

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Reducing Supermarket Dominance Bill 2013

No. , 2013

(Mr Katter)

**A Bill for an Act to provide for a Commissioner for
Food Retailing and for various other matters in
relation to market share of supermarkets, and for
related purposes**

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
3 Definitions	2
Part 2—Limits on market share for supermarket businesses	5
4 Limit on market share for supermarket businesses	5
5 Direction to reduce market share	6
6 Definition of <i>supermarket market share</i> and <i>household retail market share</i>	7
7 Personal liability of directors	8
Part 3—Commissioner for Food Retailing	10
Division 1—Establishment and functions	10
8 Commissioner for Food Retailing	10
9 Functions of the Commissioner	10
Division 2—Powers of the Commissioner	11
10 Exercise of powers	11
11 Information gathering for Part 2	11
12 Fees	12
13 Advice	12
14 Guidelines	12
15 Investigations	13
16 Information gathering for investigations	13
17 Offence in relation to information gathering notice	15
18 Recommendations to ACCC	15
19 Binding directions	16
Division 3—Appointment and terms and conditions	17
20 Appointment of Commissioner	17
21 Period of appointment	17
22 Acting Commissioner	17
23 Remuneration	18
24 Disclosure of interests to the Minister	18
25 Outside employment	18
26 Leave of absence	18
27 Resignation	19
28 Termination of appointment	19
29 Other terms and conditions	19

Division 4—Miscellaneous	20
30 Assistance to the Commissioner	20
31 Disclosure of information	20
32 Recommendations to Commissioner by Minister or Parliament.....	20
33 Annual report.....	21
Part 4—Miscellaneous	22
34 Application of <i>Crimes Act 1914</i>	22
35 Reducing Supermarket Dominance Rules	22

1 **A Bill for an Act to provide for a Commissioner for**
2 **Food Retailing and for various other matters in**
3 **relation to market share of supermarkets, and for**
4 **related purposes**

5 The Parliament of Australia enacts:

6 **Part 1—Preliminary**
7

8 **1 Short title**

9 This Act may be cited as the *Reducing Supermarket Dominance*
10 *Act 2013*.

Section 2

1 **2 Commencement**

2 This Act commences on the day after this Act receives the Royal
3 Assent.

4 **3 Definitions**

5 In this Act:

6 **business**: the meaning of *business* may be affected by Rules made
7 under section 35.

8 **Commissioner** means the Commissioner for Food Retailing.

9 **competition and fairness principle** means a principle referred to in
10 paragraph 9(b).

11 **constitutional corporation** means a corporation to which
12 paragraph 51(xx) of the Constitution applies.

13 **constitutional trade or commerce** means trade or commerce:

- 14 (a) between Australia and places outside Australia; or
15 (b) among the States; or
16 (c) within a Territory, between a State and Territory or between
17 2 Territories.

18 **groceries** includes fresh produce.

19 **household retail business** means a business that sells any or all of
20 liquor, hardware and petrol to consumers from one or more retail
21 premises, at least one of which is at least 1,000 square metres in
22 size, if at least one of the following applies:

- 23 (a) an operator of the business is a constitutional corporation;
24 (b) the business is engaged in constitutional trade or commerce.

25 **household retail market share**: see section 6.

26 **intermediary** means a person who acts as an agent or broker, or in
27 any similar role, in the supermarket industry supply chain or in the
28 household retail industry supply chain, between suppliers and
29 supermarket businesses or household retail businesses.

Section 3

1 **later year** means the period of 12 months starting on the day that is
2 5 years after the day this Act commenced and each subsequent
3 anniversary of that day.

4 **national household retail market** has the meaning given in the
5 definition of that expression published by the Commissioner under
6 subsection 6(3).

7 **national supermarket market** has the meaning given in the
8 definition of that expression published by the Commissioner under
9 subsection 6(3).

10 **operator**, of a business, means a person who, whether alone or
11 together with one or more other persons, operates the business.

