

GROCERY RETAIL SECTOR MARKET INQUIRY

**INDEX TO NON-CONFIDENTIAL SUBMISSIONS MADE BY PICK N PAY
31 AUGUST 2016**

Item No.	Description of Documents	Pages
1	Non-confidential submission	1 - 48
2	Appendix C – Sample till slip demonstrating Smartshopper information	49
3	Appendix D - Sample Smartshopper vouchers	50

PICK N PAY SUBMISSION

Prepared by:
Nortons Inc
Ref: A Norton/M Rawlinson
Tel: (011) 666 7561 / 7559
anthony@nortonsinc.com
michelle@nortonsinc.com

EXECUTIVE SUMMARY

- The inquiry initiated by the Competition Commission seeks to assess a number of aspects of the retail grocery industry, including the following which are relevant to large supermarket chains:
 - the impact of the expansion of national supermarket chains into townships, peri-urban and rural areas on small and independent retailers such as spaza shops;
 - the impact of long-term exclusive lease agreements entered into between property developers and national supermarket chains;
 - the impact of so-called “*buyer power*” on small and independent retailers in townships, peri-urban and rural areas and the informal economy; and
 - the nature of so-called “*loyalty schemes*” which are offered to customers by retail grocers.

- In order to contextualise the various issues which the inquiry will seek to determine, it is necessary to have a detailed understanding of the nature of the retail grocery industry in South Africa. The South African retail grocery industry is very diverse and ranges from large full-line supermarkets and wholesalers (the formal trade) on the one hand, to small, informal spaza shops (the informal trade) on the other. Competition between the larger retail grocers is fierce and is extremely competitive and is characterized by intense price competition and low margins. Consumers are price sensitive and actively shop around between the various retail grocers in order to secure the best bargains and lowest prices. The innovative nature of the industry is demonstrated by the new formats which have been introduced in recent years such as convenience stores as well as online grocery retailing. There has also been new entry into the industry by the likes of Food Lovers Market, Game Foodco and Choppies, which have made significant inroads in a relatively short period of time. Accordingly, the retail grocery industry provides significant benefits to consumers in the form of a wide array of products and services in the context of an industry which is constantly evolving.

- It should also be pointed out that modern food retail is one of the few major growth sectors in South Africa, contributing significant financial investment and creating much-needed new jobs. For example, Pick n Pay has spent over R4.2bn in capital investment in the past three years, creating around 11 000 new jobs. Well over ninety five percent of the R50 billion of product purchased by Pick n Pay each year comes from South African producers and suppliers, sustaining a supply chain which employs more than 400 000 people across the country. Food retailers such as Pick n Pay are heavily involved in identifying, nurturing and growing Small and Medium-sized Enterprises – through identifying, funding and mentoring new suppliers and by giving them access to markets and certainty of demand.

- Insofar as the various key objectives of the inquiry are concerned, Pick n Pay does not believe that its business activities give rise to a material reduction in competition, or to any prejudice to small and independent retailers.

- In relation to the issue of supermarkets expanding their activities into townships, peri-urban and rural areas, this has proved highly beneficial for consumers. It has provided communities in these areas with access to a wide range of grocery products at lower prices than was previously the case, as well as food safety and product quality, together with access to a range of services such as

payments for municipal services, electricity, cellphone and airtime services. In many instances, these services may either have not previously been available to consumers in these areas, or not accessible at affordable prices. Furthermore, the introduction of supermarkets in these communities has not materially negatively affected small, informal businesses such as spaza shops. There are only a limited number of studies which have been conducted in this regard and their findings do not appear to support any definitive conclusions that the introduction of shopping centres and supermarkets are the direct cause of any potential decline in spaza shops in these areas. There appear to be numerous reasons for any apparent reduction in spaza shops in certain of these areas, which appear to be unrelated to the introduction of shopping centres and supermarkets. This is a complex subject which no doubt will require a much more detailed investigation and analysis in years to come, to determine the economic health of the informal sector and what appropriate steps should be taken by government and others in order to foster the development and growth of small retail grocery businesses.

- In relation to the issue of exclusive leases, it is clear that exclusive lease arrangements do not affect small, informal businesses such as spaza shops, which have not traditionally entered into lease arrangements in shopping centres. Insofar as other small, formal businesses are concerned, Pick n Pay has in a number of cases agreed to relax exclusivity arrangements or not enforce them in the limited instances where landlords have approached Pick n Pay to facilitate the entry of small businesses into shopping centres. In respect of large retail grocers, the evidence attached to this submission will demonstrate that there is a wide variety of shopping centres in close proximity to every shopping centre in which Pick n Pay has outlets and that, accordingly, exclusive lease arrangements have not negatively diminished the extent of competition between the large retail grocery chains. In addition, because Pick n Pay sets its prices on a national basis, there is no reason to believe that exclusive lease arrangements have any impact on the manner in which Pick n Pay supermarkets set their prices in particular stores.
- In relation to the issue of so-called “*buyer power*”, Pick n Pay’s standard supply contracts do not require any form of exclusivity, nor do they impose any conditions on suppliers which would result in suppliers either not being able to supply competing small and medium-sized retail grocers or which have the effect of raising the costs of supply to small and independent retail grocers. This is an issue which should be treated with circumspection from a competition law perspective, given the fact that, in many cases, so-called “*buyer power*” can be pro-competitive and lead to favourable outcomes for consumers.
- The Panel has also requested clarity around so-called loyalty schemes run by retail grocers, and whether these are sufficiently transparent from a consumer perspective. Pick n Pay believes that its customer reward programme, Smartshopper, is very clear and accessible to consumers and the information provided with this submission clearly illustrates the extent to which the Smartshopper programme can easily be used for the benefit of consumers. Indeed, as pointed out in this submission the Smartshopper programme is used by thousands of Pick n Pay customers on a daily basis which is a very clear indication of the extent to which it has been embraced by Pick n Pay’s customers, given the material benefits that it offers to them.
- In summary, there does not appear to be any basis for coming to the view that any of the issues which the Panel wishes to consider should be of concern in the context of a competition law inquiry and, in particular, in respect of the key question as to whether consumers have been negatively impacted by either the introduction of supermarkets into townships, peri-urban or rural areas or by the fact that exclusive leases exist in relation to certain supermarkets. It will also be shown that

the so-called issue of buyer power is not a material concern in respect of Pick n Pay and that its customer reward programme is designed to benefit consumers.

1. INTRODUCTION

1. This submission to the Grocery Retail Sector Market Inquiry (“**the GRSMI**” or “**the Inquiry**”) is made on behalf of Pick n Pay. Pick n Pay intends to cooperate with the Inquiry Panel in an effort to assist the Panel in reaching evidence-based conclusions in keeping with the provisions of the Competition Act No. 89 of 1998, as amended.
2. In Pick n Pay’s view, the principal focus of any competition inquiry should be to assess the extent to which the interests of consumers are best promoted and served within a particular market/s and to make recommendations (if any) at the conclusion of the inquiry, which are directed at enhancing consumer welfare.

2. BACKGROUND TO PICK N PAY

3. Pick n Pay was established in 1967 by Raymond Ackerman. It is a company which is listed on the South African Stock Exchange. Pick n Pay has approximately 1 000 stores country-wide, which are both corporate owned and franchised stores. It employs over 50 000 employees in its corporate stores and operations throughout South Africa. Pick n Pay stores have a number of formats including hypermarkets, supermarkets, convenience stores and more recently, Pick n Pay Express Franchise stores in collaboration with BP Southern Africa. Pick n Pay was at one stage the largest retail grocer in South Africa, but is currently the second largest retail grocer in the country behind Shoprite Checkers.

3. NATURE OF THE RETAIL GROCERY INDUSTRY IN SOUTH AFRICA

4. The Chairperson of the Inquiry noted that one of the Inquiry’s main purposes is to “*Understand how the grocery retail sector operates because the Commission has reason to believe that there exist features or a combination of features in this sector that may prevent, distort, or restrict competition*”, and further that “... *the Commission ... is assessing the general state of competition in the grocery retail sector...*”.¹ This echoes the final Terms of Reference for this Inquiry², as well as the Statement of Issues.³

¹ “Remarks by the Chairperson of the Market Inquiry, Professor Halton Cheadle, to the Grocery Retail Market Stakeholders”, ICU Boardroom, Trevenna Campus, Sunnyside, Pretoria, 17 May 2016. See paragraphs 4.1 and 5. Available at <http://www.compcom.co.za/wp-content/uploads/2015/06/Remarks-by-Chairperson-of-the-Market-Inquiry.pdf>.

² Grocery Retail Sector Market Inquiry, Terms of Reference, October 2015. Government Gazette No. 39347, page 73. See paragraph 1.2.

³ Grocery Retail Market Inquiry, Draft Statement of Issues, 17 May 2016. See paragraphs 6.1 and 7. Available at <http://www.compcom.co.za/wp-content/uploads/2015/06/Statement-of-Issues.pdf>.

(i) **South African grocery retailing is diverse and differentiated**

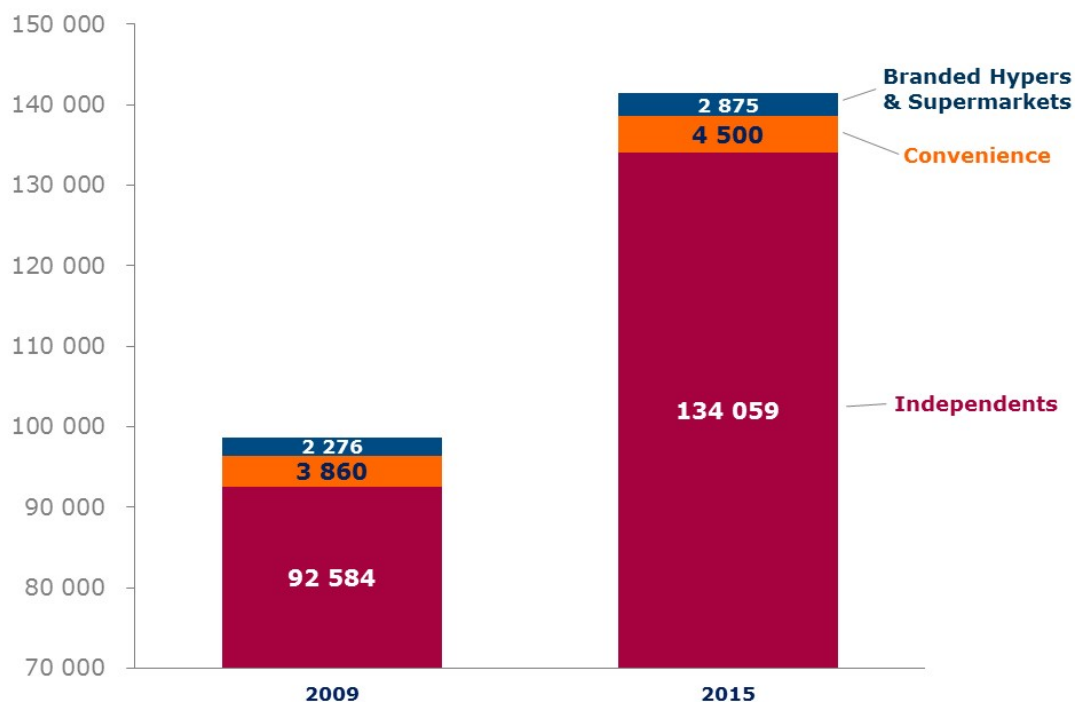
5. The retail grocery industry in South Africa comprises what can, broadly speaking, be classified as the so-called “*formal*” and “*informal*” trade. The so-called “*formal trade*” comprises large-scale supermarket chains such as Shoprite Checkers, Pick n Pay, Spar, Woolworths, Food Lovers Market, Choppies, etc. Other large-scale grocery retailers include the likes of Makro and Game FoodCo which fall within the Walmart/Massmart stable. There are also convenience-oriented formats such as those found in fuel refilling stations (sometimes referred to as ‘petrol forecourt food marts’) as well as chains such as OK MiniMark and Friendly stores (sometimes referred to as ‘superettes’). The revenues of convenience formats, such as PFMs and superettes, are typically skewed towards food, beverages and tobacco, whereas the revenues of larger, formal formats like supermarkets are more balanced across food and beverages, on the one hand, and non-food household items (such as toiletries, detergents, household appliances, and so on) on the other.
6. The “*informal*” segment comprises a variety of grocery retail formats, including ‘spaza shops’, ‘house shops’, and larger ‘spazarettes’, which are found in townships and rural environments across South Africa, as well as smaller businesses such as fruit and vegetable stalls (or ‘tabletops’), street vendors and ‘hawkers’. In township environments, traditional fresh produce markets also play a role in grocery retailing.
7. Pick n Pay estimates that the total size of the retail grocery industry in South Africa was approximately R492 billion in 2014. Formal grocery retailers account for the majority of sales and grocery consumption—approximately 80%⁴. However, it is likely that, when measured by the number of stores, informal grocery retailers account for the majority of outlets when measured by the number of businesses, stores, or outlets, as shown in the chart below. Some estimates put the number of spaza shops active in South Africa at approximately 100 000 stores.⁵ A recent Nielsen publication estimates approximately 134 000 ‘traditional trade’ stores across all forms of retail in South Africa, representing 95% of all retail outlets.⁶

⁴ Deloitte “African Powers of Retailing”; McKinsey “Winning in Africa’s consumer market”; Nielsen

⁵ See AfkInsider.com “Why townships are the economic future of SA”. Available at <http://afkinsider.com/125763/transport-costs-why-townships-are-the-economic-future-of-south-africa/>. [Last accessed July 2016].

⁶ See Nielsen (January 2016), “South Africa’s Not So Traditional, Traditional Trade.” Available at <http://www.nielsen.com/za/en/insights/reports/2016/south-africas-not-so-traditional-traditional-trade.html>. The document defines the ‘traditional trade’ category as “Physical bricks and mortar outlets with a fixed location (excludes hawkers and tabletops)”, “Informal, independently owned”, and “Outlets which stock at least one consumer goods product, selling directly to consumers”. Note that it is not limited to grocery retailing.

Figure 1: Mix of supermarkets, convenience stores, and independent retail stores in South African, 2009 and 2015

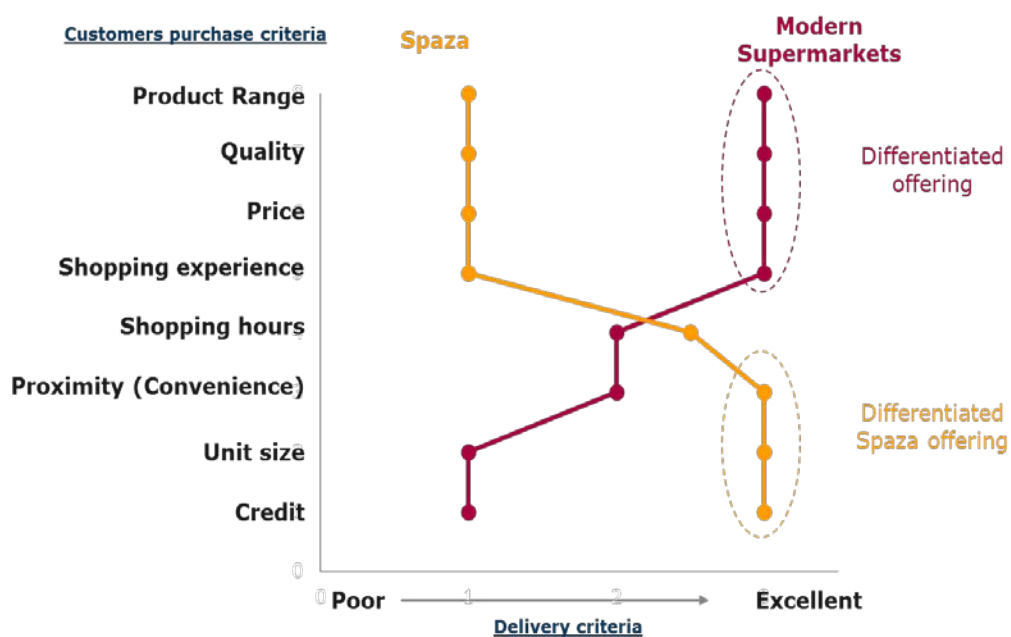


(Source Nielsen)

8. The grocery retailing formats identified above are differentiated from each other in terms of price levels, product range, customer service levels, in-store environments and overall equipment levels, value-added services (e.g. financial services), and opening hours. For example, a full-line Pick n Pay supermarket will offer a significantly greater product range than a petrol food forecourt mart, superette, or spaza shop, as well as lower prices, higher levels of customer service, and a greater range of value-added services. On the other hand, a petrol food forecourt mart or superette is likely to offer longer opening hours than a full-line supermarket.

