the June quarter 2006 (the third consecutive quarter of growth), compared with a rise nationally of 1.0%.

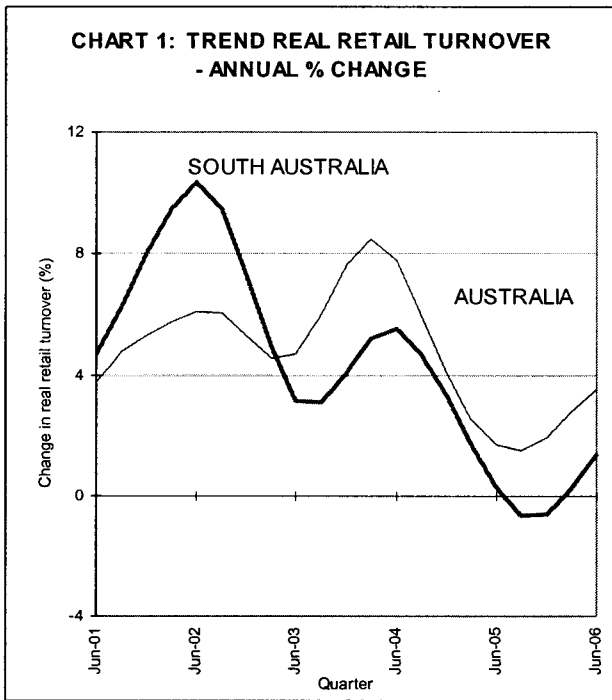
All States recorded a rise in trend real retail turnover in the quarter—see Table 1.

Through the year South Australian real retail turnover increased by 1.4%. Nationally it grew by 3.5%—see Chart 1.

**TABLE 1: Real Retail Turnover – Trend**

	June Qtr 2006 (\$m)	Jun. Qtr 2006 v Mar. Qtr 2006 (% change)	Jun. Qtr 2006 v Jun. Qtr 2005 (% change)
NSW	17,385.2	0.7	2.4
VIC	12,551.0	1.4	3.0
QLD	10,548.2	0.6	4.8
<b>SA</b>	<b>3,703.7</b>	<b>0.7</b>	<b>1.4</b>
WA	5,431.7	1.7	6.3
TAS	1,150.7	0.4	5.2
<b>AUS</b>	<b>52,301.9</b>	<b>1.0</b>	<b>3.5</b>

# Reference year for chain volume measures is 2004-05



**Nominal retail turnover**

**Seasonally adjusted**

During the month of June, seasonally adjusted nominal retail turnover increased by just 0.1% in South Australia.

Categories that recorded increases in June were 'other retailing' (up 4.1%) and food retailing (up 0.9%).

Categories in which South Australian retail turnover fell during June were department stores (down 4.0%), recreational good retailing (down 2.4%), household good retailing (down 1.8%), clothing and soft good retailing (down 1.1%), and hospitality and services (down less than 0.1%).

Through the year, retail turnover was 4.2% higher in South Australia as a result of growth in 'other retailing' (up 11%), clothing and soft good retailing (up 8.0%), food retailing (up 7.4%), hospitality and services (up 3.3%), and recreational good retailing (up 4.7%). Declines were recorded in department stores (down 6.5%) and household good retailing (down 2.8%).

Nationally, retail turnover increased by 1.0% in June and was 5.6% higher than a year earlier.

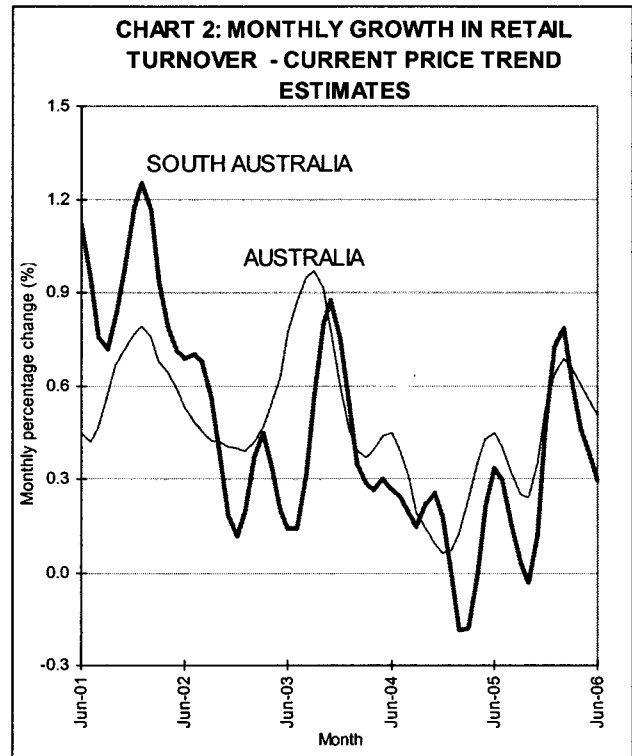
A large portion of the difference in through year growth between South Australia and Australia was attributable to strong growth in household

good retailing in Queensland (up 13%) and Western Australia (up 18%).

**Trend**

In trend terms, South Australian retail turnover rose by 0.3% in June (the eighth consecutive monthly rise) and was 4.4% higher through the year.

National trend retail turnover increased by 0.5% in June (see Chart 2), to be 5.9% higher than a year earlier.



## Shop Trading Hours Review

## Trend Estimates (ABS)

2004	2005
<ul style="list-style-type: none"> <li>• The trend estimate of turnover for the Australian Retail and Hospitality/Services series increased by 0.7% in June 2004. This follows revised increases of 0.6% in May and April.</li> <li>• The trend estimate increased in all states and territories. The largest increases were in Northern Territory (+1.5%) followed by New South Wales, Queensland and Western Australia (all +0.9%).</li> <li>• Over the three months to June 2004 the trend estimate increased by \$299m. Food retailing (+\$131m), Hospitality and services (+\$56m) and Department stores (+\$41m) had the largest increases.</li> </ul>	<ul style="list-style-type: none"> <li>• The trend estimate of turnover for the Australian Retail and Hospitality/Services series increased by 0.5% in June 2005. This follows revised increases of 0.4% in both May and April 2005.</li> <li>• In June 2005, there was an increase in the trend estimate in Western Australia (+0.9%), Victoria (+0.7%), Queensland (+0.4%), the Australian Capital Territory (+0.4%) and New South Wales (+0.3%). The biggest decline was in Tasmania (-0.2%).</li> </ul>

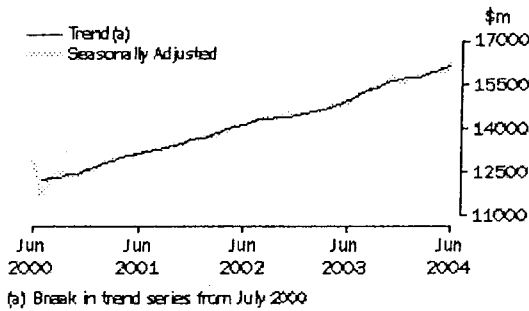
## Seasonally adjusted estimates

2004	2005
<ul style="list-style-type: none"> <li>• The seasonally adjusted estimate of turnover for the Australian Retail and Hospitality/Services series grew at a strong rate (+2.1%) in June 2004. This followed moderate revised growth of 0.6% in May 2004.</li> <li>• All industries and all states and territories recorded growth of over 0.9%, with the strongest growth in Department stores. The Family Tax Benefit bonus was paid in June 2004.</li> </ul>	<ul style="list-style-type: none"> <li>• The seasonally adjusted estimate of turnover for the Australian Retail and Hospitality/Services series increased by 1.3% in June 2005. This follows an increase of 1.0% in May 2005 and a decrease of 0.4% in April 2005.</li> <li>• All states had an increase in the seasonally adjusted estimate in June 2005. Western Australia (+2.2%), New South Wales (+1.8%), Victoria and the Australian Capital Territory (both +1.0%) had the largest increases.</li> </ul>