12 **penalty level**: see subsection 5(4).

13 **permissible level**: see subsection 5(4).

14 **related body corporate** has the same meaning as in the
15 *Corporations Act 2001*.

16 **Rules** means the Reducing Supermarket Dominance Rules made
17 under section 35.

18 **supermarket business** means a business that sells groceries
19 (whether or not the business also sells household items), to
20 consumers from one or more retail premises, at least one of which
21 is at least 1,000 square metres in size, if at least one of the
22 following applies:

- 23 (a) an operator of the business is a constitutional corporation;
24 (b) the business is engaged in constitutional trade or commerce.

25 **supermarket market share**: see section 6.

26 **supplier** means a person who, directly or indirectly, supplies items
27 for sale by a supermarket business or household retail business.

28 **target year**: see subsection 5(4).

29 **year 2** means the period of 12 months starting on the day that is
30 one year after the day this Act commenced.

Part 1 Preliminary

Section 3

1 **year 3** means the period of 12 months starting on the day that is 2
2 years after the day this Act commenced.

3 **year 4** means the period of 12 months starting on the day that is 3
4 years after the day this Act commenced.

5 **year 5** means the period of 12 months starting on the day that is 4
6 years after the day this Act commenced.
7

1 **Part 2—Limits on market share for supermarket**
2 **businesses**
3

4 **4 Limit on market share for supermarket businesses**

5 *Market share of supermarket market*

- 6 (1) The operator of a supermarket business commits an offence if the
7 operator operates a supermarket business that, together with any
8 other supermarket business operated by the operator or a related
9 body corporate of the operator, has a supermarket market share of:
10 (a) more than 40% for year 2; or
11 (b) more than 35% for year 3; or
12 (c) more than 30% for year 4; or
13 (d) more than 25% for year 5; or
14 (e) more than 20% for any later year.

15 Penalty: \$50 million.

16 *Market share of household retail market for supermarket*
17 *businesses with at least 20% of national supermarket market*

- 18 (2) The operator of a supermarket business commits an offence if the
19 operator operates a supermarket business that, together with any
20 household retail business operated by the operator or a related body
21 corporate of the operator:
22 (a) has a supermarket market share of at least 20%; and
23 (b) has a household retail market share of:
24 (i) more than 40% for year 2; or
25 (ii) more than 35% for year 3; or
26 (iii) more than 30% for year 4; or
27 (iv) more than 25% for year 5; or
28 (v) more than 20% for any later year.

29 Penalty: \$50 million.

Section 5

1 *Market share of household retail market for supermarket*
2 *businesses with less than 20% of national supermarket market*

3 (3) The operator of a supermarket business commits an offence if the
4 operator operates a supermarket business that, together with any
5 household retail business operated by the operator or a related body
6 corporate of the operator:

7 (a) has a supermarket market share of less than 20%; and

8 (b) has a household retail market share of more than 40% for
9 year 2, year 3, year 4, year 5 or any later year.

10 Penalty: \$50 million.

11 **5 Direction to reduce market share**

12 (1) If:

13 (a) the operator of a supermarket business commits an offence
14 under section 4 in relation to a year; or

15 (b) there are reasonable grounds to believe that the operator of a
16 supermarket business has committed or will commit an
17 offence under section 4 in relation to a year;

18 the Commissioner may, in writing, direct a person referred to in
19 subsection (2) to take any action necessary to ensure that, before
20 the end of the target year specified by the Commissioner the
21 supermarket business's supermarket market share or household
22 retail market share is reduced to no more than:

23 (c) the permissible level for the target year; or

24 (d) if more than one direction has been given to the operator in
25 relation to the supermarket business—the penalty level for
26 the target year.

27 (2) Directions under subsection (1) may be given to either or both of
28 the following:

29 (a) the operator of the supermarket business;

30 (b) any related body corporate of the operator.

31 (3) A person to whom a direction is given under subsection (1)
32 commits an offence if the person fails to comply with the direction.

