

LIQUOR STORES ASSOCIATION OF VICTORIA INC.
UNIT 9, 14-26 AUDSLEY STREET CLAYTON, VICTORIA 3168

Dawson Committee Trade Practices Act Review

Submission by the Liquor Stores Association of Victoria Inc

'Globalism is the ideology of "Free Trade". It aims to open up national economies so that multinational companies, using modern transportation and communication can freely shift their capital, technology and products around the world so as to maximise their profits by...

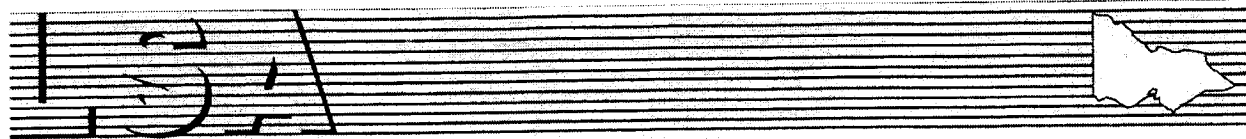
- Merging with and taking over competitors to reduce competition and increase market share...
- Avoiding legal restraints...'

"Globalism – the theory and the reality", in *News Weekly*, 13 Jan 2001.

'The object of any amalgamation of capital and production units...must always be the object of the largest possible reduction in the costs of production, administration and sale, with a view to achieving the highest possible profits by eliminating ruinous competition.'

Carl Duisberg, founder of I. G. Farben, 1903-04, in 'German Cartels from 1873-1914', cited in E. J. Hobsbawm, *The Age of Empire 1875-1914*, Guild, London, 1987, p. 24.

19 July 2002



LIQUOR STORES ASSOCIATION OF VICTORIA INC.
UNIT 9, 14-26 AUDSLEY STREET CLAYTON, VICTORIA 3168

**Dawson Committee
Trade Practises Act Review**

Liquor Stores Association of Victoria Inc (LSAV)

Executive Summary

The LSAV supports the submissions made by the Fair Trading Coalition (FTC) and the National Association of Retail Grocers of Australia (NARGA) to this review.

In particular, the LSAV seeks the following amendments to the *Trade Practices Act*:

1. All suppliers must publish transparent trading terms with clearly stated 'wholesale prices'.
2. A clear definition of 'cost' in order to establish a datum point of what it means to sell 'below cost'.
3. A prohibition on 'cross subsidies' behaviour.
4. Any variation to the published wholesale price must be made available to all retailers in that sector in published form.
5. No retailer can advertise or sell at a price below the lowest published wholesale price.
6. Dumping of a product in a region or district, which has the effect of driving a competitor out of business, must be prohibited.
7. Misuse of market power at Section 46 to be determined by the 'effect' of the action on competitors, rather than the unprovable 'intention'.
8. A strengthening of Section 46.
9. New and stronger clauses in Section 50.
10. Jail sentences for corporations involved in anti-competitive behaviour.
11. ACCC small business charter requires strengthening.

Submission Objective

The LSAV hopes for dynamic reforms to the *Trade Practices Act* at Sections 46 and 50 to;

- Achieve legislative reform in the *Trade Practises Act* which will ensure the continued diversity and survival of an Australian small business retailing sector:
- Ensure the stated object at Section 2 of the *Trade Practices Act* 'to enhance the welfare of Australians through the promotion of competition and fair trading...' is enshrined and enhanced within the Act.

Focus

Whilst we support the thrust of FTC and NARGA submissions our material concentrates on two aspects of the Trade Practises Act;

- Section 46, *Misuse of Market Power*, and
- Section 50, Prohibitions of acquisitions that would result in a substantial lessening of competition.

Introduction

The LSAV represents independent Victorian retailers involved in package liquor sales of alcohol for off-premises consumption. Holders of packaged liquor licences (PLLs) are defined in Section 11 of the licensing provisions of the Victorian *Liquor Control Reform Act 1998*. PLLs marketing and supply of alcohol to the public differs from those who hold General (hotel) Licences, or other licences that permit on-premise consumption of liquor.

