

11 December 2024

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CROSS SUBMISSION ON WHOLESALE SUPPLY INQUIRY PRELIMINARY ISSUES PAPER

- 1 Foodstuffs North Island (**FSNI**) and Foodstuffs South Island (**FSSI**) acknowledge the opportunity to make this cross submission on the Commerce Commission's (**Commission**) Preliminary Issues Paper (**PIP**) for its Wholesale Supply Inquiry (**Inquiry**) initiated under section 55 of the Grocery Industry Competition Act 2023 (the **GICA**).

Executive summary

- 2 A robust process is critical to the success of the Inquiry and the regime. As well as ensuring the Inquiry process and outcomes are lawful, the regulated wholesale regime entails regulated grocery retailers (**RGRs**), suppliers and customers all engaging in brand new interactions and ways of working, and trying to make the regime function well, without knowing in advance how a successful outcome would look. As such, a careful and open-minded assessment of the regime's operation to date and its potential, is key to maximising the prospects of the regime for all stakeholders.
- 3 In that context, the regulated wholesale relationships FSNI and FSSI have formed to date are positive, and are materially contributing to the regime's purpose, which is focused on enabling wholesale customers to have reliable and cost-effective supply, through some combination of RGRs, suppliers and/or other channels, and to have reasonable access to the benefits of the RGRs' scale and efficiency. At this early stage, there appears to be a strong case to maintain the status quo as it continues to "bed in" and develop.
- 4 We welcome the comments from other submitters, many of which are valuable for the Inquiry, and for us in our work on our wholesale offerings. We have provided some comments on other submitters' input in the **Appendix**.

Themes

A robust process is critical

- 5 Robust monitoring and inquiry processes will help to ensure the wholesale regime maximises its potential. The wholesale regime is novel, so it is particularly important that any decisions about its development have a sound basis in evidence. This theme emerges from a number of the submissions.
- 6 The GICA sets out clear processes the Commission must follow when conducting an Inquiry and considering changes to the regime. These processes are not only mandated by law,

but following them ensures the regime is properly tested against the goals of the regime and the GICA as a whole.¹

7 Based on the submissions and our engagement with the Commission on the Inquiry to date, three process points are worth reiterating. These are:

- 7.1 the GICA imposes a mandatory requirement on the Commission to consider whether it is “*satisfied*” that the wholesale offerings of one or more RGRs are “*consistent with wholesale offerings provided in a competitive wholesale market*”. The term “satisfied” imposes a material threshold. In our submission, we observed that the Commission had not set out in the PiP the basis for its expectations of wholesale offerings in a competitive market.² Having now engaged with the Commission on this aspect of our submission, we wish to reiterate that the expectations against which conduct and outcomes are measured must be grounded in actual evidence, such as appropriate benchmarking or other robust analysis. That is not the case for the expectations expressed in the PiP. As such, as currently expressed the expectations do not form an appropriate basis for the Commission to make lawful decisions in the course of the Inquiry, and we look forward to contributing to the Commission’s further work in this regard,
- 7.2 the GICA imposes a mandatory requirement on the Commission to assess the *benefits* of applying (or continuing) different types of additional regulation, and consider what would be the most *cost-effective* type or types of regulation in the circumstances (section 57(3)). In our submission, we noted that the Commission’s proposed approach to this mandatory requirement was not articulated in the PiP. Having engaged with the Commission on this aspect of our submission, we wish to reiterate that this is a separate, mandatory requirement, rather than a factor that can be subsumed within a wider consideration of the purpose of the GICA and/or Part 3, or dealt with in a less-than-rigorous manner. We note that several other submitters have identified the importance of this part of the Commission’s work,³ and we look forward to contributing to this critical element of the Inquiry, and
- 7.3 in the PiP, the proposed focus of the Inquiry was expressed to be to understand and address the fundamental issues that are limiting the RGRs’ retail competitors from acquiring the range of groceries, at competitive prices, that enable them to compete with the RGRs.⁴ This is not the appropriate starting point. Consistent with the GICA, the purpose of the Inquiry is to consider *whether* the wholesale supply of groceries should be subject to additional regulation (etc).⁵ In carrying out the Inquiry, the Commission must consider *whether* it is satisfied that the wholesale offerings of one or more RGRs are consistent with wholesale offerings provided in a competitive wholesale market. The PiP’s proposed focus left out this aspect of the process requirements.

