

SUBMISSION ON THE NEW ZEALAND GOVERNMENT’S DISCUSSION PAPER ON MANDATORY UNIT PRICING FOR GROCERY PRODUCTS

Ian Jarratt, 10 July 2022

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BACKGROUND

I am a retired economist and I work voluntarily for the Australian consumer movement.

I have a strong interest in unit pricing, especially for grocery products. I have been working on grocery unit pricing issues in Australia and other countries continuously since 2003. My work has included observing and studying it, encouraging and assisting others to undertake research on it, publicising its benefits, and advocating for the provision of unit pricing that is very easy for consumers to notice, read, understand and use.

More information about me and the benefits of unit pricing is provided in my submissions to the Commerce Commission’s Market Study available on the Commission’s website.

GENERAL COMMENTS

I strongly welcome the release of the Discussion Paper and its comprehensiveness and readability. Hopefully, it will result in New Zealand introducing a world class, best practice mandatory system of grocery unit pricing that will be highly beneficial for consumers and the economy.

Outcomes sought

I support the three main outcomes sought - Legibility and clarity, Consistency of units of measure, and Accuracy. However, I also suggest the following important improvements and additions.

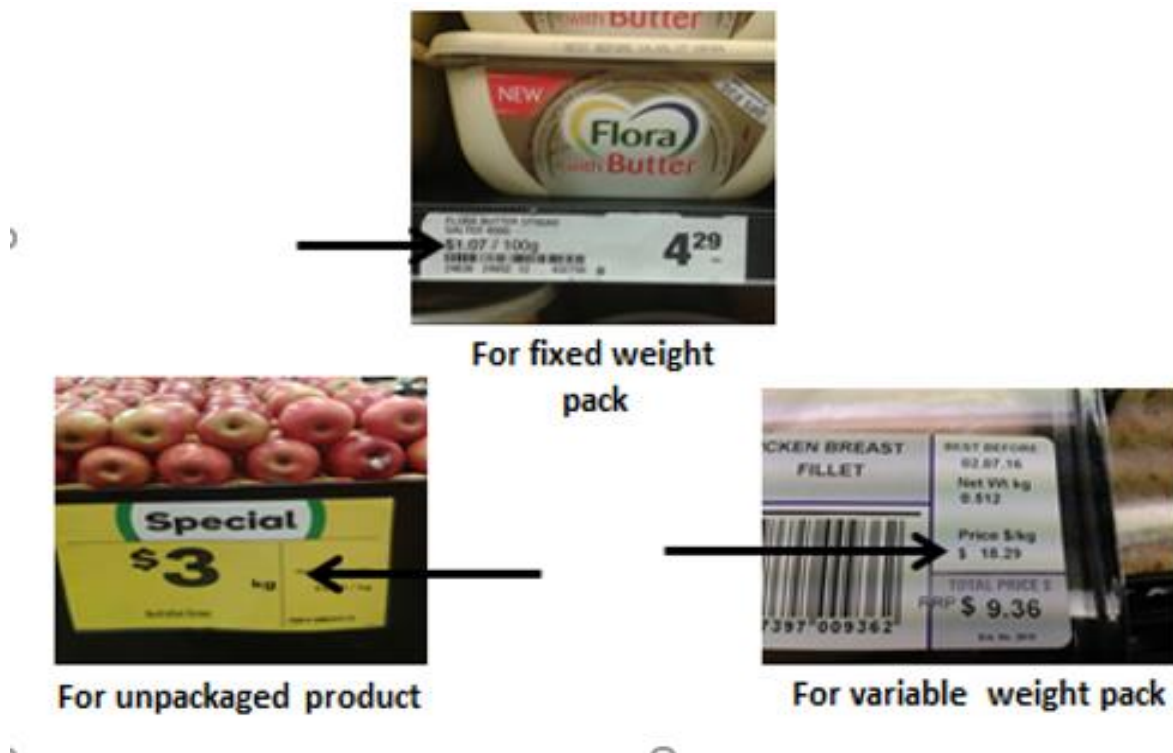
1. “Legibility and clarity” be replaced with “Legibility and prominence”. I suggest this because prominence more accurately describes the extremely important need for consumers to be able to easily notice unit prices. Furthermore, print clarity tends to be considered synonymous with “sharpness” which is only one of several factors that influence prominence. Also, clarity influences both legibility and prominence.
2. “Consistency of units of measure” be changed to “Consistency of type and size of units of measure” or that the accompanying text refer to “the same type and denomination/size of the unit

of measure”. I suggest this to ensure full recognition of the importance of both components of the unit of measure used to indicate a unit price.