## Shop Trading Hours Review

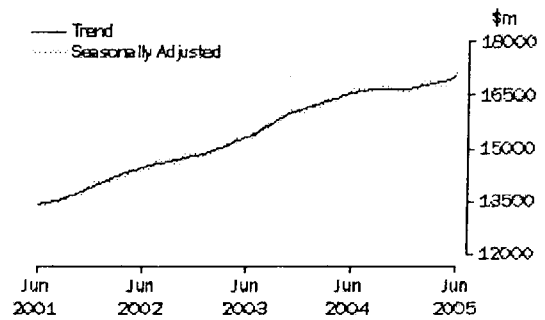
### TOTAL RETAIL (2004)

The Australian Retail and Hospitality/Services trend estimate has had moderate growth for the last five months. With strong seasonally adjusted growth in June 2004, Department stores have had strong trend growth in the last four months. Clothing and soft good retailing had strong growth in the last three months. Food retailing continued to have moderate growth and Household good retailing weak growth.



### TOTAL RETAIL (2005)

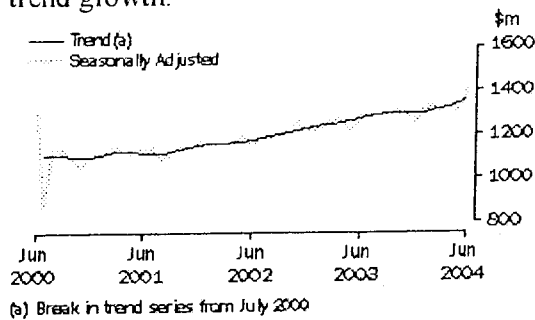
There has been moderate growth in the trend for three months. Food retailing, Household good retailing, Recreational good retailing and Hospitality and services have had moderate to strong growth in each of these months.



### 2004

#### DEPARTMENT STORES

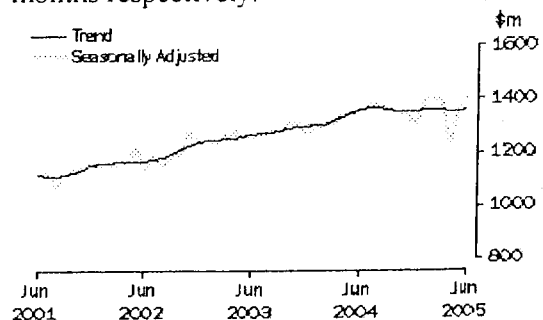
There has been strong trend growth for the last four months due to strong seasonally adjusted growth in June 2004. In June 2004, New South Wales, Queensland and the Australian Capital Territory had strong trend growth.



### 2005

#### DEPARTMENT STORES

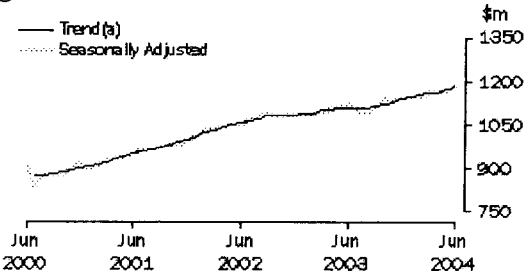
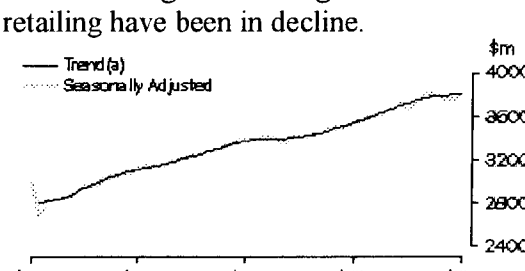
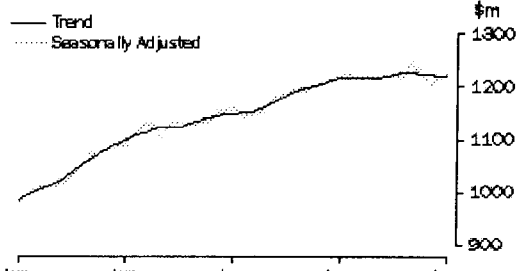
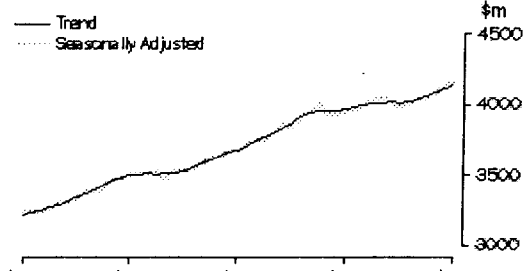
After three months decline in the trend estimate, there was weak growth in June 2005. Victoria and South Australia have had a decline in the trend for at least three months, while Western Australia and the Australian Capital Territory have had at least moderate growth for five and three months respectively.



