

PROVISION OF TURNOVER INFORMATION

The requirement by major shopping centre owners for retailers to supply monthly sales results (turnover information) has been controversial in Australia (but not in other countries) and is sometimes raised during retail tenancy legislation reviews. All state and territory governments, however, have accepted that the continuing collection of this information is necessary for an efficient shopping centre industry and is beneficial to both shopping centre landlords and tenants in a number of areas, as outlined below.

Market share analysis

Turnover information is necessary for proper market share analysis – to determine the overall financial performance of a shopping centre; the strengths and weaknesses of the centre’s retail offer according to various retail categories; and if it is losing sales to a competitor. This information is critical for decisions on expansions and refurbishments of the centre. Decisions on refurbishments and expansions are always major risks and to embark on these projects without proper market share analysis would be a case of ‘flying blind’. To expect shopping centre companies to undertake such major capital expenditures without knowledge of the turnover of particular centres would be like expecting, say, David Jones to make similar decisions about its chain of department stores without knowing the turnover of individual stores or of individual departments *within those stores*.

Tenancy mix

If a shopping centre doesn’t maintain an appeal to all of its customers (i.e. have the right ‘tenancy mix’) it will lose customers and stagnate. That will be to the detriment of its tenants as much as its owners. Occasional changes to the tenancy mix of shopping centres, as well as fairly regular redevelopments, are therefore a very necessary fact of life. Management of the tenancy mix is a constant and evolving process designed to maximise the customer pulling power of the centre for the benefit of all retailers. Sales results are therefore necessary to ensure a centre has a successful tenancy mix strategy to enable it to adapt to a constantly changing market place. Without turnover information it would not be possible to monitor the retail performance of individual shops and categories. Over time the tenancy mix strategy would become largely ‘hit and miss’ and ultimately detrimental to the customers’ needs; to retailer turnover levels; and to the centre’s retail profitability.

Marketing and promotional strategies

Turnover information is also vital to most effectively target shopping centre marketing and promotional strategies in order to ensure a centre gets maximum value for its marketing and promotional expenditure. A detailed assessment of turnover information enables the centre to direct its marketing funds to where they are needed most; to evaluate the success of marketing strategies; and, particularly, to boost those categories of retail experiencing difficult trading periods.

Independent industry researchers

Turnover information is vital to industry researchers to, among other things, compare the relative performance of shopping centres. For example, the independent magazine *Shopping Centre News* publishes each year comparative performance tables based on turnover for shopping centres, which are important for investors, retailers and owners. Retailers use the tables to decide in which centres they will seek premises. The magazine relies on this information to compile its comparative lists of shopping centre sales and productivity and this would not be possible if turnover figures were not disclosed. Leading retail research firms, such as Urbis and Macroplan, rely on turnover figures to prepare important industry data, including sales and occupancy cost analysis, which are used by both owners and retailers for benchmarking and location decisions.

Retailer benchmarking purposes

Turnover information is vital to individual retailers for benchmarking purposes. It enables the retailer to compare the performance of their store to the trend of that particular retail category and to the trend of all speciality shops in that centre. This can alert them to the need for corrective action. Major chain retailers now regularly request this information to enable them to benchmark the performance of their stores in various centres against the performance of other stores in the same category so they can make better business decisions. Major landlords, as a matter of course, now make this information available to retailers who request it, provided it can be aggregated so that it does not identify the sales performance of individual retailers.

Most major landlords now provide sales information to retailers for benchmarking purposes. This allows them to pinpoint the stores that are doing comparatively well and those that are doing comparatively poorly and enables them to take any necessary corrective action quickly. Armed with such information throughout the industry these retailers can also make informed decisions about states, locations and centres in which they wish to be located (or from which they wish to withdraw) and this is obviously valuable information for them at lease renewal time. Sales reports are particularly important to retailers who are making changes to their businesses or are operating in a changing industry or environment. In times of change the reports help retailers understand how quickly they are improving or declining and enables them to act at the earliest opportunity.

Productivity Commission's Conclusion

This issue was also considered by the Productivity Commission in its inquiry into the market for retail tenancy leases in 2007-08. The Commission found: "*Prohibiting the collection of turnover data, or mandating that it be provided at a store category level, could limit shopping centre owners' managing their assets optimally. This could limit the performance of centres, ultimately disadvantaging centre tenants and consumers.*

Also, while the reporting of turnover data was one of the most contentious issues raised during this inquiry, it is very unlikely that any means to prohibit the collection of turnover figures would materially ameliorate the expressed concerns. Given information on vacancy rates, and that it is likely shopping centre managers could gauge a tenant's performance and turnover through other means, it is not clear that prohibiting the provision of turnover data (or legislating the fashion in which it is provided) would materially affect occupancy costs. The Commission's assessment is that the provision of turnover data, and its use by landlords should be the subject of commercial negotiations between the parties to a lease." (Report p. 148).

Code of Practice

In an effort to remove this issue as an item of contention between landlords and tenants, the Shopping Centre Council of Australia (SCCA) commenced negotiations with the major retailer associations about a possible code of practice governing the provision of sales information¹.

The parties have drafted a code of practice which imposes mutual obligations. For landlords, this will include accepting that where shopping centres collect sales information they will be obliged to provide that information to retailers who request it. This information will be in a form which enables individual retailers to benchmark their performance against other retailers within their particular sales category, both within the shopping centre (if this can be done without identifying the individual sales performance of those other retailers) and within the owner's portfolio.

The draft code also recognises that sales information should be only one aspect of the provision of information within shopping centres. Where possible and available, other information collected by landlords (such as consumer spend and demographic analysis) should also be made available to retailers to assist retail performance.

This proposed industry self-regulation code has been endorsed in principle by the SCCA and by the National Retail Association (NRA). The Australian Retailers Association (ARA), however, while supporting most of the provisions of the code, has declined to support one clause which states: *"While accepting that this Code of Practice cannot bind the actions of governments all parties agree that they will oppose any proposal, in retail tenancy legislation reviews and elsewhere, for government regulation of the reporting of sales information. This should be a matter for resolution by landlords and retailers. We recognise, however, that retail tenancy legislation currently regulates what can be included and excluded in turnover information for the calculation of turnover rent"*.

The SCCA firmly believes the issue of sales reporting within shopping centres should be a matter to be resolved between landlords and tenants without any need for intervention by governments. This is in keeping with a shared philosophy among all three associations about unnecessary government regulation of business affairs.

The three associations have previously demonstrated their ability to manage their own affairs by the successful negotiation and implementation of the Casual Mall Leasing Code of Practice. This Code has removed what had previously been a persistent matter of contention between landlords and tenants, without any need for government intervention or assistance. The former Deputy Chairman of the Australian Competition and Consumer Commission, the late Mr John Martin, paid tribute to the parties to this Code and described it as an excellent example of responsible parties demonstrating, through sensible self-regulation, their ability to resolve an industry dispute.

Discussions with the ARA are continuing on this issue.

¹ A similar code of practice governing the practice known as casual mall leasing has been negotiated between the SCCA and major retailer associations and has been authorised by the ACCC. This code has removed controversy over this practice inside shopping centres. Indeed, nearly eight years after this code of practice began operation, no disputes have been registered under the code.