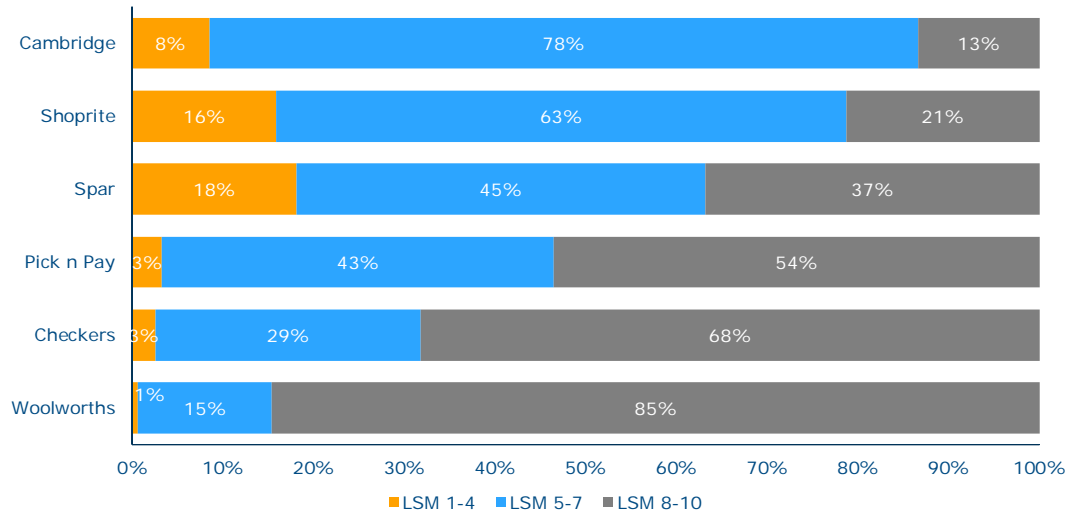
9. The diagram below illustrates certain features, as well as the different nature of the store formats and range of products in both the formal and informal sectors of the retail grocery industry. It appears that different retail grocery formats, both within the formal as well as the informal sectors, serve different customer needs and therefore tend to generally be complementary rather than direct competitors in relation to certain features of their product and service offerings.

Figure 2: Factors differentiating supermarkets from informal spazas



(Source: Nielsen, South Africa's not so traditional, traditional trade; Merril Lynch Global Research, Company data; BMI- May'16 Price data; The impact of shopping mall development on small township retailers, Bureau of market research University of South Africa; PnP Spaza conversion, Monageng Market, Diepkloof, Soweto)

10. Furthermore, within each retail grocery offering, competitors differentiate their offerings on the basis of target consumer segments (often assessed in terms of Living Standards Measures or LSMs). The chart below captures this differentiation in respect of the supermarkets segment. As can be seen, Shoprite-Checkers, Spar, and Pick n Pay all cater squarely to the LSM 5-7 categories, while Pick n Pay enjoys a higher proportion of LSM 8-10 consumers than either of the other two. Shoprite and Spar both serve more LSM 1-4 consumers than Pick n Pay, while Woolworths targets more LSM 8-10 consumers than Pick n Pay.

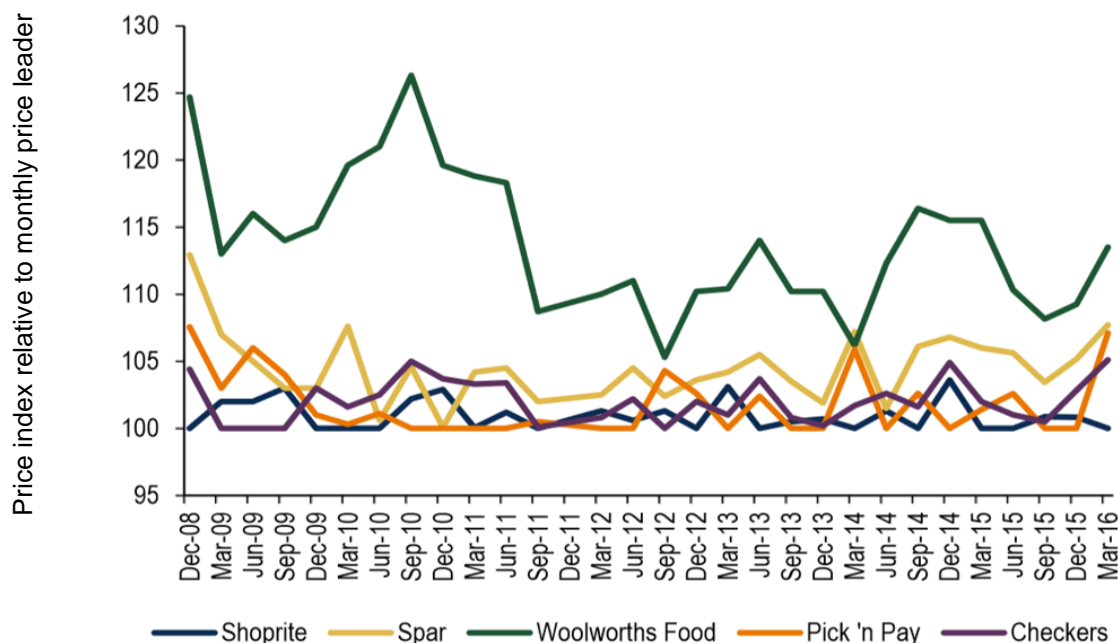
Figure 3: Target consumer segments of various national supermarket chains

(Source: AMPS via Eighty20)

11. In summary on the differentiated nature of the South African retail grocery industry, a relatively clear demarcation can be drawn between the formal and the informal retail trade. The formal retail grocery sector is differentiated by store size, by the range and quality of products which are offered, by the store opening and closing hours and whether the stores cater predominantly for convenience shopping (i.e. at forecourt grocery stores) or for more mainstream shopping outings. In addition, the formal retail trade tends to have formal lease agreements in place with shopping centre owners or other outlet owners.
12. By contrast, the informal grocery sector tends to operate stores which are relatively small in size and cater for shoppers who live and/or work within relatively close proximity to such stores and who buy relatively limited numbers of grocery products. Furthermore, the informal trade often locate their premises in residential homes or informal establishments. It would appear that informal grocery stores tend to offer less product choice and a more restricted range of services, as well as often charging higher prices than would be the case in the large retail grocery stores.
 - (ii) **The retail grocery sector is highly competitive**
13. Pick n Pay is of the view that the retail grocery sector in South Africa, in particular the segment of the industry in which Pick n Pay operates and competes, is highly competitive and has become even more competitive since the Competition Commission conducted the previous Supermarkets Inquiry, which ran from 2009 to approximately 2014. That inquiry investigated a number of potential competition concerns in relation to the retail grocery industry in South Africa and did not identify any particular concerns which warranted direct intervention.

14. The retail grocery industry in South Africa is a low margin industry, which is characterised by intense competition to attract consumers to retail outlets, and high levels of price competition across numerous categories of groceries.
15. Indeed, the industry is characterised by intense price competition, particularly between the larger supermarket chains. The chart below shows that, with the exception of Woolworths, the major retailers seek to compete vigorously in offering low prices.

Figure 4: National supermarket chains compete closely on price



(Source: Bank of America Merrill Lynch Global Research, company data.)

16. The extent of price competition in the industry is also pertinently illustrated by the extent to which the retail grocers advertise extensively in the media offering the lowest prices for various Known Value Items (“KVIs”). Indeed, the extent of the competition is so intense that retail grocers, such as Pick n Pay, have introduced programmes, such as Brand Match in terms of which it offers to match any price (including promotional prices) offered by its competitors across a select group of 2,000 grocery products. It is therefore clear that there is intense price competition in the industry and competitors seek not only to offer consumers the lowest prices they can offer, but also seek to offer the most extensive range of products at the best value.

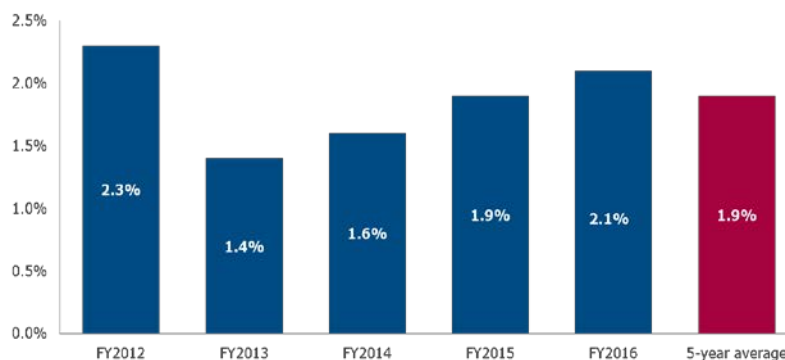
17. [CONFIDENTIAL]

Figure 5: [CONFIDENTIAL]

[CONFIDENTIAL]

18. One method of illustrating the extent of the competition between supermarkets and other retail grocers is to have regard to Pick n Pay's margins over time.
19. As can be seen in the chart below, Pick n Pay's operating margin has fluctuated between 1.4% and 2.3% although over a longer time scale, it has reached 3%. Pick n Pay's average profit margin compared to international benchmarks is very low.

Figure 6: Pick n Pay's operating profit margin, FY2012-FY2016



(Source: Pick n Pay Annual Report 2016, five year review.)

(iii) New entry

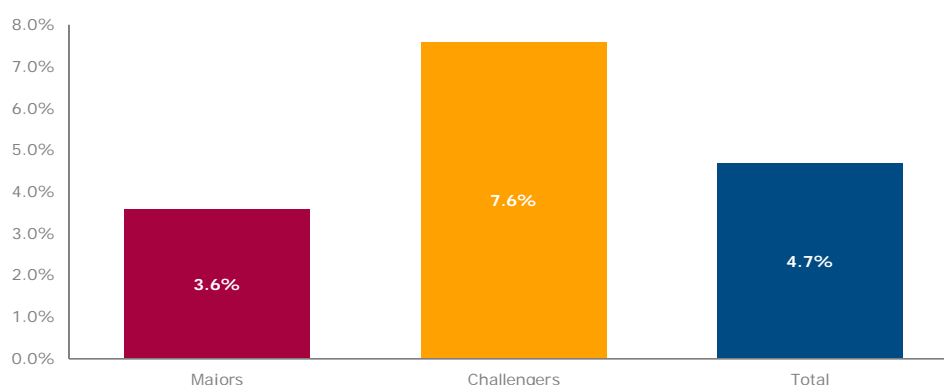
20. Since the conclusion of the previous Supermarkets Inquiry in 2014, the retail grocery industry has witnessed additional new entry or expansion, particularly into the segment in which Pick n Pay operates. Competition has intensified even further than was the case at the time of the previous Inquiry. In addition to the large retail grocers (Shoprite, Pick n Pay, Spar and Woolworths), there are a number of other competitors, which have relatively recently introduced new formats into the industry. These include the likes of Fruit & Veg City (including Food Lovers Market), Massmart's Game FoodCo and Cambridge stores, and Choppies, as well as independent supermarket chains, such as the Save group⁷, which tend to be regionally-focused. It should be noted that Massmart's Game FoodCo offering is owned by the biggest retailer in the world, Walmart, which has indicated that it intends expanding its grocery retail offerings considerably in South Africa. In addition to the various retail grocery competitors, there are also a host of grocery wholesalers and cash and carry stores, as well as hybrid wholesaler-retailers such as Makro, which also pose a competitive constraint to the major supermarket chains, given the fact that they also carry a wide range of grocery products, which they sell at competitive prices.
21. While the major retail grocers offer the widest range of products, recent entrants such as Fruit & Veg City (Food Lovers Market), Choppies and Massmart have sought to provide consumers with a

⁷ This group operates six supermarkets under the Save Supermarket brand, and a hypermarket under the Save Hyper brand, in Durban and Pietermaritzburg. See <http://sa-save.com/store-finder>.

somewhat more niche range of products, designed to offer consumers well-priced products on the basis of a more select range of grocery retail products.

22. While there are undoubtedly certain barriers to entry into formal grocery retailing, such as the costs associated with establishing store outlets and, in particular, in the case of larger retail grocers the costs associated with large, centralised warehousing and distribution centres, the emergence of players such as Fruit & Veg City and Choppies, as well as certain regional independent chains such as Save Hyper, has aptly demonstrated the fact that new entrants are able to penetrate the formal retail grocery sector and to engage in highly successful businesses which have significant consumer appeal.
23. For the purposes of understanding growth in the supermarkets segment over the past five years, the analysis is limited to the Pick n Pay group, the Shoprite Checkers group, the Spar group, Massmart's grocery retail offering (Makro, Game FoodCo, and Cambridge), Woolworths' grocery business, Fruit and Veg City, and Choppies. Regional independent supermarkets such as Save Hyper are not included due to a lack of publicly-available information in relation to their stores and revenues.
24. Growth in the supermarket segment can be measured in a number of ways. Counting growth in the number of new stores is particularly instructive, given that the topic of barriers to entry into grocery retailing is of particular interest to this Inquiry. The chart below shows the compound annual growth rate (CAGR) of net new stores between FY2011 and FY2015 for the total attributable to the competitors listed above, as well as for two sub-categories. The first includes the Spar group, the Shoprite-Checkers group, and the Pick n Pay group (termed the 'majors' for convenience). The second includes the other five supermarket groups (termed the 'challengers'). As mentioned, we cannot account for growth in net new stores belonging to independent supermarket chains.
25. As can be seen, the 'challengers' opened net new stores during this period at a CAGR of 7.6%, well in excess of the 3.6% attributable to the 'majors', and therefore also well in excess of the 4.7% CAGR of the supermarkets segment as a whole.

Figure 7: Rate of growth of net new stores, FY2011-FY2015 (CAGR)



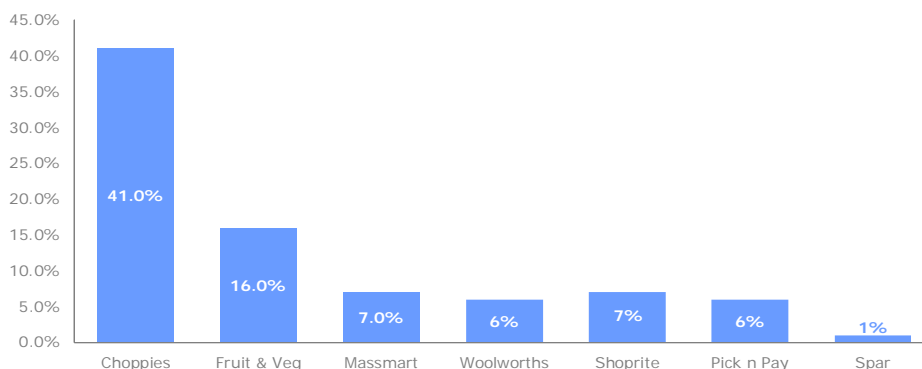
(Source: Annual Reports, Strategic Marketing "For the Food Lover's of fresh fruit and vegetables".