1 Penalty: For each month after the end of the target year in which
 2 the person fails to comply with a direction in relation to a
 3 supermarket business:

- 4 (a) \$1 million for a first direction; and
 5 (b) an additional \$1 million for each subsequent direction.

6 (4) In this Act:

7 **penalty level** means:

- 8 (a) for a second direction—5% less than the permissible level for
 9 the target year for the second direction; or
 10 (b) for a third direction—10% less than the permissible level for
 11 the target year for the third direction; or
 12 (c) for a fourth or later direction—15% less than the permissible
 13 level for the target year for the fourth or later direction.

14 **permissible level** means:

- 15 (a) for an offence under subsection 4(1) or (2):
 16 (i) if the target year is year 2—40%; or
 17 (ii) if the target year is year 3—35%; or
 18 (iii) if the target year is year 4—30%; or
 19 (iv) if the target year is year 5—25%; or
 20 (v) if the target year is a later year—20%; and
 21 (b) for an offence under subsection 4(3)—40%.

22 **target year** means year 3, year 4, year 5 or a later year, as specified
 23 in the Commissioner's direction.

24 **6 Definition of *supermarket market share* and *household retail market*** 25 ***share***

26 (1) The ***supermarket market share*** of a business at any time in year 2,
 27 year 3, year 4, year 5 or a later year is the business's share of the
 28 national supermarket market for that year as determined by the
 29 Commissioner under subsection (5).

30 (2) The ***household retail market share*** of a business at any time in
 31 year 2, year 3, year 4, year 5 or a later year is the business's share

Section 7

- 1 of the national household retail market for that year as determined
2 by the Commissioner under subsection (5).
- 3 (3) As soon as practicable after this Act commences, the
4 Commissioner must, by legislative instrument, publish a definition
5 of:
6 (a) the *national supermarket market*; and
7 (b) the *national household retail market* (which must include
8 the national supermarket market).
- 9 (4) At least one month before the start of year 2, year 3, year 4, year 5
10 and each later year, the Commissioner must publish:
11 (a) a list of the supermarket businesses and household retail
12 businesses that the Commissioner considers could be affected
13 by this Part; and
14 (b) the Commissioner's determination, for each such business, of
15 the business's expected supermarket market share or
16 household retail market share.
- 17 (5) As soon as practicable after the end of year 2, year 3, year 4, year 5
18 and each later year, the Commissioner must publish the
19 Commissioner's determination, for each business included on the
20 list published under paragraph (4)(a), of the business's supermarket
21 market share or household retail market share for the year.
- 22 (6) None of the following is a legislative instrument:
23 (a) a list or determination published under subsection (4);
24 (b) a determination made under subsection (5).
- 25 (7) Application may be made to the Administrative Appeals Tribunal
26 for review of a determination by the Commissioner under
27 subsection (5).

7 Personal liability of directors

28 *For offence under section 4*

- 29 (1) If the operator of a supermarket business commits an offence under
30 section 4 in relation to a year, any person who was a director of the
31

1 operator at any time during that year commits an offence under this
2 section.

3 Penalty: \$100,000.

4 *For offence under section 5*

5 (2) If a body corporate to whom a direction is given under section 5
6 commits an offence under that section in relation to the direction,
7 any person who was a director of the body corporate at any time
8 during:

9 (a) that target year; and

10 (b) if the direction was given in an earlier year—that earlier year
11 and any year between the earlier year and the target year;
12 commits an offence under this section.

13 Penalty: \$100,000.

14 (3) Subsection (1) or (2) does not apply to a person if, while the person
15 was a director of the operator or body corporate, the person took all
16 reasonable steps to ensure that the operator or body corporate did
17 not commit an offence under section 4 or 5.

18 Note: A defendant bears an evidential burden in relation to the matter in
19 subsection (3); see subsection 13.3(3) of the *Criminal Code*.