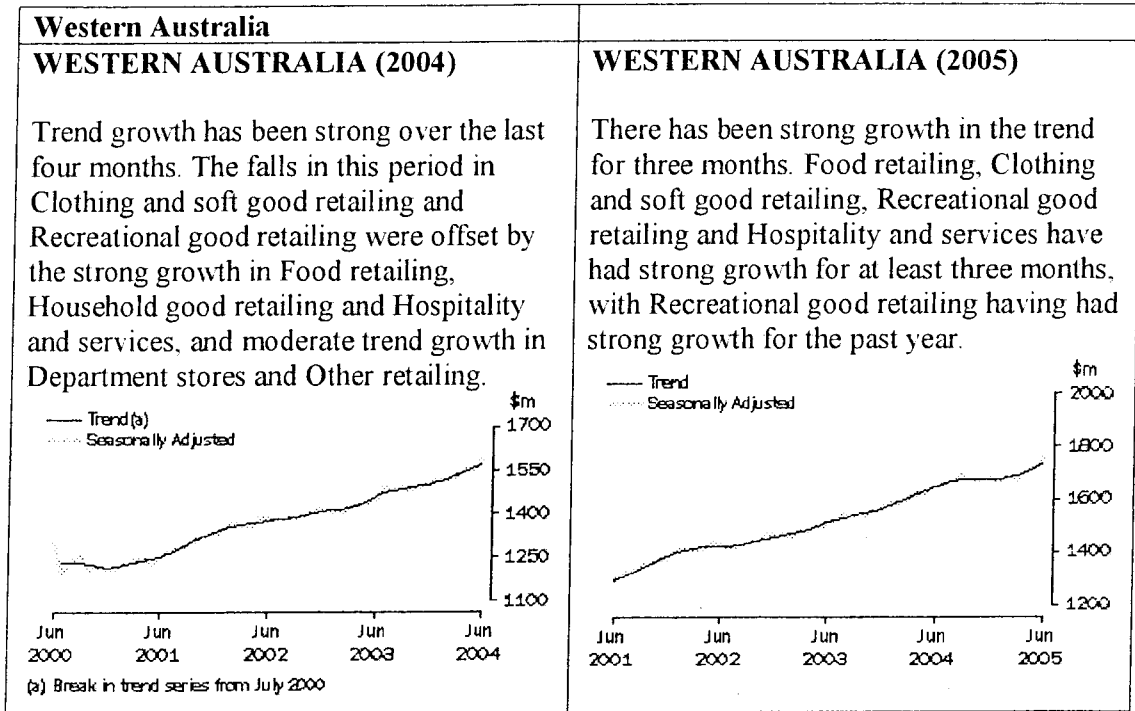


## Shop Trading Hours Review

### STATE TRENDS (ABS)

<b>South Australia</b> <b>SOUTH AUSTRALIA (2004)</b>	<b>Victoria</b> <b>VICTORIA (2004)</b>
<p>The trend growth remained moderate in June 2004. There was continuing strong growth in Recreational good retailing and Hospitality and services. Clothing and soft good retailing had strong trend growth in the last three months while Household good retailing and Other retailing continued to be in decline. In June 2004, Food retailing and Department stores recorded moderate growth.</p>  <p>(a) Break in trend series from July 2000</p>	<p>Trend growth was weak in June 2004, continuing the slowing of growth evident since November 2003. The only industry with strong growth in the last three months was Clothing and soft good retailing. Growth in Food retailing has been moderate in the last three months after strong growth in the preceding four months. In the last four months, Household good retailing, Recreational good retailing and Other retailing have been in decline.</p>  <p>(a) Break in trend series from July 2000</p>
<p><b>SOUTH AUSTRALIA (2005)</b></p> <p>There has been a decline in the trend estimate for four months. Department stores, Household good retailing, Recreational good retailing and Other retailing have had a decline in the trend estimate for at least five months. In contrast, Hospitality and services has had four months of strong growth.</p>  <p>(a) Break in trend series from July 2000</p>	<p><b>VICTORIA (2005)</b></p> <p>There has been moderate trend growth for five months. Household good retailing, Recreational good retailing and Hospitality and services have had four, five and two months of strong growth respectively. In contrast, Department stores has had a decline in the trend estimate for four months.</p>  <p>(a) Break in trend series from July 2000</p>

## Shop Trading Hours Review





SOUTH AUSTRALIAN  
**CENTRE FOR ECONOMIC STUDIES**

**APPENDIX I**



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ADELAIDE & FLINDERS UNIVERSITIES

# **Potential Economic Impact of Liberalisation of Shop Trading Hours**

Report commissioned by  
**SafeWork SA**

Report prepared by  
**The SA Centre for Economic Studies**

**September 2006**

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*This report was prepared by the following researchers:*

*Michael O'Neil, Director  
Anthony Kosturjak, Senior Research Economist  
Steve Whetton, Senior Research Economist*

**Disclaimer:** This study, while embodying the best efforts of the investigators is but an expression of the issues considered most relevant, and neither the Centre, the investigators, nor the Universities can be held responsible for any consequences that ensue from the use of the information in this report. Neither the Centre, the investigators, nor the Universities make any warranty or guarantee regarding the contents of the report, and any warranty or guarantee is disavowed except to the extent that statute makes it unavoidable.

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## Executive Summary

The SA Centre for Economic Studies has been asked to review the potential economic benefits or costs of further liberalisation of shop trading hours. This analysis has been commissioned as part of the review of shop trading hours being undertaken under the provisions of the Shop Trading Hours Act 1977. There are several possible sources of economic impact from a liberalisation of shop trading hours:

- increased retail turnover;
- increased retail employment;
- better satisfied consumer preferences; and
- small business cessations.

The best available source of information on the potential for economic impact is the impact of the changes which came into force in 2003.

### *Retail expenditure*

An increase in retail expenditure due to the reforms is a potential source of net benefit for the state, but only if it comes from a fall in household savings. Where it comes from shifts in expenditure patterns there is likely to be no net economic benefit. ABS data on retail turnover provides **no evidence of a benefit**, in that there has not been an increase in South Australian retail turnover as a result of the reforms

### *Retail employment*

An increase in retail employment (for example from the need to staff stores over a longer period) due to the reforms is a potential source of net benefit for the state, but only if it does not come at the expense of other sectors. ABS data on employment in the retail sector provides **no evidence of a benefit**, in that there has been no apparent increase in rate of growth of retail employment in South Australia after the change.

### *Consumer preferences*

As it is likely that there existed consumers who preferred to shop on Sundays outside of the CBD and Glenelg, or on weeknights other than Thursdays, then there was **a benefit in terms of increased consumer welfare** from the 2003 reforms. The scale of this benefit depends on how many people preferred to shop at the hours which became available (or preferred to shop in different establishments), and the value those consumers placed on the additional flexibility they received. Given the extent of Sunday trading it is likely that a significant number of consumers experienced an increase in welfare. What is unknown is how valuable the increased flexibility was to them.

### *Small business cessations*

The limited (and experimental) available data provides **no evidence** that the previous relaxation reduced the growth of retail businesses in South Australia, suggesting no short-term net impact on the number of small retail businesses. There has been a real terms decline in expenditure in small retail establishments (with spending flat in nominal terms), however this trend appears to pre-date the changes to shopping hours.

### *Potential Gains from Future Reforms*

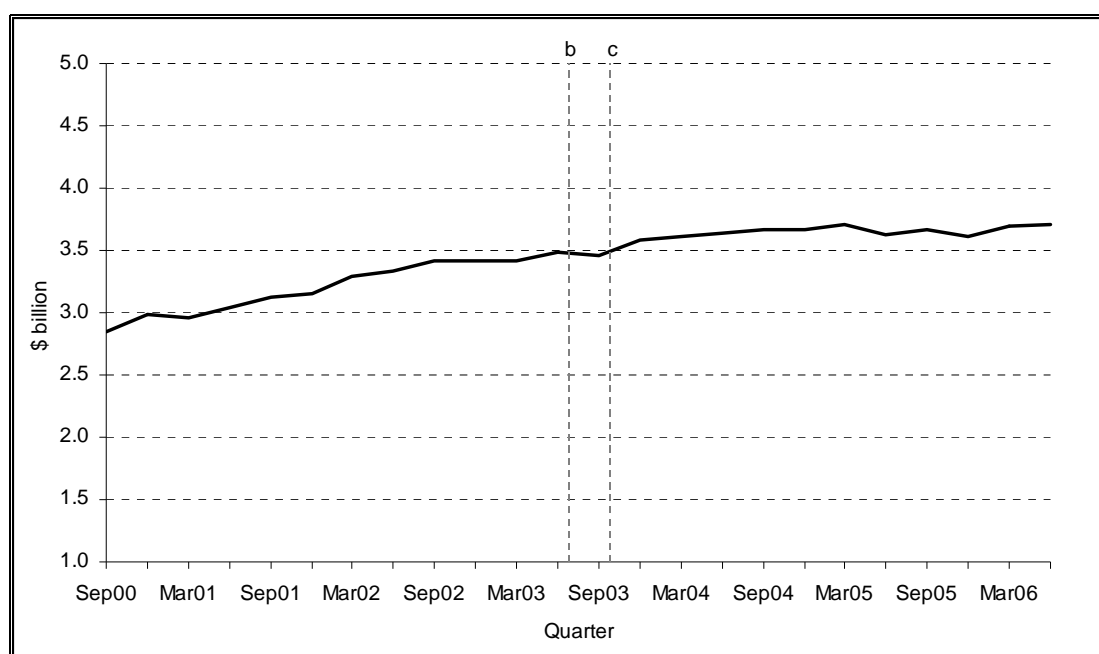
Based on the experience of the previous extensions of shopping hours, there is no evidence to suggest that further liberalisation would increase either state income or employment levels, but nor is there any evidence that it would have a negative effect on the number of small retail business (in aggregate). Whilst it is likely that there is still scope to increase consumer welfare by further liberalising trading hours, there is no reason to believe that there are a substantial number of consumers who wish to shop at an hour which is currently not available to them (at least in their store of choice) and which would be made available to them were the legislation to be amended.