Note: All non-South Africa data has been excluded. For Fruit and Veg City, Fresh Stop stores have been included. Massmart data excludes the Massbuild business; non-grocery retail stores falling under other Massmart divisions cannot be excluded due to data

constraints, Woolworths data includes only Woolworths food. Shoprite-Checkers data excludes pharmacy, fast food, liquor and franchise. Pick n Pay data excludes pharmacy, clothing and liquor. Spar data excludes Buildit and Tops (liquor).)

26. The next chart breaks this down by individual supermarket chain, to reveal that each of the challengers have grown their number of net new stores at least as quickly as Pick n Pay, with Fruit and Veg City and Choppies significantly exceeding Pick n Pay. The latter two have also out-performed Shoprite Checkers, which is well-known for having focused on aggressively expanding its store footprint during the past five years.

Figure 8: Growth of net new stores, FY2011-FY2015, decomposed by supermarket group (CAGR)

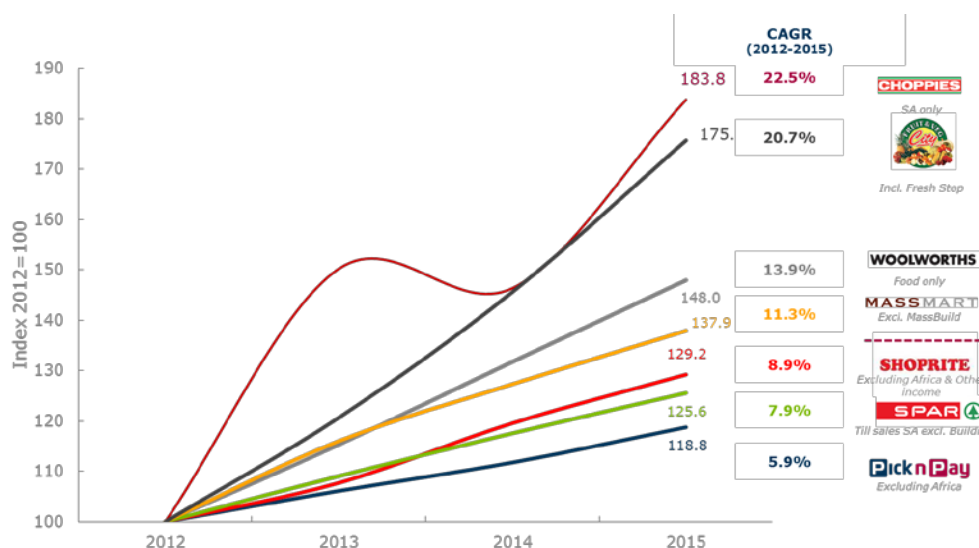


(Source: Annual Reports, Strategic Marketing “For the Food Lover’s of fresh fruit and vegetables”)

Note: All non-South Africa data has been excluded. For Fruit and Veg City, Fresh Stop stores have been included. Massmart data excludes the Massbuild business; non-grocery retail stores falling under other Massmart divisions cannot be excluded due to data constraints, Woolworths data includes only Woolworths food. Shoprite-Checkers data excludes pharmacy, fast food, liquor and franchise. Pick n Pay data excludes pharmacy, clothing and liquor. Spar data excludes Buildit and Tops (liquor).)

27. The net effect of the above on revenue growth is shown in the following chart, which shows that revenue growth of challengers has significantly outpaced that of the three major supermarkets over the past four years, including that of Shoprite Checkers, which has been the most successful of the three major supermarkets over this period.

Figure 9: Sales revenue growth, 2012-2015, decomposed by supermarket group (CAGR)



(Source: Annual Reports, Strategic Marketing “For the Food Lover’s of fresh fruit and vegetables” Note: Growth indexed to 2012.)

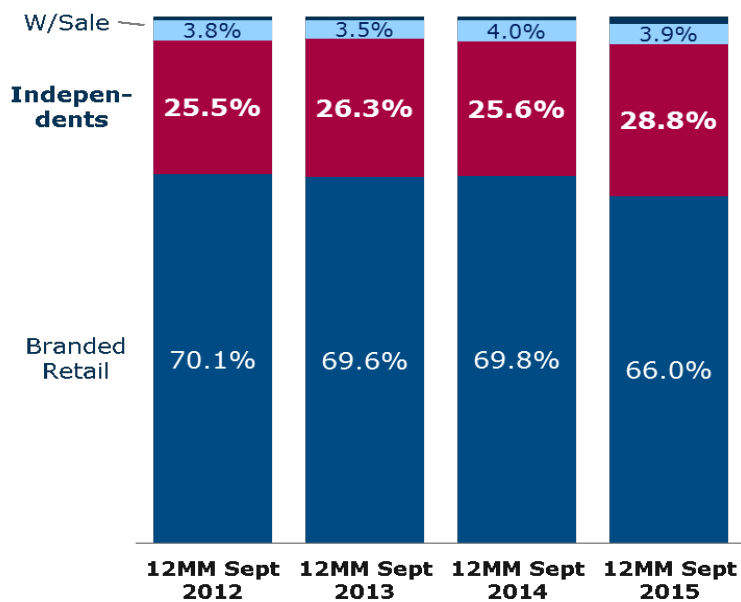
28. The significance of this pattern of net new store growth and sales revenue growth should not be underestimated. The growth in revenues and in net new stores belonging to smaller supermarket groups including more recent entrants has been as strong, if not stronger, than the growth of the three major supermarkets, or larger incumbents. Such entry and expansion by the smaller supermarket groups has increased the intensity of competition in the supermarket segment over the past five years, or since the previous Supermarkets Inquiry. Indeed, a working paper published by CCRED in 2015, states that Fruit & Veg City’s turnover “...has grown steeply from R1.6 billion in 2006 to R15 billion with a growth rate well ahead of the major listed food retailers. FVC’s turnover grew by approximately 21% per year, compared to the 18% growth rate of the other major supermarkets. The number of stores has also grown particularly between 2006 and 2012. According to FVC, it has around 10% of the grocery retail market in South Africa.”
29. Furthermore, given the fact that there are a large number of distribution companies in South Africa which can provide distribution capabilities and support, this has enabled new entrants to thrive in the retail grocery sector. In other words, barriers to entry into formal, large-scale grocery retailing are clearly not insurmountable and the entrants have grown significantly to become effective and efficient regional and national competitors.
30. In addition, growth has not been limited to supermarkets. Limited-range or convenience retail grocery offerings at outlets such as petrol food forecourt marts have expanded (partly due to the convenience formats developed by Woolworths⁸, Fruit and Veg City⁹, and Pick n Pay¹⁰), and the same may be true of the “superette” format, for example that offered by OK MiniMark. The so-called convenience formats are a good example of how the retail grocery market has evolved, innovated and adapted over time, so that new and emerging players can find new routes to growth which are not constrained by existing infrastructure or relationships. Convenience retailers are not by and large constrained by exclusivity in shopping malls (because they are not located in shopping malls). Similarly, online retailers are not constrained by physical space.
31. As we discuss in more detail later on, certain of the available evidence suggests that the independent grocery retailing sector is growing and will continue to grow. (See figure 11 below.) Therefore, the barriers to entry and expansion facing smaller and independent grocery retailers, which differ in some important respects from those facing large-scale supermarket chains, also appear to be surmountable.

⁸ In partnership with Engen.

⁹ The retail brand is ‘Fresh Stop’, and these stores are found at Caltex filling stations.

¹⁰ In partnership with BP.

Figure 10: Growth in consumer spend at independent retailers has been at the expense of branded retail between 2010 and 2015



(Source: Nielsen)

32. The number of independent retail grocers has grown over time and while a number of these independent retailers do not have a national presence, they are competitive in particular regions across the country as is demonstrated in the figure below (sourced from BMI, Feb 2016 – May 2016).

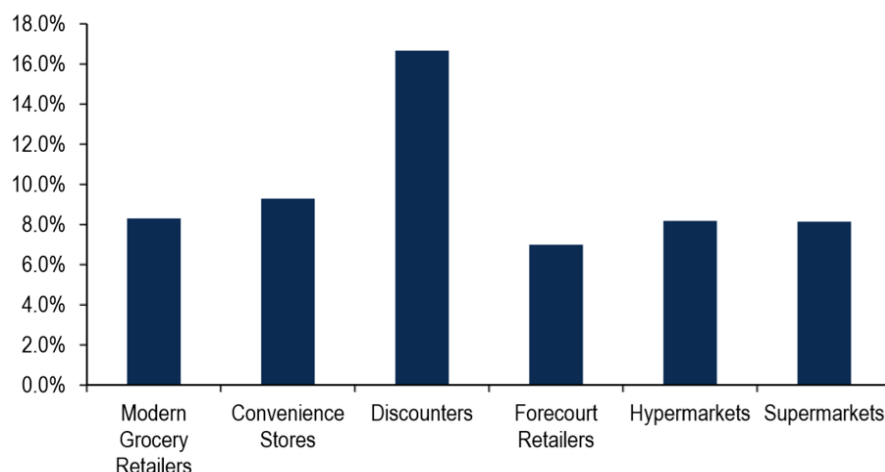
Figure 11: Presence of independents by province



(Source: BMI – illustrative using pricing data only)

33. Indeed, there has been growth across all sectors and formats of the retail grocery industry over a 5 year period, which demonstrates that not only is there increasing competition within the industry, but also that barriers to entry have not been a deterrent to growth in the sector, as is evidenced by the graph below. It shows that significant growth is evident beyond the supermarket segment, with highest growth seen in a category defined by Euromonitor and Bank of America Merrill Lynch Global Research as ‘discounters’.¹¹ A discounter is typically a supermarket which tends to offer consumers the lowest prices across a limited range of grocery products (with a high percentage of private label brands). In South Africa, discounters include the likes of supermarkets such as USave and Boxer¹². Between 2010 and 2015, the revenue of this category grew at a CAGR greater than 16%. On this data, convenience stores¹³ grew at roughly the same rate as supermarkets¹⁴ and hypermarkets¹⁵, with petrol food forecourt marts¹⁶ having grown the slowest growth, but still faster than 6% CAGR.

Figure 12: Growth is evident in all grocery retail formats (CAGR 2010-2015)



(Source: Euromonitor, Bank of America Merrill Lynch Global Research.)

34. Despite this growth, South Africa’s grocery retail sales per capita is still relatively low by emerging market standards, as is overall retail space per capita (see the chart below). This suggests that South Africa still offers plenty of potential for further retail development to serve customer needs. One estimate indicates that a further 1.5 million to 2 million square metres will be added between 2015 and 2025.¹⁷

¹¹ Euromonitor and Bank of America Merrill Lynch Global Research (June 2016): “Pick n Pay stores: Talking less, doing more, but in the price.”

¹² Boxer is owned by Pick n Pay.

¹³ Including Kwik Spar, Pick n Pay Local, Pick n Pay Family and certain Woolworths food stores.

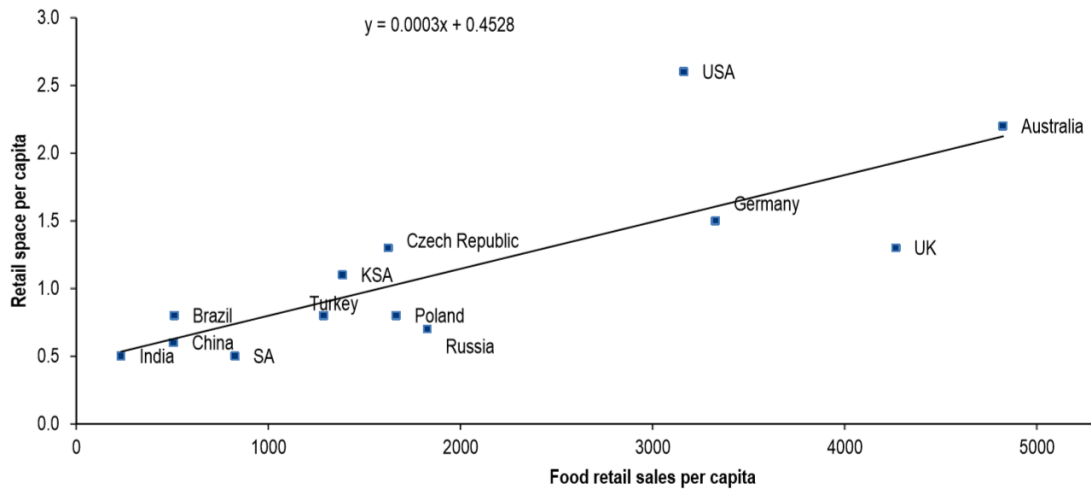
¹⁴ Including Pick n Pay, Shoprite, Checkers, Superspar, Spar, Cambridge and certain Woolworths food stores.

¹⁵ Including Pick n Pay Hypermarket, Checkers Hyper and Shoprite hypermarkets.

¹⁶ Including all chain forecourt stores, for example, Pick n Pay, BP Express, Total Bonjour and Woolworths (at Engen petrol stations).

¹⁷ See page 3 of Urban Studies “What’s New”, June 2015. Available at http://urbanstudies.co.za/wp-content/uploads/2015/06/Whats-new_June-2015.pdf. [Last accessed July 2016].

Figure 13: Retail space densities compared across countries, 2015

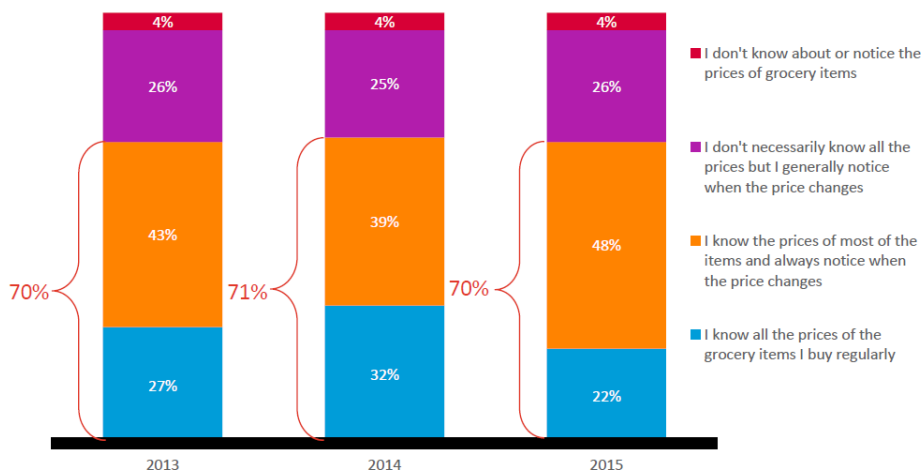


(Source: BoMLreport “Appealing long-term prospects” –June 2015)

(iv) Consumer behaviour drives competition

35. One of the primary drivers of competition between retail grocers in South Africa is the fact that the vast majority of South African consumers are price-sensitive and shop between retailers in order to obtain the lowest grocery prices. As a result, South African consumers are generally very aware of price differences between the various retail grocers. According to the data in the chart, 70% of South African consumers either know the prices of all the groceries they buy regularly, or they know the prices of most of these items and always notice when they change.