20 (4) Subsection (1) or (2) does not apply to a person if, having regard to
21 the length of time during the year for which the person was a
22 director of the operator or body corporate, it is not reasonable to
23 expect that the person could have taken any steps to ensure that the
24 operator or body corporate did not commit an offence under
25 section 4 or 5.

26 Note: A defendant bears an evidential burden in relation to the matter in
27 subsection (4); see subsection 13.3(3) of the *Criminal Code*.
28

1 **Part 3—Commissioner for Food Retailing**

2 **Division 1—Establishment and functions**

3 **8 Commissioner for Food Retailing**

4 There is to be a Commissioner for Food Retailing.

5 **9 Functions of the Commissioner**

6 The Commissioner has the following functions:

- 7 (a) to administer Part 2 (Limits on market share for supermarket
8 businesses);
- 9 (b) to promote the following principles (the *competition and*
10 *fairness principles*):
- 11 (i) competition between supermarket businesses should be
12 promoted in the best interests of consumers and
13 suppliers;
- 14 (ii) supermarket businesses and household retail businesses
15 should be stopped from engaging in predatory practices
16 that harm other businesses (whether or not supermarket
17 businesses);
- 18 (iii) supermarket businesses, household retail businesses and
19 intermediaries should be stopped from engaging in
20 unfair practices that harm suppliers;
- 21 (c) to perform any other function conferred on the Commissioner
22 by this Act or any other law of the Commonwealth.
23

1 **Division 2—Powers of the Commissioner**

2 **10 Exercise of powers**

3 Subject to this Division, the Commissioner:

- 4 (a) may exercise the Commissioner's powers under this Division
5 for the purposes of either or both administering Part 2 and
6 promoting the competition and fairness principles; and
7 (b) in deciding whether and how to exercise powers under this
8 Division, is to act in the Commissioner's absolute discretion
9 according to the Commissioner's own judgement.

10 **11 Information gathering for Part 2**

11 (1) For the purposes of Part 2, the Commissioner may, by written
12 notice, require:

- 13 (a) the operator of a supermarket business; or
14 (b) the operator of a household retail business; or
15 (c) a related body corporate of an operator referred to in
16 paragraph (a) or (b);

17 to do one or more of the following within the period specified in
18 the notice:

- 19 (d) give information of the kind specified in the notice;
20 (e) produce documents of the kind specified in the notice.

21 (2) A notice under subsection (1) may require a person referred to in
22 that subsection to give the specified information or documents at
23 regular intervals, if the Commissioner reasonably believes that the
24 supermarket business to which the information or documents relate
25 has a supermarket market share, or a household retail market share,
26 of more than 20%.

27 (3) A person commits an offence if:

- 28 (a) the person was given a notice under subsection (1) requiring
29 the person to do a thing; and
30 (b) the person fails to do the thing as required by the notice.

31 Penalty: \$5,000.

Section 12

- 1 (4) Subsection (3) does not apply if:
2 (a) the person does not possess the information or document the
3 notice requires the person to provide; and
4 (b) the person has taken all reasonable steps available to the
5 person to obtain the information or document and has been
6 unable to obtain it.

7 Note: A defendant bears an evidential burden in relation to the matter in
8 subsection (4): see subsection 13.3(3) of the *Criminal Code*.

9 **12 Fees**

- 10 (1) If:
11 (a) the person was given a notice under subsection 11(1)
12 requiring the person to do a thing; and
13 (b) the person fails to do the thing as required by the notice;
14 the Commissioner may, by way of a fee charged to the person,
15 recover the costs reasonably incurred by the Commissioner in
16 conducting the investigations required as a consequence of the
17 person's failure.
18 (2) Any fees charged must not be such as to amount to taxation.

19 **13 Advice**

20 The Commissioner may, on request, give advice to the operator of
21 a supermarket business, an intermediary, or a supplier, in relation
22 to practices engaged in by the supermarket business or the
23 intermediary.