3. Comprehensiveness be an outcome sought to ensure that the mandatory system covers all of the three situations when which unit prices are provided for grocery products sold in New Zealand:

- For packages of constant measure (e.g. cheese sold in 500g packages)
- For packages of random/variable measure (e.g. cheese sold in packages varying in weight from 233g to 289g)
- For products sold loose from bulk and priced by reference to measurement (e.g. cheese sold loose from bulk and priced per kg)

The three situations are illustrated below for a variety of products – butter, apples and chicken meat.



4. I also suggest that consideration be given to achieving an overarching outcome of unit pricing that is “easy to notice, read, understand and use”.

Relevance and importance of weights and measures legislation

The discussion paper mentions weights and measures legislation only briefly even though it will have major impacts on the nature and effectiveness of any mandatory grocery unit pricing system introduced. Therefore, it is essential that:

- The current relevant provisions of the weights and measures legislation are taken fully into account in the design of any new mandatory grocery unit pricing system.
- The weights and measures legislation be changed, where necessary, to achieve a highly effective and comprehensive mandatory grocery unit pricing system.

In my view, New Zealand allows much more flexibility for sellers than Australia in: how products sold loose from bulk can be priced; the quantity information to be displayed on packaged products; and the provision of the unit price for products sold in variable quantity packages.

For example I understand that:

For products sold loose from bulk

The seller can choose how to price them and the unit of measure used. However, if priced by weight, volume, etc. a metric measure must be used. But, they can be priced using any denomination of that measure e.g. per kg or per 100g. Also, they can be priced by count and this can be any denomination e.g. per each, per 5, per 100, etc.

In Australia, products sold loose from bulk and priced by reference to weight or volume must be priced per kg or per litre.

For products sold in packages

Section 79A(1) of the Weights and Measures Regulations 1999 says:

Every package of food must be marked with a statement of quantity in the form of a statement of the net weight or volume or number of contents in the package, whichever is the most appropriate for the sale of the item concerned.

This gives the packer considerable flexibility, especially whether to show weight or count information on a package, and to show weight or volume for semi liquid products.

The Australian legislation provides less flexibility.

Also, under S79C(1) (c) no quantity information needs to be provided on the package for: *packages of food ordinarily sold by number of contents in the package that contain not more than 8 single items contained in transparent wrapping if the contents are able to be clearly seen and counted by a prospective purchaser*

Australia also has a similar provision.

And, very importantly, and unlike in Australia, there is no requirement to show the price per unit of measure for items of a product sold in packages of different weights i.e. catch weights. In Australia the unit price per kg must be shown.

Therefore, I consider that to achieve an effective, comprehensive and consistent grocery unit pricing system (i.e. one that covers grocery products sold loose from bulk and in constant and variable measure packages) in New Zealand is likely to be much more difficult than in Australia.

And, it may require changes to the weights and measures legislation, or unit pricing legislation for the proposed mandatory system that is considerably broader in scope than Australia's. In practice the Australian Code only applies to products sold in constant measure pre-packages. This is because the unit pricing of products sold loose from bulk or in random measure pre-packages is regulated by the Trade Measurement legislation and the Code only has effect when it is not inconsistent with that legislation.

I also note that the Australian system still results in consumers often having difficulty comparing unit prices of products sold in constant measure packages, random measure packages, or loose from bulk, particularly when the unit prices are shown in terms of either weight or count. And, comparison of unit prices is not possible if any of the products are being sold by number in transparent packages containing less than nine pieces since no quantity or unit price information must be provided, and generally none is.

Grocery products sold loose from bulk and in packages of random measure

Paragraph 11 does not mention specifically or clearly enough that in New Zealand many grocery retailers already voluntarily display unit pricing for groceries sold in variable weight pre-packages as well as for those sold in constant measure packages.

Typically, these variable weight packages are usually made from flexible materials and are wrapped in clear plastic with a paper label showing the price per unit of measure, the product name, the net weight, the total selling price, and various other pieces of information. They are used for a wide range of products including meat, fish, cheese, fruit and vegetables and nuts.

Very importantly, paragraph 11 notes that “Grocery retailers already display unit pricing for groceries sold by unit, weight or measure...” I presume that this refers to groceries sold loose from bulk discussed above, and as noted above, some aspects of their pricing are covered by weights and measures legislation.

