



COVERSHEET

Minister	Hon Dr Duncan Webb	Portfolio	Commerce and Consumer Affairs
Title of briefing	Consumer Information Standards (Unit Pricing for Grocery Products) 2023	Date to be published	11 September 2023

List of documents that have been proactively released		
Date	Title	Author
July 2023	Consumer Information Standards (Unit Pricing for Grocery Products) 2023	Office of the Minister of Commerce and Consumer Affairs
27 July 2023	Consumer Information Standards (Unit Pricing for Grocery Products) 2023 LEG-23-MIN-0126 Minute	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of confidential information entrusted to the Government

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Legislation Committee

Consumer Information Standards (Unit Pricing for Grocery Products) 2023

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Consumer Information Standards (Unit Pricing for Grocery Products) 2023 under section 27 of the Fair Trading Act 1986.

Relation to government priorities

- 2 This paper relates to our priorities of improving the wellbeing of New Zealanders and their families, and of growing the economy for all. Empowering consumers to make more informed purchasing decisions indirectly supports competition in the grocery sector, which can benefit New Zealanders by contributing to lower grocery prices, better quality grocery products, increased innovation, a wider product range, and better service.

Background

- 3 The Commerce Commission's market study into the retail grocery sector made several recommendations for improving competition in the sector, including mandating the consistent display of unit pricing for grocery products sold by certain grocery retailers. Mandatory unit pricing will help consumers make better informed purchasing decisions, support inter-brand competition, and encourage grocery retailers to compete on pricing and transparency.
- 4 In May 2022, the Cabinet Economic Development Committee agreed to implement mandatory unit pricing for grocery products [DEV-22-SUB-0114 refers].
- 5 Public consultation on the form and scope of mandatory unit pricing took place from 30 May 2022 to 11 July 2022, and MBIE received 30 submissions.
- 6 On 23 November 2022, the Cabinet Economic Development Committee agreed to the content of mandatory unit pricing and authorised the release of an exposure draft of the Consumer Information Standards (Unit Pricing for Grocery Products) 2023 (the draft Regulations) for public consultation [DEV-22-MIN-027 refers]. The draft Regulations reflected Cabinet's agreement:

- 6.1 that mandatory unit pricing requirements should apply to grocery products sold in physical grocery stores with a floorspace above 1000 square metres and in online grocery stores, as well as to grocery products in respect of which unit pricing is displayed voluntarily;
 - 6.2 that prescribed products should not be covered by mandatory unit pricing rules where the benefits of unit pricing will be limited, or where unit pricing will be impractical or undesirable for these products;
 - 6.3 that unit pricing should be required to be displayed in store (physical and online), as well as in physical and online print/ static advertising;
 - 6.4 to adopt consistent standard units of measurement (e.g., 100 grams for products supplied by weight) for unit pricing;
 - 6.5 to adopt non-standard units of measurements for products where, because of the standard size or nature of the grocery product, the standard measurements will not provide useful or appropriate information; and
 - 6.6 to adopt a combination of prescriptive and general requirements for the display of unit pricing (e.g. requirements that unit pricing be prominent, clearly legible, and should not be less than 25 per cent of the height of the retail price).
- 7 Consultation on the draft Regulations ran from 14 April to 12 May 2023 and sought feedback on whether the draft Regulations were workable in practice and gave effect to the policy intent. The Ministry of Business, Innovation and Employment received 16 submissions from range of stakeholders. The submissions were largely technical in nature. Consistent with my authorisation given by Cabinet, I have made some minor amendments to the draft Regulations in response to feedback on the exposure draft.
- 8 Two of these changes are worth mentioning. Firstly, I was concerned that complying with unit pricing requirements might pose an additional barrier to entry, specifically for smaller market entrants. To address this, I have provided in the draft Regulations that the requirement to display unit pricing does not apply to online sellers and retail stores that have been selling regulated grocery products for a total period of less than twelve months. This provides more time for new entrants to comply and absorb the costs of implementation. It also means that retailers who are considering selling the full list of product categories, and wish to trial this, do not have to immediately display unit pricing throughout the store.
- 9 I have also deferred the commencement of unit pricing requirements for online retailers for an additional year for similar reasons.

Confidential information entrusted to the Government

Analysis

Cost-of-living Implications

- 10 This paper relates to regulations which will empower consumers to make more informed purchasing decisions.
- 11 This will indirectly support inter-brand competition and encourage grocery retailers to compete on metrics such as price and transparency, thereby benefiting New Zealanders by contributing to lower grocery prices.

Compliance

- 12 The Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023 comply with:
 - 12.1 the principles of the Treaty of Waitangi;
 - 12.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 12.3 the principles and guidelines set out in the Privacy Act 2020;
 - 12.4 relevant international standards and obligations; and
 - 12.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Statutory prerequisites

- 13 Section 27(3) of the Fair Trading Act 1986 specifies that the Minister must not recommend regulations be made to prescribe consumer information standards unless persons or representatives of persons the Minister considers will be substantially affected have had the opportunity to comment to the Minister and the Minister has considered any such comments.
- 14 I am satisfied the public consultations described above on the proposed regulations and my consideration of the comments received meet these requirements.

Certification by Parliamentary Council

- 15 The Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023 have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 16 A regulatory impact assessment was prepared in accordance with the necessary requirements and was submitted at the time that Cabinet approval of the policy relating to the relevant regulations was sought [DEV-22-MIN-027].

Consultation

- 17 The following agencies have been consulted on the proposals in this paper: Treasury, Commerce Commission, and the Department of Prime Minister and Cabinet. We have also carried out public consultation, including with grocery retailers and consumer groups.

Communications

- 18 I will issue a press release to inform the public of the new regulations.

Proactive Release

- 19 This paper will be published on the Ministry of Business, Innovation and Employment's website, subject to withholdings as appropriate under the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that in May 2022, Cabinet agreed to implement mandatory unit pricing for grocery products [DEV-22-SUB-0114 refers];
- 2 note that in December 2022, the Cabinet Economic Development Committee agreed on policies to implement this decision [DEV-22-MIN-0279 refers], specifically:
 - 2.1 agreed to implement mandatory unit pricing through regulations under section 27 of the Fair Trading Act 1986,
 - 2.2 agreed on the policy settings for mandatory unit pricing regulations,
 - 2.3 authorised the release of an exposure draft of mandatory unit pricing regulations,
 - 2.4 authorised the Minister of Commerce and Consumer Affairs to make decisions on minor issues in response to feedback on the exposure draft;
- 3 note that some technical amendments were made following consultation on the draft Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023;
- 4 note that following consultation, I also agreed that the requirement to display unit pricing does not apply to online sellers and stores that have been selling regulated grocery products for a total period of less than twelve months;
- 5 note that the Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023 will give effect to the decisions referred to in paragraphs 2, 3 and 4 above;

IN CONFIDENCE

- 6 authorise the submission to the Executive Council of the Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023;
- 7 note that the Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023 will come into force on 31 August 2023, which is 28 days after the date of notification in the *New Zealand Gazette*.

Authorised for lodgement

Hon Dr Duncan Webb

Minister of Commerce and Consumer Affairs