24 **14 Guidelines**

- 25 The Commissioner may publish guidelines setting out any or all of
26 the following:
27 (a) criteria that the Commissioner intends to use in deciding, in
28 the course of an investigation, whether practices are
29 predatory practices or unfair practices that should be stopped
30 in accordance with the competition and fairness principles;
31 (b) practices and procedures that the Commissioner intends to
32 adopt in conducting investigations;

- 1 (c) criteria that the Commissioner intends to use to decide what
2 action to take on completion of an investigation;
3 (d) any other matters relating to the functions of the
4 Commissioner.

5 **15 Investigations**

- 6 (1) The Commissioner may investigate practices engaged in or alleged
7 to be engaged in:
8 (a) by the operator of a supermarket business or a related body
9 corporate of the operator; or
10 (b) by intermediaries;
11 in order to determine whether the practices are predatory practices
12 or unfair practices that should be stopped in accordance with the
13 competition and fairness principles.
- 14 (2) On completing an investigation, the Commissioner must:
15 (a) publish (including online) a report on the outcome of the
16 investigation; and
17 (b) consider whether to do any or all of the following:
18 (i) make recommendations under section 18;
19 (ii) give directions under section 19.

20 **16 Information gathering for investigations**

- 21 (1) For the purposes of an investigation under section 15, the
22 Commissioner may, by written notice, require a person to do one
23 or more of the following within the period specified in the notice:
24 (a) attend an interview to answer questions;
25 (b) give information of the kind specified in the notice;
26 (c) produce documents of the kind specified in the notice;
27 if the Commissioner reasonably believes that the person has
28 information or documents that may be relevant to the investigation.
- 29 (2) The notice must explain the consequences if the person does not
30 comply with the notice.
- 31 (3) A person is not excused from:

Part 3 Commissioner for Food Retailing

Division 2 Powers of the Commissioner

Section 16

- 1 (a) answering a question; or
2 (b) giving information; or
3 (c) producing a document;
4 as required by the notice on the ground that the answer,
5 information or document might tend to incriminate the person or
6 expose the person to a penalty.
- 7 (4) However, in the case of an individual, none of the following:
8 (a) the information or answer given;
9 (b) the document produced;
10 (c) the giving of the information or the answer, or the producing
11 of the document;
12 (d) any information or document obtained as a direct or indirect
13 consequence of giving the information or answer, or
14 producing the document;
15 is admissible in evidence against the individual in:
16 (e) criminal proceedings, other than proceedings for an offence
17 against section 137.1 (false or misleading information) or
18 137.2 (false or misleading documents) of the *Criminal Code*
19 that relates to this Act; or
20 (f) civil proceedings, other than proceedings under, or arising
21 out of, this Act or the regulations.
- 22 (5) The Commissioner may:
23 (a) inspect a document produced in response to the notice; and
24 (b) make and retain copies of, or take and retain extracts from,
25 such a document.
- 26 (6) The Commissioner may take, and retain for as long as is necessary,
27 possession of a document produced in response to the notice.
- 28 (7) While the Commissioner retains the document, the Commissioner
29 must allow a person who would otherwise be entitled to inspect the
30 document or view the thing to do so at the times that the person
31 would ordinarily be able to do so.
- 32 (8) The Rules may make provision in relation to:
33 (a) notices; and
34 (b) the form and conduct of interviews; and
-

- 1 (c) the form in which information, documents and answers to
2 questions may or must be given.

3 **17 Offence in relation to information gathering notice**

- 4 (1) A person commits an offence if:
5 (a) the person was given a notice under section 16 requiring the
6 person to do a thing; and
7 (b) the person fails to do the thing as required by the notice.

8 Penalty: \$5,000.

- 9 (2) Subsection (1) does not apply if:
10 (a) the person does not possess the information or document the
11 notice requires the person to provide; and
12 (b) the person has taken all reasonable steps available to the
13 person to obtain the information or document and has been
14 unable to obtain it.