As discussed earlier in this submission in relation to **comprehensiveness**, it is very important to achieve the highest possible level of compatibility/uniformity in the unit pricing provided for products sold loose from bulk, and in random or constant measure packages. The focus should not just be on constant measure packages. It is also important, as noted earlier, to recognise that there are very significant differences between Australia and New Zealand in the regulations that apply to the unit pricing of products sold loose from bulk and in random measure packages and that the Australian Code does not cover such products. Therefore, as discussed in relation to question 14, whether the mandatory unit pricing system should apply also to products sold loose from bulk and in random measure packages is also a key policy issue for New Zealand.

Relevance of existing unit pricing standards/guidelines and other systems and regulations

The Commerce Commission recommended introducing a mandatory grocery code of conduct based on the Australian Code. Therefore, I understand why the Discussion Paper refers to the Code several times. However, it is important to remember that the Australian Code was introduced in 2009 and numerous academic and other unit pricing studies and two significant guidance documents have been published since then including the ISO standard (ISO 21041:2018 Guidance on unit pricing) and the USA’s National Institute for Standards and Technology (NIST) special 2015 publication 1181 Best Practice Guidelines on Unit Pricing. The development of a mandatory grocery unit pricing system for New Zealand should take account of these other publications in addition to the Australian Code.

Need for monitoring and enforcement of compliance

Although not mentioned in the Discussion Paper, the system introduced will only be successful if accompanied by effective compliance monitoring and enforcement arrangements.

My views on these matters are provided in my response to question 21.

Need for early review of effectiveness

The introduction of a mandatory grocery unit pricing system in New Zealand will involve quite complex legislation affecting a significant number of retailers and millions of consumers. Therefore, I believe it is essential for the legislation to require that an independent, public review of the legislation and the system be undertaken no later than three years after the scheme is fully operational. The review should include whether the system should be extended to apply to other retailers.

In Australia, such a review was proposed in early consultation documents for the proposed mandatory grocery unit pricing system but was not required in the subsequent Code and it was

never undertaken. Australia's system would be much more effective if such a review had been undertaken.

SPECIFIC COMMENTS

My submissions to the Commerce Commission's Market Study contain detailed comments on/answers to most of the issues addressed in the Discussion Paper's questions.

In addition, I provide the following responses to the questions:

1.Are there any other benefits or costs associated with mandatory unit pricing that are not mentioned above?

Yes. Retailers who provide very effective unit pricing will benefit from increased consumer satisfaction and loyalty.

Also the benefits for consumers are greater than suggested by the statement "make it easier for consumers to navigate the widely varying range of products, prices, and package sizes in grocery stores". This is because it fails to mention specifically the benefits that arise from being able to compare the unit prices of a product sold in a variety of ways, for example loose from bulk and in packages, and in various forms, for example fresh, chilled and frozen.

Furthermore, I do not agree with the statement in paragraph 21 that "In the short- to medium-term, consumers are unlikely to change where they shop based on improved unit pricing information." My view is that this can be a benefit if there are significant differences in the quality of the unit pricing retailers provide and if the unit prices of the same or substitute products differ greatly between retailers. This is because most consumers are very price conscious and sensitive and for many the unit price can be at least as important as the selling price.

2.Should grocery retailers be required to educate consumers about unit pricing by providing in-store and online pamphlets, posters and/ or other guidance?

Yes.

It is extremely important that consumers are educated about the existence of unit pricing and how it can be used to facilitate informed choice. Also this education needs to be on going in order to remind current consumers about unit pricing and to ensure that new consumers know about it. Consumer use of unit pricing increases when consumers are provided with information about the uses of unit pricing and the provision of follow-up information helps to maintain consumer use.

Retailers should be required to provide ongoing information about unit pricing instore and online. This need not be a complicated or onerous requirement. For example, the slogan "check and compare unit prices" was used by Australian consumer regulators in recent consumer education campaigns.

It is also essential that the NZ government undertake take regular consumer education campaigns.

3.How much do you estimate it will cost to implement unit pricing in grocery stores? Please explain how you have arrived at this estimate.

I am not able to provide precise cost estimates. However, I do consider it important to ignore the costs that retailers may have already incurred providing voluntary unit pricing.

I also consider that:

- The amortised cost of any new capital costs should be used in any annual cost estimates.
- Wherever possible independent estimates of likely costs should be obtained in addition to those provided by industry.