Figure 15: Consumers are price aware and price sensitive

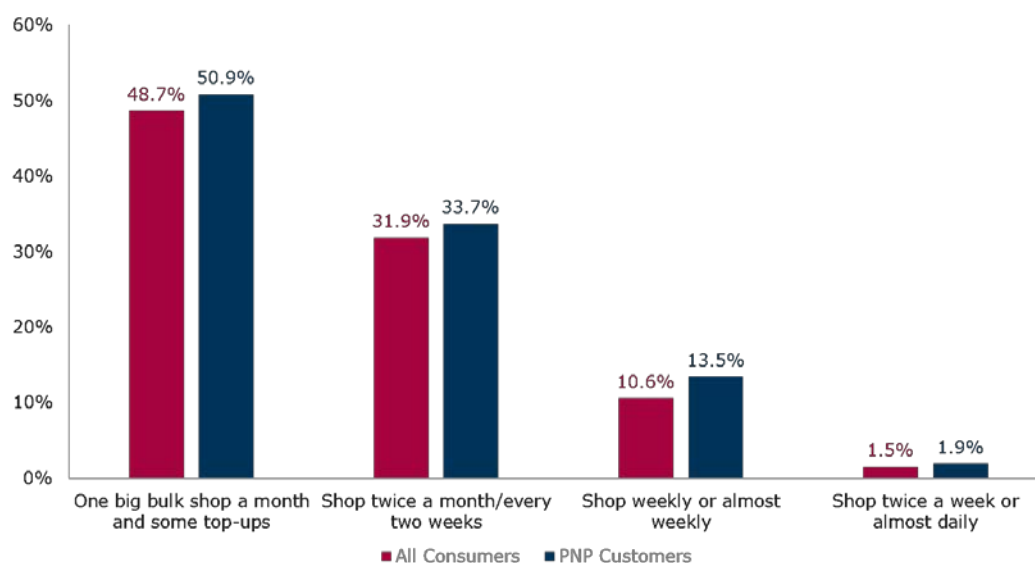


(Source: Nielsen)

36. Consumers also engage in different kinds of shopping ‘activities’. They shop at the various major retailers, as well as at a host of independent grocers. In addition, they do not restrict their grocery

shopping to specific shopping centres, but tend to visit a variety of retail grocery outlets. It would also appear that as consumers seek to access more convenient shopping options, retailers are competing with one another to offer more accessible and convenient shopping alternatives. This is evident in the growth of convenience formats and online shopping. As the chart below shows, most consumers (almost half) conduct one large bulk shop per month, complemented by some top-up shops. The next largest group shops twice a month, or every two weeks. A relatively small proportion shop weekly or almost weekly, and a very small proportion shop more often than once a week.

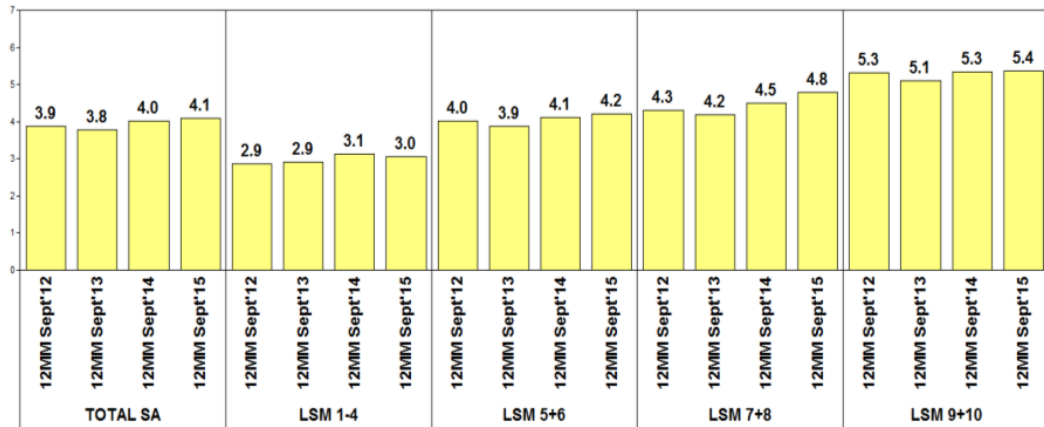
Figure 16: Proportions of consumers by shopping ‘outing’



(Source: AMPS via Eighty20)

37. In executing these shopping ‘activities’, consumers access multiple different grocery retailers, and the average number appears to be increasing over time. This is shown in the chart below, where it is clear that LSM 9-10 consumers access the highest number of different retailers, on average, and that LSM 7-8 consumers appear to be rapidly approaching this number. LSM 1-4 and LSM 5-6 consumers access relatively fewer different retailers (on average, three to four).

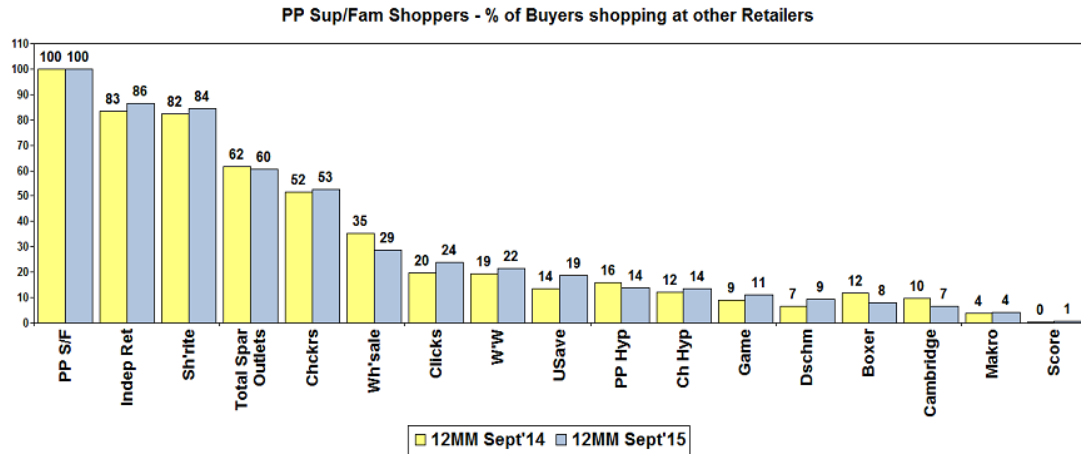
Figure 17: Consumers of all types access multiple grocery retailers



(Source: Nielsen)

38. The chart below shows that large proportions of Pick n Pay’s customers access all of its major competitors, i.e. Shoprite Checkers, Spar, Woolworths and Massmart stores. Significantly, they also access independent supermarkets.

Figure 18: Pick n Pay’s customers shop at multiple competing supermarkets including independents



(Source: Nielsen Basket and Shoppergraphics Summary, September 2015)

39. In summary, consumer behavior in South Africa demonstrates that competition between retail grocers in South Africa is intense and is often responsive to changes in consumer behaviour, which demands greater access to products on a more convenient basis and at very competitive prices.

(v) **Market shares attributable to the major retail grocery chains**

40. There appears to be an important difference of view between a number of the major supermarket groups and certain other third party commentators on the market shares which are attributable to the major supermarket chains.
41. For example, in paragraph 24 of the statement of issues, it is stated that “*according to Barclays (2014) and Who Owns Whom (2014), the five largest players collectively account for between 80% and 90% of the food retail market in South Africa*”.
42. Pick n Pay does not believe that these suggested market shares are accurate and, as appears from Spar’s submission to the GRSMI on 15 June 2016, Spar also does not believe that these market shares are correct.
43. One of the key reasons why Pick n Pay is of the view that the market share calculations reflected in the Barclays and Who Owns Whom reports are not accurate is because they do not accord with the detailed figures provided by Stats SA in respect of the formal South African grocery retail market. Retail grocers in South Africa fall broadly into two sub-sets of the Stats SA data, namely, “*general dealers*” and “*specialist food and tobacco stores*”, which collectively total R394 billion in the 2014 calendar year (which is the year referred to in paragraph 24 of the statement of issues). The top four (as referred to in the third party reports, i.e. Shoprite Checkers, Pick n Pay, Spar and Woolworths Foods) totaled R220 billion in sales for 2014.

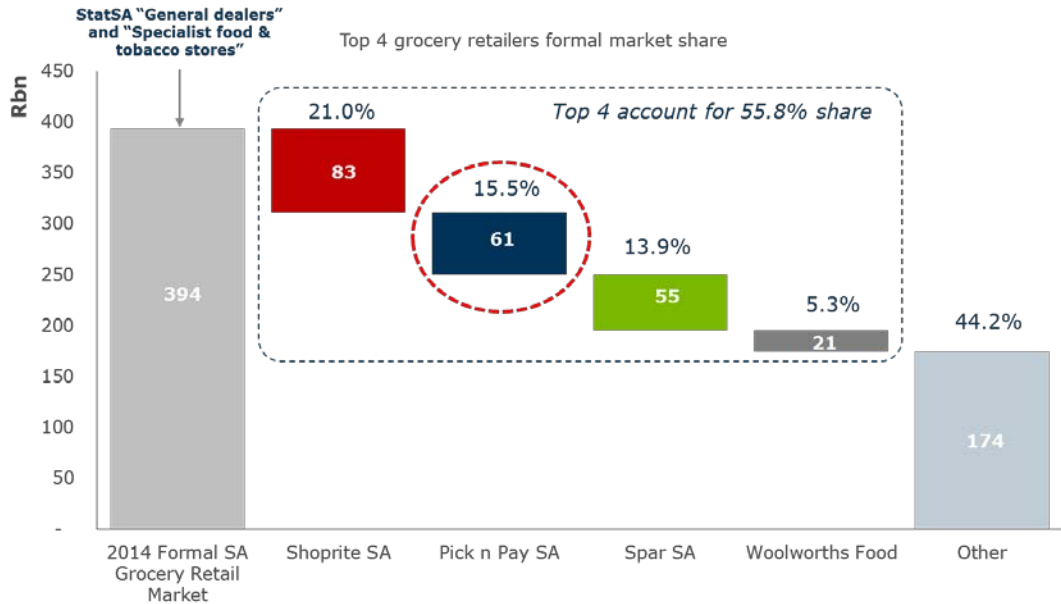
Table 2: Reported retail grocery sales converted to comparable period

Company reported Turnover (Financial year)				Comparable sales period (Jan'14 – Dec'14)	
Pick n Pay	FY13 (Mar12-Feb13)	FY14 (Mar13-Feb14)	FY15 (Mar14-Feb15)		
Pick n Pay Group	R59.3bn	R63.1bn	R66.9bn		
Pick n Pay Excl. Africa	R56.7bn	R60.4bn	R63.9bn	→ (10/12)*FY'14 +(2/12)* FY15	R61bn
Shoprite	FY13 (Jul12-Jun13)	FY14 (Jul13-Jun14)	FY15 (Jul14-Jun15)		
Shoprite Group	R92.5bn	R101.2bn	R113.7bn		
Shoprite Excl. Africa	R70.7bn	R76.9bn	R83.3bn	→ H2 FY'14 +H1 FY15	R83bn
Spar	FY13 (Oct12-Sep13)	FY14 (Oct13-Sep14)	FY15 (Oct14-Sep15)		
Spar Wholesale excl. Ireland	R47.4bn	R51.7bn	R56.4bn		
Spar Till sales excl. Ireland & BuildIt	R50.2bn	R53.9bn	R57.5	→ (9/12)*FY'14 +(3/12)* FY15	R55bn
Woolworths	FY13 (Jul12-Jun13)	FY14 (Jul13-Jun14)	FY15 (Jul14-Jun15)		
Woolworths Food	R17.4bn	R19.7bn	R22.4bn	→ H2 FY'14 +H1 FY15	R21bn
Top 4 retailer sales					R 220bn

(Source: Annual reports)

44. The so-called top four's sales would collectively represent a 56% market shares of the R394 billion formal market. On this basis, Pick n Pay would have a market share of approximately 15.5% of the formal market, as reflected in the graph below.

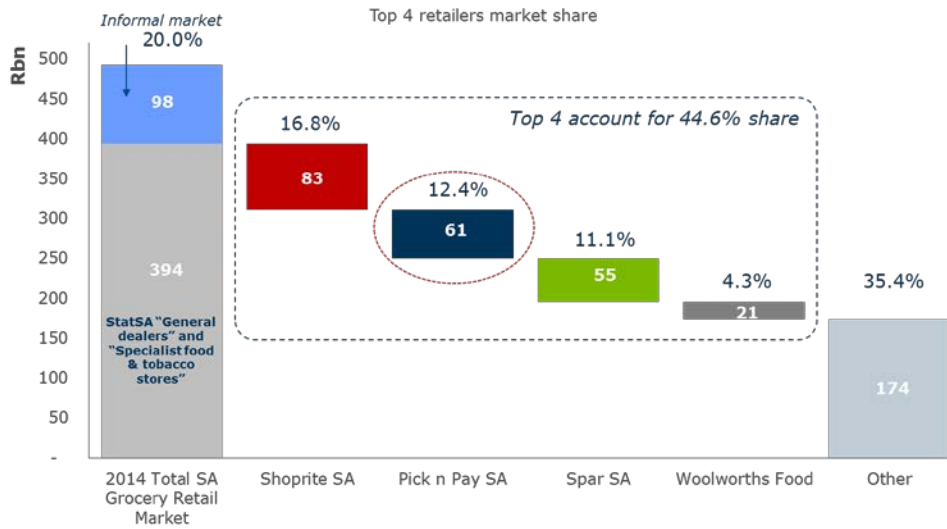
Figure 19: Top 4 grocery retailers formal market share



(Source: StatsSA and Annual reports)

45. Furthermore, it should also be appreciated that the Stats SA figure of R394 billion only represents the size of the formal retail grocery sector and does not include the informal trade (such as spaza shops, etc.) which has been estimated by the likes of McKinsey and Nielsen to constitute approximately 20% of the formal market. Accordingly, the total retail grocery market, including both the formal and informal trade, is estimated by Pick n Pay to be approximately R492 billion in 2014. As set out above, Pick n Pay's market share of the overall market is estimated to be approximately 12.4%.

Figure 20: Top 4 grocery retailers market share, including informal market



(Source: StatsSA and Annual reports)

46. If one had regard to Nielsen's estimates in their "SA's not so traditional, traditional trade" report and their estimate of 7,375 modern trade and branded convenience stores, then Pick n Pay's stores would represent approximately 10% of formal grocery retail stores.
47. The reason why Barclays and Who Owns Whom have overstated the market share of the major retail grocers in the retail grocery sector is that they have not accurately identified the correct size of the retail grocery market and have significantly under-estimated the size of the market. For example, the one report has incorrectly assumed that the formal retail grocery market is R200 billion in size, whereas the correct number according to Stats SA is R394 billion, while the other report has used various sources for market share numbers, which when applied to the correct market size figure of R394 billion produces hugely inflated "implied turnover" numbers for the top four such as R101 billion sales for Pick n Pay alone.
48. Accordingly, it is submitted that the market share calculations referred to above based on the Stats SA figures are much more likely to be an accurate reflection of market shares in the retail grocery sector, than the figures referred to in paragraph 24 of the statement of issues. Pick n Pay believes that it is extremely important in an inquiry of this nature that correct figures are utilised for purposes of reflecting market shares. The use of inaccurate data can result in incorrect conclusions being drawn, which can in turn fundamentally impact the accuracy of any conclusions which the Inquiry Panel wishes to draw in respect of the key objectives of the Inquiry. Accordingly, it is vital that the Inquiry Panel very carefully interrogates any data that is supplied to it in order to verify the accuracy of any data which it intends relying on for purposes of reaching any findings or conclusions in respect of the Inquiry.

