

RESPONSE TO
MBIE DISCUSSION PAPER
MANDATORY UNIT PRICING FOR GROCERY
PRODUCTS

Submitted by:



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Introduction

United Fresh is the only pan-produce industry body in New Zealand. Our membership includes growers, grower organisations, pack-houses, wholesalers, and service & logistics providers, as well as retailers. Our industry aims to provide New Zealand a healthy and safe supply of quality produce. Our vision is to create a sustainable fresh fruit and vegetable industry for New Zealand.

United Fresh represents an industry that almost every New Zealander interacts with on a daily basis. The produce industry is a significant contributor to supermarket product ranges, with a typical retail store produce department contributing around 10% of store turnover.

On behalf of the New Zealand Produce Industry, United Fresh therefore wishes to make a submission on "*Discussion Paper – Mandatory Unit Pricing For Grocery Products*".

United Fresh also welcomes the opportunity to comment on the proposed changes by way of this submission, as it provides us, as the pan-produce industry body, with the opportunity to enhance our membership's understanding of the changes that will occur as a result of the Commerce Commission's Retail Grocery Market Study.

Prepared by The United Fresh Technical Advisory Group,
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Situation Overview

This submission, and the Discussion Paper that called for it, form part of a much larger piece of work with many facets, resulting from the Commerce Commission Retail Grocery Market Study, in which United Fresh took an active part in, via multiple submissions to the Commerce Commission. These separate workstreams feed into a wider government effort to implement the recommendations made by the Commerce Commission, as well as further outcomes announced by the Minister for Commerce & Consumer Affairs.

The Final Report from the Market Study had fourteen recommendations, with MBIE having been tasked to implement these. The proposed introduction of mandatory unit pricing, which is the focus of this submission, was one of the fourteen recommendations the Commerce Commission made, as is the anticipated Code of Conduct Discussion Paper.

United Fresh was pleased to be invited by MBIE onto the Code of Conduct Advisory Group, and to be able to discuss the impact on fresh produce that proposed Code of Conduct models would have. We also thank MBIE for the chance to respond here on Unit Pricing, and how this could affect the sales of fresh produce.

United Fresh has worked with MBIE before on weights & measures related activities, including collaborating to develop industry specific Guidelines on complying with the Weights & Measures Regulations. United Fresh sees the role of this response to the Discussion Paper as ensuring that the proposals related to unit pricing are not just arbitrary requirements, but realistic systems that the fresh produce industry can comply with.

United Fresh does not want to see any system implemented that has the potential to reduce the attractiveness of fresh produce to the consumer, or a system that makes a consumer less likely to purchase and consume fruit & vegetables. Our interest as the pan-industry body is to continue to **grow New Zealand's consumption of fruit & vegetables, regardless** of how it reaches the consumer.

Produce is not only a grocery category, made up of a highly perishable range of fruit & vegetables, but also be categorised into items that may be sold as: loose and by weight; loose and by the number of items required; prepacked and sold by standardised weights; or prepacked and sold as a singular item. United Fresh therefore wishes to ensure with this submission that any system developed takes into account the complexities of fresh produce, and does not make it harder or more expensive for consumers to purchase fruit & vegetables.

Question and Response Section

- 1) Question: Are there any other benefits or costs associated with mandatory unit pricing that are not mentioned above?

United Fresh has not identified any additional costs or benefits associated with unit pricing.

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

When visiting any of the major grocery retailers' stores, the one thing one typically does not find in the produce department, next to the fruit & vegetables, are pamphlets of any kind. This is due to the fact that the likelihood of pamphlets coming into contact with moisture is extremely high, the shelf life of pamphlets in this environment is therefore limited, the presentation of pamphlets suffers, and produce displays end up looking untidy and cluttered.

Consumer research, carried out over decades, has led retailers, at a global level, to understand that the consumer sees produce as "the hero", and is put off by produce displays being cluttered with promotional material of any kind.

This is why any consumer communication that occurs in the produce department is typically managed by way of banner displays above the produce.

A degree of education is likely to be necessary. Food retailers typically have systems in place to ensure they comply with legal requirements and communicate those requirements and/or related consequences and changes in the retail environment effectively to their customers.