4. Which grocery retailers should a mandatory unit pricing standard apply to?

I agree that decisions on this should be guided by cost-benefit considerations. However, it is essential that any cost-to-retailer estimates are reliable and that the benefits for consumers, the economy and retailers are not underestimated. It is particularly important to not underestimate the benefits for consumers from the provision of unit pricing in smaller grocery stores in areas where consumers have very limited or no choice of grocery retailer.

Consideration should also be given to the benefits that might arise from the government subsidising some or all of the capital costs, or providing some special short term taxation relief, for grocery stores where the cost of provision may be substantially higher than the estimated benefits and where the store owner is likely to be unable to make the necessary capital investment.

As in Australia, grocery retailers not required by the new legislation to provide unit pricing under any new legislation but who voluntarily provide it should be required to comply with the same requirements as those who must provide it.

5. Which of the approaches to threshold requirements (store size, product range, annual revenue) should be used to set the threshold for mandatory unit pricing in New Zealand?

In addition to these options I suggest that another be considered for bricks and mortar grocery retailers – whether the shelf labels and other instore price signage are produced by a computerised system.

This approach recognises that the cost of providing unit pricing may be significantly higher for instore retailers where price labels and signage are not produced by computerised systems. In this regard I note that this point is also made paragraph 33 of the Discussion Paper which says argues that “Smaller retailers are also more likely to rely on manual systems, which could make the accurate display of unit pricing difficult, costly, and time consuming.”

If manual systems are likely to be the main cause of excessively high costs it is logical to use that as one of the criteria that determine whether a retailer should be required to provide unit pricing. Also it would be easy to assess.

This is the approach taken in Ireland where S.I. No. 639/2002 - European Communities (Requirements To Indicate Product Prices) Regulation 2002 states in Para 5(2)(g), that the unit price does not have to be provided for a product which is sold other than in bulk, in a premises in which the trader does not make use of equipment for printing shelf edge labels or equipment for point of sale scanning.

If this approach is not adopted either on its own (or in conjunction with a minimum floor area threshold), I support the use of a floor area threshold ,as a proxy for business size ,and the use of a product range threshold.

6. If New Zealand adopts:

a). a floor size threshold, what should be the appropriate floor size (in square metres) for this threshold?

For retailers with physical floor selling space, if whether the shelf labels and other instore price signage are produced by a computerised system use is not used as a threshold, the floor area used for groceries should be used. The minimum floor area should be much lower than the 1000sq metres used in Australia. The final area should be determined following study of the distribution of grocery stores as finally defined by the criteria discussed in question 5. The needs of consumers who have

limited or no choice in where they can buy groceries from a bricks and mortar store should also be taken into consideration.

b).a product range threshold, what products should be included?

This is not a criterion in many jurisdictions around the world. However, it is in Australia and can remove uncertainty about whether a retailer is required to provide unit pricing.

I support its use in New Zealand but not use of the Australian requirement that to have to provide unit pricing the retailer must sell each of 11 grocery categories listed in the Code. As mentioned in the Discussion Paper, that is likely to be too limiting. A much better approach would be to require that a retailer sell only a proportion of any categories listed. That would avoid the situation in Australia where a physical store above the 1000sq metre floor area threshold which does not sell just one of the listed categories (for example fresh fruit and vegetables), or an online store that does not sell eggs, is not required to provide unit pricing.

c). an annual revenue threshold, what is the appropriate dollar amount for this threshold, and should the threshold be set at group level or store level?

I do not support the use annual revenue as a threshold criterion.

Such information would be very difficult to collect and assess and would quickly become out of date. Also retailers selling non- grocery products in addition to other products may be unable to provide such information.

7.Where should retailers be required to display unit pricing, and why?

It should be mandatory to display the unit price wherever the selling price is displayed e.g. in physical stores, online stores and in all forms of advertising. This is because consumers are influenced by all displays of selling price (otherwise retailers would not provide it). Therefore, the unit price should also be provided for use by consumers both when actually shopping and when forming perceptions about products that may influence later buying decisions.

The unit price should also be provided:

- When products are on special offer including for the regular and the special offer price when the offer is to sell a single item at one price and more than one item at another other price.
- If the unit price is the same as the selling price. This will increase usage of unit pricing due to consumers having become accustomed to seeing the unit price displayed at a particular place on labels, etc.
- Each time the selling price is displayed even if the unit price is provided more than once, for example on the product and on a shelf label.
- Adjacent to and as prominent and legible as any additional type of unit price displayed, for example per roll for toilet paper or per can for beverages.

