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Submission to the Commerce Select Committee on the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 38 nationally organised societies. It has 31 branches throughout the country attended by representatives of those societies and many individual members. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

This submission has been prepared by the Public Issues Standing Committee of NCWNZ based on a number of resources. The main provisions of this Bill were circulated for discussion to the membership through our monthly Circular and via an e-mail list. In recent years, NCWNZ has made a number of submissions on related public holidays and employment matters and the views expressed on those occasions have been revisited when preparing the response to this Bill.

It is evident that there is a wide diversity of opinion on this topic but also a perceptible shift towards a wish for more choice about extended shop trading hours on public holidays by the general community and this is reflected in the responses from our membership. For example, when members were surveyed in April 1997 prior to NCWNZ submitting to the Commerce Select Committee on the Shop Trading Hours Act Repeal (Easter) amendment, the majority of respondents did not support Easter Sunday trading for a range of family and religious observance reasons. In July 1999 members were again surveyed for the input into the NCWNZ submission to the Justice and Law Reform Select Committee on the Shop Trading Hours (Abolition of Restrictions) Bill and the conclusion was:

“While many members do not accept the argument that busy families or visitors need all the days in the year to shop or that legislation must be changed because it is disputed, there are others who want choices and the opportunity to make their own decisions about working and shopping”.

At the National Executive meeting in 2003, policy was established “That NCWNZ support the provisions in the Shop Trading Hours Act Repeal Act 1990 which prohibit normal retailing on Christmas Day, Good Friday, Easter Sunday, and ANZAC Day morning”.

Yet three years later, the diversity of viewpoints among NCWNZ membership persists, although there is still a strong message that the present anomalies and inequities must be addressed and resolved as soon as possible. Many members still emphasised the importance of the traditional sustained break from usual work routines that the Easter holidays provide and the need for a work/life balance and family focused activities. However, it was also acknowledged that shopping is now part of many people's preferred recreational activities and that shopping on Easter Sunday should not be viewed as a sign of disrespect towards the religious beliefs of others. One group stated that, as many people are perceived to not have the same amount of discretionary time as in the past, this could assist families rather than increase the pressure on them.





The main focus of this Bill is to enable territorial authorities to decide whether retail shops in their districts may be open on Easter Sunday and to require them to use the correct consultative process before making this decision. The majority of NCWNZ members do not support this focus and do not consider it a good idea for legislation about a national issue to be devolved to territorial authorities in such a small country.

We wish to make specific comments on the following sections of the Bill:

Clause 4 Purpose

The purpose of the Act is to

(a) enable territorial authorities to decide whether retail shops in their district may be open on Easter Sunday.

Some respondents did support this proposal on the grounds that territorial authorities are in a better position to know of any special conditions in their own communities and to assess the wishes of their own communities. However, the majority were opposed to what they saw as divisive, and potentially negative, legislation and considered that shop trading law should be a central government responsibility. The most frequently cited reason for this opposition was the potential for ongoing anomalies and confusion especially as many people travel from one territory to another during the holiday period and several examples were cited by branches in the scheduled "tourist" areas. It was also felt that there must be consistency with the Shop Trading Hours Act Repeal Amendment Act 2001 and other current employment law which protects those workers who do not wish to work on a public holiday and this legislation is centrally, not locally, based.

It was further felt, by the majority of respondents, that central government should in fact legislate to **permit** trading on Easter Sunday and then the local retailer associations and individuals could decide whether they **would** open. There was support for restricted opening hours to demonstrate consistency with the other days which New Zealand society holds as special and it was noted that, in spite of being an increasingly secular nation, the commonly held community values are still based on the Judeo- Christian tradition. It was felt that a different structure of retail hours would be a reminder and reinforcement of that tradition. The concept of legislative consistency for all our special public holidays was supported, with ANZAC Day trading hours cited as a good model.

The legal ability to trade does not compel an establishment to open and most retail sectors already have more limited hours on Sundays while many choose not to trade. However, it was recognised that tenants in some shopping malls are contractually bound to open if the mall is open.

Clause 4 Purpose

(b) require territorial authorities, before making any such decision, to consult their communities by adopting the special consultative procedure provided for in Part 6 of the Local Government Act 2002.

NCWNZ members, while supporting in principle the importance of public consultation, considered that this would be yet another substantial cost to the ratepayer which would not achieve a clear result. As an example, The Nelson City Council estimates the cost of the public consultation procedure on a subject which would attract a lot of interest and based on a conservative expectation of 8 hours of public hearings, would be \$20,000-\$25,000.



Since the introduction of this Bill to Parliament there have already been media reports of discussions among groups such as local tourism associations, territorial authorities and chambers of commerce and it is clear that consensus cannot be achieved. There is no evidence to suggest that wider public consultation would achieve a better result.

One respondent who did support some consultation suggested a simple questionnaire in the local paper which might give authorities some guidance on what the really concerned people think. One Branch supported full public consultation only if the decision was reviewed at regular intervals (eg 5 yearly) perhaps by a referendum at time of electing the local authority.

Conclusion

The majority of NCWNZ members do not support the concept of Easter Sunday trading being a territorial authority responsibility, even if it is combined with full public consultation. It is considered to be an issue which must be resolved by nationwide legislation based on community and sector consultation. Any attendant costs should be the responsibility of central government.

The discussion required to make a submission on this Bill created the opportunity to again canvass NCWNZ membership opinion on the issue of Easter Sunday Trading. We emphasise again that the legal ability to trade does not compel an establishment to open and the current trend for most retail sectors to either remain closed or have more limited hours on Sundays seems to meet with society's approval.

Our conclusion is that, although there is no clear consensus, the shift in public opinion continues towards reducing restrictions and that regional and/or retail sector variations cannot be fairly justified.

Thank you for the opportunity to comment on this Bill.

Christine Low
National President

Mary Gavin
Convener, Public Issues Standing Committee



Oral Submission to the Commerce Select Committee on the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill and Easter Sunday Shop Trading Amendment Bill

This Submission was presented by Jean Fuller and Anne McNickle

The National Council of Women recognises that social norms have changed and while our members have reservations about the need to provide more shopping days they recognise that shopping has become a recreational activity. Nevertheless our members expressed some concern about the work/life balance of staff who worked on this day, and they were especially anxious to preserve the right of both business owners and staff to **choose** whether to open or to work.

Clause 4B of the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill caused significant debate

Although there was division over whether the option to open should be decided by territorial authorities or by the government, a majority argued for a national ruling to give both citizens and tourists certainty. They cited the cost of public consultations as being an unwarranted expense for a local body (\$20,000 - \$25,000 estimated in Nelson). There was a suggestion that the public were becoming apathetic about public consultations and doubtful as to their value, but the minority group favoured the special knowledge of local authorities and supported public consultations. However, even among this group there was concern about costs and a view that government should cover these.

There was general agreement that the present situation was unsatisfactory. The suggestion was made that some businesses regarded the current fines as a license fee.

We note that the **Easter Sunday Shop Trading Bill** which is being considered in tandem covers both Good Friday and Easter Sunday and its effect are limited to two districts.

Members were not specifically polled on these points but in their discussions it was clear that there was little enthusiasm for a change to Good Friday restrictions, or for the limitation to Wanaka and Tauranga.

JHF
15/09/06