The major chain stores, viz; Coles / Myer and Woolworths / Safeways, which operate under a range of brand stores such as, Liquorland, Vintage Cellars, Dan Murphy's, Quaffers, Harry's Liquor (to name a few) are not members of the LSAV, nor does the LSAV represent their interests. These major retailers are competitors and LSAV small business members regularly advise the Association that they consider the frequent low price actions of one or other of the chains in the market place as often unreasonable and occasionally predatory.

Currently, there are approximately 1380 Packaged Liquor Licences (PLLs) in Victoria, permitted under this classification to sell packaged liquor for off-premise consumption. Victoria has a long history of sales of alcohol for off-premise consumption through outlets other than hotel bottle-shops. The

PLL allows a market, in Victoria, of great diversity in ownership and product offered to the public.

The LSAV is committed to the viability of its members and diversity of players in the marketplace providing a wide choice of products for the consumer. We seek from this review a refinement of trade practices, and competition policies that will enable small businesses long term opportunities to compete against the two major supermarket chains, which seek to dominate the market, and who are the major beneficiaries of the National Competition Policy reviews which concluded in Victoria in recent months. National Competition Policy provided a further deregulation mechanism whereby the small business market share was handed to the majors.

'Deregulation does not improve competition...it actually reduces it by allowing big companies...through market dominance to take small business market share. It is about transferring market share from the small operator to the big chain stores...'¹

To be competitive, and viable with diversity of ownership and product, the independent small business sector must, be able to source its supplies at comparable prices to those obtained by the two major chains. Independent small business retailers believe they are strategically targeted by below cost pricing and other predatory tactics by the major chains. Any anti-competitive conduct within the retail packaged liquor industry impacts on the long-term competitiveness and future of the market and encourages an eventual duopoly, where price competition will be confined to a limited range and a lack of real choice.

LSAV Vision for Industry

The Liquor Stores Association of Victoria (LSAV) seeks to achieve:

- A national liquor industry with a diversity of retailers offering a wide selection of products and services to consumers and producers;
- Real diversity and true competition, but with a fair and equitable share of the overall market protected by Trade Practises legislation for small business which is a major generator of investment, employment and innovation, promoting freedom of choice;

¹ G. Soula, Micro Business consultative Group at House of Representatives Standing committee on Industry, Science and Technology's Inquiry into Fair Trading, pp. 300-01, 4 Nov 1996.

- A reasonable return on the effort that small business proprietors invest in their business, including a fair return on the capital investment;
- A dynamic and orderly industry, with steps to be taken to ensure that:
 - businesses can operate and plan for the future with a degree of certainty, and
 - proprietors can anticipate that their business' value will not be eroded by continual legislative change generating de facto structural change;
- A competitive environment, but free of predatory pricing and abuse of market power;
- An industry environment in which small business can operate and thrive without the fear of being crushed by major retailers taking advantage of their substantial market power to:
 - eliminate or damage smaller competitors in that market,
 - prevent the entry of new retailers into that market, and
 - deter or prevent other retailers from engaging in competitive conduct in the market (S 46 of the *Trade Practices Act 1974*)

Packaged Liquor Industry Overview

A current summary of the packaged liquor industry is believed to be:²

Total National retail sales of all liquor (est.)	\$16 billion
Total National retail sales of all packaged liquor (est.)	\$9.0.4 billion
Estimated Woolworth's retail liquor sales	\$1.25 billion
Estimated Coles retail liquor sales	\$1.40 billion
Est. Coles & Woolworths combined retail liquor sales	\$2.65 billion

Combined, Coles Myer and Woolworths currently control 30% of the total national retail sales of packaged liquor.

² No accurate figures exist. ABS statistics are according to the industry, markedly understated

Recent public statements by the CEOs of both companies clearly indicate a declared objective of significantly increasing their market share in this industry in the near future.

Problems facing small business

In September 1999, in the Victorian ALP's small business policy statement '*Taking Care of Small Business*', the then Labor Opposition Leader, Steve Bracks, promised:

- Labor will create an environment in which a vibrant, dynamic and prosperous small and medium-sized business sector can thrive. Labor will give them the support and encouragement they need to get on with the job.
- Small business is where Victoria's best prospects for future jobs and prosperity lie. Labor understands that and is keen to back them all the way...