4. THE IMPACT OF PICK N PAY'S GEOGRAPHIC EXPANSION INTO TOWNSHIPS, PERI-URBAN AND RURAL AREAS (OBJECTIVE 1)

49. The first objective of the inquiry is to determine the impact of the expansion and diversification of national supermarket chains on small and independent retailers in townships, peri-urban and rural areas.
50. One of the primary issues that we understand the inquiry wishes to focus on is the extent to which small and informal retailers, such as spaza shop owners in particular, have conceivably been negatively affected as a consequence of the expansion of retail grocery formats.
51. At the outset it should be pointed out that it is difficult to obtain accurate measurements of the size of the informal grocery retail segment or trends in its growth over time. A number of the studies that have sought to assess the informal retail grocery sector have indicated that it is very difficult to gather precise information and data in relation to the sector and that available data sets may be of limited value.¹⁸
52. Pick n Pay believes that its expansion, and that of other national supermarket chains, into townships, peri-urban and rural areas was an entirely natural development given the fact that, as a consequence of previous policies under the apartheid regime, these areas had been entirely under-served and that, as a consequence of growing income levels and demand for access to groceries and other consumer-driven commodities (such as clothing), shopping centres were established in these areas.
53. The establishment of Pick n Pay outlets in these areas has contributed to increased employment, as well as providing consumers with an increased range of product offerings at highly competitive prices. In addition, major retail grocery outlets such as Pick n Pay provide consumers with high quality and safe food products.
54. Investments by formal supermarket businesses in townships, peri-urban, and rural areas are multi-dimensional in terms of their impact on the local economies into which they enter. As shown above, supermarkets tend to offer the lowest prices, widest product range, reliable supply, and high quality products (especially in relation to fresh produce), to consumers in these areas, who accordingly benefit immensely when a supermarket opens near their home.
55. In addition, when Pick n Pay and other major retail grocers open stores in townships and rural areas, they also seek to identify whether there are particular products that would be in demand from consumers in these communities. This provides opportunities for new suppliers and entrepreneurs to

¹⁸ Charman and Petersen "A growing informal sector: evidence from an enterprise survey in Delft" Page 1

supply these types of products and Pick n Pay has a long track record of nurturing and encouraging new suppliers to provide products for these stores. Pick n Pay's national supply chain also enables these new suppliers to reach customers, not just in the local markets where these particular stores are situated, but also conceivably over time, both regionally and nationally as well.

56. Supermarket expansion into these areas may even catalyze or facilitate other investments, or the stimulation of new economic activity that would not have arisen absent the new investment.
57. Finally, it is clear from the discussions above that supermarkets do not generally compete directly with small and independent grocery retailers, formal or informal. The relationship between these two grocery retail formats is in all likelihood predominantly complementary.

The Commission's concerns

58. The Terms of Reference and Statement of Issues state that the expansion of supermarkets in to townships, peri-urban and rural areas as well as the informal economy may affect the number of small and independent retailers in these areas, as well as employment in these areas.¹⁹ The Commission also seeks to investigate what barriers faced by small and independent retailers may inhibit their ability to respond to supermarket entry.
59. The Terms of Reference and Statement of Issues note the following specific concerns:
- 59.1. The attrition rates of spaza shops appears to be high, with approximately 50% of entrants unable to remain operational for longer than 5 years²⁰.
- 59.2. The expansion of supermarkets into townships, peri-urban, and rural areas may displace small and independent retailers (of which spaza shops are one example).²¹ It is alleged that a decline in the number of the small and independent retailers is likely to lead to a decline in employment, income levels and the spread of ownership in the sector.²²
60. These concerns are based on two papers, by Ligthelm (2008)²³ and Charman *et. al* (2012)²⁴.

¹⁹ Competition Commission, Grocery retail sector market inquiry, Draft statement of issues, 17 May 2016.

²⁰ Grocery Retail Sector Market Inquiry, Terms of Reference, October 2015. Government Gazette No. 39347, page 78. See paragraph 3.4.

²¹ Grocery Retail Sector Market Inquiry, Terms of Reference, October 2015. Government Gazette No. 39347, 30 page 78. See paragraph 3.4, and Grocery Retail Market Inquiry, Draft Statement of Issues, 17 May 2016, para 56.

²² Department of Economic Development, Grocery retail sector market inquiry, Government Gazette notice 103 of 2015, 30 October 2015, para 3.4

²³ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page 37–53.

²⁴ A. Charman, L. Petersen and L. Piper (2012), From local survivalism to foreign entrepreneurship: the transformation of the spaza sector in Delft, Cape Town, Transformation 78.

- 60.1. The study by Charman *et. al*²⁵ does not investigate the impact of supermarket expansion into townships on local grocery retail businesses. It investigated the scale, nature and perception of the spaza sector in Delft, in Cape Town. The study mentions that “*Although no accurate data on the survival of spaza business is available, it is thought that up to 50% of new entrants are unable to sustain their businesses for longer than five years, though those that do survive have great longevity.*”²⁶ The study made no independent findings in this regard.
- 60.2. Ligthelm (2008) investigated the impact of the opening of two adjacent shopping malls in Soshanguve. Noting in some detail the various consumer benefits created by these two retail developments, the author focused on understanding their impact on township retailers located within 5km of the shopping centres, by interviewing 100 of such retailers, 6 months after the two malls opened. Further details of this study are provided later on in this section. For now, it is sufficient to state Ligthelm’s final conclusion: “*The net balance sheet on the impact of shopping mall development on small informal and formal township retailers clearly suggests a decline in the smaller retailers’ market share.*”²⁷
61. The studies referenced in the Statement of Issues and Terms of Reference raise three questions, which are assessed in the sub-sections to follow.
- 61.1. **First, whether the geographic expansion of supermarkets is directly causally related to the alleged 50% attrition rate of small or informal township retailers.** It is submitted that it is not clear if spaza shops have in fact declined across the board over time or whether this may be limited to one or two isolated areas. If they have declined, many potential reasons might exist. First, as demonstrated below, there are a number of reasons why spaza shops may fail, which are entirely unrelated to the introduction of supermarket formats. Second, various studies have shown that foreign owned spaza shops are very competitive. Third, spaza shops’ share of grocery retail may have declined as a consequence of the fact that other informal retailers such as take away food stores have taken over a large part of spaza shops food business. Fourth, licensing and other regulatory issues may have affected the ability of spaza shops to continue to operate.
- 61.2. **Second, whether any clear conclusions or findings can be drawn from the studies mentioned above and other similar studies in respect of the Commission’s core concerns.** As dealt with in more detail below, there appear to be a limited number of studies which consider the issue of the extent to which spaza shops and other informal retailers have been impacted by the opening of shopping centre outlets. The findings of these studies are also not consistent and, in certain cases, some of the studies, such as that conducted in Delft in 2015, appear to show that there has been an

²⁵ A. Charman, L. Petersen and L. Piper (2012), From local survivalism to foreign entrepreneurship: the transformation of the spaza sector in Delft, Cape Town, Transformation 78, page 51.

²⁶ Ibid, page 51.

²⁷ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page 52.

increase in micro-enterprises in these areas in comparison with the previous study which was conducted in 2011. Accordingly, the evidentiary weight of the studies may be relatively limited in assisting the GRSMI in coming to any definitive conclusions in this regard.

- 61.3. **Third, what the basis is in the Competition Act or broader economic policy for the Commission's focus on township grocery retailers specifically.** As set out in the introduction to this submission, it is respectfully suggested that the principal focus of any competition law inquiry should be to determine the impact on consumers of particular market conditions and to assess the extent to which consumers interests are ultimately advanced or prejudiced by particular market conditions.

Assessment of the Commission's concerns

62. At the outset, before providing a detailed overview of the various studies which have been conducted to date in respect of spaza stores in townships and rural areas, it is important to summarise certain of the key learnings that appear to emerge from the various studies that have been conducted.
63. Firstly, the size of the informal retail grocery sector and the number of spaza stores within the informal sector is difficult to measure with any degree of accuracy, given the informal nature of the sector, the lack of official statistics in this regard as well as the relatively small amount of academic and related research in this area.
64. Secondly, the studies which have been conducted do not appear to present a consistent picture in the sense that some suggest that spaza shops in particular geographic localities have declined in circumstances where shopping centres were established in relatively close proximity to such stores, whereas other studies do not reflect the same level of decline and certain studies such as Nielsen, give the impression that the informal sector is in fact growing. It is also the case that these studies tend to be very localised in their focus and it may well be the case that the different findings of some of the studies reflect different outcomes in particular geographic areas. Furthermore, some of the studies even suggest that informal grocery stores which were located closer to shopping centres which housed supermarkets, were less likely to be affected than similar stores located further away. Therefore, it is submitted that it is not clear if spaza shops have in fact declined over time. If they have, many potential reasons might exist, other than the opening of large supermarket stores, which impact on the continued viability of informal retailers such as spaza shops. For example, the spectacular growth in informal fast food outlets in townships may have significantly contributed to the decline of local spaza shops and equally, the increase in foreign-owned informal grocery stores, has also, it would appear, contributed significantly to the decline of South African owned spaza outlets.
65. In summary, it would appear from the relevant studies that the informal retail grocery sector is highly dynamic and is subject to significant change over time in response to the shifting nature of consumer demands. Accordingly, this is an area of the Inquiry that the panel will need to very carefully consider

given the lack of available data and the numerous variables which appear to have a considerable impact on the success or otherwise of informal grocery retailers in township areas.

(i) Small or informal township grocery retailers may fail for many different reasons

66. As mentioned above, the Commission’s Statement of Issues notes that small informal businesses in general show “*relatively high attrition rates*” and quoted Charman *et al* (2012) in support of this statement. Also, as mentioned above, Charman *et al* (2012) do not claim this as a finding of their own research, and reference no evidence or other research when repeating it. Most importantly, the study makes no suggestion that the attrition rate of 50% is in any way due to the expansion of supermarkets into townships, peri-urban, or rural areas.
67. If spaza shops and other small and independent retailers in townships, peri-urban and rural areas fail, this might be for a multitude of different reasons:
- 67.1. In addition to having conducted a longitudinal analysis of small business success and failure in Soweto between 2007 and 2008²⁸, Ligthelm (2008) considered that the survival of a business may be dependent on the following factors: age of the business; how merchandise is purchased from suppliers; use of technology in the shop; approach to advertising; employees (other than the owner’s family); level of education; the age of the manager or owner.²⁹
- 67.2. Charman *et al* (2012) found that many locally-owned spazas are out-competed by foreign-owned spaza shops especially on price. This has led to some locally owned spaza shops closing down and some being taken over.
- 67.3. Mathenjwa (2007)³⁰ found that 30% of the respondents interviewed in respect of the impact of the opening of Jabulani Mall in Soweto on local retailers, believed that poor management contributed to a decline in the number of businesses in their vicinity.
- 67.4. Charman and Petersen (2016)³¹ looked at a sample size of 137 spaza shops to ascertain the longevity of spaza shops in Delft, Cape Town. The chart below shows that a spaza shop is most likely to close in the period after its first year and before its fifth year—31% of spaza shops had been in operation for only up to a year when the survey was conducted, and 44% had been in operation for over 5 years. By way of explanation, and echoing some of the studies above, Charman *et al* (2012) note that the spaza sector offers “... *market entry opportunities for nearly anyone looking to supplement income*”³² indicating that barriers to entry are low making entry easy.

²⁸ A. A. Ligthelm, Small business success and failure in Soweto: A longitudinal analysis (2007-2008), Research report 377.

²⁹ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page 49.

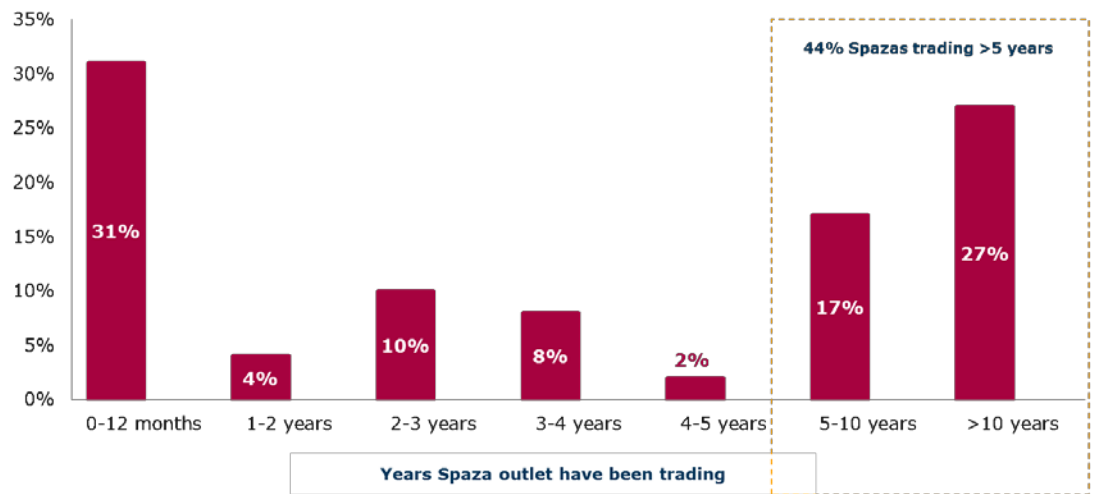
³⁰ A. Mathenjwa (2007), The impact of Jabulani Shopping Mall on small township businesses, University of Pretoria.

³¹ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3.

³² A. Charman, L. Petersen and L. Piper (2012), From local survivalism to foreign entrepreneurship: the transformation of the spaza sector in Delft, Cape Town, Transformation 78, page 49.

The reason for entry is unrelated to a lucrative gap in the market. This may lead to the over-supply of spaza shops in a local area, in turn causing many to close down relatively soon after opening.

Figure 22: Duration of operation of spaza shops in Delft



(Source: A. Charman and L. Petersen (2016), *A growing informal sector: evidence from an enterprise survey in Delft*, *Econ 3x3*, page 6.)

68. Given the array of reasons that may cause small or informal grocery retailers to fail, it must be the case that the attrition rate quoted by the Commission (observed in Charman *et al* (2012)) applies generally, in all local markets where they operate. This in turn suggests that small or informal grocery retailers fail in significant proportions in townships, without shopping centres or supermarkets being present or being the primary cause thereof.
69. Therefore, any potential impact of supermarkets on small retailers is in all likelihood only one potential cause, and is likely to be a small, incremental impact over and above the challenges that the studies referred to above have found these businesses to be facing on a regular basis. It is instructive that these studies do not frequently identify the presence or opening of a supermarket as a reason for the failure of small or informal retailers in townships.

(ii) Evidence of the impacts of supermarket expansion are mixed

70. A limited number of studies have been conducted to assess the impact on small and informal retailers following the opening of a shopping mall containing a supermarket in their vicinity. The results from these studies are, at best, mixed. They provide no conclusive evidence as to the overall impact of the expansion of supermarkets into townships on small and independent retailers in those townships.

The Ligthelm (2008) study

71. The sample of 100 retailers interviewed by Ligthelm included two categories of retailers—what Ligthelm calls ‘spaza/tuck shops’, as well as ‘small township retailers’—with the main differentiating

factor being that the latter are bigger businesses and are not attached to residential properties. Ligthelm appears to consider the former to be more informal than the latter.³³ These retailers were located within a 5km radius of the new shopping centres with the sampling ensuring that each of the kilometer-wide concentric circles contained 20 respondents.

72. Ligthelm notes that the two adjacent shopping malls which he studied housed retailers across a range of consumer goods categories, and not only grocery retailers. This study was not investigating the specific impact of supermarket expansion on small grocery retailers, but mall expansion on all types of small retailers. As Ligthelm notes, the “*two adjacent shopping malls were opened in Soshanguve in March 2006 and house more than 70 shops representative of all the major franchises and national grocery chain stores. These include, inter alia, food and grocery retailers, furniture and clothing stores as well as fast food outlets, banks, music shops and electronic stores.*” The composition of the 100 respondents is not specified; although it is safe to assume that ‘spaza/tuck shops’ focus mainly on groceries, this may not be true in respect of all of the ‘small township retailers’ included in Ligthelm’s sample.
73. Nevertheless, across the total sample, approximately 47% of respondents reported that they had noticed a decline in the number of small retailers, while approximately 42.2% reported that they had noticed no change, and approximately 10.8% reported that they had noticed an increase. That is, the majority of respondents reported either no change or an increase in the number of small retailers within 5km of the new malls.³⁴
74. Ligthelm also studied the impact on the business performance of the 100 respondents, which by definition were still operating. Of the total sample, 66% reported a decline in turnover, 61% a decline in profitability, 57% a decline in stock movement, and 59% a decline in product range.
75. Ligthelm closely analysed the causal role played by proximity to the new malls.
- 75.1. Interestingly, no distance-based difference could be detected in respect of the impacts on turnover, profit, stock movement, or product range. That is, contrary to what one might expect, the retailers located closer to the new malls (i.e. within 2km) did not report a greater impact on their revenues, profits, etc., than retailers located further away (i.e. between 2km and 5km).