8.Where the selling price is displayed on a product itself, should the unit price also be displayed on the product?

Yes. Retailers put the selling price on the product to influence consumer decision making and consumers undoubtedly look at them rather than the shelf label. Furthermore, it is already common (but not mandatory in New Zealand) for the selling and the unit price to be shown on products sold in random measure packages even though the selling price may also be shown on a shelf label.

Also, as discussed elsewhere in this submission, since currently there is no requirement to provide the unit price for random measure packages (on which the selling price is generally displayed), any new mandatory unit pricing regulation should apply to such packages if the selling price is provided on the package and/or elsewhere, or this should be required by weights and measures legislation.

9.Should grocery retailers be required to have a “sort and/ or filter by unit price” option on their website?

Yes. Consumer use of grocery unit pricing when using online selling sites will be substantially increased if retailers provide facilities that allow consumers to identify only the products they are interested in and then sort them by unit price prior to making a final choice.

On many websites there is only one search facility and this often produces many products not of specific interest to the searcher. Therefore, the retailer also needs to ensure that consumers can refine an initial product search so that only relevant products can be selected to be sorted by unit price. Any sort by unit price function needs as a minimum to allow sorting from low to high.

Retailers need to ensure that consumers can easily see that search and sort by unit price functions are available on the website. The existence of these functions needs to be included in consumer education programs.

10.In which forms of advertising should retailers be required to display unit pricing?

In all forms when the selling price is displayed. This is because retailers provide the selling price in advertisements to influence consumer choice (and if this was not effective they would not do it), therefore since this is also the purpose of unit pricing the unit price should also be provided.

11.What are the potential costs and benefits of including unit pricing in audio and video advertising formats?

The costs are likely to be extremely low and the benefits from increased consumer awareness and use of unit prices considerable,

12.

a).What should be the standard and non-standard measurements for unit pricing in New Zealand?

The possible approaches to regulating the units of measure to be used for unit prices include:

- a) Specifying the unit(s) of measure (type and size/denomination) that must be used for each product category – e.g. in some US states.
- b) Requiring the use of standard units of measure (type and seize/denomination) for all products and the use of others for specific categories of products - e.g in Australia, the UK and many EU countries.

I favour b) and the use of metric measures for products sold in terms of weight, volume, length and area, plus count for products sold by count.

I also favour requiring the use of per wash as the unit of measure for laundry detergents, but only if there is a standard for the calculation of how much product is needed to satisfactorily wash a defined load of clothes, etc. This is because laundry detergents are sold in the form of powder, tablets, liquid, capsule, etc, and this results in several units of measure (weight, volume and number) being used for their unit prices. Additionally, there may be substantial differences in product concentration. As a result, unit pricing relative to the quantity of products in the package is often not very helpful for consumers. Unit pricing by reference to per wash load is required in some EU countries.

I note that paragraph 57 of the Discussion Paper observes that the Australian unit pricing Code does not state explicitly that unit prices for products within the same product category should use the same unit of measurement. This is only partially correct since Clause 11(a) requires for products

supplied by number or on a roll that the unit of measure used for the unit price for **all** the items of the product must be that most often required by the Code. Also, Clause 10 provides for the use of only one unit of measure for each method of supply unless the product must be unit priced with the units specified in Clause 11 for certain product categories. Therefore, in theory the use of more than one unit of measure for items within the same category should not occur. However, in practice this does occur, for example tea bags and similar products are often unit price by weight and number and mayonnaise by weight or volume.

Nevertheless, I consider that it could be beneficial to state in any New Zealand unit pricing legislation that the same type of and size/denomination of unit of measure should be used for products within the same category and similar categories.

Regarding the size/denomination of the unit of measure used for unit pricing, paragraph 58 of the Discussion Paper mentions 2 possible benefits from using large sizes/denominations of units of measure, e.g. per kg rather than per 100g for weight related unit pricing.

However:

- It is not clear to me how the large size/denomination would enhance legibility.
- Although, kg and litre are the standard units of measure in weights and measures legislation, I understand that retailers are not required to use only these sizes/denominations for pricing products sold loose from bulk or when showing the unit price of products sold in random measure packages. If this is correct, unless the new unit pricing regulation requires the use of a specific size/denomination for these products, or the weights and measures legislation is changed, there will be considerable inconsistency in the units of measure provided.