In the same policy statement, the Labor Party also indicated a concern at the growing concentration of retail chains' preponderance and promised:

- Labor will introduce unfair and unconscionable trading clauses to the **Fair Trading Act** and other relevant legislation to provide a safety net against predatory trading practices; and
- Labor will work with the Federal Government to ensure that small and medium sized businesses do not suffer as a result of unfair trading practices by larger competitors.

There was political recognition that small business faced major problems compared to the chains' massive, increasing and unfettered market power. In government, the weight of National Competition Policy threats to withhold millions of federal dollars seduced the Bracks Government into submission on liquor deregulation.

A number of factors are destroying Australia's small business retail sector. Understanding that small business retailing covers a variety of industry sectors, other than liquor, we suggest that some of issues we raise also affect others.

We will address each below;

- Anti competitive 'below cost' pricing
- Predatory pricing
- Massaging prices by suppliers
- Misuse of market power or 'dumping'
- The growing duopoly threat

- Support for strengthening Section 46 with an 'effects test' and divestiture
- Creeping acquisitions
- Strengthening Section 50
- Criminal sanctions for collusive conduct

Anti-competitive 'below cost' pricing is, selling below cost in selective locations to strategically target independent small business competitors. Pricing products below cost gives a 'flash in the pan' benefit for consumers. However, where below cost pricing is a strategy to undermine the independent small business sector, consumers will suffer when prices rise once independent small businesses are eliminated or deterred from engaging in competitive conduct. This tactic is a re-invention of the nineteenth century economic theory that it is the 'intention of business precisely to drive competition out of business' in order to re-invent monopolies.

With competition destroyed; only the chains benefit. Ultimately the consumer loses.

Predatory Pricing

Predatory pricing is the practice of selling below cost. However, the unsolved question is "What constitutes cost?"

It is impossible to impugn someone for selling "below cost" if there is not clear definition of "cost".

The LSAV understands that there are several opinions as to what constitutes cost.

Cost can be defined as 4 different things:

- Into store cost – price less discounts, plus insurance and freight. This is often termed "net unit cost" (NUC). It does not include GST.
- Direct cost – as defined above, plus bank charges, warehousing costs, advertising
- Absorbed cost – includes the above, plus wages, rent, and other additions
- Across the board cost – where you ignore an item's sell price (as sold by the company with market power in one region or through one brand outlet or in a particular configuration) and determine if the total sales of that item "across the board" are above cost.

In the liquor industry the first defined 'into store cost' (NUC) is the generally accepted concept of cost.

The last method defines an overall cost, ignoring the individual item, by weighing the overall sales above cost. Such a definition is unsatisfactory to small business as this allows the majors to 'loss lead' in one location or branded outlet, in order to target a specific competitor(s), while selling above cost in other locations or branded outlets.

Added to the difficulty in establishing a true NUC, many retailers receive bonus stock on a purchase; e.g. when a retailer purchases (say) 10 cases of product x, he/she may receive one extra case of the same product as a bonus. If the cost of the item per case is \$93 and a retailer buys 10, he pays out \$930 and gets one case free.

Is the cost now \$93 per case or $(\$930 \div 11) = \84.54 per case?

The *Trade Practices Act* is unclear.

Terry McCrann (*Herald Sun*, Business, 21 Nov 2001) argued against a variation to the *Trade Practices Act*, for the proposed 'effects test' as a means of establishing what was predatory or anti competitive behaviour. Sanctioning one retailer's predatory pricing, on the basis that it is a legitimate market building strategy at another's expense, is unacceptable in a 'fair' trading environment.

Small business retailers need to know what constitutes the wholesale purchase price or 'cost price' of a given product. That "cost price" must be transparent, and published, and available to all industry participants.

The LSAV has no problem with suppliers offering deals and discounts and special offers. But it does object to suppliers saying they have transparent trading terms, yet offering deals or discounts to certain retail customers but not to others. Transparency must mean publishing all the deals and offering them to all the customers.