³³ The definitions applied by Ligthelm are repeated here for convenience (see endnote 1 of Ligthelm 2008): “Spaza/tuck shops are defined as small informal sector retail businesses operating in a section of an occupied residential home or in any other structure on a stand zoned or used for residential purposes and where people live permanently. Small township retailers are defined as stand-alone businesses with a brick and mortar superstructure often located in a demarcated business area but also located in the residential sections of townships. They carry a wider product range than spaza/tuck shops and have more fixtures and fittings often allowing self-service to clients. They employ less than 10 employees on a full- and parttime basis. Reference to small informal/formal township retailers includes both spaza/tuck shops and small township retailers.”

³⁴ It is worth noting that there are no magnitudes attached to the perceptions reported in Ligthelm’s study or any other similar study. They can only indicate the proportion of respondents that reported perceiving an increase or a decrease in the number of businesses. As such there is no way to determine whether perceptions of decline refer to a greater number of businesses than perceptions of growth.

- 75.2. The same curious result was found in respect of the survival rates of spaza/tuck shops. Respondents located within 2km of the new malls did not perceive a greater impact on the survival rates of spaza/tuck shops in their areas, than respondents located between 2km and 5km of the new malls.
- 75.3. The applicable distance from these malls appears to have played a role only in respect of the ‘small township retailers’. Specifically, respondents located between 2km and 5km from the shopping malls reported, on average, no change or an increase in the number of ‘small township retailers’ since the opening of the shopping malls. Respondents within 2km of the shopping mall reported, on average, a decrease in the number of ‘small township retailers’ since the opening of the shopping malls.³⁵
- 75.4. Of further interest is that Ligthelm found that respondents within 2km of the new malls perceived *lower* threats from retailers inside the malls than did the respondents located further away. Ligthelm attributes this to the possibility that those located within 2km have faced a greater need to adapt to the presence of the new malls, and, having adapted, now feel less threatened than retailers located further away (no independent evidence is presented concerning the adaptations of retailers located between 2km and 5km from the malls).
76. While Ligthelm concludes that the opening of the new malls generated, on balance, negative impacts on township retailers, he does not claim his results to be representative of all townships, or that his results for Soshanguve necessarily hold over a longer time period: *“It would, however, be advisable to replicate this study within twelve months with the same sample to establish the stability of the findings as reported in this article. It would also be advisable to conduct a similar study in an alternative township area such as Soweto as that may portray a somewhat different socioeconomic structure with regard to variables such as the levels of income and employment. Such a study should preferably also include other economic sectors in addition to the retail sector addressed in this article. This may assist in establishing the representativeness of the Soshanguve survey findings for wider application in South Africa.”*³⁶

(iii) Similar studies not mentioned in the Statement of Issues

77. In 2010, Demacon conducted a study for Urban Landmark on the nature and impact of shopping centre developments in South Africa’s townships.³⁷ Part of this research included conducting interviews with small and independent retailers operating in the vicinity of the Jabulani Mall in Soweto, the Central

³⁵ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page, page 48.

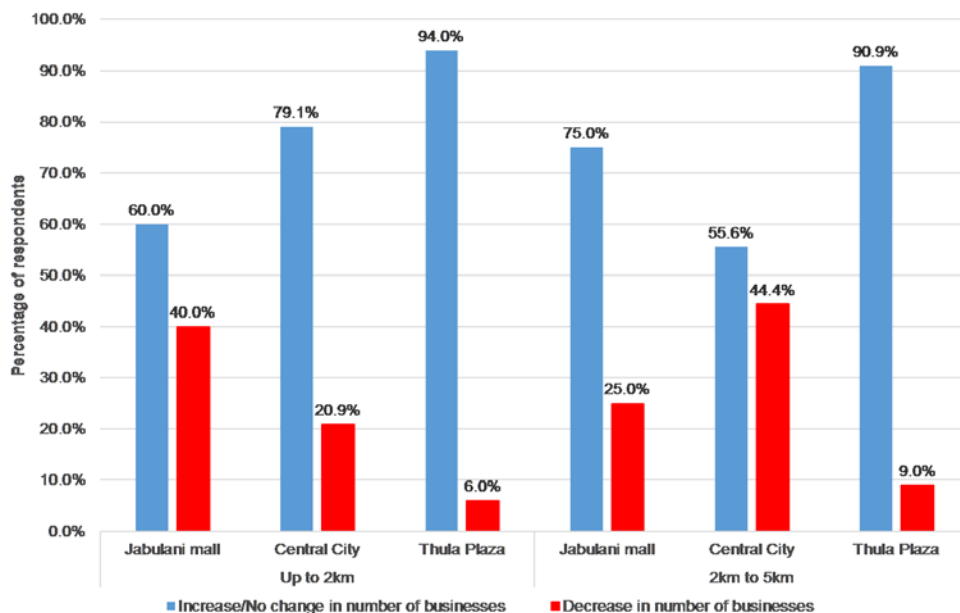
³⁶ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page 45.

³⁷ Demacon (2010), Impact of township shopping centres, Market research and recommendations, July 2010.

City mall in Mabopane and Thula Plaza in Thulamahashe, which is approximately 25km from Bushbuckridge.³⁸

78. Similar to Ligthelm (2008), the interviews were conducted with businesses within 2km of each mall and between 2km and 5km of each mall, and relied on the perceptions of the business owners that were interviewed. Three categories of business owners were interviewed: informal traders, unregistered individual/sole proprietors and owners of registered businesses. The results are based on 99 surveys from Jabulani Mall, 99 from Central City and 81 from Thula Plaza. The data was collected during February and May 2010.
79. The chart below depicts the perceptions of the respondents with regard to the impact of these malls on small and independent retailers.

Figure 23: Perceived changes in the number of businesses



(Source: Demacon (2010), *Impact of township shopping centres, Market research and recommendations*, July 2010. Genesis calculations.)

80. The results from this study illustrate a number of important points.
- 80.1. First, although there is some perceived displacement of small and independent retailers, in almost all cases, a much larger proportion of respondents perceived either no change or an increase in the number of retailers (with the former dominating). Thula Plaza in Thulamahashe is particularly

³⁸ Jabulani mall was anchored by Shoprite, Game and Woolworths. The anchor tenants in Central City were Shoprite and Score Supermarket. The anchor tenants in Thula plaza were Score Supermarket and Boxer Cash 'n Carry.

noteworthy in this regard—the new shopping centre appears to have generated almost no negative impact on local retailers.

- 80.2. Second, the results are mixed across townships confirming the warning in Ligthelm’s Soshanguve study that his results should not be assumed to be applicable across all townships or malls. For example, 40% of respondents at Jabulani Mall perceived a decrease, compared to only 6% at Thula Plaza.
- 80.3. Third, at both Central City and Thula Plaza, a larger percentage of respondents perceived a decrease in the number of retailers that were located between 2km to 5km, compared to the perceptions of respondents within 2km of the malls. This stands in contrast to the finding of Madlala (2015), discussed below.
81. Three years earlier, in 2007, Mathenjwa (2007)³⁹ found evidence regarding Jabulani Mall in Soweto that contradicts the findings of Demacon, indicating that the results of these kinds of studies are sensitive to the time period in which they are conducted. Mathenjwa’s study was based on interviews of 10 spaza shops and 10 general dealers in Soweto, again asking these businesses about their perceptions of the level of business activity since the opening of the mall.⁴⁰ The interviews revealed that:
- 81.1. 85% of the respondents reported observing a decrease in the number of businesses in the vicinity. Only 5% and 10% observed an increase or no change in the number of businesses, respectively.
- 81.2. 50% of the respondents that observed a decrease attributed it to the opening of the mall. As mentioned earlier, 30% of the respondents that perceived a decline in the number of businesses did not cite the mall as the reason, but rather poor management on the part of those whose businesses had closed.
82. In a more recent study from 2015, Madlala (2015)⁴¹ interviewed 24 active and 5 inactive spaza shop owners around a shopping centre in KwaMashu, Durban, which is anchored by a Pick n Pay supermarket. The interviews were conducted between March and July 2014 following the opening of the shopping centre in May 2013. The sample included spaza shops within a 600 meter radius of the shopping centre and spaza shops beyond that distance (but less than 5km away from the shopping centre).

³⁹ A. Mathenjwa (2007), The impact of Jabulani Shopping Mall on small township businesses, University of Pretoria.

⁴⁰ Spaza shops and general dealers were defined very similarly to the definitions found in Ligthelm. That is, spaza shops were defined as “...businesses operating in a section of and occupied residential home or in any other structure on a stand zoned or used for residential purposes and where people lived permanently,” while general dealers were defined as stand-alone brick and mortar superstructures, located in a business area or residential sections of townships. They carry a wider product range than spaza shops. This is similar to the definition given by Ligthelm (2008).

⁴¹ T. T Madlala (2015), Do large retailers displace small informal retailers? The case of a Pick n Pay store in KwaMashu, Durban, South Africa, ERLN conference on economic development at the sub-national level, Pretoria, 15-16 October.

83. Overall the study found that the impact of the new shopping centre was highly localised, with the shops adjacent to the mall being the most impacted. These shops experienced lower consumer volumes and were forced to adjust their marketing strategies.
- 83.1. During the first phase of research, conducted in March and April 2014, the majority of respondents indicated there had been very little change in the number of shops in their immediate vicinity. Those who reported a decline referred to “two to three shops” that had been shut down since the opening of the supermarket.⁴²
- 83.2. In the second phase in July 2014, new shops had opened around the shopping centre, indicating that entrants may have located close to the shopping centre to take advantage of passing traffic. None of the shops documented in the first phase had closed down.⁴³
- 83.3. Of the 5 inactive shop owners, 3 indicated that their businesses had shut down prior to the opening of the shopping centre and the Pick n Pay. The reasons for the stores shutting down included a lack of business planning, employee theft and finding new employment. Only one shop had closed down due to a loss of customers after the opening of the Pick n Pay.⁴⁴
84. The findings from the studies above show mixed results regarding the impact of the expansion of shopping centres and supermarkets on small and independent township retailers. The lack of consistency in the findings applies across studies, as well as across malls and townships within the same study, in the case of the Demacon research.
85. In addition, it appears some retailers benefit from the opening of supermarkets. As mentioned in 82.2, the study by Madlala (2015), for example, found indications that entrants may have located close to the shopping centre to take advantage of passing foot traffic. Similarly, Peyton *et al*⁴⁵ found that the fruit and vegetable and meat stands located in close proximity to the shopping centre in Philippi, Cape Town, capitalised on the existing shopping centre through their spatial organisation.⁴⁶ Lastly, findings in the Demacon study indicated that some of the respondents had relocated to their current locations (within 5km of the new mall) following the development of a mall in their area. The main reason appears to have been to seek a location that was busier, noting increased volumes of consumers, and the relocation of a taxi rank to the mall.⁴⁷

⁴² Ibid, page 11.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ S. Peyton, W. Moseley and J. Battersby-Lennard (2015), Implications of supermarket expansion on urban food security in Cape Town, South Africa, *African Geographical Review*, 2015.

⁴⁶ Ibid, page 12.

⁴⁷ Demacon (2010), Impact of township shopping centres, Market research and recommendations, July 2010, page 310 and 331.

(iv) Nothing is known of impacts beyond 5km

86. The study by Ligthelm (2008), referred to by the Commission, and the studies discussed above consider the impact of supermarkets up to a distance of 5km from the shopping malls. This suggests that, given the sizes of townships where the malls are located, any potential impacts are felt within a relatively small radius. However, most townships are much larger than this. Thus, these studies do not assist in understanding the overall impact of supermarket expansion into townships on small and independent retailers as a whole. By confining the radius of the study to 5km, the studies are not able to account for the ability of small and independent retailers to relocate beyond this radius, nor the organic growth of new businesses beyond this radius.
87. An additional limitation of studying impacts within a radius of 5km of the shopping malls is that it ignores the spatial distribution of small and independent retailers in townships, peri-urban and rural areas. The Sustainable Livelihoods Foundation study (2016) found that house shops (92%), shebeens (90%), spaza shops (81%) and takeaways (65%) micro-enterprises are predominantly located in residential areas.⁴⁸ This is particularly important as the majority of households in the township are unlikely, it would seem, to be located within 5km of a shopping mall. Therefore, understanding the dynamics outside a 5km radius of a shopping mall is crucial to understanding how the opening of that shopping mall impacts on the number of small and independent retailers that provide employment and opportunities for ownership in townships, peri-urban and rural areas.
88. Understanding the environments in which small and independent retailers operate 5km from a shopping mall is also important given the growth of townships and increasing urbanisation over time. Data from StatsSA's General Household Survey suggests that populations in urban areas are growing. The table below shows data on the number of households recorded in each geographic area type from 2008 to 2014. The number of households in urban geographies (row 3), has grown from 60% of all households recorded in 2008 to 63% of all recorded households in 2014; the percentage increase in total urban households has been 9.1% over the period.

Table 3: Number of households in each area-type⁴⁹

	Geographic type	2008	...	2014	% change
1	Urban formal	12,809	...	14,079	9.9%
2	Urban informal	1,830	...	1,891	3.3%
3 (= 1 + 2)	Urban	14,639	...	15,970	9.1%

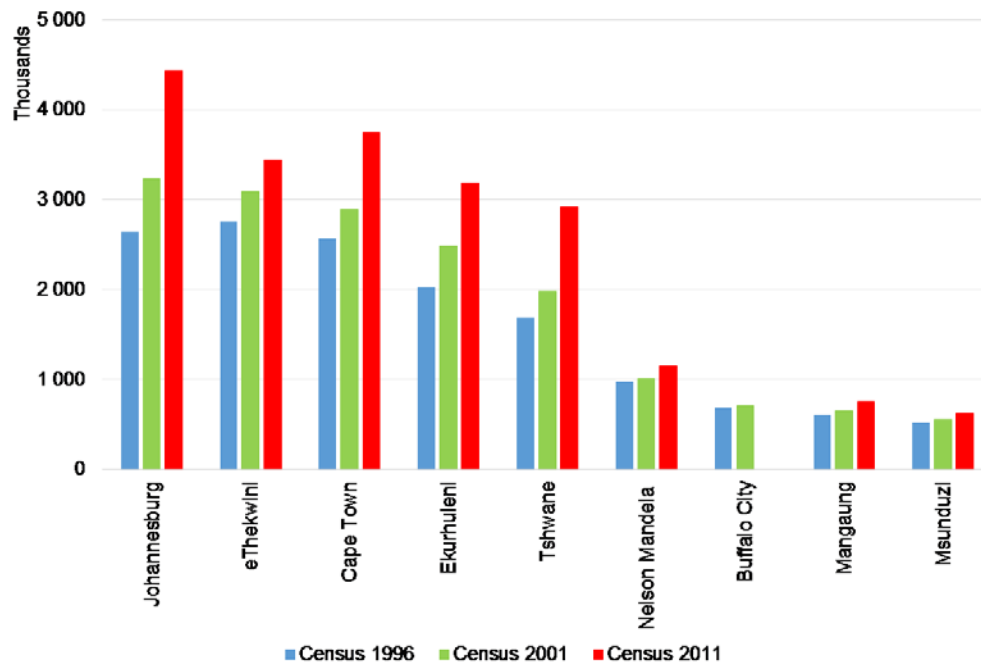
⁴⁸ Sustainable Livelihoods Foundation (2016), South Africa's informal economy, Research findings from nine townships, page 38.