¹ For example, section 21.

² See from paragraph 45 of our original submission.

³ See for example, the New Zealand Food and Grocery Council’s submission at paragraph 4.16, Woolworths New Zealand’s submission at paragraph 1.6(f) and section 7, and Retail New Zealand’s submission at paragraph 7.

⁴ Section 4 of the PiP.

⁵ The PiP suggests the Commission might rely on the grocery annual report as a basis for skipping some of the requirements of the Inquiry. As well as not being appropriate in the context of the GICA, in practice the annual report did not entail any meaningful engagement with RGRs (or, to our knowledge, other stakeholders) or display the necessary rigour that would be required for its findings to be capable of being relied on in relation to the standards set out in Subparts 3 and 4 of Part 2.

There is a strong case to retain the status quo

8 In our early engagement with the Commission, the Commission has asked that we provide information on how we expect our offerings to develop if the regulatory status quo remains in place.

9 In addition to the procedural requirement set out above (7.3), based on our and others' submissions, it appears there is likely to be a strong case that the Commission cannot be satisfied that the regulated wholesale offerings are not consistent with wholesale offerings provided in a competitive wholesale market.⁶ The Commission will need to focus carefully on the evidence in this respect, as it moves through the Inquiry.

10 It is important to bear in mind that specific outcomes are not required in order for the RGRs' offerings to reflect wholesale offerings provided in a competitive market. That is clear from the purpose of Part 3, which envisages a combination of channels providing reliable and cost-effective supply. Nevertheless, the initial and continued growth and change in the offerings strongly suggests pro-competitive conduct.

11 For example, [REDACTED]

12 [REDACTED]

13 Consistent with the above, and as noted in the original submission, FSNI and FSSI have and continue to acquire new customers. It is difficult to draw any conclusion from this trajectory other than that FSNI and FSSI are behaving competitively, and have a number of regulated wholesale customers. [REDACTED] Certainly, it does not support a view that the offerings are not consistent with a wholesale offering provided in a competitive market.

14 While FSSI has not acquired as many customers, this reflects its geographic focus i.e. there are not the same number of target customers in the South Island – FSSI nevertheless maintains a commitment to creating a competitive offering, and has a long history of serving local retailers that materially pre-dates the regime.

[REDACTED]

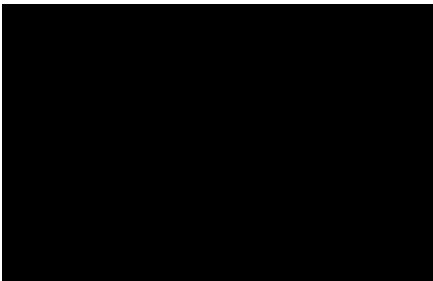
15 Given our conduct, and customers' response to it, have been consistent with what would be expected in a competitive wholesale market, there appears to be no basis to be satisfied as to the tests in sections 65(1) and 82(1). We expect substantiating this point to be an important feature of the Inquiry and welcome further engagement with the Commission on it.

⁶ Section 57(1), section 65(1) and section 82(1).

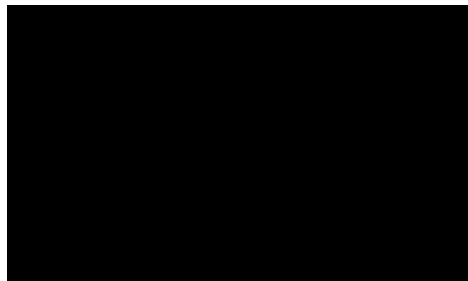
Our wholesale agreements materially contribute towards achieving the purpose of the regime