## 1. Retail Turnover

Changes in retail turnover are likely to be a net benefit to State income only to the extent that it comes from an fall in household savings. Where it comes from shifts in expenditure patterns there is no net economic benefit. Nonetheless even a shift in expenditure away from some other sector could at least be indicative of an increase in consumer welfare if that shift represented a move to a preferred form of expenditure.<sup>1</sup>

Figure 1 shows the quarterly volume of retail sales for South Australia measured in seasonally adjusted terms from the September quarter 2000 to the June quarter 2006. There is no evidence from this data of a faster rate of growth after the changes to trading hours. Indeed the average quarterly growth in expenditure is slightly slower after the September quarter 2003 (which includes the expansion of Sunday trading), than it was before the changes

**Figure 1**  
**Quarterly Retail Turnover**  
**South Australia, Chain Volume Measures, Seasonally Adjusted<sup>a</sup>**



**Note:** <sup>a</sup> Reference year for chain volume measures is 2004-05.  
<sup>b</sup> hopping allowed until 9 pm in all areas from 7<sup>th</sup> July 2003.  
<sup>c</sup> Extension of Sunday trading to all suburban areas from start of daylight saving on 26<sup>th</sup> October 2003.  
**Source:** ABS, *Statistics, Service Industries*.

One difficulty in interpreting retail trade data is that the series can be somewhat volatile. This partly reflects that the retail trade data is subject to sampling and non-sampling error. More importantly though, household spending, and therefore retail trade, is affected by a variety of factors (e.g., disposable incomes, consumer sentiment, wealth effects, which are in turn affected by other factors such as tax policy, interest rates, political and other events, etc.), which makes it difficult to link changes in retail trade with particular events. Thus this slower growth is not necessarily evidence that the changes to trading hours reduced retail expenditure but it suggests that there was no increase in spending due to the changes..

<sup>1</sup> If instead it simply reflects an increase in retail prices relative to other forms of expenditure then there is no economic impact.

Table 1 shows the quarterly percentage change in the volume of retail sales for South Australia and other select States (an index of the volume of retail sales for these States over a longer time period is presented in Figure 2). South Australian retail sales fell by 0.6 per cent in the September quarter 2003 despite the extension of weekday shopping hours early in the quarter. In contrast, retail sales in the other States rose solidly during the quarter. South Australian retail sales rose strongly in the following December quarter (by 3.5 per cent). In fact, they rose more strongly than did sales in Victoria (3.0 per cent), New South Wales (2.0 per cent) and Western Australia (1.9 per cent). However, growth in South Australian retail sales quickly returned to a more moderate pace in 2004. There is no evidence of stronger sustained relative expenditure growth following the liberalisation of trading hours.

The lack of any acceleration in retail sales growth would seem to suggest that if the changes have had any impact it has been on the timing of retail sales. For instance, late night shoppers may have to spread their shopping over the week rather than only on a Thursday night, while weekend shoppers may have spread their shopping over the weekend rather than be restricted to a Saturday. There may also have been changes in the geographic distribution of sales, with some shift in sales from the CBD and Glenelg to suburban areas. Unfortunately we do not have any direct data to confirm these hypotheses. Nonetheless, the main benefit associated with changes to shopping hours would appear to be greater convenience for shoppers.

Just as there was no evidence of a change in turnover as a result of the changes, there does not appear to have been a significant change to the composition of retail sales. The value of monthly retail sales by industry group for South Australia is illustrated in Figure 3. Almost all types of retail sales have been relatively constant since mid-2002 except for the food sector where there has been strong growth, however this trend has been apparent since July 2000 with little evidence of any impact from the change to shopping hours.

**Table 1**  
**Quarterly Change in Retail Turnover – Per Cent**  
**Chain Volume Measures, Seasonally Adjusted<sup>a</sup>**

Quarter	New South Wales	Victoria	South Australia	Western Australia
Sep02	1.4	0.3	2.4	-1.4
Dec02	0.9	-0.2	-0.1	3.0
Mar03	0.4	1.6	-0.1	0.0
Jun03	0.8	1.4	2.1	1.5
Sep03 <sup>b</sup>	2.3	2.6	-0.6	2.9
Dec03 <sup>c</sup>	2.0	3.0	3.5	1.9
Mar04	-0.4	2.6	0.8	2.5
Jun04	1.9	-0.4	0.8	2.0
Sep04	0.4	1.5	0.7	2.2
Dec04	0.1	0.8	0.0	0.3
Mar05	0.8	-0.1	1.0	-0.2
Jun05	-0.8	1.4	-2.2	1.6
Sep05	-0.2	-0.5	1.5	1.3

Note: <sup>a</sup> Reference year for chain volume measures is 2004-05.

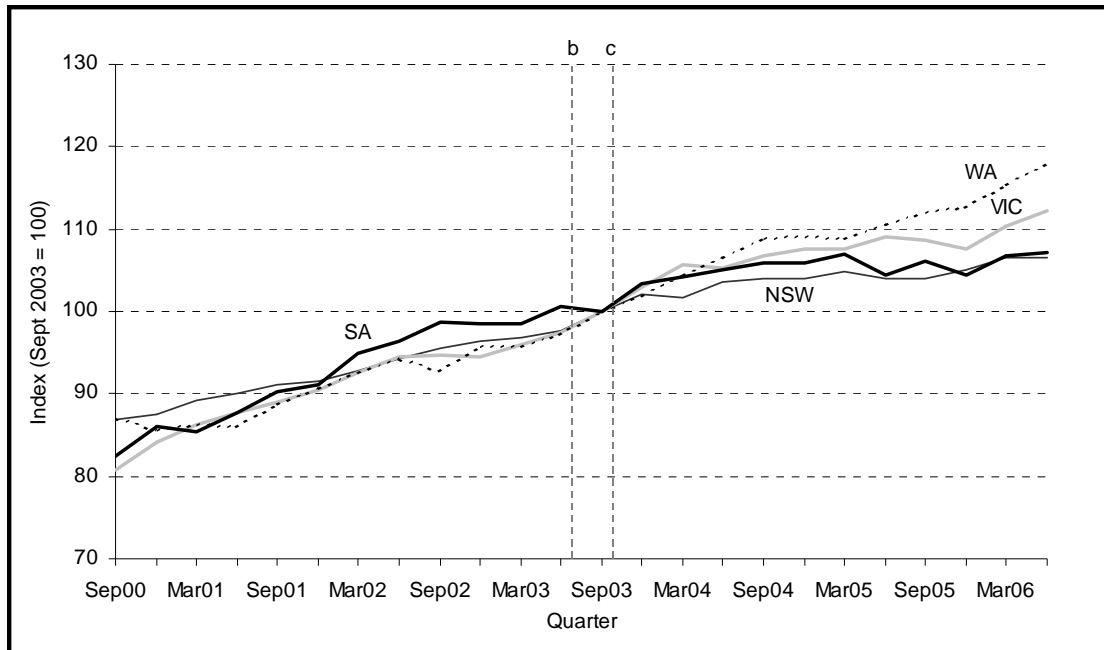
<sup>b</sup> Shopping allowed until 9 pm in all areas from 7<sup>th</sup> July 2003.

<sup>c</sup> Extension of Sunday trading to all suburban areas from start of daylight saving on 26<sup>th</sup> October 2003.

Source: ABS, *Statistics, Service Industries*.