15 Note: A defendant bears an evidential burden in relation to the matter in
16 subsection (2); see subsection 13.3(3) of the *Criminal Code*.

17 **18 Recommendations to ACCC**

- 18 (1) The Commissioner may make recommendations to the Australian
19 Competition and Consumer Commission (the **ACCC**) on matters
20 relating to the functions of the Commissioner in relation to which
21 the ACCC also has functions.
- 22 (2) The recommendations may include recommendations for changes
23 in the ACCC's conduct and priorities.
- 24 (3) The ACCC must have regard to any recommendations made by the
25 Commissioner.
- 26 (4) If the ACCC decides not to implement a recommendation made by
27 the Commissioner, the ACCC must:
28 (a) give the Commissioner written reasons for its decision; and
29 (b) publish a copy of the reasons on the ACCC's website.

Section 19

1 **19 Binding directions**

2 (1) The Commissioner may, in writing, direct a person referred to in
3 subsection (2) to take or cease to take any action specified in the
4 direction, if the Commissioner is satisfied that taking or ceasing to
5 take the action would be consistent with a competition and fairness
6 principle.

7 (2) Directions under subsection (1) may be given to any or all of the
8 following:

- 9 (a) the operator of a supermarket business;
10 (b) a supplier;
11 (c) an intermediary;
12 (d) a related body corporate of a person referred to in
13 paragraph (a), (b) or (c).

14 (3) A person commits an offence if:

- 15 (a) the person was given a direction under subsection (1)
16 directing the person to take or cease to take an action; and
17 (b) the person fails to take or cease to take the action as required
18 by the direction.

19 Penalty: \$100,000.
20

1 **Division 3—Appointment and terms and conditions**

2 **20 Appointment of Commissioner**

- 3 (1) The Minister must, by writing, appoint the Commissioner.
- 4 (2) A person is not eligible for appointment as the Commissioner
5 unless the Minister is satisfied that the person has:
6 (a) substantial experience or knowledge; and
7 (b) significant standing;
8 in at least 2 of the following fields:
9 (c) the supermarket industry;
10 (d) supply chains for the supermarket industry;
11 (e) the household retail industry;
12 (f) supply chains for the household retail industry;
13 (g) competition law;
14 (h) business or financial management.
- 15 (3) The Commissioner holds office on a full-time basis.
- 16 (4) The Minister must appoint the first Commissioner no later than one
17 month after the commencement of this Act.

18 **21 Period of appointment**

19 The Commissioner holds office for the period specified in the
20 instrument of appointment. The period must not exceed 5 years.

21 Note: For reappointment, see the *Acts Interpretation Act 1901*.

22 **22 Acting Commissioner**

- 23 (1) The Minister may appoint a person to act as the Commissioner:
24 (a) during a vacancy in the office of the Commissioner (whether
25 or not an appointment has previously been made to the
26 office); or
27 (b) during any period, or during all periods, when the
28 Commissioner:
29 (i) is absent from duty or Australia; or

Section 23

1 (ii) is, for any reason, unable to perform the duties of the
2 office.

3 (2) A person is not eligible for appointment to act as the
4 Commissioner unless the person is eligible for appointment as the
5 Commissioner.

6 Note: For rules that apply to acting appointments, see sections 33AB and
7 33A of the *Acts Interpretation Act 1901*.

8 **23 Remuneration**

9 (1) The Commissioner is to be paid the remuneration that is
10 determined by the Remuneration Tribunal. If no determination of
11 that remuneration by the Tribunal is in operation, the
12 Commissioner is to be paid the remuneration that is prescribed by
13 the regulations.

14 (2) The Commissioner is to be paid the allowances that are prescribed
15 by the regulations.

16 (3) This section has effect subject to the *Remuneration Tribunal Act*
17 *1973*.