Other relevant considerations on this matter include that:

- Large sizes/denominations for unit prices can make products appear to be more expensive than small sizes/denominations even though the actual price is the same. This is known as the numerosity effect. However, a benefit is that they result in larger apparent differences between unit prices and this can increase consumer interest in and comparison of unit prices. Some research has found that large denominations make consumers more price conscious and price sensitive.
- Small sizes/denominations produce smaller differences in unit prices and in some cases they may be eliminated or be inaccurate due to rounding up or down rules. Conversely, for some products large sizes/denominations can result in excessively large unit prices that are unrealistic or unhelpful.
- If only one size/denomination is used for the product, the numerosity effect within a product category should be constant for all items and may reduce or even disappear when consumers become accustomed to the unit of measure, However, that depends on achieving uniformity or very high levels of consistency within and between products in the size/denomination of the unit of measure used. Unfortunately, that can be very difficult to achieve if there is much flexibility in what trade/weights and measures legislation requires/allows for unit pricing of products when sold loose from bulk or in random measure packages and the quantity information to be provided for packaged products.
- The voluntary unit pricing now being provided by some New Zealand grocery retailers for products in constant measure packages appears to use 100g and 100mL as the standard size/denomination for many categories of products and consumers have become familiar with these units.

Taking the above matters into account, on balance, and provided that the system results in a high level of consistency in the units of measure used to unit price packaged products and those sold loose from bulk, I consider that the size/denomination of the standard units of measure should be as in the Australian Code i.e. per 100g for weight, per 100mL for volume, per metre for length, per square metre for area, and per item for number.

However, as in the Australian Code the use of alternative sizes/denominations should be required for specified categories/products such as dried herbs and spices (per 10g) meat, fish chicken etc. in any form (per kg), fruit and vegetables (including nuts) in any form (per kg), cheese (per kg), beverages (per litre), etc.

The requirement in the Australian Code to use per kg for the unit price of some products primarily reflects that this is required by the weights and measures legislation when products are sold loose from bulk by weight and in random measure packages.

I note however that the Australian Code requires eggs to be unit priced per 100g (which I consider is the most effective unit of measure for unit pricing this product) but per egg seems to be the unit of measure currently used in New Zealand.

I also consider that:

- Alternative sizes/denominations are needed for several products not in the Australian Code, for example rice, cake/bread mixes, sugar and salt should be unit priced per kg and vinegar per litre.
- The effectiveness of the type and size/denomination of the units of measure required should be included in the independent review of the system that should be undertaken no more than 3 years after the full operation of the scheme.
- If per kg and per litre are the mandated alternative sizes/denominations for some products, retailers should not be allowed to choose whether to use these or smaller sizes/denominations for unit pricing smaller packages. All packages of such products should be unit priced per kg or per litre.

b).Should one litre or 100 millilitres be used as the standard measurement for volume?

See response to Q12

c).Should one kilogram or 100 grams be used as the standard measurement for weight?

See response to Q12

13.Should the same unit of measurement be used for all products within the same product category?

Yes. Consistency of units of measure is correctly one of the key outcomes sought and I strongly support the statement in paragraph 53 of the Discussion Paper that inconsistencies in unit pricing can make it difficult for consumers to compare prices and undermine the benefits of unit pricing. This statement relates mainly to the size/denomination of the unit of measure but is also relevant to the type of unit of measure used within and between product categories.

My experience is that **inconsistency** in the size/denomination (and type) of unit of measure used for unit pricing causes major problems for consumers and substantially reduce the benefits obtained from unit pricing in many countries, including in Australia. This is because it reduces consumer trust, confidence and usage. New Zealand will only achieve an effective unit pricing system if very high levels of consistency are achieved.

An effective feature of the Australian Code that helps reduce inconsistency in the size/denomination of the measurement unit is the requirement in Clause 11 that if a product is sold only by number (for example plastic bags) or on a roll (for example toilet paper) and the number of items in the package is more than a threshold level, and most of the packages contain more than a specified number of the items (41), the size/denomination of the unit of measure used to indicate the unit price of **all** packages of the product must be 100.

14. Is the Australian approach to product exemptions appropriate for New Zealand?

Yes, but with modifications.

The types of products that grocery retailers sell has changed, and will continue to do so. Therefore, the mandatory unit pricing system needs to be flexible enough to require the provision of unit pricing of all the types of product that grocery retailers choose to sell if provision of the unit price will facilitate informed consumer choice.