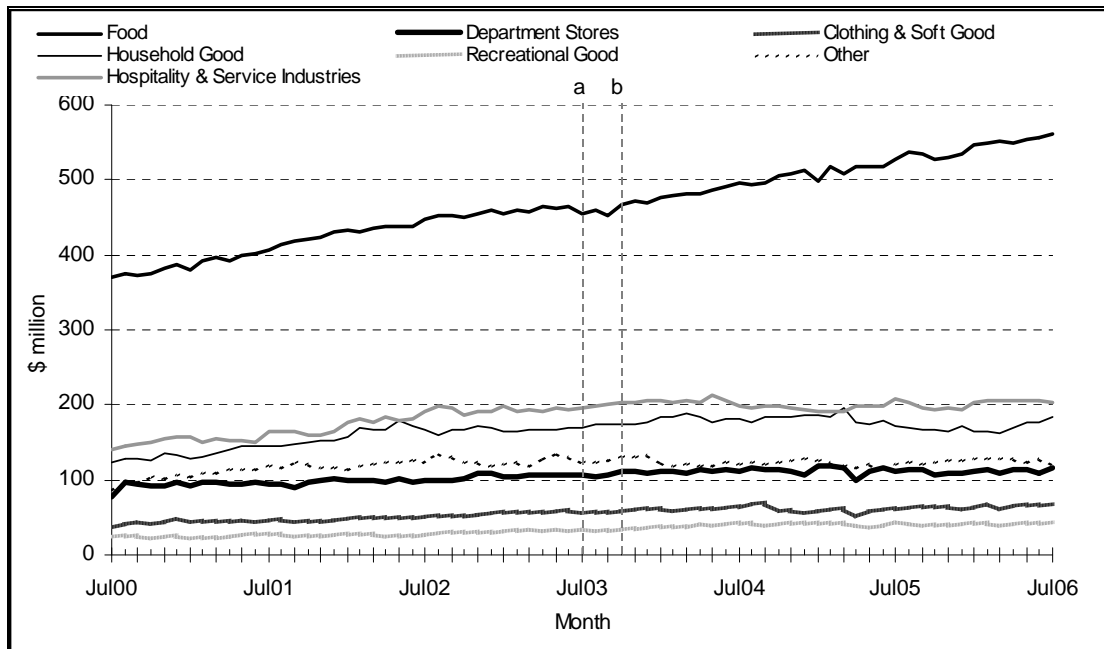


**Figure 2**  
**Index of Quarterly Retail Turnover by State**  
**Chain Volume Measures, Seasonally Adjusted<sup>a</sup>**



**Note:** Refer to Figure 1 for notes.  
**Source:** ABS, *Statistics*, Service Industries.

**Figure 3**  
**Value of Retail Turnover by Industry Group**  
**South Australia, Seasonally Adjusted**



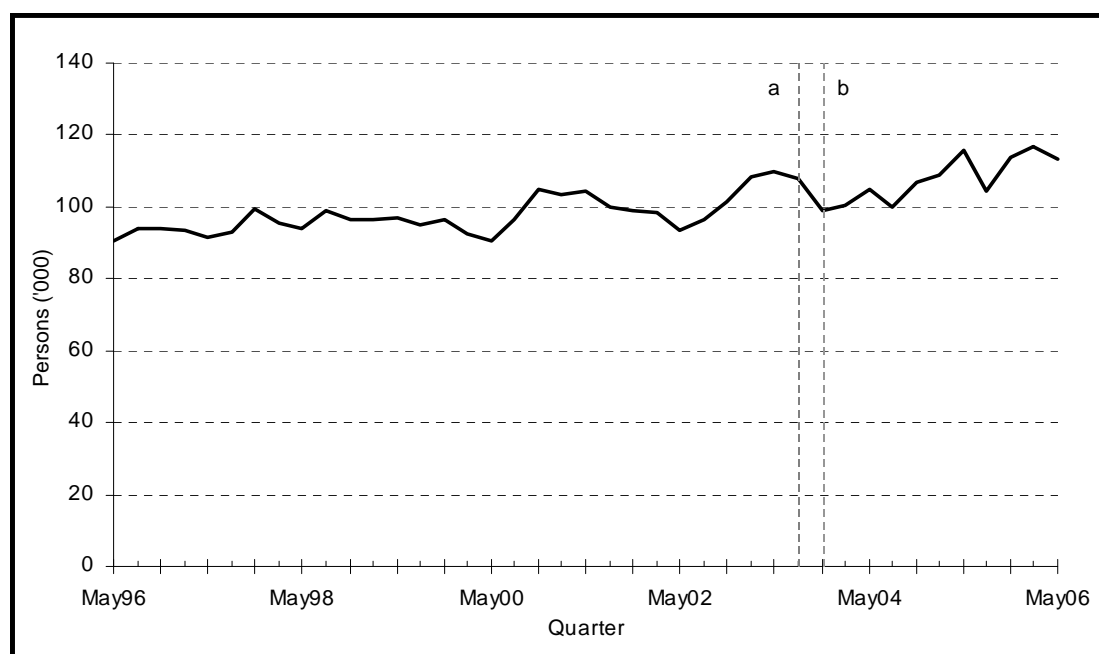
**Note:** <sup>a</sup> Shopping allowed until 9 pm in all areas from 7<sup>th</sup> July 2003.  
<sup>b</sup> Extension of Sunday trading to all suburban areas from start of daylight saving on 26<sup>th</sup> October 2003.  
 See Appendix A for a description of the composition of these industry groups.  
**Source:** ABS, *Statistics*, Service Industries.

## 2. Employment

While the changes to shopping hours appear not have had an impact on aggregate retail sales, there still could have been an impact on employment given the need to operate for longer periods. ABS data on employment was examined to see if there was any evidence of an impact on employment in the retail trade sector associated with the changes to shopping hours.<sup>2</sup> Of course any increases in employment (or hours worked) are only a net benefit for the state where they represent increases in total employment rather than shifts between sectors.

Figure 4 shows quarterly estimates of employment in the retail trade sector for South Australia in original terms. It should be noted that there is a high degree of noise in the quarterly data (including both sampling error and the variety of macroeconomic and policy variables which impact on employment in the retail sector) which makes it difficult to ascribe the changes in employment to any policy shift.

**Figure 4**  
**Employment in the Retail Trade Sector**



**Note:** <sup>a</sup> Shopping allowed until 9 pm in all areas from 7<sup>th</sup> July 2003.  
<sup>b</sup> Extension of Sunday trading to all suburban areas from start of daylight saving on 26<sup>th</sup> October 2003.

**Source:** ABS, *Statistics, Service Industries*.

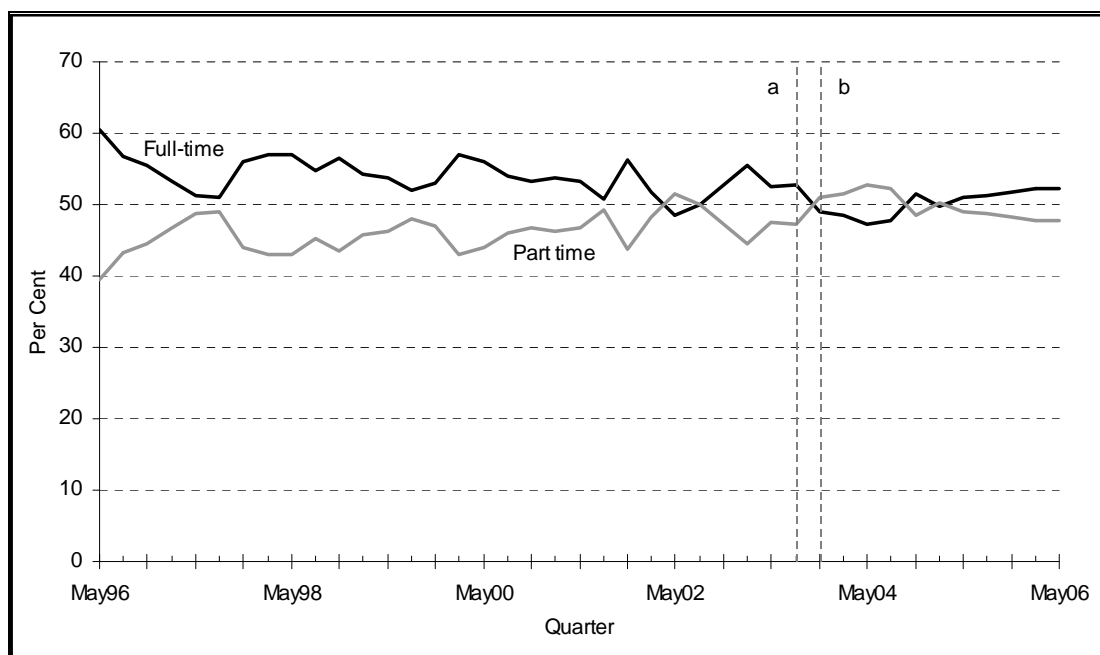
Employment in the retail trade sector grew solidly following the changes to shop trading hours, however the trend does not seem to differ significantly before and after the changes to retail trading hours. Retail employment in South Australia grew at an annualised rate of 1.8 per cent in the 33 months from the August quarter 2003, compared to an annualised rate of 3.8 per cent for the 33 months leading up to the August quarter 2003. This should not be interpreted to suggest that liberalisation has reduced retail employment in South Australia as the variability of sectoral employment data means that the rates of change are extremely