- 16 We understand the Commission is considering how to measure whether the wholesale agreements we have entered into “materially contribute towards” achieving the purpose of Part 3 (section 65(2)(d)).
- 17 We look forward to testing this issue further with the Commission, noting that our wholesale agreements demonstrably provide reliable and cost-effective wholesale supply to regulated wholesale customers.
- 18 First, based on the extensive access the Commission has had to our pricing throughout the regime’s life, our offerings enable wholesale customers to have reasonable access to the benefits of the scale, and the efficiency, of our operations.
- 19 Secondly, for the reasons given in our original submission, it is consistent with the purpose of Part 3 that not all products demanded by retailers / regulated wholesale customers would be directed through RGRs.⁷ The purpose of Part 3 expressly acknowledges that reliable and cost-effective wholesale supplies of groceries might occur through wholesale supply provided by RGRs, directly arranging supply from suppliers, or other channels, or any combination of those channels. Therefore, the absence of particular products from a range, where those products are otherwise available to retailers, cannot without more be evidence that goes to the test in section 65(2)(d).
- 20 It is of course important to interrogate the reasons suppliers wish to opt out of the regime, and whether and how it makes most sense for trade spend to reach regulated wholesale customers. But these issues require fact-gathering and robust analysis, rather than a focus on whether RGRs’ offerings cover a “main shop” mission, or whether RGRs have persuaded suppliers to invest trade spend in the regulated wholesale regime.

Yours sincerely



foodstuffs NORTH ISLAND



Foodstuffs
South Island

⁷ See from paragraph 20.

APPENDIX – DETAILED COMMENTS ON SUBMISSIONS

Ref	Topic	Key Points	Comments
New Zealand Food and Grocery Council			
[2.1]-[2.2]		<ul style="list-style-type: none"> Regulatory changes could impact any improvement in competition that is already underway. It is unrealistic to expect demonstrable benefits in just over 12 months. New regulatory regimes typically require time for market participants to adjust their behaviour and implement changes. Attempting to evaluate the effectiveness of new regulation before it has had sufficient time to take effect is likely to lead to premature conclusions that undermine the regulation's goals. 	We agree with these points for the reasons given in our original submission, and note these appear to be widely held.
[4.2] onwards	Suppliers' opt-out rights	<ul style="list-style-type: none"> Suppliers adopt the distribution model that best suits their commercial objectives. Many have invested in their own wholesale distribution channels to better serve their retail customers. 	It is clear that engagement with suppliers on their willingness to participate in the regulated wholesale regime is critical.
[4.16]	Access regulation requires cost-benefit analysis	<ul style="list-style-type: none"> If access regulation were to be proposed it must first be subject to a careful and detailed cost-benefit analysis and proper consultation. Particularly important given that GICA was introduced under time constraints and with lack of public consultation on the proposals. 	At the Inquiry stage, this points to the importance of careful analysis under section 57(3).
[5.2]-[5.14]	RDPs/trade spend	<p>Trade spend/RDPs should not be passed though because:</p> <ul style="list-style-type: none"> it would be inconsistent with the intention of GICA and the key pricing principles in s24(1) it will encourage non-RGR retailers to access groceries through the RGRs' wholesale offerings at the expense of other channels 	It is clear that in considering the trade spend aspects of suppliers' pricing, it is important that the Commission engages directly with suppliers.

Ref	Topic	Key Points	Comments
		<p>to market, which will negatively impact on suppliers' viability and may lead to some suppliers exiting the market, if suppliers are unable to increase their pricing</p> <ul style="list-style-type: none"> it will remove supplier incentives to agree certain RDPs with the RGRs, as suppliers will have no visibility over whether (and to what extent) their products are being on-sold through the RGRs' wholesale regimes 	
Woolworths New Zealand			
[3.1] - [3.3]	Commission has not allowed reasonable time to assess impacts of new wholesale regime	<ul style="list-style-type: none"> Commission's Annual Report was brought forward one year earlier than required under GICA. One year is not long enough to assess whether the regime is achieving GICA objectives. MBIE considered at least one more year was necessary to assess whether regulatory changes were resulting in benefits. NZGW (being WWNZ's wholesale business) achieved significant growth in a short time period indicating that more time is required to assess regime. Commission itself stated in merger determination that changes and outcomes from GICA will take time. 	We agree there has been insufficient time given to assess whether regulatory change is required, as set out in our original submission. We note this view appears to be shared by a number of stakeholders.
[3.8] – [3.10]	Annual Report's findings pre-empt Inquiry without required procedural safeguards	<ul style="list-style-type: none"> Several statements in ToR and PIP suggest some level of predetermination from Annual Report. Pre-determination concerning in light of s 56(1) and s 57(1) GICA, as well as GICA rights of consultation and media statements by Grocery Commissioner. Commission should address these concerns to show Inquiry's outcome is not a foregone conclusion and ensure findings are only made in light of GICA requirements. 	As noted above, it is clear the work in relation to the annual report cannot substitute for the Commission following its statutory process in relation to the Inquiry.
[5.1] – [5.4]	Woolworths New Zealand should not be regulated due to any lack of progress by other regulated grocery retailers	<ul style="list-style-type: none"> PIP suggests that NZGW's progress is more advanced than other RGRs. GICA requires Commission to take most cost-effective approach to making recommendations/findings of further regulation, so Commission could not regulate one entity due to concerns about another entity. 	While we cannot speak for Woolworths' progress, Woolworths does not have the visibility required to make an assessment of the progress FSNI and FSSI have made with our regulated wholesale offerings. For the reasons given elsewhere, and based on our engagement with the Commission to

