

Consumer and Competition Policy
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
New Zealand

15 July 2022

Mandatory unit pricing consultation 2022

Introduction

1. We are Trading Standards and are a business unit under the Te Whakatairanga Service Delivery branch of the Ministry of Business, Innovation and Employment.
2. We are responsible for the weights and measures legislation in Aotearoa New Zealand; namely, the Weights and Measures Act 1987 (the Act) and the Weights and Measures Regulations 1999 (the Regulations).
3. Due to the requirements of the Act and the Regulations we have a vested interest in unit pricing and the proposal for it to be mandated.
4. Please find below our response to the “Mandatory unit pricing for grocery products” discussion paper, which provides background information, seeks to answer the specific questions set by the document and provide general commentary on the matter.

Background

5. The Act and the Regulations control the trade measurement (legal metrology) infrastructure in Aotearoa New Zealand.
6. The key aspects of the legislation, in relation to unit pricing, are the labelling requirements for prepackaged goods and the permissible units (and abbreviations) of measurement (see point 32).

Response to specific questions

7. The responses below seek to combine our interpretation of the Act and the Regulations along with our collective understanding and experience as a regulator of the retail grocery sector.
8. **Note:** If a question is not responded to, we have no further comment to provide.
9. **Response to Question 2:** If regulated, it is the regulators responsibility to educate both consumers and businesses; on the assumption the requirements for retailers are prescribed. If the requirements are not prescribed / mandatory and open to interpretation by retailers, there would be a need for each retailer to adapt the regulators’ advice / guidance to match their practices / implementation and then educate their consumers on how their unit pricing works.
10. **Response to Question 3:** From a regulatory perspective, if we were to be responsible for enforcing the mandate, we estimate that it could equate to 1 FTE (full time employee) per year. For business costs, we advise that consultation is sought with industry associations and retailers.



11. **Response to Question 4:** All grocery retailers, both physical and virtual, with an exemption applied for small shops, should be covered. Employing a similar rule to the United Kingdom, would be beneficial for Aotearoa New Zealand, where small shops that have a retail area of less than 280 m² do not need to display a unit price. However, this exemption could not be applied to virtual shops.
Reference: [Guidance for Traders on Pricing Practices \(businesscompanion.info\)](https://businesscompanion.info)
12. **Response to Question 5:** Floor size would make the most sense for physical shops (see point 11). However, consideration may need to be given for 'The Warehouse' type stores, where the unit pricing requirements are only applicable to a small percentage of the goods they sell. Product range would make the most sense for virtual shops and may be useful for physical shops too.
13. **Response to Question 6:** Option a) would be preferred for physical stores. The square metreage would have to be assessed using data from retailers to ensure all supermarkets are covered, and where the line is drawn for smaller retailers. Option b) would be more appropriate for virtual stores and retailers where goods covered by the requirements only cover a small percentage of their business / floor space. As for the types of products covered, this should reflect current and emerging consumer buying trends, plus consideration to the future state of the grocery sector.
14. **Response to Question 7:** In a physical store, the shelf edge would be preferable. This is most practical point for a consumer in the decision-making period. In a virtual store, underneath the price of the product on the product page would make the most sense. If there is a product comparison feature on the virtual store, it would be helpful for the unit price of each product included in the comparison to be displayed (see point 17).
15. **Response to Question 8:** If the price is marked on the product by the retailer, the onus is on the retailer to ensure the unit price is displayed, this could be on the product or shelf edge.
16. **Response to Question 9:** Yes, we would envisage that consumers would benefit from a "sort and / or filter by unit price" option on the retailer's website.
17. **Response to Question 10:** Regardless of medium, where a price comparison is made by a retailer, the unit price may be required to ensure the advertisement is not misleading (see point 14).
Reference: [Misleading prices or advertising | Consumer Protection](#)
18. **Response to Question 11:** There would be benefits to consumers, but this may not outweigh the compliance costs to business.
19. **Response to Question 12:** a) Both standard and non-standard measurements for unit pricing have their merit. b) & c) A blanket rule (standard) for all goods may not be the best approach to help consumers.
- A two-tier or three-tier approach could be used:
Two-tier: Where goods are packed to less than 1 kilogram / 1 litre, the unit price is per gram / millilitre, and goods packed to 1 kilogram / 1 litre or more, the unit price is per kilogram / litre.
 - Three-tier: Where goods are packed to less than 100 gram / 100 millilitres, the unit price is per gram / millilitre, goods packed from 100 gram to 1 kilogram / 100 millilitre to 1 litre, the unit price is per 100 gram / 100 millilitre, and goods packed to 1 kilogram / 1 litre or more, the unit price is per kilogram / litre.
- As the above examples cover weight and volume, similar principles could be applied to goods sold by area or length / width. For goods sold by number, the unit price per item could be used.
20. **Response to Question 13:** In principle, yes. However, if we assume that the goods are meeting their labelling obligations under the weights and measures legislation, we recommend that the unit of measurement used for unit pricing should be the same as that stated on the goods. This should only get tricky for certain products where there is not a consistent unit used, i.e. semi-solid foods (ice cream) or

healthcare / beauty products that can be sold by volume (litre) or weight (kilogram). Also, where goods have dual measurements stated, i.e. tea bags (number and weight of bags) or toilet rolls (number and length of rolls).