⁴⁹ Source: Stats SA, General household survey, 2015. Genesis calculations.

4	Traditional	8,605	...	8,349	-3.0%
5	Farm	1,064	...	1,038	-2.4%

89. In addition, census data shows that the populations in South Africa's major cities have grown significantly since 1996, as illustrated in the chart below.

Figure 24: Populations of South Africa's major metros, 1996-2011



(Source: Stats SA, Census data.)

90. When townships expand, newer areas tend to become informal settlements—i.e. collections of residential dwellings—and develop over time into areas that support more than just residences. Charman and Petersen (2016)⁵⁰ found, in the case of Delft, that a large proportion of the total number of micro-enterprises operating in Delft did so within its residential areas. Consequently, it is to be expected that small or informal grocery retailers will lead supermarkets into these new residential parts of townships areas, and retain this edge for as long as it takes for these areas to become attractive to a supermarket—which typically means levels of economic development that create consumers with disposable income.
91. Accordingly, it is not obvious that even if some small or independent grocery retailers are displaced by new shopping centres, that these businesses are not able to relocate to other parts of the same township. Nor is it certain that no new businesses develop in these other parts of townships.

⁵⁰ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3.

(v) **Spaza shops are not the only township businesses**

92. The study referenced by the Commission indicates that its focus will be on the sustainability of informal spaza shops and tuck shops as well as small township retailers that are in direct competition with newly established national retailers and franchises.⁵¹ There are, however, a multitude of different businesses in townships, peri-urban and rural areas. While spaza shops and small township retailers make up an important and sizeable component of the businesses found in townships, they are not the only businesses present.
93. In addition, it is important to take into account how the number of businesses in an area changes over time. A static view of the impact of new shopping malls, as given by most of the studies discussed, does not consider the possibility that, over time, some businesses may relocate and new businesses might open up. Furthermore, over time, opportunities for different kinds of businesses that did not previously exist in these areas may arise. In short, the limited number of studies dealing with the impact of new shopping malls on small, informal businesses, were not, generally speaking, designed to understand whether growth was occurring in small or informal township businesses overall.
94. Charman and Petersen (2016)^{52 53} do seek to address this question, using a longitudinal survey of Delft between 2010/11 and 2015. The results showed not only a large variety in the types of micro-enterprises operating in Delft, but a significant increase in the total number thereof, from 879 in 2010/11 to 1,798 in 2015. This is so despite there being three supermarkets in the area surveyed, and at least four more within 5km of the surveyed area, as shown in the map below.

⁵¹ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, South African Journal of Management and Economic Sciences NS 11 No 1, page 38.

⁵² A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3.

⁵³ See A. Charman and L. Petersen (2015), The layout of the township economy: the surprising spatial distribution of informal township enterprises, Econ 3x3.

Figure 25: Presence of supermarkets in and around the Delft survey area⁵⁴



(Source: Pick n Pay Geo-mapping)

95. The increase in the total number of small or informal businesses occurred throughout a number of categories of micro-enterprises, with some, such as takeaway food, growing dramatically. The table below shows the change in the number of enterprises from 2010/11 to 2015 by category. Of particular relevance to the Commission's concern, the number of house shops and green grocers increased, as did the number of micro-enterprises focused on meat, poultry or fish. The spaza shop category was the only form of small or informal grocery retailing in Delft that saw a decline, but even after this decline it still comprised the second-largest category of micro-enterprise in Delft in 2015.

Table 4: Change in the number of micro-enterprises in Delft, 2010/11-2015

Sector	2015			2010-2011			Change Number
	Number	Share	Rank	Number	Share	Rank	
Takeaway food	167	9.3%	1	34	3.9%	7	133
Spaza shop	152	8.5%	2	179	20.1%	1	-25
Street trade	146	8.2%	3	18	2.0%	13	130
Liquor sales	145	8.1%	4	110	12.5%	3	35
House shop	140	7.8%	5	126	14.3%	2	14
Mechanical services	87	4.8%	6	52	5.9%	5	35

⁵⁴ Source: Pick n Pay based on Charman and Petersen (2016)

Hair care	85	4.7%	7	64	7.3%	4	21
Meat, poultry, fish	72	4.0%	8	16	1.8%	15	56
Wood and coal	71	3.9%	9	4	0.5%	29	67
Recycling	67	3.7%	10	16	1.8%	15	51
Religious services	65	3.6%	11	38	4.3%	6	27
Green grocer	57	3.2%	12	20	2.3%	12	37
Micro-manufacture	53	2.9%	13	22	2.5%	10	31
Building services	53	2.9%	13	21	2.4%	11	33
Educare	50	2.8%	15	32	3.6%	8	18
Business services	50	2.8%	15	17	2.4%	14	33

(Source: A. Charman and L. Petersen (2016), *A growing informal sector: evidence from an enterprise survey in Delft*, *Econ 3x3*, page 4. Notes: Some categories have been aggregated. Businesses service include financial services.)

96. The results confirm the following:
- 96.1. *A static view is not sufficient:* a longitudinal study is better able to capture changes that may occur in townships, than a once-off study that relies on the perceptions of the people interviewed. A longitudinal study takes into account that the relevant environment is not stagnant and as it changes, locations may grow and new opportunities may arise for businesses. This view is supported by Ligthelm (2008), who suggests, as mentioned earlier, that a replication of that study should be done within 12 months to determine the stability of the study's findings.⁵⁵
- 96.2. *All relevant businesses should be considered:* in terms of the Commission's concerns regarding employment and ownership in the formal sector, the evidence from the Delft study shows that many growing sectors exist (in terms of number of enterprises) within townships. All of these should be taken into account as growth in these businesses promote purposes 2(e) and (f) of the Competition Act in the same way that growth in small or informal retailers might.
- 96.3. *Informal sector enterprises are flexible:* Charman and Petersen (2016) note that the flexibility of businesses in townships means they are able to relocate and reposition themselves in terms of the core products and services in response to changing market dynamics.⁵⁶ This contributes to the growth and survival of these businesses. Thus, the decrease in the number of spaza shops found

⁵⁵ A.A Ligthelm (2008), The impact of shopping mall development on small township retailers, *South African Journal of Management and Economic Sciences* NS 11 No 1, page 45.

⁵⁶ A. Charman and L. Petersen (2016), *A growing informal sector: evidence from an enterprise survey in Delft*, *Econ 3x3*, page 7.

in the study may also reflect the choice of spaza shop owners to enter into other sectors or relocate to other areas in line with demographic shifts.

97. The Delft study also found that there is a continued tendency for informal enterprises to be spread out throughout the township, particularly in the residential areas.⁵⁷ This is in line with the data collected in 2010/2011 for the previous study. In that study the authors note that “... *the township’s informal business sector is everywhere*” and that most of the liquor stores, spaza shops and house shops are located away from the high streets.⁵⁸ This implies that as long as townships continue to grow, businesses will continue to open in order to service the newer parts of the townships.
98. Lastly, the Charman and Petersen study (2016) also looks at the attrition rates of businesses in Delft. The data collected shows that although a large number of micro-enterprises may fail, new micro-enterprises also open up. The study found that although 71 of 119 micro-enterprises selling liquor in 2010/2011 had ceased trading by 2015, 85 new liquor outlets had opened in the same period.⁵⁹ Thus the rate of attrition should be considered together with the fact that new businesses of the same or a different kind also open elsewhere. That is to say, the high rates of attrition do not mean an overall reduction in the number of micro-enterprises as this is countered by the opening of new micro-enterprises. Indeed, the study found that the growth in the number of enterprises in the area was “*remarkable*”⁶⁰ and that the number of micro-enterprises had doubled from 879 in 2010/11 to 1798 by 2015.⁶¹ This finding is particularly relevant because, for example, the number of food take-away outlets in the area increased by up to 364% over 5 years and the sale of meat, poultry and fish increased by 391% over the same period⁶². This increase in take-away outlets and the sale of meat, poultry and fish may account to some extent for the decline in the number of grocery outlets during that same period as their “*lunch*” was literally being taken away from them by these competing outlets. Indeed, the authors of the study find “*in 2010/11 spaza shops and house shops together (grocery retail) accounted for more than a third of identified micro-enterprises, whereas in 2015 the combined share of grocery retail was down to 16% - mainly due to the numerous take-away food stores that had taken over a large part of the food business.*”⁶³ Finally in this regard, the authors of the study conclude by stating that “*potentially significant positive entrepreneurial developments may be going under-reported in official surveys*”.⁶⁴

⁵⁷ Ibid, page 4.

⁵⁸ A. Charman and L. Petersen (2015), The layout of the township economy: the surprising spatial distribution of informal township enterprises, Econ 3x3, page 6.

⁵⁹ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 6.

⁶⁰ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 2, para 6.

⁶¹ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 2, para 4.

⁶² A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 2, para 6..

⁶³ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 7, para 4.

⁶⁴ A. Charman and L. Petersen (2016), A growing informal sector: evidence from an enterprise survey in Delft, Econ 3x3, page 8, para 1.

(vi) Foreign-owned spaza shops have contributed to the decline of South African-owned spaza shops

99. A study conducted by Liedman, Charman, Piper and Petersen (2013) has dealt extensively with the issue of why South African spaza shops have fared poorly in comparison with foreign-owned spaza shops. They indicate that, in the area of Delft where the study was conducted, foreign-owned shops were generally cheaper as a consequence of price discounting and also had a broader range of products and that, as a result, there was a major shift in ownership of spaza shops from South African to foreign nationals.⁶⁵

100. Their recommendations as to how to address this issue is to suggest that large-scale spaza shops should be regulated on the basis that they should have to submit PAYE returns and VAT returns, etc. whereas the smaller players should not be subject to such regulation.

(vii) Benefits of Pick n Pay's geographic expansion into townships, peri-urban and rural areas

101. [CONFIDENTIAL]

101.1. [CONFIDENTIAL]

101.2. [CONFIDENTIAL]

101.3. [CONFIDENTIAL]

(viii) Pick n Pay's spaza shop initiative

102. Pick n Pay has been in discussions with the Gauteng Provincial Government with a view to rolling out various projects designed to assist small informal retailers such as spaza shops and to create collaborative ventures with a view to Pick n Pay assisting spaza shops to function more effectively and sustainably. While this initiative is in its infancy, it demonstrates that major retail grocers do not necessarily operate to the exclusion of spaza shop owners and that there are various synergies which can be promoted. For example, the development of local suppliers, and improvement of standards and quality will benefit several stakeholders. Retail growth in these areas helps to drive broader economic development, which in turn benefits many enterprises and township revitalization.

(ix) Conclusion

103. In conclusion, Pick n Pay does not believe that there is any significant evidence to demonstrate that the expansion of shopping centres into townships, peri-urban and rural areas and the introduction of

⁶⁵ Liedman, Charman, Piper and Petersen (2013), "Why are foreign run spaza shops more successful? The rapidly changing spaza sector in South Africa." Page 3

supermarkets in such centres have materially prejudiced small, informal grocery retailers such as spaza shops and that the various studies which have been conducted in this regard tend to suggest that there are a variety of reasons which account for any decline of spaza shops in the areas in which the studies were conducted. Furthermore, in general, the introduction of supermarkets in these areas has been largely positive in providing consumers with greater product choice at considerably lower cost than was previously the case prior to the introduction of supermarkets in these areas.

5. EXCLUSIVE LEASE AGREEMENTS (OBJECTIVE 2)

104. The second key objective of the inquiry is to assess the impact of long-term lease agreements between property developers and national supermarket chains on competition in the retail grocery sector.
105. Pick n Pay and other large retailers such as Shoprite and Spar have, in certain instances, concluded lease agreements with shopping centre owners, which contain certain forms of exclusivity arrangements. Exclusive lease agreements were investigated by the previous Supermarkets Inquiry which took place from June 2009 to 2014. After investigating this issue, the Commission concluded that there was insufficient evidence to prove that exclusive leases substantially lessened competition in any relevant market. Pick n Pay does not believe that there is any reason for this inquiry to adopt a different stance to that taken in the previous inquiry for, *inter alia*, the following reasons:
- 105.1. First, Pick n Pay's exclusive lease agreements only apply in the context of formal shopping centres and malls. The only types of grocery retailers that could enter these properties are other supermarkets and other types of formal grocery retailers, such as butcheries and bakeries ('speciality grocers'). There is, generally speaking, no realistic prospect of informal grocery retailers, such as spaza shops, looking to secure retail space in shopping malls, given the nature of the rentals and types of leases entered into with shopping centre landlords. Accordingly, small and informal retailers such as spaza shops do not typically occupy space in shopping centres and, therefore, are not a source of competition or constraint to retail grocery supermarkets in shopping centre environments. In other words, informal retailers such as spaza shops are not generally affected by exclusive lease arrangements and tend to occupy different types of premises to those typically used by supermarket chains.
- 105.2. Second, retail grocers such as Pick n Pay determine their pricing on a national basis and, accordingly, their pricing in individual stores is generally consistent across the country and is not influenced by the fact of whether a lease agreement is exclusive or not. In other words, exclusivity arrangements have no impact on Pick n Pay's pricing to consumers. This point is important in relation to paragraph 73 of the statement of issues published by the GRSMI, where it is suggested that long-term lease agreements are likely to have an impact on consumers by giving rise to higher prices and less product choices. The suggestion appears to be that a grocery retailer may be in a position to charge higher prices due to lack of competition as a result of exclusive lease

arrangements and that consumers visiting the shopping centre in question will not be able to access a broad range of products, which they otherwise would have been able to access had it not been for the exclusive lease arrangements in question. Pick n Pay does not agree with these contentions given the fact that as pointed out above, its pricing does not vary on a store by store basis and in addition, there are a significant range of alternative competing grocery retailers in relation to every shopping centre where Pick n Pay has an exclusive lease arrangement, which is clearly demonstrated by the various maps outlining the extent of retail grocery competition in the immediate vicinity of each of Pick n Pay's stores. The relevant maps are attached hereto as **Appendix A**. These maps also demonstrate that consumers can access a wide variety of products from different grocery retailers within close proximity to one another.

- 105.3. Furthermore, there is a suggestion in paragraph 72 of the statement of issues that exclusivity clauses in lease agreements “*tend to most significantly affect small and independent retailers who may not be in a position to attract customers if located outside the shopping centre*”. In many instances where Pick n Pay has exclusive lease arrangements, and landlords have requested access for small and independent retailers to particular shopping malls, Pick n Pay has generally consented thereto. Indeed, it is not Pick n Pay's experience that small and independent retailers have been disproportionately affected by exclusive lease arrangements and that, in fact, the primary rationale for such lease arrangements was to ensure that other large retail grocers did not “*free ride*” on the goodwill which Pick n Pay had established in particular shopping centres and thereby seek to undermine the profitability of particular Pick n Pay stores in those centres.
- 105.4. Interestingly, in a study conducted by CCRED (2015)⁶⁶ in relation to the experiences of Fruit & Veg City Limited in South Africa, the authors of the study found that, according to Fruit & Veg City, the only shopping centre in which they faced issues relating to exclusivity was in Park Meadows near Eastgate, but where Pick n Pay chose not to enforce the exclusivity arrangements which it had in place at that shopping centre, thereby permitting Fruit & Veg City to establish a store there⁶⁷.
- 105.5. It should also be noted that the authors of the CCRED study seem to indicate that shopping centres of 12 000 square metres or less can usually only support one anchor tenant⁶⁸ and that exclusive leases may be justified in the initial phases of the investment to permit the anchor supermarket to “*recoup its investment, gain footfall and establish a market*”, although the authors do not suggest that this is a sufficient justification for exclusivity which spans several decades⁶⁹. The authors of

⁶⁶ Reena das Nair and Singie Chisoro Dube, Competition and Regulation : Competition, Barriers to Entry and Inclusive Growth : Case Study on Fruit and Veg City

⁶⁷ Page 29 of the CCRED report.