The *Trade Practices Act* needs reform on this matter.

Massaging prices by suppliers

A recent concern of LSAV members has been the nascent practice of certain suppliers massaging retail prices.

Massaging of prices by suppliers involves the discrete inducement to set prices as determined in a locality, by coming to an arrangement over purchase and selling prices. A supplier uses this tactic to increase turnover by inducing selected retailers to reduce gross profit for a better cost price.

For example, if product xyz, has a standard cost price of \$ 48 (per 24 cans) this represents a single item NUC of \$2 (before GST). The retailer may sell these products for 4 for \$12 with a gross profit of 26.7%. The supplier may approach one, perhaps two retailers in a locality, with a special cost deal on product xyz of \$45 (for 24), with the proviso that the retailer sells at 4 for \$10. The retailer drops gross profit to 17.6% on the promise of increased turnover. As other retailers, unaware of the deal, see their sales plummet, they match the price, but without the discount (as it is initially not published or offered to all players in the locality). Turnover increases in the selected locality but the margin for all the retailers is depleted.

This is an emerging interference in price setting by suppliers, in Victorian packaged liquor industry, which requires rectification before it becomes a wide spread national practice.

There is a sound axiom in retailing:

Turnover is vanity; Profit is sanity

Pro-competitive environment

Small business retailers are entitled to buy supplies at the supplier's best price. They are entitled to know what is the supplier's best price.

Where a supplier is selling lower than the normal or published cost price, then all retailers are entitled to the same cost price where they make comparable purchases. This is embodied in the principle of 'like terms for like customers', which translates into comparable customers (by reference to volume and services provided), receiving comparable prices.

Suppliers discriminating against comparable customers must be identified and any anti-competitive price discrimination appropriately dealt with under the *Trade Practices Act*. Anti-competitive price discrimination arises where independent small businesses are denied either knowledge of, and /or access to, comparable prices to those attained by the major chains. Comparable

supply prices translate into competitive pricing for consumers. Without comparable prices to those secured by the major chains, the independent small business sector is not competitive but is disadvantaged. Price discrimination between comparable customers undermines the ability of small business to compete on equal footing. Where price discrimination occurs because an entity has a substantial degree of market power, suppliers may become party to a tactic employed by that entity to secure for itself an obvious price advantage over rivals.

The LSAV supports the sentiments of the Mr David Purchase of the Victorian Automobile Chamber of Commerce's (VACC), when he stated that the ACCC 'must keep the relationships between big business and small business under the microscope.'³ Further, like the VACC members', many small liquor retailers 'are often on the receiving end of unfair practices and predatory pricing by big business and feel powerless to take action.' Like the VACC, the LSAV supports an 'effects test' in the *Trade Practices Act* along with powers to issue a 'cease and desist' order.

These two issues, the 'effects tests', and 'predatory pricing' are, in the LSAV's view, integral to the review of the Act .

Effects Test (Section 46)

With lodged complaints, the regulator should objectively determine whether an action has an anti-competitive 'effect' in the market. An 'effects' test in Section 46 would permit such an assessment. In addition, specific forms of anti-competitive conduct require new provisions in the *Act* to foster effective competition between dominant corporations and independent small businesses. The *Act* needs to evolve to meet the more sophisticated types of potentially anti-competitive conduct that dominant corporations may utilize. This involves fine-tuning existing provisions of the *Act* where appropriate and introducing new prohibitions where existing provisions do not effectively counter specific forms of anti-competitive conduct.

The LSAV supports the NARGA submission and likewise urges Section 46(1) be amended to read (changes in italics):

"46(1) A corporation that has a substantial degree of power in a market shall not take advantage of that power for the purpose *or in a way that has the effect or would have the likely effect of:*

³ Letters to the Editor, by David Purchase, the *AGE*, 16 July '02, p. 10.

- (a) eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;
- (b) preventing the entry of a person into that or any other market; or
- (c) deterring or preventing a person from engaging in competitive conduct in that or any other market.”