18 **24 Disclosure of interests to the Minister**

19 The Commissioner must give written notice to the Minister of all
20 interests, pecuniary or otherwise, that the Commissioner has or
21 acquires and that conflict or could conflict with the proper
22 performance of his or her functions.

23 **25 Outside employment**

24 The Commissioner must not engage in any paid employment that
25 conflicts or may conflict with the proper performance of his or her
26 duties.

27 **26 Leave of absence**

28 The Minister may grant leave of absence to the Commissioner on
29 the terms and conditions that the Minister determines.

1 **27 Resignation**

- 2 (1) The Commissioner may resign his or her appointment by giving
3 the Minister a written resignation.
- 4 (2) The resignation takes effect on the day it is received by the
5 Minister or, if a later day is specified in the resignation, on that
6 later day.

7 **28 Termination of appointment**

- 8 (1) The Minister may terminate the appointment of the Commissioner:
9 (a) for misbehaviour; or
10 (b) if the Commissioner is unable to perform the duties of his or
11 her office because of physical or mental incapacity.
- 12 (2) The Minister may terminate the appointment of the Commissioner
13 if:
14 (a) the Commissioner:
15 (i) becomes bankrupt; or
16 (ii) applies to take the benefit of any law for the relief of
17 bankrupt or insolvent debtors; or
18 (iii) compounds with his or her creditors; or
19 (iv) makes an assignment of his or her remuneration for the
20 benefit of his or her creditors; or
21 (b) the Commissioner engages in paid employment that conflicts
22 or may conflict with the proper performance of his or her
23 duties (see section 25); or
24 (c) the Commissioner fails, without reasonable excuse, to
25 comply with section 24.

26 **29 Other terms and conditions**

27 The Commissioner holds office on the terms and conditions (if
28 any) in relation to matters not covered by this Act that are
29 determined by the Minister.
30

1 **Division 4—Miscellaneous**

2 **30 Assistance to the Commissioner**

3 Any or all of the following may assist the Commissioner in the
4 performance of the Commissioner's functions:

- 5 (a) the Department;
6 (b) the ACCC;
7 (c) any other Department, agency or authority of the
8 Commonwealth.

9 **31 Disclosure of information**

10 (1) This section applies to *controlled information*, which is
11 information given to the Commissioner in confidence in relation to
12 the performance of the Commissioner's functions.

13 (2) The Commissioner may disclose controlled information to a person
14 or authority if the Commissioner is satisfied that the information
15 will enable or assist the person or authority to perform any of the
16 person's or authority's functions or exercise any of the person's or
17 authority's powers.

18 (3) The Commissioner may, in writing, impose conditions on the
19 further use and disclosure of controlled information by the person
20 or authority.

21 (4) A person commits an offence if:
22 (a) the person is subject to a condition imposed under
23 subsection (3); and
24 (b) the person fails to comply with the condition.

25 Penalty: \$5,000.

26 **32 Recommendations to Commissioner by Minister or Parliament**

27 The Commissioner must consider, and decide whether or not to
28 give effect to, any recommendation made to the Commissioner:

- 29 (a) by the Minister by notice in writing; or
30 (b) by resolution of a House of the Parliament.
-

1 **33 Annual report**

2 The Commissioner must, as soon as practicable after the end of
3 each financial year, prepare and give to the Minister, for
4 presentation to the Parliament, a report on:

- 5 (a) the Commissioner's activities during that year; and
6 (b) any other matters relating to the Commissioner's functions
7 that the Commissioner considers appropriate to include.
8

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Part 4—Miscellaneous

3

34 Application of *Crimes Act 1914*

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Section 4AB of the *Crimes Act 1914* does not apply to this Act.

Note: Section 4AB of the *Crimes Act 1914* has the effect of converting penalties expressed in dollars into a number of penalty units.

7

35 Reducing Supermarket Dominance Rules

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- (1) The Minister may, by legislative instrument, make rules to be known as the Reducing Supermarket Dominance Rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Rules may prescribe criteria for determining what constitutes a business for the purposes of this Act.