<sup>2</sup> It should be noted that the retail trade sector is defined differently in relation to employment estimates versus retail sales estimates. Employment estimates refer to the "retail trade" sector as defined by the ABS ANZSIC. Whilst retail sales estimates are in large part based on this classification, there are some important variations. E.g., activity associated with 'motor vehicle retailing and services' is included in the employment estimates, but is excluded from the retail sales estimates. On the other hand, activity associated with 'video hire outlets' and 'hairdressing and beauty salons' are included in the retail sales estimates, but not included in the employment estimates.

sensitive to the time period selected.<sup>3</sup> What it does seem to show is a lack of significant change in growth. Hence there is no evidence of an increase in retail employment resulting from the changes.

There have also been suggestions that the changes to shopping hours may have changed the composition of the retail workforce towards a greater role for part-time staff. Figure 5 shows the proportion of total retail employment accounted for by full-time and part-time employed persons. Whilst there has been considerable movement quarter-to-quarter, full-time and part-time employees have each comprised roughly half of the retail workforce since the May quarter 2001. There is no indication that there was a shift in this pattern occasioned by the changes to shopping hours.

**Figure 5**  
**Persons Employed in the Retail Trade Sector by Full-time and Part-time Status**  
**South Australia, Per Cent of Total Employment**



**Note:** <sup>a</sup> Shopping allowed until 9 pm in all areas from 7<sup>th</sup> July 2003.  
<sup>b</sup> Extension of Sunday trading to all suburban areas from start of daylight saving on 26<sup>th</sup> October 2003.

**Source:** ABS, *Statistics, Service Industries*.

### 3. Consumer preferences

As alluded to in the discussion on retail sales, it appears that the impact of the liberalisation of shopping hours was to shift the time, day, or location at which people shopped rather than the amount they spent. If such a shift occurred then it is likely that this increased consumer welfare as more consumers could shop at a time which was convenient to them. The value of this benefit depends on how many consumers were previously not permitted to shop at their preferred time (or were not permitted to shop at their preferred establishment at their preferred time), and how much they valued this added convenience. The scale of Sunday trading in supermarkets for example does suggest that there was substantial unsatisfied demand met by the changes in 2003. Coles Myer estimate that in Victoria by 1998 (two years after

<sup>3</sup> E.g. if, instead, we look at the period from the May quarter 2001 (instead of the November quarter 2000) to the May quarter 2006 the growth rates are closer, with an annualised growth rate of 2.0 per cent to the August quarter 2003.

deregulation of retail trading hours) that 11.5 per cent of their weekly supermarket trade occurred on Sundays.<sup>4</sup>

Looking to the future it is likely that there at least some consumers who would value being able to shop outside of the current trading hours. The extent to which there are benefits which could be realised by further deregulation depends on:

- how much trading hours would change if current restrictions were lifted;
- how many consumers would prefer to shop at a wider range of shops in the hours that would become available; and
- how much they would value this.

If the Victorian experience of deregulation is anything to go by, the changes in opening hours during the week would be relatively small; large Victorian supermarkets appear to open from 6.00am to 12.00am. Unfortunately there are no publicly available surveys of shopping time preferences amongst South Australian consumers, nor is there publicly available evidence on the proportion of Victorian consumption which has shifted to the late evening as a result of deregulation. Hence there is no basis on which to judge the improvements in consumer welfare that would result from a full deregulation. One could speculate that given the age structure of the South Australian population and the relatively small additional period of shopping in mainstream stores which would become available, that whilst there would be a consumer welfare gain it is likely to be small.

#### **4. Small business exits**

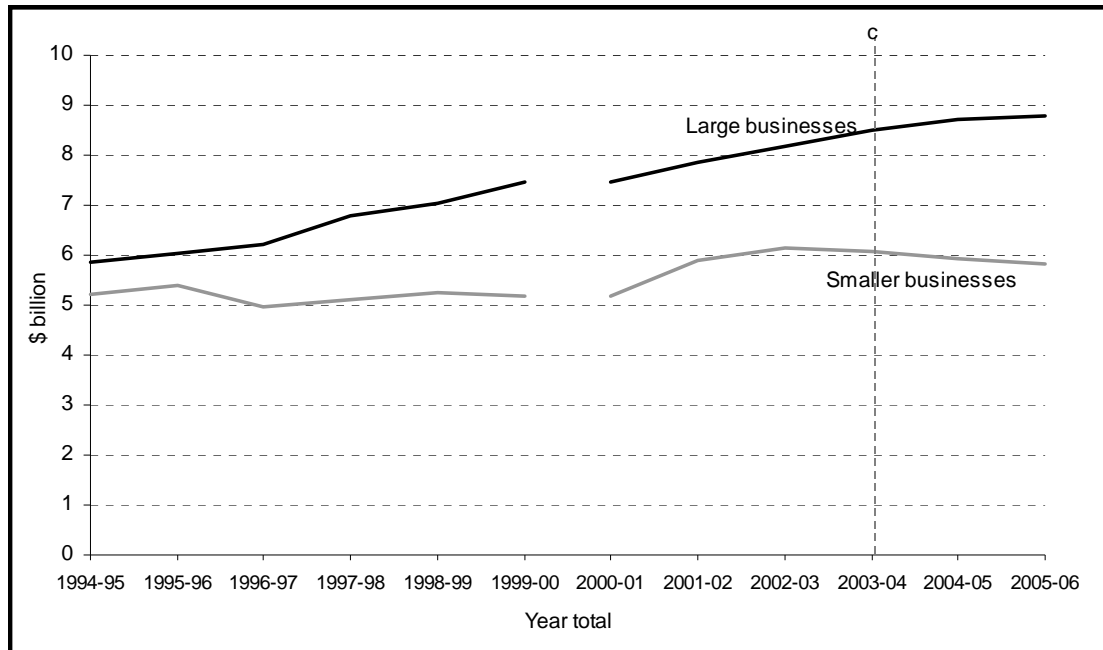
Small business exits are not in themselves strictly an economic cost; at the state level it is likely to represent a transfer of wealth rather than a net loss. However, it is widely held that consumers value variety both of products and types of suppliers (be that geographic or by ownership), hence if there was a significant net exit of small businesses in the retail sector then this could potentially reduce the variety available to consumers reducing social welfare.

Figure 6 shows annual retail sales for large and small businesses. Interestingly, retail sales for small businesses have been declining, whereas sales for large businesses have continued to grow solidly. However, this trend pre-dates the changes to trading hours with real retail sales for smaller businesses also falling in the year prior to the liberalisation. There is also evidence of a relatively slower pattern of growth for smaller businesses at the national level over the past decade (see Figure 7), and in particular for a noticeable slowdown in small business retail turnover after 2003-04. This again suggests that other factors have played a role in the slower pace of growth for smaller businesses.