Ref	Topic	Key Points	Comments
		<ul style="list-style-type: none"> ToR and PIP should be updated to reflect GICA obligations. 	date, we do not consider there is any basis for additional regulation.
[7.1] – [7.4]	Decisions/ recommendations must be subject to cost-benefit analysis	<ul style="list-style-type: none"> No indication in ToR or PIP that Commission will assess whether tests for regulation are satisfied in accordance with GICA or conduct rigorous cost-benefit analysis. ToR and PIP should be updated to reflect requirement of cost-benefit analysis under GICA. Grocery Market Study said cost-benefit analysis would be desirable before further intervention was considered. 	In the context of the Inquiry, this points to the importance of the analysis under section 57(3).
[10.1] – [10.7]	ToR and PIP need to properly address provision of suppliers' Retail Scan Funding to wholesale customers	<ul style="list-style-type: none"> Suppliers' discretionary Retail Scan Funding has material impact on WWNZ's retail pricing. If Commission's concern is passing on of supplier's Retail Scan Funding to wholesale consumers, then the Inquiry should clearly state that the Commission's focus needs to be on considering recommendations in relation to suppliers, not RGRs. If issue is not addressed with suppliers, another way to achieve Commission's desired outcome is to require RGRs to subsidise other retailers by requiring wholesale pricing at a level by which RGRs effectively fund/subsidise other retailers' promotions. Such an approach would be inconsistent with the GICA requirements of achieving outcomes that are consistent with a competitive wholesale market, and the desirability of RGRs achieving a reasonable return on investment in connection with their wholesale offerings, and being able to invest and innovate for the long-term benefit of customers. 	It is clear that in considering the trade spend aspects of suppliers' pricing, it is important that the Commission engages directly with suppliers.

Ref	Topic	Key Points	Comments
United Fresh New Zealand Incorporated			
Page 4-5	Competitive wholesale supply of fresh produce	<ul style="list-style-type: none"> Fruits and vegetables should be classed separately from other perishable products by the Commission. Separate classes reflect the fact that fruits and vegetables already have a competitive wholesale market. The Commission, MBIE, Select Committee and NZRDC have recognised since the July 2021 Market Study Draft Report that fruits and vegetables have a different supply chain structure to other products, and that there is competition in the fresh produce sector at the wholesale level. Statements in the Market Study Draft Report, Market Study Final Report and 2024 Annual Grocery Report show an accepted, workable, effective, wholesale market for fruits and vegetables. 	<p>That there is competitive wholesale supply of fruits and vegetables is consistent with FSNI and FSSI's experience (as set out in our original submission from paragraph [62]), as well as with previous Commission and others' findings.</p> <p>Further, as with other similar expressions in the PiP, there appears to be no evidentiary basis for the Commission's "expectation" that fresh products would be a crucial part of the range available in a competitive wholesale offer.</p>
Retail NZ			
[7]	Proportionate regulation	<ul style="list-style-type: none"> The Commission should only take proportionate and appropriate steps, weighing the potential costs against the expected benefits, and to target specific issues rather than implementing broad regulations. 	In the context of the Inquiry, this points to the importance of the analysis under section 57(3).
Fonterra Brands (New Zealand) Limited			
[9], [10], [19-21]	Impact on chilled distribution networks	<ul style="list-style-type: none"> Risk that this will undermine the network of small businesses across regional New Zealand who play a critical role in distribution of dairy nutrition (e.g. Fonterra's Anchor Franchises) Could result in stranding sunk costs in distribution hubs and depots. Adds additional cost into the supply chain as RGRs replicate investment in chilled distribution networks. Product freshness and the integrity of the cool supply chain for milk and cream could be adversely affected. 	These points highlight the importance of engaging with suppliers on channels to market.