Reference: [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) 79A General requirement to mark quantity on packages of food – New Zealand Legislation](#)

21. **Response to Question 14:** From our regulatory experience, we would advise that exemptions are kept to a minimum, to minimise the risk of them being exploited and / or misinterpreted.
22. **Response to Question 15:** We advise that consultation is sought with the Ministry of Health regarding tobacco products.
23. **Response to Question 16:** We advise that consultation is sought with the Ministry of Health regarding alcohol products.
24. **Response to Question 17:** Exemption from the labelling requirements under the Regulations.
Reference: [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) 79C Exemptions from regulations 79A and 79B – New Zealand Legislation](#)
25. **Response to Question 18:** Prescription would be preferred. For consumers, they would benefit from having consistency when shopping across different retailers. For business, there would be a level playing field and adoption would be easier. For regulators, this should ease the burden on resources; as there is less risk of misinterpretation by businesses, which makes inspection / enforcement simpler.
Reference: [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) 79 Marking of net weight or measure on goods – New Zealand Legislation](#)
26. **Response to Question 19:** Clear and consistent statements of unit pricing in retail stores and online, both in form (how they are displayed; size, font, units of measurement etc.) and location (where they are displayed; shelf edge, in proximity to the price etc.).
Reference: [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) 79 Marking of net weight or measure on goods – New Zealand Legislation](#)
27. **Response to Question 20:** Formatting and abbreviations for units of measurement that are prescribed, and all other aspects of the requirements, should not conflict with the Act or the Regulations, nor any other regulatory requirement in Aotearoa New Zealand.
Reference: [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) 79 Marking of net weight or measure on goods – New Zealand Legislation](#)
28. **Response to Question 21:** From our perspective, when considering the short time frame for the implementation, regulation through a Consumer Information Standard under the Fair Trading Act 1986 would be the preferred option. If there were to be an amendment to the Act and the Regulations, for us this would require additional resources to achieve successfully, i.e. legislative change, process / procedure updates, staff training, media / website content changes, officer time during / after inspections etc.

General comments and other considerations

29. In the situation where goods are on sale at a reduced price, i.e. the price is a special / one-off, where they are subject to a time / stock bound offer, or when damaged, consideration should be given to whether or not these products should be exempt from the unit pricing requirements.
30. Consider consulting with the Ministry for Primary Industries regarding their food labelling requirements.
31. Goods that are sold loose by quantity have no prescribed marking / labelling rules under the Act or the Regulations.

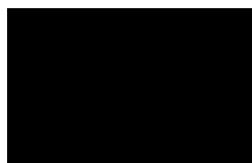
32. Find below a list of relevant sections and clauses under the Act and the Regulations:

- [Weights and Measures Act 1987 No 15 \(as at 28 October 2021\), Public Act Contents – New Zealand Legislation](#)
 - Section 10 *Obligation to use metric system in advertising goods for sale*
 - Section 12 *Obligation to sell goods by net weight or measure*
 - Section 15 *Counting of goods sold by retail*
 - Section 15A *Weighing and measuring of goods sold by retail*
 - Section 16 *Offence to supply short weight, measure, or number*
 - Schedule 1 *Weights and measures of the metric system*
- [Weights and Measures Regulations 1999 \(SR 1999/373\) \(as at 01 March 2016\) Contents – New Zealand Legislation](#)
 - Regulation 79 *Marking of net weight or measure on goods*
 - Regulation 79A *General requirement to mark quantity on packages of food*
 - Regulations 79B *Additional requirement for marking on outer packaging*
 - Regulation 79C *Exemptions from regulations 79A and 79B*
 - Schedule 2 *Permissible abbreviations of units of weight and measurement*

Conclusion and future work

33. We hope that the above points highlight the synergies between the proposed implementation of unit pricing and the existing weights and measures legislation.
34. As such, we wish to express our interest in being involved in the development of this work moving forward to:
- a. Minimise the risk of conflict between the proposed changes and existing legislation, prior to implementation, and
 - b. Ensure we (collectively) provide support to the regulator, affected businesses and consumers, at all stages as the work progresses.
35. Thank you for taking the time to review our response and do not hesitate to contact us using the details in the signature below.

Yours sincerely



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