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<sup>4</sup> Submission by Coles Myer to the Productivity Commission's enquiry into National Competition Policy (submission number 107), data refers to August 1998. Available at: <http://www.pc.gov.au/inquiry/ncp/subs/sub107.pdf>

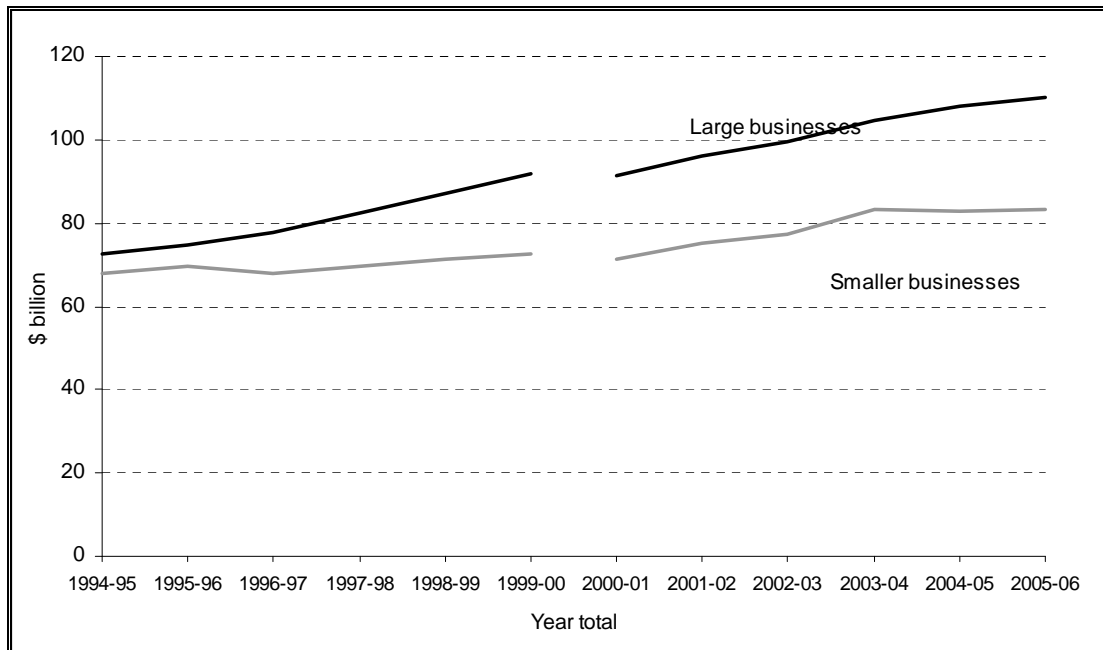
**Figure 6**  
**Real Retail Turnover by Large and Small Businesses<sup>a, b</sup>**  
**South Australia, Year Total, 2004-05 \$**



**Note:** <sup>a</sup> Large businesses refers to chains and other large businesses which are “completely enumerated”, while smaller businesses refers to “sampled units”.  
<sup>b</sup> There is a break in the series between June and July 2000 due to the introduction of The New Tax System.  
<sup>c</sup> The two changes to South Australian shopping hours were introduced in the 2003-04 financial year.

**Source:** ABS, *Statistics, Service Industries*.

**Figure 7**  
**Retail Turnover by Large and Small Businesses<sup>a</sup>**  
**Australia excluding South Australia, Year Total**



**Note:** <sup>a</sup> See notes for Figure 6.  
**Source:** ABS, *Statistics, Service Industries*.

The other way to gauge the impact of the reforms on small businesses is to examine business exit rates. High quality data on business exits is not available, making this issue difficult to assess. However, there is an experimental data series produced by the ABS based on their business register measuring business entry and exit by (broad) size and sector. Whilst this series does not explicitly measure small businesses, in numerical terms almost all of the business enterprises in the database are small businesses. It is important not to read too much into this series as it is experimental and therefore its reliability is currently uncertain. The series is also only available up to 2003/04, and therefore could not pick up any longer term impact of the changes.

**Table 2**  
**Experimental Estimates<sup>a</sup> of Retail<sup>b</sup> Businesses**  
**Numbers and percentage change**

	2001-02			2002-03			2003-04		
	Businesses	Net entry	% change	Businesses	Net entry	% change	Businesses	Net entry	% change
South Australia	19,999	-466	-2.3	19,674	861	4.3	20,715	924	4.7
Rest of Australia	242,068	2,954	1.2	246,532	13,466	5.6	262,562	15,746	6.4

Note: <sup>a</sup> These are experimental estimates and caution needs be exercised in interpreting the results.

<sup>b</sup> The definition of 'retail' in this data is that from the ANZIC industry classification, and therefore it does not match the definition used in the retail trade data, see footnote 2 for details.

Source: ABS, *Statistics*, Business Register, calculations SACES.

Examining the data series shown in Table 2 suggests that the previous relaxation did not lead to any immediate decrease in net retail business entry in South Australia. As with the rest of the country, there was a net increase in retail businesses in South Australia in both 2002/03 and 2003/04, with the rate of increase being higher in 2003-04. This data does not support the hypothesis that the changes to retail trading hours in 2003 reduced the number of small retail business (at least in the short term).

## Appendix A

### Industry Group

The industry sectors which are included in the Retail Business survey are defined below. The number in brackets refers to the industry code as defined in the Australian and New Zealand Standard Industrial Classification (ANZSIC).

- Food Retailing
  - Supermarkets and grocery stores (5110) and non-petrol sales of convenience stores of selected petrol stations.
  - Takeaway food retailing (5125)
  - Other food retailing
    - Fresh meat, fish and poultry retailing (5121)
    - Fruit and vegetable retailing (5122)
    - Liquor retailing (5123)
    - Bread and cake retailing (5124)
    - Specialised food retailing n.e.c. (5129)
- Department Stores (5210)
- Clothing and Soft Good Retailing
  - Clothing retailing (5221)
  - Footwear, fabric and other soft good retailing
    - Footwear retailing (5222)
    - Fabric and other soft good retailing (5223)
- Household Good Retailing
  - Furniture and floor covering retailing
    - Furniture retailing (5231)
    - Floor covering retailing (5232)
  - Domestic hardware and houseware retailing (5233)
  - Domestic appliance and recorded music retailing
    - Domestic appliance retailing (5234)
    - Recorded music retailing (5235)
- Recreational Good Retailing
  - Newspaper, book and stationery retailing (5243)
  - Other recreational goods retailing
    - Sport and camping equipment retailing (5241)
    - Toy and game retailing (5242)
    - Photographic equipment retailing (5244)
- Other Retailing
  - Pharmaceutical, cosmetic and toiletry retailing (5251)
  - Other retailing n.e.c.
    - Antique and used good retailing (5252)
    - Garden supplies retailing (5253)
    - Flower retailing (5254)
    - Watch and jewellery retailing (5255)
    - Retailing n.e.c. (5259)
- Hospitality and Services
  - Hotels and licensed clubs
    - Pubs, taverns and bars (5720)
    - Clubs (Hospitality) (5740)
  - Cafes and Restaurants (5730)
  - Selected services
    - Video hire outlets (9511)
    - Hairdressing and beauty salons (9526)

Source: ABS, *Retail Trade, Australia*, July 2006, Catalogue Number 8501.0.