Ref	Topic	Key Points	Comments
[11]-[13]	RDPs and trade spend	<ul style="list-style-type: none"> Suppliers' freedom to contract, including on RDPs, drives market efficiency and should not be mandated without corresponding benefits. Making the Promotional spend component of RDPs available to RGR wholesale customers means that suppliers have no control or ability to monitor whether they are getting the services they are paying for. Promotional spend should be directly negotiated between suppliers and independent retailers, like any other service contract. Effectively setting wholesale prices without considering economic cost differentials can distort price signals. Serving customers inefficiently (small volumes and wide range) costs more, potentially leading to negative pricing effects for consumers. 	These points highlight the importance of supplier engagement to considering trade spend issues.
[19]-[21]	Milk should not be included in wholesale offerings	<ul style="list-style-type: none"> Including milk in RGRs' wholesale offerings is unnecessary as it is already readily available to independent retailers and wholesalers through Fonterra's existing channels. 	As with fresh produce (and other products), it is important that the Commission engages with the distribution options available for various products before concluding that RGRs not including them in a regulated wholesale offering raises concerns.
[8], Appendix 1	A diverse retail market is important; range	<ul style="list-style-type: none"> The Commission should encourage a diverse grocery market with different business models competing across the price/quality spectrum, suitable for New Zealand's market size and geographic demands. The product range in RGRs' offerings is less important than ensuring wholesale customers can access a reasonable range of products through various supply arrangements. 	These comments are consistent with the purpose of Part 3 which acknowledges that various combinations of channels have the potential to achieve reliable and cost-effective wholesale supply of groceries (section 21).
The Grocery Action Group			
[1]	Further regulation	<ul style="list-style-type: none"> Strongly support intervention at the highest level. 	We value the Grocery Action Group's potential to bring a consumer perspective.

Ref	Topic	Key Points	Comments
			<p>In relation to regulated wholesale, the GAG is offering a perspective that is not grounded in experience or facts/evidence. It over-simplifies the experience of RGRs and appears to over-simplify the experience of suppliers and regulated wholesale customers.</p> <p>The submission does not, in and of itself, provide evidentiary support for any particular conclusion or course of action.</p>
Night 'n Day Foodstores Limited			
[2]	Foodstuffs offering	<ul style="list-style-type: none"> Foodstuffs appears to show limited commitment to wholesale growth, focusing more on meeting regulatory requirements than fostering a competitive wholesale market. 	<p>This is incorrect, as demonstrated by our submission and wider engagement with the Commission. Further, it is not grounded in evidence as Night 'n Day is not a customer of FSNI or FSSI's regulated wholesale offering (as it notes elsewhere in its submission, Night 'n Day has no knowledge of Foodstuffs' systems and processes, or terms and conditions).</p>
[3]-[4]	More economical to shop through retail / margins	<ul style="list-style-type: none"> It is more economical and practical to purchase through an RGR's retail channel than the wholesale regime. Most Night 'n Day stores source from retail stores, with only one store attempting to use the wholesale regime but still relying primarily on retail channels for most purchases. A 20% difference between the GST-exclusive retail price and the GST-exclusive purchase price is considered a sufficient margin to remain competitive. This ensures coverage of downstream costs while allowing for a modest net margin for the operator. 	<p>As noted in our original submission, this issue was foreseen during the development of the regime (see from paragraph 31). While not relevant to RGRs' price setting obligations, it does point to the importance of engaging with suppliers in relation to their incentives to participate in the regime, and ways to address trade spend.</p>
[7]	Range	<ul style="list-style-type: none"> To access popular grocery products, Night 'n Day uses retail channels as a substitute for wholesale. The limited product selection through the wholesale channel detracts from its use. 	<p>This comment points to the need for engagement with suppliers over opt-out, and potentially to consider the role of other channels to retailers, as suggested in the FGC and Fonterra submissions.</p>