Anti-competitive below cost or unreasonably low pricing

Anti-competitive below cost or unreasonably low pricing is conduct that, where engaged in strategically by an entity having a substantial degree of market power, undermines competition in a market. It ensures independent small businesses cannot match or sustain prices set by the dominant. The problem exacerbates when a supplier engages in anti-competitive price discrimination allowing a dominant better price or trading terms than the independent small business sector, even though the latter buys comparable quantities of products and provides the supplier with comparable services. Purchasing products from a supplier at prices higher than those offered to dominant corporations places the independent small business sector at a clear price disadvantage and prevents the sector from being competitive. Being at a competitive disadvantage forces independent small business to go out of business or sell out to the dominant corporations.

Prohibiting ‘cross subsidies’

The LSAV understands, historically, that as some corporations become dominant and concentrated, they manipulate market power to their own advantage and in so doing deliberately disadvantage others. This is a particular issue where the major is a substantial customer for a supplier. One chain binds suppliers to; distribution allowances, promotion allowance, co-op allowances, business volume rebates, national rebates, accepting 7 days payment as meaning fourteen to fifteen (14-15) days, (30) thirty days as forty five to fifty (45-50) days, purchasing price means normal supply price less 7.5%, standard pre-determined and on-going ullages and unsaleable goods and support packages etc.⁴

In short, the preponderant corporation coerces suppliers, insisting on better than favourable terms. The alternative is to face the risk of being ignored. Thus, some suppliers are complicit in tilting the competitive playing field. Disadvantaged suppliers often weight up their wholesale price against the smaller player in order to meet a break-even target, budget or cover production/supply costs. One supplier confided that with all the stipulations

⁴ *New Vendor Presentation Kit*, pp. 2, 11, 13.

required by a chain he could only supply at a loss.⁵ This practice may give rise to the culture known as 'cross subsidizing' and we suggest this activity corrupts or disguises the true wholesale price of a product. Further, we suggest that 'cross subsidizing' sustained losses onto small business traders' wholesale prices occurs to offset the preponderant's activity of demanding and getting below wholesale terms of trade. Consumers are deprived of the benefits of having an independent small business sector that can compete vigorously or on even footing with a dominant corporation.

The LSAV supports a new prohibition in the *Trade Practices Act* against coercive or intimidating conduct or 'cross subsidies' terms of trade by entities using market power.

Unreasonable low prices

Prohibiting anti-competitive below cost or unreasonably low pricing would ensure that dominant corporations would not sell goods below the lowest published wholesale cost price as a tactic against small business. Since a dominant corporation can sustain below cost or unreasonably low prices through the use of other departments or branded outlets (internal cross subsidizing), it is critical no below cost or deliberate unreasonably low pricing strategy occurs; except where it is a perishable product or a discontinued line.

As an example of "below cost" selling, Dan Murphy, a branded outlet of Woolworth's Ltd, advertised in *The Age*⁶ Coopers Sparkling Ale, (24 x 375ml bottles) at \$38.90. The cost price (NUC) of this product published in the price catalogue of Australian Liquor Marketers Pty Ltd - Australia's largest independent liquor wholesaler - was \$36.88⁷ at the time. With no profit margin and only GST added this product would be \$40.56. Such "below cost" selling is extremely prevalent.

When an independent liquor group, (Local Independent Liquor Stores), wrote to the ACCC on 1 May 2002 detailing perceived anti-competitive conduct by a chain store selling at near wholesale cost price, the ACCC replied;

'...while the Act prohibits certain anti-competitive and unfair business practices, including the misuse of substantial market power to eliminate or damage competitors...I am not convinced that there are any issues for this

⁵ The supplier did not wish to be cited but he reconfirmed his position by phone conversation with writer on 18 Jul '02

⁶ *the Age*, 11 July 2002, p. 5. NB the advert appears at Annex 1 to this submission.

⁷ ALM -Laverton, Price Book dated 18/06/02, (effective date 1 Jul 02), p. 1.

office to consider...there can be legitimate business reasons...they may be also using these low priced items to increase sales of other liquor product...it may well be the case that [the company] purchases its liquor at lower prices than independents...In view of the above, I regret to advise that I am unable to pursue this matter further...you may wish to note that the Act does provide a right of private action.⁸

How was it possible for the ACCC to conclude 'I am not convinced that there are any issues' without an investigation, while at the same time deducing the purchase scenario? No wonder small business believes it is ignored.