- 3) Question: How much do you estimate it will cost to implement unit pricing in grocery stores?

United Fresh cannot comment on this question, as it is not involved in grocery retailing.

- 4) Question: Which grocery retailers should a mandatory unit pricing standard apply to?

United Fresh believes that the mandatory unit pricing standard should apply to all grocery retailers who offer consumers a range of product categories that include:

- Traditional FMCG products typically found in the centre aisles of major grocery retailers, or stores that provide a similar service.
- General merchandise.
- Fresh food, such as meat, dairy, and bakery products, as well as fruit and vegetables.

Such a determination would also include store formats such as Farros, Tai Ping, and similar multi-site operators.

- 5) Question: 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?

It would be confusing for consumers to be presented with unit pricing information when visiting a standard size Countdown or New World store, and having such information missing when visiting a Metro Countdown or New World store of a smaller footprint. From a fresh produce perspective, the threshold requirements should therefore be consistent across the major grocery retailer banner stores.

Stores such as The Warehouse are currently not stocking produce. Were this to change, mandatory unit pricing should be applicable to those stores as well.

Retailers who are about to enter New Zealand, a store at a time, e.g., Costco, should also participate in the mandatory unit pricing regime, as their customers are the same as those who shop at the existing major grocery retailers.

6) Question: If New Zealand adopts:

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

United Fresh believes that a floor size threshold needs to be defined not in square metres of individual stores' **retail flooring**. **United Fresh notes that this** model was determined by MBIE to have issues in capturing online retailers and small floor area format stores.

Instead, United Fresh suggests a banner/brand level combined floor area threshold, which counts not just customer accessible retail space of physical stores that customers visit, but also banner-owned distribution centres where consumer orders are collated for direct fulfilment (as opposed to traditional distribution centres servicing stores), and dark stores.

- b) A product range threshold, what products should be included?

From a fresh produce perspective, Pareto's Principle applies. The top twenty fruit & vegetable products account for around 80% of turnover. Any store that consistently offers apples, oranges, bananas, tomatoes, potatoes, broccoli, lettuce & salads, and mushrooms, etc., should be included in the mandatory unit pricing regime.

- 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?

This is not a question that we can address, beyond suggesting that the threshold should be applied at the group level, to mitigate the issues noted by MBIE.

7) Question: Where should retailers be required to display unit pricing, and why?

United Fresh believes that as far as fruit & vegetables are concerned, unit pricing should be displayed on point-of-sale tickets (the tickets present on the shelving/stand, located near the product), that indicate the product price.

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

Typically, a selling price is not displayed on the fresh produce itself. As such, this is not a topic that arises for us, and we therefore cannot comment.

9) Question: **Should grocery retailers be required to have a "sort and/ or filter by unit price" option on their website?**

United Fresh cannot comment on this question.

10) Question: In which forms of advertising should retailers be required to display unit pricing?

United Fresh cannot comment on this question.

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

United Fresh is not qualified to be able to answer this question.

12) Question:

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

United Fresh can only answer this with respect to produce. United Fresh believes the most appropriate action for produce is to follow the Australian example, utilising price per kilogram when produce is supplied by weight, and price per each when produce is sold per item.

United Fresh needs to note one aspect of this however:

Pre-packed produce items sold at particular weights, e.g., bags of potatoes (1kg, 3kg, 4kg, etc.), or punnets of berries (250g, 500g, 750g, etc.), should be considered as being sold by weight, as the consumer is purchasing an item with the intent to purchase a given weight of product.

By contrast, 6-packs of capsicums, packaged lettuce heads, and bunches of flowers, for example, are purchased as singular, non-weighted items, and are not intended to be purchased by weight, but instead by unit, and should be categorised as priced by the each, in line with Australia.

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

Fresh produce is not sold by volume to consumers, and United Fresh therefore cannot comment here.

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

As per our answer to Question 12 A, United Fresh would like to see 1kg as the standard measure for weight applied to fruit & vegetables sold by weight.

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

United Fresh can only answer this with respect to produce. Produce requires the ability to use both by weight and by each as units of measurement, as discussed in Question 12 A.

14) Question: Is the Australian approach to product exemptions appropriate for New Zealand?

