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May 25, 2015

Dr R Chadwick
General Manager, Adjudication
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2610
By email: adjudication@accc.gov.au

Dear Dr Chadwick

Magazine Publishers of Australia application A91472

While this letter is written on behalf of newsXpress newsagents, it is written with my experience serving in excess of 1,800 newsagents using the Tower Systems newsagency software and with the support of many other newsagents who have contacted me on this matter.

The model under which newsagents are supplied magazines compared to their competitors competitively disadvantages newsagents.

The disadvantage newsagents suffer will not alter from the implementation of a Distribution Code of Conduct as promoted by the Magazine Publishers of Australia (MPA) and proposed to be piloted as outlined in their Application A91472.

The application by the MPA to the ACCC opens for consideration the various models of supply of magazines in Australia.

For the ACCC to make an informed decision and to consider the public benefit of any change, we submit that the ACCC needs to undertake a thorough assessment of magazine supply.

The current magazine distribution model used by the distributors for newsagents is the same model that existed prior to deregulation in 1999. The model used for competitors of newsagents is one established post deregulation. The two models are quite different. Gordon and Gotch on their corporate website provides insights into how it works with two competitors of newsagents:

- 1. GGA met with Newslink in April as part of the ranged review process to discuss ranging needs for the second half of 2015. Results from the range review will be communicated to publishers in the coming weeks, with the updated range to hit stores in July.*
- 2. WH Smith has new stores opening in Perth Airport, Melbourne Airport and Sydney International in the next six months. In addition to the Airport Sites there will also be a new hospital store opening in NSW. Layla Crawford commenced as the new category buyer for the re aligned Magazines and Books 'Readables' category on May 5th. The range review process has commenced for the July – Dec 2015 period with meetings scheduled for late May.*

In their application, the MPA submits that it needs data to assess proposed changes. We say the MPA has access to all the data it needs to assess the situation in which small business newsagents find themselves.

We suspect that competitors of newsagents receive magazines through a set of rules, processes and commercial arrangements that competitively advantage them and that this could not be achieved if newsagents were treated the same. We suspect the treatment of newsagents enables publishers and distributors to treat newsagent competitors more favorably. We think there is data available to support this claim.

We urge the ACCC to request from the magazine distributors, Gordon and Gotch and Network Services, the following data points per magazine title distributed over the last year, tabulated in a spreadsheet to enable easy sorting and analysis.

1. Title.
2. Issue number.
- 3. Newsagents:**
 - a. Number of newsagents supplied.
 - b. Volume supplied to newsagents.
 - c. Volume early returned from newsagents.
 - d. Average on-sale (period on the shelves) for early returns.
 - e. Volume returned by newsagents.
 - f. Sell through %.
- 4. Supermarkets.**
 - a. Number of supermarkets supplied.
 - b. Volume supplied to supermarkets.
 - c. Volume early returned from supermarkets.
 - d. Volume returned from supermarkets.
 - e. Sell through %.
- 5. Petrol and convenience.**
 - a. Number of P&C supplied.
 - b. Volume supplied to P&C.
 - c. Volume early returned from P&C.
 - d. Volume returned from P&C.
 - e. Sell through %.

This data will enable comparison of sell-through efficiency by channel. It will also illustrate the range of titles supplied to each channel and the relative volume by channel, enabling an assessment of viability.

We urge the ACCC to request from the magazine distributors statements outlining how title ranges and issue supply allocations are set for each of their main retail channels: newsagents, supermarkets and petrol and convenience.

We urge the ACCC to request from magazine distributors and publishers details by title and by retail channel the wholesale price, stocking fee, marketing fee, returns processing fee and any other discount or financial support provided in any form.

We urge the ACCC to request from magazine distributors statements regarding returns processing requirements by retail channel: who counts returns and when and who pays for this; are returns physically returned?; when are returns credited?

We are confident that the information outlined above will demonstrate a less competitive model used for newsagents compared to other retailers.

Despite claims by magazine distributors and publishers, newsagents cannot control the range of titles they receive nor the volume of each issue they receive.

While the magazine distributors hold newsagents accountable for their level of indebtedness, they offer newsagents little ability to actually control their level of indebtedness.

Newsagents want to run commercial and competitive businesses. The current magazine supply model to them makes them uncompetitive in the magazine category. There is nothing in the proposal from the MPA that will improve the competitiveness of newsagents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Fletcher', with a stylized flourish at the end.

Mark Fletcher
Director
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