Anti-competitive price discrimination

Prohibiting anti-competitive price discrimination would prevent suppliers from discriminating between competitors where they buy the same products in like quantities having regard to the nature of the buyers and the relationship between the buyers and suppliers. Where similar customers are buying at unexplained price differences, competition is distorted because one customer has a price-advantage over another similarly placed customer. In these circumstances, the price-disadvantaged customer, i.e. the small business independent, cannot offer the same level of discount to consumers. This precludes independent small businesses matching the price-advantaged, dominant corporation, unless accepting a lower trading margin, which inhibits reinvesting back into the business, its viability, and future growth. As independent small businesses fail, or cannot compete, consumers suffer. The corporations snap-up small businesses at fire-sale prices. The public has less choice and convenience, and less effective competition.

Strengthening Section 46

The LSAV supports the introduction of the 'effects' element under Section 46. We support NARGA's argument. We support NARGA's request for a new Section 46(8).

Divestiture for repeated intentional breaches of Section 46

Section 46 focuses on intentional anti-competitive conduct by an entity having a substantial degree of market power. It deals with unilateral abuses of market power in order to eliminate competitors, deter entry into a market or deter competitive conduct. An entity may seek to cement its market dominance. Where an entity attempts to prevent threats to its market dominance, it may not behave in a pro-competitive manner towards customers. There is precedent for divestiture. In Victoria, Woolworth's faced divestiture of a number of its liquor licences for exceeding the legislated 8%

⁸ ACCC letter ref M2002/14 dated 29 May 2002.

cap. However, the *Liquor Control Reform Act* was amended before the critical date (18 July 2002). Under the amended provisions of the *Liquor Control Reform (Packaged Liquor Licences) Act 2002* at Section 26I any entity exceeding the phase-out cap forfeits the licences in excess.

The LSAV supports similar proscriptions in the *Trade Practices Act* for Section 46 breaches.

Anti-competitive creeping acquisitions – Section 50

The LSAV supports a new specific prohibition against anti-competitive creeping acquisitions, because of limitations under the current Section 50. While a large acquisition by a dominant corporation can, as in the case of the Franklins break-up, be subject to scrutiny by the ACCC, a series of minor acquisitions which added together could substantially lessen competition are not necessarily subjected to close scrutiny. The LSAV wants this matter redressed.

Prohibiting anti-competitive creeping acquisitions would prevent further concentration of market power. With dominant corporations already controlling key industry sectors and Section 50's inability to deal with small, yet cumulatively anti-competitive acquisitions, all future acquisitions by dominant corporations need assessment. Where a proposed acquisition, in conjunction with present preponderance, lessens competition, that acquisition should be disallowed. In Victoria, Woolworth/Safeway exceeded a legislated 8% cap on liquor licences when purchasing Liberty Liquor. Further, the company devised a clever, yet legal device (EUDON P/L) for a 'crash through or crash' approach designed to get around a legal restraint.⁹

Strengthening merger breaches - Section 50

At present, Section 50 prohibits acquisitions (mergers) that substantially lessen competition:

- “(1) A corporation must not directly or indirectly:
 - (a) acquire shares in the capital of a body corporate; or
 - (b) acquire any assets of a person;if the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in a market.

- (2) A person must not directly or indirectly:
 - (a) acquire shares in the capital of a corporation; or
 - (b) acquire any assets of a corporation;

⁹ Victorian Parliamentary Debates, 'Liquor Control Reform (Packaged Liquor Licences) Bill', in *Hansard* (54th Parliament - Autumn Session), Legislative Council, June 2002, NB. Comments by W. Baxter MLC, R. Hallam MLC.

if the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in a market.”

The LSAV supports the NARGA submission, which advocates the insertion of a new paragraph (j) in Section 50(3) requiring that the ACCC and Courts must take into account the impact of an acquisition (merger) on the viability and competitive position of small business.