Therefore, I favour a requirement that provision should be required for products whenever it would be useful for the consumer. Generally, this would be when the weight, volume etc. of the product is provided e.g. motor oils, glues, etc. or the number of items e.g. number of sheets of photocopying paper. This would also provide an incentive for other retailers of these products to provide unit pricing voluntarily.

In relation to the exemptions in the Australian Code, I consider that if the weight, volume, number, etc. is displayed on a package the following should not be exempt: stationery, hardware items, and items for garden, pool or motor vehicle maintenance.

15. Should mandatory unit pricing apply to tobacco products in New Zealand?

No. For the reasons stated in the Discussion Paper,

16. Should mandatory unit pricing apply to alcohol products in New Zealand?

No. For the reasons stated in the Discussion Paper,

17. Are there any other products for which unit pricing may not be workable or appropriate? What are these products?

Yes. See response to Q14.

18. Should New Zealand adopt a principle-based approach to the display of unit pricing, or should there be more prescriptive requirements around font size, font, contrast, and location?

This is a crucially important issue. I agree strongly with the arguments in the Discussion Paper for having prescriptive display requirements. This is because my experience of unit pricing in many countries is that a principles-only approach results in most unit prices not being easy enough for consumers to notice and read and in great inconsistency in the nature and quality of display between retailers. This substantially reduces consumer awareness and use of unit pricing.

Importantly, although the focus in the Discussion Paper is on shelf labels in physical stores for products in constant measure packages, prescribed minimum requirements are needed for **all** the places where unit prices will be provided i.e. in physical stores, online and in printed advertisements and for the unit pricing of grocery products when sold in random as well as constant measure packages and when sold loose from bulk.

The photos in the Discussion Paper of the inadequate display of unit prices on shelf labels for constant measure packages in New Zealand illustrate very well the need for prescriptive minimum requirements designed to achieve the required consumer outcomes. If required, I can provide many other examples from many countries, including Australia.

The importance of quality of display was recognised in the ISO standard and the USA NIST's guidelines referred to earlier in this submission. Both publications deal in detail with a wide range of matters that affect the quality of display, including a very important but often neglected matter - the influence of the viewing angle and distance on consumers' ability to notice and read unit prices on shelf labels on the upper and lower shelves in physical stores. Therefore, I suggest that these publications be used to develop the prescriptive requirements. Also, where necessary additional research should be undertaken on what is needed to ensure that all unit prices displayed are easy for consumers to notice and read. It is also important, as mentioned in paragraph 67 of the Discussion Paper, to take account of the needs of the many consumers with visual impairments and those with reduced mobility

Without prescribed minimum objective, and were possible measurable, requirements, New Zealand will become yet another country where principles-only unit pricing legislation results in very inadequately and inconsistently displayed unit pricing and much lower than optimal levels of consumer use of unit pricing.

I agree that prescriptive requirements are need primarily for font size, font, contrast, and location. However, consideration should also be given to prescribing matters like a uniform background colour and to the provision of the words "unit price" both of which can greatly assist consumers to notice and locate unit prices. Such an approach is taken to shelf labels and other instore signage in some US states and in Sweden. An example is provided below of such a shelf label from Massachusetts in the USA.



19. In your view, what are the most important principles or requirements for the display of unit pricing?

The display objective should be to ensure that all unit prices are easy for consumers to notice and read, plus to the extent that display has an influence, that unit prices are also easy to understand and use.

As mentioned in my response to question 18, I consider that these objectives will only be full achieved if the legislation provides prescribed minimum requirements for the display factors that will have major influences on the quality and consistency of display, and that these are likely to include font size, font, contrast, and location

However, I also mentioned in response to question 18, that consideration should also to be given to other very important display issues such as:

1.The influence of viewing angle and distance (This means that if the prescribed minimum print size is only effective when the unit price is being viewed at eye level and is vertical, to be effective the print size must be larger in other locations, such as on more distant lower or upper shelves and when the label is not appropriately angled.) I and a German seniors organisation have undertaken quantitative research on this issue using paper shelf labels and I can supply the detailed results if required. Also, the German standard DIN 1450:2013-04 Lettering – Legibility which recently has been published in English, and which can be purchased at <https://www.beuth.de/en/standard/din-1450/170093157> is also an extremely useful source of information relevant to the display of printed unit prices since it:

- Indicates the main factors that influence text legibility and to be considered when planning and executing the provision of printed information.
- Contains minimum type sizes for different types of text `at different viewing distances.
- Contains a formula to increase the type size to compensate for perpendicular text being viewed from above or below which is a common situation with unit prices in stores.
- Contains type size conversion factors related to the viewer’s visual acuity and the luminance of the substrate.

