



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI



# Submission form

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## New Zealand Grocery Code of Conduct

August 2022

## 1 Submissions process

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The Ministry of Business, Innovation and Employment (**MBIE**) seeks written submissions on the New Zealand Grocery Code of Conduct consultation paper by 5pm on **[10 August 2022]**.

Please send your submission form to:

- [competition.policy@mbie.govt.nz](mailto:competition.policy@mbie.govt.nz) with the subject line “Grocery Code of Conduct Consultation 2022”
- Competition Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

### Release of information

MBIE intends to upload copies of submissions received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please send a separate version of this form excluding the relevant information for publication on our website.

Submissions remain subject to request under the Official Information Act 1982. Please set out clearly in the cover letter or email accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

## Private information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate in the cover letter or email accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

### Name (first and last name)

Privacy of natural persons

### Email

Privacy of natural persons

### Is this an individual submission, or is it on behalf of a group or organisation?

Behalf of organisation

### Business name or organisation

Mohua Social Services Charitable Trust

Is there any information you would like to be withheld? Please state which question/information you would like to be withheld? If applicable, please also provide a separate version of this form without the sensitive information.

## 2 The approach to developing a Code of Conduct

**QUESTION 1:** Do you have any comments in relation to **Chapter 1**, in particular any comments on:

- the objectives (**section 2.2**)?
- evaluation criteria for the Code (**section 2.3**)?

**Please type your submission below.**

We think there is an opportunity to add an evaluation criteria that asks 'Will this bring long-term benefit to consumers' to ensure that the policy proposals will benefit consumers.

### 3 Which retailers should be bound by the Code?

**QUESTION 2:** In relation to **section 3.3**, which of the three **Designation Options** do you think is best, and why?

**Please type your submission below.**

Designation Option B

- Targets retailers with a large presence in grocery market
- Complaints by suppliers should be a factor in initiating investigation.

**QUESTION 3:** In relation to **section 3.4**, which of the three **Options** do you think is best, and why?

**Please type your submission below.**

Option A

In terms of coverage, Option A would ensure that all trading relationships between suppliers and the major grocery retailers – whether centralised ‘head office’ or retail store – are covered

**QUESTION 4:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 3**?

**Please type your submission below.**

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#### 4 Including a purpose statement within the Code and overarching obligations

**QUESTION 5:** In relation to **4.2 purpose of the Code**, which of the three options do you agree with, and why?

**Please type your submission below.**

Option 3 – Alternative Code. We have a strong preference for Option 3 which supports economic development, Māori economic development and tikanga Māori provisions.

We would like to see economic development extended to local economic development. We believe that actively promoting Māori economic development and tikanga Māori provisions provides a clear path for Māori, in particular iwi and hāpu to participate in the grocery retail sector. We believe doing so will strengthen local economies and enable greater control and benefits to flow to communities.

**QUESTION 6:** Do you see any risks if the purpose of the Code was to:

- address any impacts of the major grocery retailers' trading relationship with the supplier on other grocery retailers, or
- support any wholesale supply arrangements?

If yes, please explain the risks.

**Please type your submission below.**

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**QUESTION 7:** In relation to **4.3 overarching obligations**, which of the three options do you agree with, and why?

**Please type your submission below.**

Our strong preference is for Option 3 Alternative Code, which allows for Māori economic development. We support the inclusion of paragraphs 83 and 84 in the consultation document which both uplifts Māori retailers and invites Te Tiriti of Waitangi into the practice of all retailers.

**QUESTION 8:** Do you have any views on how to incorporate tikanga Māori or Te Ao Māori in the Code?

**Please type your submission below.**

Ensure Māori experts are included in developing and implementing the Code.

**QUESTION 9:** How can the Code best incorporate economic development objectives, including those of Māori

**Please type your submission below.**

An advisory group to the Grocery Commissioner that develops a programme to meet Te Tiriti obligations and reports regularly on outcomes for Māori.

**QUESTION 10:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 4**?

**Please type your submission below.**

## 5 Requirements for supply agreements

**QUESTION 11:** In relation to **5.2 Requirements for supply agreements to be written and contain minimum content**, which of the options do you agree with, and why?

Is there any content that you think should be required in grocery supply agreements but is not mentioned?

**Please type your submission below.**

**QUESTION 12:** In relation to **5.3 limiting unilateral and retrospective variations**, which of the options do you agree with, and why?

**Please type your submission below.**

**QUESTION 13:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 5**?

**Please type your submission below.**



6 Obligations in relation to product supply and placement

**QUESTION 14:** In relation to **6.2 Changes in supply chain processes**, which option do you think is best, and why?

Are suppliers being pressured to use a retailer's own logistics services and if so, what is the impact?

**Please type your submission below.**

**QUESTION 15:** In relation to **6.3 fresh produce standards and quality specifications**, do you think the Code should include specific provisions about fresh produce and if yes, please explain what you think it should include?

**Please type your submission below.**

**QUESTION 16:** In relation to **6.4 Obligations in relation to ranging, shelf allocation, and delisting**, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 17:** In relation to **6.5 Other obligations**, which option do you think is best, and why? Please comment on the range of different areas – confidential information, intellectual property, business disruption, freedom of association, whistle-blower protections, pressure to opt out of wholesale supply arrangements, exclusive supply clauses and ‘most favoured nation’ price clauses.

**Please type your submission below.**

**QUESTION 18:** Do you have any other comments about issues relating to product supply and placement?

**Please type your submission below.**

**QUESTION 19:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 6**?

**Please type your submission below.**

7 Obligations in relation to payment, price increases, and promotions

**QUESTION 20:** In relation to **7.2 Payment terms and set-offs**, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 21:** In relation to **7.3 Responses to price increases**, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 22:** In relation to **7.4 Payments for shrinkage and wastage**, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 23:** In relation to 7.5 Payments for retailer’s business activities, product placement, and as a condition of being a supplier, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 24:** In relation to 7.6 Payments for promotions and promotional buying, which option do you think is best, and why?

**Please type your submission below.**

**QUESTION 25:** Do you think requests from retailers for payments for data services is an issue and if so, why?

**Please type your submission below.**

**QUESTION 26:** Are there any other instances where requests for payments should be limited? If so, what are the issues and how should they be addressed in a Code?

**Please type your submission below.**

**QUESTION 27:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 7**?

**Please type your submission below.**

**QUESTION 28:** Do you have any comments about the current state of dispute resolution (for example, the processes that are used or the nature of disputes)?

**Please type your submission below.**

**QUESTION 29:** Do you have any comments on the particular criteria in **Chapter 8.5** used to undertake the preliminary assessment of options for dispute resolution?

**Please type your submission below.**

**QUESTION 30:** In relation to **Chapter 8.6 The options for New Zealand**, which of the three options do you think will work best, and why?

**Please type your submission below.**

**QUESTION 31:** Do you have any comments on the preliminary assessment of the options against the criteria in **Chapter 8**?

**Please type your submission below.**

**QUESTION 32:** Do you have any views on the Australian and UK approaches to monitoring, compliance obligations, and enforcement, and which might be most effective for New Zealand?

**Please type your submission below.**

**QUESTION 33:** Do you have any comments on the potential compliance costs (for suppliers and designated retailers) from the proposed content of the Code of Conduct?

**Please type your submission below.**

**QUESTION 34:** Do you have any views on how the Code should be implemented?

**Please type your submission below.**

**QUESTION 35:** Do you have any other comments on the matters discussed in **Chapter 9**?

**Please type your submission below.**