We support a new paragraph (k) in Section 50(3) requiring the ACCC and the Courts take into account the impact of the acquisition (merger) on the level of competition and consumer choice and services in rural and regional Australia.

Jail sentences for intentional collusive conduct by entities having a substantial degree of market power

The LSAV supports any initiative aimed at providing clear deterrence against anti-competitive conduct that is highly organized in its intention of ‘ripping off’ consumers. Criminal penalties in cases involving intentional price fixing, market sharing and bid rigging by entities having substantial market power are essential to the promotion of compliance with the Act.

ACCC small business charter requires strengthening

The Association believes the small business charter of the ACCC must be strengthened. This can only be achieved if the federal government finds the will and gives solid commitment to our sector. Governments are long winded on motherhood and apple pie sentiments about small business, but this is not what we require. We require pro-active commitment, for it is our sector which provides the long term jobs and employment opportunities for Australians and generates national wealth.

We support the proposals by FTC and NARGA.

Conclusion

The Association wishes to see amendments to the *Trade Practices Act* which incorporate the following concepts:

1. All suppliers must publish transparent trading terms with clearly stated ‘wholesale prices’.
2. A clear definition of ‘cost’ in order to establish a datum point of what it means to sell ‘below cost’.
3. A prohibition on ‘cross subsidies’ behaviour.
4. Any variation to the published wholesale price must be made available to all retailers in that sector.

5. No retailer can advertise or sell at a price below the lowest published wholesale price.
6. Dumping of a product in a region or district, which has the effect of driving a competitor out of business, must be prohibited.
7. Misuse of market power at Section 46 to be determined by the 'effect' of the action on competitors, rather than the unprovable 'intention'.
8. A strengthening of Section 46.
9. New and stronger clauses in Section 50.
10. Jail sentences for corporations involved in anti-competitive behaviour.
11. ACCC small business charter requires strengthening.

Annex 1

Trade Practices Act Review

Submission by LSAV Inc

Dated 19 July 02

Advertisement by Dan Murphy's for

Cooper's Sparkling Beer

In

The Age

11 July 2002, p. 5.

LIQUOR ELSEWHERE!

	OUR BOTTLE PRICE
.....	6.90
ic Semillon 2001.....	9.80
y 2001.....	7.90
Semillon 2001.....	7.90
2001.....	6.80
y White 2001.....	12.90
001.....	7.90
j 2001.....	6.90
.....	6.90
.....	22.90
.....	13.90
g 2001.....	12.90
ssic White 2001.....	13.90
2001.....	12.90
anc 2001.....	11.90
ay 2001.....	5.90
lho 2001.....	6.90
rdonnay Colombard 2001.....	3.90
ling 2001.....	3.90
abeth 1998.....	10.90
02.....	9.90
nc 2001.....	12.90
Blanc 2001.....	14.90
.....	14.90
Blanc 1998.....	16.90
illon 2000.....	19.90
ay 1998.....	58.90
Chardonnay 2001.....	6.90
.....	29.90
.....	19.90
sling 2001.....	7.90
01.....	7.90
.....	49.90
illon 2001.....	12.90
ing 2000.....	12.90
ardonnay 2001.....	6.90
1999.....	15.90
y 2002.....	4.90
emillon 2001.....	13.90
01.....	6.90
onnay 1999.....	10.90
ig 2002.....	6.90
y 2001.....	8.90
Chardonnay 2001.....	6.90
1.....	11.90
ay 2001.....	14.90
1.....	15.90
hite.....	4.90
01.....	14.90
2002.....	11.90
2001.....	13.90
y 2001.....	5.90
.....	5.90
te 2001.....	13.90
e 2001.....	8.90
nnay 2001.....	6.90
1.....	12.90
rdonnay 2001.....	12.90
Blanc 2001.....	12.90
.....	18.90

	OUR BOTTLE PRICE
Pinot Chardonnay.....	9.90
hardonnay.....	7.90
.....	16.90
ntage.....	7.90
onnay.....	6.90
ay Non Vintage.....	6.90
.....	15.90
Reserve Non Vintage.....	3.90