Ref	Topic	Key Points	Comments
[18]	Cost/reward incentives to grow wholesale sales are required	<ul style="list-style-type: none"> Our experience shows Woolworths has actively worked to grow the wholesale market, while Foodstuffs has been less proactive, as evidenced by WWNZ having the highest sales and largest number of wholesale customers. 	This is incorrect, as shown in our submissions as well as our direct engagement with the Commission. Further, Night 'n Day has no direct knowledge of our regulated wholesale offerings, as it acknowledges in the submission.
[19]	Additional regulation	<ul style="list-style-type: none"> They are needed to increase motivation for providing cost-effective wholesale options and to stimulate competition as the current regulations are insufficient to promote a fully functional wholesale market. 	This comment is not grounded in evidence.
Edgecumbe Supermarket Limited			
Page 2		<ul style="list-style-type: none"> There is no profit in the system to allow independents to grow. Ultimately there will have to be some advantageous system set up to get some more reasonable sized players in the market by organic growth. 	As noted in our original submission, this issue was foreseen during the development of the regime (see from paragraph 31). While not relevant to RGRs' price setting obligations, it does point to the importance of engaging with suppliers in relation to their incentives to participate in the regime, and ways to address trade spend.
Page 2	Ordering system	<ul style="list-style-type: none"> Every week we are sent a spreadsheet containing about 8000 items. It is too long and requires somebody almost full-time to make sense of (as FSNI does not provide any support for this). Ordering is difficult: Most items are listed as an inner or carton e.g. Maggi soup. But then there will be one flavour of soup that is ordered as an individual item. So, we end up with 1 or two items when we wanted a box or two containing 36 items. We are still charged a picking fee, so the roughly \$1 pack of soup virtually doubles in price. 	We appreciate these comments. We are aiming to continually improve our offers, with a focus on carefully weighing up the amount of investment we make, against the important goal of keeping prices low to our regulated wholesale customers.
Page 2	Supplier opt-out	<ul style="list-style-type: none"> Opt-out provision is "possibly legislators allowing theory to get in the way of practicalities". Only a very limited class of suppliers should be able to opt out. Some suppliers with a dominant market share have made it difficult to source products at reasonable prices. 	It is clear from multiple submissions that there is scope for materially more engagement with suppliers regarding opt-out.

Ref	Topic	Key Points	Comments
Page 2	Operational separation	<ul style="list-style-type: none"> Wholesale and retail should be separated. 	No evidence offered.
Page 2	Supermarkets should sell off different banners	<ul style="list-style-type: none"> Commission should enforce a sell off of supermarkets. This simply would not work separating Four Squares, nor selling off the FreshChoice/SuperValue banners. Then smaller new operators would be able to enter the market and grow. 	No evidence offered.
Kennerley Gourmet Grocery Limited			
[7]	Targeted customers of regime	<ul style="list-style-type: none"> It is at the early stages of building a Supermarket offer that the Wholesale regime is likely to be the most beneficial to any new RGR competition. 	While the regulated wholesale regime is and should be available to retailers of all sizes and stages of development, we agree smaller and new entrant retailers are most likely to benefit. See our original submission from paragraph 14.
[8]	Experience with regime	<ul style="list-style-type: none"> Both WW (Woolworths) and FS (Foodstuffs) only offer delivery once per week. Most wholesalers offer delivery 5-6 days with orders closing off the night before. Delivery to customers of the Wholesale regime should be no different to WW or FS internal customers, or at least similar. If a wholesale customer can meet the RGRs' minimum order volume, they should be able to order at anytime and get delivery within 48 hours at least Monday to Friday, or even Sunday to Friday. 	We appreciate these comments. We are aiming to continually improve, with a focus on carefully weighing up the amount of investment we make in our offers, against the important goal of keeping prices low to our regulated wholesale customers.
[13]	Pass-through of RDPs	<ul style="list-style-type: none"> To compete selling the same brands supplied to the RGRs, RDPs need to be passed on in some shape or form into the wholesale supply regime. There are a number of categories where the shelf price is irrelevant, as the category is on promotion consistently with the retailer moving between suppliers to obtain RDPs to fund ongoing promotional pricing. The challenge for the Commission is 'how' to achieve this without unintended consequences (manipulation of the instore price). 	As noted elsewhere, supplier engagement is required to deal with this comment.
Ernie Newman			