United Fresh notes that only one category of individual products in the exemption list would apply to fresh produce – fresh flowers.

Fresh flowers are sold by count – as individual bunches, and as individual flower stems. In other words, by the each. United Fresh therefore suggests that flowers continue to be sold on a per item basis.

With regards to the exemptions when produce may be sold as a mix of products; products of different sizes are grouped as a range and sold at an identical price across all products; or when damaged or discontinued products are sold; United Fresh notes that these are typically sold on a per "item" basis.

15) Question: Should mandatory unit pricing apply to tobacco products in New Zealand?

United Fresh cannot comment on this question, as we do not concern ourselves with tobacco products.

16) Question: Should mandatory unit pricing apply to alcohol products in New Zealand?

United Fresh cannot comment on this question, as we do not concern ourselves with alcohol products.

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

United Fresh does not believe products for which unit pricing may not be workable or appropriate exist within the fresh produce category. Fresh produce, including cut flowers and plants, are either sold on a weight basis, or a per item basis.

18) Question: 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?

A principle-based approach would appear more practical, as even within the major retailer environment, not every produce department is the same size or contains the same range, and therefore cannot fit a one-size-fits-all approach. A principle-based approach is more likely to assist in embedding unit pricing requirements into the mindsets of retail staff, who are tasked with conforming to these planned regulations.

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

United Fresh notes that there are two principles which should be considered the most important to meet the goals of implementing a practical unit pricing system:

- a) Firstly, that all the required information is present, in an unambiguous fashion.
- b) Secondly, that within any given environment, a standardised approach is settled upon, such as that all displayed tickets within such an environment are standardised, simplifying the work involved by staff to manage the system, and the work involved by customers to interpret the data.

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

Within the retail grocery produce department environment, some stores will utilise standardised ticketing systems, with the tickets produced centrally, and the tickets then printed in-store. Other stores may design and print tickets at each individual store. Therefore, the requirements for more prescriptive options need to be easy to integrate into existing ticketing systems of multiple types. If retailers are saddled with difficult to implement requirements, this may incur increased costs, which could be passed on to customers.

21) Question: 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?

United Fresh believes that the Weights & Measures Act 1987 is the more appropriate pathway, as unit pricing is all about connecting any given price to a standard unit of measure, i.e., a weight or an item count.

Summary

While United Fresh agrees with the general scope of unit pricing for fresh produce, United Fresh would like to ensure that the complexities of fresh produce are acknowledged, and that fresh produce is not treated the same way as typical FMCG products. To do so risks significant issues in the sale of fresh produce, which would reduce the ability of consumers to purchase and consume fruit & vegetables.

United Fresh cautions MBIE against implementing the Australia system lock, stock, and barrel, as the Australian unit pricing regulations are designed for the Australian retail environment. Broccoli, for example, is sold by the kg in Australian supermarkets, whereas in New Zealand, it is sold by individual heads.

However, designed appropriately to meet the intricacies of the New Zealand fresh produce supply chain, unit pricing will be an effective tool in transferring pricing information to consumers.

In summary, United Fresh believes that effective produce unit pricing is based on the following elements:

- A principle-based approach is more likely to assist in embedding unit pricing requirements into the mindsets of retail staff, as opposed to a prescriptive approach.
- Consumer education is necessary, but pamphlet cluttered produce departments would be counter-productive.
- Mandatory unit pricing standards should apply consistently to all grocery retailers who offer consumers a specified range of product categories, regardless of revenue and floor size.
- Unit pricing should be displayed on point-of-sale tickets.
- Produce should follow the Australian example, utilising price per kilogram when produce is supplied by weight, and price per each when produce is sold per item.
- Any prescriptive options need to be easy to integrate into existing ticketing systems of multiple types.
- Standardisation is key.
- Any regulations should be implemented through the Weights & Measures Act 1987. United Fresh already has a working relationship with MBIE's Weights & Measures team.

United Fresh looks forward to being able to work with MBIE further on unit pricing, to ensure it meets the complexities of the fresh produce industry, and to being able to assist MBIE in understanding the impact other topics generated as a result of the Commerce Commission Grocery Market Study will have, when other Discussion Papers are released.