⁶⁸ Page 27 of the CCRED report.

⁶⁹ Page 28 of the CCRED report.

the study also suggested that the majority of stakeholders interviewed by them indicated that the practice of exclusive lease arrangements was more prevalent historically than it is now⁷⁰.

105.6. Third, from a competition law perspective the appropriate manner in which exclusivity arrangements should be assessed is to determine the appropriate parameters of the relevant geographic market in which a particular Pick n Pay store is situated and then determine whether any exclusivity arrangements in respect of the store in question, substantially lessen competition within the confines of that particular geographic market. There is no suggestion in any of the decisions handed down by the Competition Tribunal in South Africa or for that matter in any of the international competition inquiries⁷¹ which have considered the issue of exclusive leases, that a single shopping centre could be considered a relevant geographic market in its own right. In other words, in order to assess whether exclusive lease arrangements substantially reduce competition between retail grocers, a competition inquiry needs to determine the relevant parameters of the applicable geographic market in each particular case. Based on previous precedent of the Competition Tribunal, relevant geographic markets of this kind would typically be at least within a 2-5km radius and, in certain cases, would be even wider and potentially encompass anywhere from between 10-30km. Accordingly, it would have to be demonstrated that within local geographic markets of this kind, exclusivity arrangements in individual shopping centres somehow materially reduce competition. Pick n Pay will demonstrate by means of a detailed geo-mapping exercise that in fact there are multiple competitors within these local markets and that there is no material reduction in competition (whether in relation to large or small retail groceries) within these areas as a consequence of any of the exclusivity arrangements which Pick n Pay currently has in place. In this regard, the GRSMI is referred to the various maps which have been provided together with this submission, which illustrate the significant extent of supermarket competition in each local area where Pick n Pay has its stores. Moreover, Pick n Pay has also prepared a pivot table (attached marked **Appendix B**) which demonstrates the number of competitors in relation to each Pick n Pay store across the country. This table clearly indicates that in each locality in which Pick n Pay operates a store, there are numerous competitors, which pose a competitive constraint. This belies any suggestion that exclusivity arrangements materially diminish competition in any particular area across the country.

105.7. In conclusion on this issue, there is no evidence to suggest that exclusive lease arrangements in respect of retail grocery stores either disproportionately affect small and independent retailers or result in higher prices and reduced product availability than would be the case absent such arrangements. Indeed, Pick n Pay has in many instances relaxed exclusive lease arrangements in the case of small and independent retailers and price competition and product range has not been negatively affected as a consequence of any exclusivity provisions.

⁷⁰ Page 28 of the CCRED report.

⁷¹ Including inquiries in the United Kingdom, Australia, Norway and Hong Kong.

6. THE IMPACT OF BUYER POWER ON SMALL AND INDEPENDENT RETAILERS (OBJECTIVE 5)

106. The fifth objective of the inquiry is to consider the impact of buyer power on small and independent retailers in townships, rural areas and the informal economy.
107. We understand from paragraph 107 of the statement of issues that the GRSMI wish to enquire into whether so-called “*buyer power*” negatively impacts small and independent retailers and ultimately the end consumer. In particular, two issues appear to be relevant. First, whether large retailers use their buyer power to extract particularly favourable terms from suppliers, with the result that small and independent retailers are supplied at higher costs or on less favourable terms and conditions and, second, whether suppliers are pressurised into not supplying small and independent retailers at all thereby compromising their ability to compete with the larger retailers in the grocery retail sector.
108. In the context of a competition commission inquiry, it should be noted that the policy issues related to dealing with so-called buyer power from a competition perspective “*remains a contentious area of competition policy*”⁷² While it is likely that Pick n Pay may secure certain goods and products at cheaper prices from certain suppliers than the price offered to small and independent retailers, based on the volumes and quantities purchased by Pick n Pay from such suppliers, it is submitted that this is not in any way anti-competitive. Volume discounts are entirely permissible in terms of South Africa’s competition legislation and so-called price discrimination is only relevant in circumstances where dominant firms apply differential pricing in respect of “*equivalent transactions*”.⁷³ Pick n Pay is not a dominant firm for purposes of the Competition Act given that its market share in the retail grocery sector is less than 35% on a national basis (and is not likely to exceed 35% in any local market) and, in addition, the larger volumes of products which it purchases from suppliers also means that these transactions are not equivalent to transactions where suppliers supply smaller volumes of products to small retail grocers. In other words, the abuse of dominance provisions in the Competition Act which deal with anti-competitive inducements to suppliers and the provisions dealing with price discrimination, only apply to dominant firms and would not apply to Pick n Pay as a consequence of the fact that it is not a dominant firm.
109. A paper published by the OFT in relation to the consequences of buyer power points out that it is only in certain instances where buyer power may be problematic from a competition law point of view and that, in a retail grocery context, this would apply to cases where there are exclusive supply obligations which restrict competition or where there are so-called slotting allowances which may result in higher retail prices.

⁷² Para 1.2 OFT report “*the welfare consequences of the exercise of buyer power, September 1998*”

⁷³ See section 9 of the Competition Act.

110. Insofar as Pick n Pay is concerned, it has a standard agreement which it concludes with its suppliers and this agreement does not provide for any form of exclusivity in relation to the sourcing of products from Pick n Pay's suppliers, nor does it impose any restrictive conditions on suppliers which would preclude them from providing products to other retail grocers. In other words, Pick n Pay's standard contract does not contain restrictions which would preclude other retail grocers, and particularly small and independent retailers from sourcing products from the suppliers with whom Pick n Pay transacts. In relation to its own branded products, Pick n Pay does not require its suppliers to not produce own label products for other retail grocers. It does, however, not permit such manufacturers to utilize Pick n Pay's specifications and formulations (i.e. its intellectual property), for purposes of manufacturing or contract packing own label goods for rival retailers. Accordingly, it is only in relation to Pick n Pay's own label brands, where it supplies manufacturers with specific formulations and specifications, that it does not permit such manufacturers to replicate these formulations and specifications for other grocery retailers.
111. Insofar as slotting fees or listing fees are concerned, Pick n Pay does not charge suppliers such fees.
112. While Pick n Pay undoubtedly strives to secure the most competitive prices from its suppliers in order to ensure that it can supply Pick n Pay customers with groceries at the lowest possible prices, Pick n Pay does not insist that suppliers must provide it with the lowest prices that such suppliers afford to any other retailer, nor does it have so-called "*most favoured nation*" clauses in its supply agreements. Accordingly, Pick n Pay does not believe that its purchasing practices contribute to "*higher costs*" for small and independent retailers.
113. In conclusion, Pick n Pay does not believe that its purchasing practices either preclude its suppliers from supplying small and independent retailers with equivalent products or materially raise the costs associated with supplying such small retailers.

7. LOYALTY SCHEMES (OBJECTIVE 6)

114. The final issue to be addressed in this submission relates to so-called "*loyalty schemes*". The panel has indicated in paragraph 65.4 of the statement of issues that as part of its assessment it will also consider issues pertinent to consumers, such as the transparency of the actual value of the benefits of store loyalty schemes to consumers, as well as pricing transparency through the use of unit pricing of pre-packaged goods on shelf tags. A third party submission by the South African National Consumer Union ("**SANCU**") has sought to suggest that certain of the retail stores loyalty schemes were not sufficiently transparent and that it is difficult to discern how these schemes operated. In this regard, SANCU suggests that it is difficult to ascertain the Rand value of Pick n Pay's loyalty points. SANCU suggests that loyalty schemes should be required to quantify their benefits transparently.
115. The first point to note, although it is entirely self-evident, is that it is entirely voluntary for any customer to elect whether they wish to participate in Pick n Pay's Smartshopper programme. In other

words, there is no requirement that any customer participate in the programme. The Smartshopper programme operates on the basis that a Smartshopper card will be swiped by the teller on making a purchase and points will be allocated to the consumer based on the Rand value of the point-eligible items purchased by the consumer. There are a limited number of items which do not attract Smartshopper points, for example, tobacco products, gift cards and prescription pharmaceuticals. For every Rand spent, the consumer will earn one point. The till slip generated at the time of the purchase will indicate:

- 115.1. The number of points allocated pursuant to that purchase;
 - 115.2. The total number of points accumulated by the consumer; and
 - 115.3. The total Rand value of the accumulated points.
116. An example of a till slip indicating the above is attached marked **Appendix C**. It is clear from the sample till slip how many points the consumer has acquired pursuant to the purchase in question, the total number of accumulated points and the value of those points.
117. There are 5 different ways customers can view their Pick n Pay Smartshopper points:
- 117.1. Till slip generated at time of purchase (as explained above);
 - 117.2. In-store kiosk, located in the front of every Pick n Pay store;
 - 117.3. Pick n Pay website;
 - 117.4. Pick n Pay mobile application; and
 - 117.5. Pick n Pay call centre.
118. Each point is equivalent to one cent and, once the consumer has accumulated a minimum of 500 points, he or she can switch or redeem the points in a number of ways using an in-store kiosk:
- 118.1. The consumer may elect to convert the points to a Rand value which can then be used on future purchases. This is done by converting the points on the Smartshopper card to cash on the same card which then operates as a debit card which can be used for full or partial payment of a purchase in the future.
 - 118.2. The consumer may elect to convert his or her points to vouchers at any of the Smartshopper partners; Avios, Spur, Primi, Sterkinekor, Intercape Buses etc.
 - 118.3. The consumer may elect to donate their Smartshopper points to one of 27 charities.

119. In addition to the accrual of points which can be converted to cash, Avios credits or donated to charity, Smartshopper members are awarded vouchers depending on their historical purchases and shopping behavior. The vouchers are dispensed by means of the in-store kiosk and the consumer simply checks on a regular basis what vouchers are available to him or her, selects which ones he or she wishes to use and prints them out at the kiosk for use at the point of sale. These vouchers may be store specific, product specific or customer specific. Attached marked **Appendix D** is an example of the vouchers which are posted to Smartshopper members.
120. Money earned from Smartshopper points switches will be valid on the Smartshopper card for three years. Pick n Pay's Smartshopper loyalty programme is entirely transparent in terms of the Rand value of loyalty points allocated to a Smartshopper member per purchase made by that consumer.
121. It should also be borne in mind that Pick n Pay incurs not inconsiderable costs in providing and maintaining the Smartshopper programme for the benefit of its customer base. The Smartshopper programme won the Best Customer Loyalty Programme (Sunday Times Top Brands) for 3 consecutive years (2013, 2014 and 2015).
122. In conclusion, it is submitted that Pick n Pay's Smartshopper loyalty programme has been designed to be as accessible and transparent as possible for customers and to facilitate consumers being able to derive material benefits from the programme. Pick n Pay has received very few complaints in relation to the programme, which is testimony to the fact that the thousands of Pick n Pay customers which utilize the programme feel that it is transparent and that they are deriving material benefit from the scheme.
123. From a competition law point of view, there is no reason to believe that there are any features of Pick n Pay's Smartshopper programme which would result in any anti-competitive effects. First, Pick n Pay would not be regarded as a dominant firm in terms of the South African Competition Act and is therefore entirely at liberty to implement a customer reward programme. Second, the manner in which the programme is constructed means that it is pro-competitive and efficiency enhancing and designed to foster competition in the retail grocery market. Third, various other major retail grocers such as Spar and Woolworths have their own loyalty programmes, which are offered to their customers.

8. CONCLUSION

124. As set out in these submissions, the South African retail grocery industry is extremely competitive and is characterised by robust price competition and low margins. This, together with significant new entry into the industry (including new formats such as petrol food forecourt marts and online retailing) provides significant benefits to consumers.
125. Pick n Pay does not believe that its business activities in any of the areas referred to in the statement of issues published by the GRSMI gives rise to a material reduction in competition or to any prejudice to small and independent retailers.

126. In conclusion, Pick n Pay's submissions are the following:
- 126.1. The expansion of shopping centres and supermarkets into townships, peri-urban and rural areas is beneficial to consumers in a number of respects including providing them with access to a wide range of high quality products at lower prices.
- 126.2. The findings of various studies on the effects of the introduction of shopping malls and supermarkets in townships, peri-urban and rural areas do not appear to support any definitive conclusion that this is a direct cause of any decline in spaza shops in those areas.
- 126.3. Exclusive lease arrangements do not affect small, informal businesses such as spaza shops which do not operate in shopping centres.
- 126.4. Insofar as other small, formal businesses are concerned, in most instances where Pick n Pay has been requested to relax exclusivity arrangements in order to facilitate the entry of small businesses into shopping centres, Pick n Pay has consented thereto.
- 126.5. In respect of large retail grocers, the evidence demonstrates that there is a wide variety of shopping centres in close proximity to every shopping centre in which Pick n Pay has outlets and that, accordingly, exclusive lease arrangements have not negatively diminished the extent of competition between the large retail grocery chains.
- 126.6. Pick n Pay sets its prices on a national basis and, accordingly, there is no reason to believe that exclusive lease arrangements have any impact on the manner in which prices are set in particular stores.
- 126.7. Pick n Pay's standard supply contracts do not require any form of exclusivity, nor do they impose any conditions on suppliers which would result in suppliers either not being able to supply competing small and medium-sized retail grocers or which have the effect of raising the costs of supply to small and independent retail grocers.
- 126.8. Pick n Pay's Smartshopper customer reward programme benefits consumers and is transparent and accessible.

9. APPENDIX A : [CONFIDENTIAL]

10. APPENDIX B : [CONFIDENTIAL]

**11. APPENDIX C : SAMPLE TILL SLIP DEMONSTRATING
SMARTSHOPPER INFORMATION**

12. APPENDIX D : SAMPLE SMARTSHOPPER VOUCHERS

Pick n Pay

Rosmead
0216716221

CASHIER: SIPHOSETHU MTENDENI

	0.00	0.00
DUE VAT INCL		464.85
-----TENDER-----		
Visa Platinum 464028		464.85
TOTAL ITEMS:		16

-----TAX INVOICE-----

	TAXABLE VAL	VAT VAL
VAT INCL	409.48	50.29
# ZERO-RATED	55.37	0.00
e NON-SUPPLY		

-----VAT REG NO. 4090105588-----

V VITALITY HEALTHYFOOD CASH BACK ITEM
S SMART SHOPPER INSTANT SAVINGS

Liquor Lic.:WCP/040901/040900
PLEASE RETAIN AS YOUR GUARANTEE
CUSTOMER CARE LINE: 0800 11 22 88
WEBSITE: www.picknpay.co.za
THANK YOU FOR SHOPPING WITH US.

-----SMART SHOPPER-----
Smart Shopper card # *****5894

As a Smart Shopper you have earned:
Base Points: 463
Your points balance: 70175
Rands available to spend: R701.75
Sorry cheques no longer accepted
for bill payments in store.



R6.10 OFF

FUTURELIFE SMART FOOD 5006R



9 901007 138240

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only



R6.40 OFF

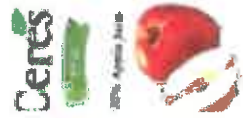
CLOVER UHT MILK 1L



9 901007 137328

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only



R3.10 OFF

CERES JUICE 1L



9 901007 137229

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only



R4.00 OFF

ALL GOLD TOMATO SAUCE SQUEEZE 500ML



9 901007 136291

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only



R3.70 OFF

PMP LOW FAT MILK 2L



9 901007 141264

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only



R2.00 OFF

ALBANY SUPERIOR BROWN SLICED BREAD 7006R (1EA)



9 901007 135591

04/07/2016 - 30/07/2016

Voucher valid for a single unit purchase only