Ref	Topic	Key Points	Comments
Page 5	General comments	<ul style="list-style-type: none"> RGRs have not responded well to wholesale regime and are stalling to avoid compliance. Moving to structural separation is the only viable option to force RGRs' compliance. 	It is important to note that the comments in this submission are not based in any experience of or evidence regarding the regulated wholesale regime (they appear to be extrapolated from the PiP, which is of course only a preliminary paper and not at this stage substantiated).
AE Preston			
[11]	Please describe your views and provide evidence on the costs to wholesale customers of retailing grocery products. For example, what margin between wholesale and retail prices is required to recover the costs of retail activities.	<ul style="list-style-type: none"> Retail prices need to be significantly higher than wholesale prices due to the overhead and running costs of a retail store. 	As noted in our original submission, this issue was foreseen during the development of the regime (see from paragraph 31). While not relevant to RGRs' price setting obligations, it does point to the importance of engaging with suppliers in relation to their incentives to participate in the regime, and ways to address trade spend.
Graham Hooper			
	General comments	<ul style="list-style-type: none"> Everyone, including FS banner stores and independent retailers should pay the same price per article FS wholesale is more expensive than some retail prices 	As noted in our original submission, this type of pricing issue was foreseen during the development of the regime (see from paragraph 31). While not relevant to RGRs' price setting obligations, it does point to the importance of engaging with suppliers in relation to their incentives to participate in the regime, and ways to address trade spend.
Ia Ara Transporting New Zealand			
[9]	Requirement settings should be extended to ancillary services	<ul style="list-style-type: none"> The requirements for RGRs should be extended to ancillary services (e.g. for transparent pricing and standard terms and conditions). 	Ancillary services are already subject to a number of controls under the GICA. Evidence given in the submission does not appear to support additional controls.
[8]	Pricing	<ul style="list-style-type: none"> The Commission needs to ensure the risk that road transport elements of grocery distribution being dominated by lowest cost is managed. 	We support safety and sustainability objectives when it comes to transport costs. These points appear to be well outside the scope of the

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		<ul style="list-style-type: none"> E.g. customers of transport providers offer to pay for the trip between collection and delivery only, and leave the transport operator to find a backload. While this may work on some occasions, this is an unsustainable business practice. There is a risk when a transport customer focuses solely on the efficiency of their own task; and they do not appreciate the benefits they are currently receiving by their current freight demands being leveraged off other freight movements. Payment of freight services and supply chain resilience suffers from the above. 	regulated wholesale regime and therefore not the focus of the Inquiry.
Anonymous A			
Page 2	Targeted customers of the regime	<ul style="list-style-type: none"> The wholesale regime should service dairies, petrol stations and institutions (e.g. schools). It should also service geographically diverse customers where there is a high cost to serve, freighting small amounts to remote locations. 	<p>Institutions are outside the scope of the regime, which is aimed at improving grocery retail competition.</p> <p>FSSI and FSSI's wholesale offering extends island-wide, meaning we work in good faith to find suitable arrangements to cover rural and remote locations, even where there is a high cost to serve.</p>
Page 2	Experiences of wholesale supply	<ul style="list-style-type: none"> The issue with the regulated wholesale regime is that suppliers have a lack of visibility of the customers that are buying their products (compared to, for example the USA). Also, no transparency to see what price is being charged by wholesalers to those customers, and what margins wholesalers have (in US example, margins can be anywhere between 30% to 51%). Being able to know who is buying suppliers' products enables suppliers to work directly with the customer to provide promotional/instore activity support. There are then mechanisms for the customer to charge back agreed promotions via wholesalers. Some information is redacted, but it appears that one of the RGRs was unable to supply a potential customer due to minimum order sizes and health and safety requirements for delivering pallets. In response, the supplier is now supplying direct to the customer using parcel delivery. 	These issues appear worthy of additional exploration and discussion between Anonymous A and the Commission.