SPARKLING REDS

	OUR BOTTLE PRICE
Andrew Garrett Non Vintage Sparkling Burgundy.....	9.90
Banrock Station Sparkling Shiraz.....	8.90
McWilliams Hanwood Sparkling Shiraz.....	6.90
Morris Sparkling Shiraz Durif.....	13.90
Peter Rumball Sparkling Shiraz Non Vintage.....	14.90
Seppelt Original Sparkling Shiraz 1998.....	12.90
Yellowglen Red Non Vintage.....	8.90

FRENCH CHAMPAGNE

	OUR BOTTLE PRICE
Billecart Salmon Brut Non Vintage.....	49.90
Bollinger Special Cuvee Brut Non Vintage.....	59.90
Joseph Perrier Cuvee Royale Brut 1995.....	49.90
Joseph Perrier Cuvee Royale Brut Non Vintage.....	39.90
Moet & Chandon Brut Imperial Non Vintage.....	54.90
Mumm Cordon Rouge Brut Non Vintage.....	44.90
Veuve Clicquot Brut Non Vintage.....	59.90

IMPORTED SPARKLING

	OUR BOTTLE PRICE
Cavalier Brut Non-Vintage.....	5.90
Dopff Au Moulin Cuvee Julien Non Vintage.....	12.90
Henkell Trocken.....	10.90
Opera Brut Non Vintage.....	5.90
Riccadonna Asti Spumante.....	11.90
Veuve Amiot Brut Non Vintage.....	11.90

BEER

	OUR CASE PRICE
Amsterdam Mariner (24 x 330 mL Bottles) - Holland.....	25.90
Amsterdam Mariner (24 x 500 mL Cans) - Holland.....	32.90
Cascade Premium Light (24 x 375mL Bottle).....	21.80
Coopers Sparkling Ale (24 x 375mL Bottle).....	38.90
Hahn Premium Light (24 x 375mL Bottle).....	20.90
James Boags Premium Lager (24 x 350mL Bottle).....	39.90
Tooheys Blue (24 x 375mL Bottle).....	14.90

READY TO DRINK

	OUR PRICE
Black Jack & Cola - 4 Pack (4 x 440mL Cans).....	6.80
Jim Beam Bourbon & Cola - 6 Pack (6 x 375mL Can).....	14.70
Old Crow & Cola - 4 Pack (4 x 440mL Cans).....	6.80
Stars & Stripes & Cola - 4 Pack (4 x 440mL Cans).....	6.80
Stoli Ruski - 4 Pack (4 x 300mL Bottles) - Vars.....	9.80
Sub Zero Vodka Mix - 4 Pack (4 x 330mL Bottle) Vars.....	8.80
Wilson's Scotch & Cola - 4 Pack (4 x 440mL Cans).....	6.80

SPIRITS & LIQUEURS*

	OUR BOTTLE PRICE
Baileys Irish Cream.....	25.90
Beefeater Gin.....	23.90
Black Douglas Scotch Whisky.....	23.90
Canadian Club.....	23.90
Chivas Regal 12 Year Old Scotch Whisky.....	37.90
Cointreau.....	33.90
Cougar Bourbon (1125mL).....	33.90
Gordons Gin.....	25.90
Grand Marnier.....	39.90
Grants Scotch Whisky.....	22.90
Highland Poacher Scotch Whisky.....	21.90
Hogarth Gin.....	19.90
Jim Beam Bourbon.....	24.90
Johnnie Walker Black Label Scotch Whisky.....	37.90
Johnnie Walker Red Label Scotch Whisky.....	24.90
Kahlua.....	27.90
Red Square Vodka.....	20.90
Seagrams 100 Pipers Scotch Whisky.....	21.90
Smirnoff Vodka.....	22.90
Southern Comfort.....	27.90
Suntory Midori Melon Liqueur (500mL).....	19.90
Tartan Prince Scotch Whisky.....	20.90
Teachers Scotch Whisky.....	23.90
Tolstoy Vodka.....	19.90
White Heather Scotch Whisky.....	23.90

*All 700mL unless otherwise stated