QUESTIONNAIRE



1. IN THE LAST WEEK, WHICH DAYS HAVE YOU SHOPPED FOR FOOD OR GROCERY PURCHASES?

**[multiple choice – probe: ANY OTHER DAYS?]**

Monday	1
Tuesday	2
Wednesday	3
Thursday	4
Friday	5
Saturday	6
Sunday	7
Don't know	8
Haven't	9

2. IN THE LAST WEEK, WHICH DAYS HAVE YOU SHOPPED FOR GENERAL RETAIL PURCHASES, SUCH AS CLOTHING, ELECTRICAL, HOMEWARES AND OTHER NON FOOD PURCHASES? **[multiple choice – probe: ANY OTHER DAYS?]**

Monday	1
Tuesday	2
Wednesday	3
Thursday	4
Friday	5
Saturday	6
Sunday	7
Don't know	8
Haven't	9

3. WHEN SHOPPING BY YOURSELF, WHAT ARE YOUR FAVOURITE SHOPPING DAYS? **[multiple choice – probe: ANY OTHER DAYS?]**

Monday	1
Tuesday	2
Wednesday	3
Thursday	4
Friday	5
Saturday	6
Sunday	7
Don't know	8

4. WHEN SHOPPING WITH FAMILY OR FRIENDS, WHAT ARE YOUR FAVOURITE SHOPPING DAYS?

*[multiple choice – record up to three]*

Monday	1
Tuesday	2
Wednesday	3
Thursday	4
Friday	5
Saturday	6
Sunday	7
Don't know	8

5. WOULD YOU LIKE TO HAVE THE OPTION TO SHOP AT SUPERMARKETS OR OTHER FOOD RETAILERS LATER THAN 9PM ANY NIGHT OF THE WEEK?

Yes	1
No	2
Don't know	3

6. WOULD YOU LIKE TO HAVE THE OPTION TO SHOP AT GENERAL (NON FOOD) RETAILERS LATER THAN 9PM ANY NIGHT OF THE WEEK?

Yes	1
No	2
Don't know	3

7. HOW OFTEN DO YOU VISIT SHOPS ON SUNDAYS?

Every/most Sundays	1
Fortnightly	2
Monthly	3
Less often (than monthly)	4
Don't know	5

8. WHICH SHOP OPENING TIME WOULD BE MOST CONVENIENT FOR YOU ON SUNDAYS? THIS MAY DIFFER FROM CURRENT OPENING TIMES.

8.30 am	1
9.00 am	2
9.30 am	3
10.00 am	4
10.30 am	5
11.00 am	6
Don't know	7

9. WHICH SHOP CLOSING TIME WOULD BE MOST CONVENIENT FOR YOU ON SUNDAYS? ONCE AGAIN, THIS MAY BE DIFFERENT TO CURRENT CLOSING TIMES.

5.00 pm	1
5.30 pm	2
6.00 pm	3
6.30 pm	4
7.00 pm	5
7.30 pm	6
8.00 pm	7
8.30 pm	8
9.00 pm	9
Don't know	10

10. WHICH OF THE FOLLOWING WOULD YOU LIKE TO SEE TRADE ON SUNDAYS? *Read out*

BANK/CREDIT UNIONS	1
MEDIBANK/HEALTH BENEFIT BUSINESSES	2
CAR DEALERS	3
INSURANCE COMPANIES	4
MEDICAL PRACTICES	5
LOCAL COUNCIL OFFICES	6
REGISTRATION & LICENSING	7
STATE GOVERNMENT DEPARTMENTS	8
Don't know	9
None of these	10

11. WHERE DO YOU DO MOST OF YOUR SUPERMARKET AND FOOD SHOPPING?

CITY	1
MAJOR REGIONAL CENTRE [EG WESTFIELD]	2
LOCAL PRECINT	3
Don't know	4

12. WHERE DO YOU DO MOST OF YOUR GENERAL (NON FOOD) RETAIL SHOPPING?

CITY	1
MAJOR REGIONAL CENTRE [EG WESTFIELD]	2
LOCAL PRECINT	3
Don't know	4

13. SOME RETAILERS WOULD LIKE TO TRADE ON PUBLIC HOLIDAYS. WHICH OF THE FOLLOWING SHOPPING DESTINATIONS DO YOU BELIEVE SHOULD BE PERMITTED TO TRADE ON PUBLIC HOLIDAYS?  
[MULTIPLE CHOICE]

CITY	1
MAJOR REGIONAL CENTRE [EG WESTFIELD]	2
LOCAL PRECINCT	3
Do not support public holiday trading [do not read out]	4
Don't know	5

14. HOW OFTEN DO YOU VISIT THE CITY FOR LEISURE, ENTERTAINMENT OR CULTURAL ACTIVITIES?

Daily	1
Weekly	2
Fortnightly	3
Monthly	4
Every 2-3 months	5
Every 4-6 months	6
7-12 months	7
> 1 year	8
Don't know	9
Do not visit City	10

15. HOW OFTEN DO YOU VISIT THE CITY SOLELY FOR SHOPPING?

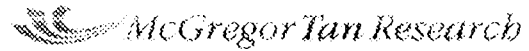
Daily	1
Weekly	2
Fortnightly	3
Monthly	4
Every 2-3 months	5
Every 4-6 months	6
7-12 months	7
> 1 year	8
Don't know	9
Do not visit City	10

16. WHICH DAYS WOULD YOU LIKE TO SEE THE ADELAIDE CENTRAL MARKET TRADE? [*multiple choice*]

MONDAY	1
TUESDAY	2
WEDNESDAY	3
THURSDAY	4
FRIDAY	5
SATURDAY	6
SUNDAY	7
Don't know	8

17. DO YOU STRONGLY AGREE, AGREE, DISAGREE OR STRONGLY DISAGREE?

	Agree	Don't know	Disagree
RETAILERS SHOULD BE ABLE TO DETERMINE THE HOURS THAT WORK BEST FOR THEIR CUSTOMERS	1	2	3
GOVERNMENT SHOULD NOT REGULATE SHOP TRADING HOURS	1	2	3



# Appendix 1

## Questions Asked

Project No: ...

### McGREGOR TAN HOUSEHOLD OMNIBUS SURVEY AUGUST 2006

Good ..... I am ..... from McGregor Tan Research. As an independent social and market research company, we do not sell, promote or endorse any product or service. We value your opinions and these are often used to improve services to the public, product quality or safety. We are conducting a survey about public issues and would appreciate your opinions. There are no right or wrong answers, it is just your opinion that we are after.

John Mitchell Public Relations

1. The Government has recently instituted an independent review of shopping hours to determine if there is a need to see the hours expanded even further.  
Do you believe the existing shopping hours are sufficient?  
1..... Yes  
2..... Unsure  
3..... No

#### CLASSIFICATIONS:

2. Record gender:  
1..... Male  
2..... Female
3. In which of these age groups do you fall?  
1..... 18 to 24  
2..... 25 to 30  
3..... 31 to 39  
4..... 40 to 54  
5..... 55 to 64  
6..... 65+
4. Are you in paid employment?  
If yes: What is your occupation?  
1..... Professional/executive  
2..... White collar  
3..... Blue collar  
If no: Could you please tell me how you describe your occupation?  
4..... Home duties  
5..... Retired  
6..... Other (e.g. unemployed, student, etc.)
5. Which of these groups best describes this household?  
1..... SINGLE PEOPLE: people of any age living alone or sharing accommodation (under 40)  
2..... YOUNG COUPLE: married or living together with no children in the home  
3..... YOUNG FAMILY: couple or single parent with most children under 6  
4..... MIDDLE FAMILY: couple or single parent with most children aged from 6-15 years  
5..... MATURE FAMILY: couple or single parent with most children over 15 years and at least one still living at home  
6..... MATURE COUPLE OR SINGLE: couple or single in middle to late age groups with no children in the home

6. Which of the following best describes your gross Household Income? Read out, single response
- 1..... Under \$20,000 pa
  - 2..... \$20,000-39,999 pa
  - 3..... \$40,000-59,999 pa
  - 4..... \$60,000-79,999 pa
  - 5..... \$80,000-99,999 pa
  - 6..... \$100,000+ pa
  - 7..... Refused