Ref	Topic	Key Points	Comments
		<ul style="list-style-type: none"> • The submitter questions whether: <ul style="list-style-type: none"> ○ RGRs, which are set up to ship pallets to their own retail stores, are able to switch their businesses to supply smaller quantities, to smaller customers? ○ there is truly a role for wholesalers in NZ given the small size of the market? E.g. for a small chain of stores in a major city, what is the advantage of going via a wholesaler when suppliers can negotiate and ship direct to the customer? 	
Anonymous B			
Page 1	Minimum order requirements and key concerns regarding the regime	<ul style="list-style-type: none"> • Submitter is a supplier that supplies foodservice and retail (including all FSNI, FSSI and WWNZ banners and other independent stores nationwide). A big issue in supplying products is transport costs. Suppliers need sufficient margin to cover transport, hence we have minimum order quantities. • It is hard to understand, with the risks and benefits being unclear (e.g. to the submitter who is a small supplier). • We sell to FSNI, FSSI and WWNZ at incredibly low prices (barely profitable) which we would not want to pass onto wholesale customers through the regime. We would rather they buy from the retail store (e.g. PnS). • Source of supply is an issue. Not all suppliers have all of their SKUs in the retailers' DCs. • South Island clearly has different pricing and logistical concerns to North Island, which will impact whether or not a supplier joins the regime (e.g. it may be ok to be part of the regime with regards the North, but not for the South Island). • Product types are highly relevant, particularly the speed at which people consume certain products (e.g. milk and pickled onions are not consumed at the same frequency). There is a volume ceiling for certain products which makes a wholesale supply regime unsuitable. The regime is not sufficiently nuanced. • The Regime is not attractive enough. 	These issues appear worthy of additional exploration and discussion between Anonymous B and the Commission.

Ref	Topic	Key Points	Comments
Anonymous C			
Page 2-3	Pricing	<ul style="list-style-type: none"> The same prices need to be offered to supermarkets as other businesses. Some products are far cheaper from the supermarket than through wholesale, e.g. Dilmah. More visibility of margin required. 	Core focus appears to be the product pricing differential experienced by RGRs compared with other retailers. As noted above, this issue was foreseen during the development of the regime (see our original submission from paragraph 31). While not relevant to RGRs' price setting obligations, this concern points to the importance of engaging with suppliers in relation to their incentives to participate in the regime, and ways to address trade spend.
Page 3	General comments	<ul style="list-style-type: none"> RGRs wholesale offers are not commercially realistic, and need to be overhauled, with open book visibility by the Commission. 	In our experience, the Commission engages in close, ongoing scrutiny of the RGRs' regulated wholesale offerings.
Anonymous D			
Page 2	Pricing	<ul style="list-style-type: none"> Wholesale pricing not affordable – required margin is 30%. 	Pricing issues addressed above.
Page 3-4	Systems	<ul style="list-style-type: none"> Ordering is onerous and uses too much labour. Most important issue is that the minimum carton order is too high volume 	We appreciate these comments. We are aiming to continually improve, with a focus on carefully weighing up the amount of investment we make in our offers, against the important goal of keeping prices low to our regulated wholesale customers.
Anonymous E			
Page 1	Security of supply	<ul style="list-style-type: none"> Independent retailers need 12-month access of supply security. Independent retailers can miss out on supply due to larger retail groups' forward buying of stocks and the efficiencies of their supply chains. This is often driven due to wider market and producer influences, such as seasonal production and export demand, as well as imported product accessibility. There are many examples of when a particular product item is suddenly not available due to retail groups buying up stock, 	These comments highlight the importance of meaningful engagement with suppliers as part of the Inquiry.

Ref	Topic	Key Points	Comments
		<p>storing for future promotions and then flooding the domestic market.</p> <ul style="list-style-type: none"><li data-bbox="696 309 1476 427">• This affects independent retailers with not having the product available their customers for a period of time, and then in turn questioned why some weeks later their product considered overly expensive in comparison to a larger retail group offering.<li data-bbox="696 437 1476 520">• All fresh foods and proteins supplied to market are influenced by producer challenges, e.g. disease, virus, breeding, drought, natural disasters.	