2.The benefits from requiring the use of a prescribed background colour and the provision of the words “unit price” both of which can greatly assist consumers to notice and locate unit prices.

The following prescriptive requirements for unit pricing in paragraph 73 of the Discussion Paper are a useful starting point for consideration of prescriptive requirements for unit prices displayed on instore on labels and other signage:

- a. the font size for the unit price should not be smaller than 6mm and should not be less than 50% of the size of the selling price
- b. text should use both upper and lower case
- c. unit price and selling price should be in bold font
- d. retailer specific information (such as store name) should be less prominent in type size than the selling price and unit price.

My comments on them are:

- They are unlikely to be suitable as is for unit pricing provided online and in advertisements or for products sold loose from bulk, in random measure packages, or for unit prices on constant measure packages. Therefore, specific requirements will also be also need for the other situations in which retailers will be required to provide unit prices.
- The suggested requirement in a. above is a recommendation in the NIST guidelines and was recommended by the Australian Competition and Consumer Commission during the 2018-21 review of the Australian Code. However, it was not implemented. Nevertheless, I consider it to be very much a minimum acceptable prescribed print size requirement and that a higher level is required. This is because it will still allow the print size for the unit price to be much smaller than for the selling price even though some consumers are primarily interested in the unit price.
- I see no reason why the selling price should also have to be in bold font. This consultation is only about unit price legislation. Retailers should be allowed to display selling prices in any way they wish. I have no doubt that they will continue to always ensure that the selling price is very easy to notice and read.
- There should be a specific location requirement that the unit price should, as recommended by the ISO standard, be below or otherwise adjacent to the selling price and where possible, the unit price should be the information that is the closest to the selling price.

- In order to increase prominence, the use of either sufficient white space around the unit price or it being surrounded by a border or be in a box should be required.

20. What should officials keep in mind when considering a more prescriptive option that specifies minimum requirements for the display of unit pricing?

It should be recognised that the many benefits that will result from very effective and consistent display of unit prices are only achievable with prescribed minimum standards for key elements of display.

The reduced cost for government of compliance monitoring and enforcement and reduced industry compliance monitoring costs and non-compliance risks must be included in any cost benefit assessments.

It should be recognised and accepted that retailers may have to modify how information is currently displayed. This may include rearranging the location of, and removing, some information. Print size reductions may also be needed, including for selling prices.

Quality of display has such great impacts on consumer awareness and use of unit pricing that consideration should be given to commissioning a review of available information on how to achieve the most effective display of unit pricing and there should be a preparedness to also undertake new research.

If new research is commissioned, it should include assessment of display options on physical labels, etc. close to actual products i.e. replicate what consumers actually experience in physical stores. This is because, even though most groceries are still bought in physical stores, most recent research has involved online experiments.

21. Do you have any views on whether mandatory unit pricing should be implemented through a consumer information standard under the Fair Trading Act 1986, or through amendment of the Weights and Measures Act 1987?

On balance I favour a consumer information standard under the Fair Trading Act 1986. This is mainly because I understand that implementation would be quicker using this form of regulation and that it would be much easier to undertake reviews and make amendments.

However, as indicated elsewhere in this submission, to achieve a very effective and comprehensive grocery unit pricing system amendments may be need to the weights and measures legislation, for example to the Weights and Measures Regulations 1999 or a consumer information standard may need to contain requirements additional to those currently in the weights and measures legislation. Examples of this include to require and specify the units of measure used to unit price grocery products sold loose from bulk or in random measure packages and to be more specific about the product quantity information that must be displayed on packaged products.

Also, the regulator must ensure that there is effective monitoring and enforcement of compliance with the provisions of whatever legislation is used. This is most likely to be achieved if a proactive approach is taken, not one that relies only or mainly on investigating complaints made by consumers or other retailers. My experience of mandatory unit pricing in many countries is that monitoring and enforcement of compliance is usually inadequate and that this substantial reduces the quality of the unit pricing provided and consumer use of it.

It is also important that the legislation allows for monetary penalties for persistent and significant noncompliance. And, sufficient resources must be available for compliance monitoring and enforcement activities. If the system is implemented through a consumer information standard

rather than through weights and measures legislation consideration should be given to using Trading Standards officers for monitoring and enforcement work. This is because they already visit grocery retailers regularly to monitor and enforce compliance with the weights and measures legislation.