

## The Birdsville Amendment- Is it here to stay?

In 2007 changes were made to the Trade Practices Act, which became known as the “Birdsville Amendment,” so called because the amendments were allegedly written in the Birdsville hotel. The amendments were introduced in to the Federal Parliament by Senator Barnaby Joyce and they passed through the Parliament within two weeks with out public consultation.

The Birdsville amendment was aimed at assisting small businesses to compete with larger businesses that may have a greater share of the market. It was also prompted by concerns about the effects of predatory pricing on small businesses. Predatory pricing is a term which refers to a business deliberately selling at low prices in an attempt to drive a competitor out of the market. The issue of “predatory pricing” is addressed in Section 46 of the Trade Practices Act, although the term is not specifically used in the Act.

There has been considerable criticism of the amendment because the changes focussed on “market share” rather than “market power” and it was felt in some areas that this could potentially damage competition rather than encourage it.

At present the Government is considering changing the wording in the Act which currently refers to “a substantial share of the market” to become “a substantial degree of power in the market.” There have been a number of comments made about the effectiveness of the current legislation including the comment that it is very difficult for a small business to prove predatory pricing and that there may be a need to define what is meant by “market power” in the Act.

At this point the Senate Standing Committee on Economics has recommended that the Government reconsider the implications of changing the wording “market share” to market power” in the legislation as this may adversely affect small business. The proposed changes are being debated in the Federal Parliament and MGA will keep members informed on this issue.

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## Western Australia

The Western Australian Premier has said that the Labour Party would introduce new laws that would extend weeknight trading until 7pm and special trading precincts would be established in Armidale, Joondalup and Midland allowing broader trading hours in those areas. However, a re elected Labor Government would not introduce wholesale deregulation of trading hours.

Liberal leader, Colin Barnett, has weighed in on the debate, suggesting that some extension was needed to the current weekday trading hours.

Earlier this year, NSW amended its trading hours to allow stores to trade on Sundays and some public holidays.

## New South Wales

Members are reminded that 4 November (Melbourne Cup Day) is listed as a holiday in the NSW Shop Employees (State) Award. This applies to stores in both the federal and state industrial relations system. An information sheet on Melbourne Cup Day under that Award is available at [www.mga.asn.au](http://www.mga.asn.au).

## ACT

Figures released by Office of Regulatory Services show that 4,034 ACT workers compensation claims were accepted by insurers during the 2006/2007 financial year. 729 successful claims were made by employees involved in the retail industry. The most common injuries resulting in workers compensation claims were those stemming from manual handling activities which place physical stress on body structures. Members are reminded to ensure staff are trained in manual handling in order to prevent injuries from occurring.

A new Work Safety Bill has been introduced in the ACT which is intended to improve safety in the workplace.

## Victoria

Members are advised that there have been changes to the Victorian Equal Opportunity Act which permit greater flexibility in the workplace. See our article in this edition .

## Queensland

Coles and Woolworths have applied for Gold Coast trading hours to be extended from 6am until midnight. The Queensland Industrial Relations Commission will consider the matter in November. One issue for consideration will be the effect that this proposal will have on small and independent retailers. MGA will keep members updated on the progress of this issue.