

11 July 2022

Consumer and Competition Policy
Ministry of Business, Innovation and Employment

consumer@mbie.govt.nz

RE: Mandatory unit pricing consultation 2022

Opening comments

1. Retail NZ is a membership organisation **that represents the views and interests of New Zealand's** retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70 per cent of all domestic retail turnover. The total value of transactions in the sector throughout 2021 was around \$100 billion.
2. New **Zealand's** retail sector comprises of approximately 27,000 businesses and employs around 220,000 kiwis.
3. Retail NZ believes strong competition already exists in the retail grocery sector.
4. Unit pricing can be useful in assisting consumers to make more informed purchasing decisions, it should be noted that it is not clear that unit pricing standardisation will act as a lever to improve competition. Instead, it is our view that the focus should be on enabling clear pricing so consumers can make informed decisions on their purchases.
5. The two largest grocery retailers are already displaying unit pricing across most product categories in their supermarkets and have agreed with having regulations in this area - consistency and legibility seems to be the key issue. The biggest impact of this change will be on those who sell grocery products and are not already using a unit pricing system.
6. We support an approach where obligations for retailers are clear, and the costs and benefits of compliance are proportionate.
7. Any approach should be flexible, have low costs and allow for continued innovation.

Threshold

8. The Commerce Commission has recommended annual revenue as the preferential threshold, as it will capture **“larger grocery retailers with sufficient resources”**.
9. Retail NZ does not support this, because an annual revenue threshold would be difficult to monitor and enforce due to the nature of the data required. This data is commercially sensitive, and would need to be both accurate and comprehensive, significantly increasing the cost of compliance.
10. Additionally, officials enforcing the programme would have to see revenue data from retailers who are **‘on the fringe’ of** compliance to prove they sit outside the mandate - increasing costs further.
11. As an alternative, we would instead recommend a minimum floor area of 1,000m² with a minimum range of products for stores with a physical presence. Smaller stores who **don't** trigger the threshold should have the option to voluntarily participate, like they do in Australia.
12. Separate consideration would need to be given to the classification of online grocery retailers; however, the application of an annual revenue threshold might be suitable for this group.

Types of products to be covered

13. Retailers should only be expected to display unit pricing on *general grocery products* that are sold by unit of measurement. Examples of this include, but are not limited to, meat being displayed as price/kg, or milk being displayed as price/L.
14. This would mean products that are not sold by unit of measurement e.g., books, flowers and furniture sit outside of scope.
15. Alcohol products already undertake a degree of unit pricing and are generally found in standardised measurement sizes e.g., a 750ml wine bottle or a 330ml can of beer. Mandatory unit pricing should not apply to these products.
16. Additionally, tobacco products should be exempt from any unit pricing mandate, as this falls out of alignment with New Zealand's goal of 'Smokefree 2025'. In particular **“reducing the supply of, and demand for tobacco”**. Additionally current legislation outright prohibits the display of pricing for tobacco products, so this needs to be removed from consideration.

Display of unit pricing

17. Retailers should *only* be required to display unit pricing at point of purchase instore or online.
18. Mandatory unit pricing should only be displayed when/where there is an *opportunity for reasonable price comparison*.
19. Requiring retailers to display unit pricing in print media, and in any audio/visual advertisement would over burden retailers, especially smaller operators, with significant compliance related costs. In this scenario the costs and benefits of compliance would not be proportionate.

Units of measurement

20. **If we are to adopt a mandatory unit pricing code, it would be logical to use Australia's as a starting point** while adopting Litres and Kilograms as standard units of measurement.
21. The same unit of measurement should be used for products in the same category to ensure a reasonable level of consistency is met.
22. **Australia's unit pricing code has been functioning well since 2010, so borrowing applicable parts of it would make perfect sense** with respect to saving time and reducing implementation costs e.g., the cost would be significantly higher if New Zealand developed their entire code from scratch.
23. The Commission must ensure that *only applicable parts* of the Australian code are borrowed, as there are some existing discrepancies between the two jurisdictions- e.g., in the Australian code eggs are sold by weight, in New Zealand eggs are sold by size.
24. Litres and kilograms should be adopted as standard units of measurement - simply because the consumer will be able to make more informed decisions based on price/kilo or price/litre, as opposed to price/100g or price/100ml.

Options for display of unit pricing

25. A *principle-based approach* should be adopted to displaying unit pricing - these principles need to be clearly defined and easy for consumers to understand.
26. Adopting this approach would provide far more flexibility than its alternative, ensuring retailers can continue to be innovative in how they display unit pricing. For example, commercial supermarkets that use electronic unit pricing displays might find it difficult to meet prescriptive requirements relating to font size/type/colour.
27. In Australia, the unit price for a grocery item must be prominent, legible, unambiguous, and in a close proximity to the selling price of the item - Retail NZ supports these principles and believes they would be suitable for the New Zealand market.

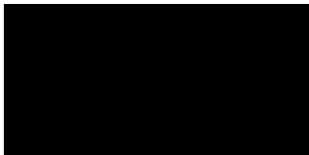
28. Additionally, prescriptive requirements will be a significantly more expensive option for retailers and run the risk of becoming outdated.

Consumer education

29. A unit pricing mandate intended to assist consumers in making more informed decisions should be accompanied by an education campaign.
30. In 2015, when the United Kingdom were consulting on pricing practices, the Competition and Markets Authority recommended consumer education should accompany a clear and consistent approach to unit pricing.
31. Retail NZ as the peak body for industry, is best placed to deliver such a campaign, and is open to discussing how this could be funded and designed.

Final comments

32. We welcome further discussions with MBIE on the commented and recommendations provided.



Greg Harford
Chief Executive
Retail NZ