

***United Fresh Response to
Commerce Commission on
Wholesale Supply Inquiry
Preliminary Issues Paper***

Submitted by:



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Peer Review:

Dr Hans Maurer, Chair, United Fresh Technical Advisory Group.
Executive Committee Member, United Fresh.

Introduction

United Fresh is the only pan-produce industry body in New Zealand. Our membership includes seed merchants, growers, grower organisations, packhouses, wholesalers, importers, and service and logistics providers, as well as retailers. Our industry aims to provide New Zealand with 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 adopted the United Nations' Sustainable Development Goals (SDGs) in 2017, which include goals and targets for Economic Growth (SDG 8) Resilient Infrastructure (SDG 9), and Responsible Production & Consumption (SDG 12). Since then, United Fresh has worked consistently to assist the industry in its sustainability efforts, including those related to climate change and climate adaptation.

Our commitment to the SDGs has included several submissions to government and government departments on multiple issues related to supply chains, as well as ongoing work with industry, and associated parties, to understand, and translate, the latest scientific knowledge into information the industry can use to implement and improve best practice.

United Fresh further deepened its sustainability efforts in 2023, publishing a set of fresh produce industry guidelines on how to implement the United Nations Sustainable Development Goals. This document is publicly available on our website (<https://unitedfresh.co.nz/technical-advisory-group/united-nations-sustainable-development-goals>).

United Fresh is also the New Zealand member of the International Federation for Produce Standards (IFPS) and the Global Coalition of Fresh Produce, with the United Fresh General Manager, Paula Dudley, being a Director on the Boards of both bodies. This submission's author, Jacob Lawes, is the New Zealand representative to IFPS on the IFPS Sustainability Committee, while the Peer Reviewer, Dr Hans Maurer, is the Chair of the IFPS Information Management & Standardisation Committee.

United Fresh represents an industry that almost every New Zealander interacts with on a daily basis. The fresh produce industry represents a key segment of New Zealand's retail grocery offer, amounting to an average of 9-10% of store sales within the major grocery retailers' revenue portfolio.

United Fresh acknowledges the role the Treaty of Waitangi / Te Tiriti plays in shaping our efforts as a country. As an industry based around long-term use of land, we also acknowledge the importance of Kaitiakitanga and Mātauranga Māori in assisting us to protect our land for the generations to come. Additionally, United Fresh recognises the role that Māori play in growing, leading, and shaping our industry, to meet the needs of Aotearoa New Zealand.

Whilst not all our industry is rurally based, growers and their land produce the fruit and vegetables which move through our fresh produce supply chain, into consumers' fridges and pantries, ensuring that New Zealanders have a consistent and secure supply of healthy & nutritious food.

On behalf of the New Zealand Produce Industry, United Fresh therefore wishes to make a submission on the Commerce Commission (ComCom)'s "*Wholesale Supply Inquiry*".

Submission

Issue

The following statements occur in the "*Wholesale Inquiry Preliminary Issues Paper*":

- "*Groceries... Defined in the Act as goods in any of the following categories: **fresh produce**, dairy products; bakery products; chilled or frozen food; pantry goods or dry goods; manufacturer-packaged food; non-alcoholic drinks; personal care products; household consumables; and pet care products ...*". (Page 2).
- "The wholesale regime is working for only a small group of grocery retailers". (Page 5).
- "wholesale access to grocery products as one of the factors that was likely to be preventing or slowing the entry and expansion of other retailers into the retail grocery industry". (Page 8)
- "Given the inclusion of fresh products in a main shop and the available [sic] of fresh products via other wholesalers (e.g., Metcash in Australia and Bidfoods in New Zealand) we consider fresh products to be a crucial part of the range we would expect to be available in a competitive wholesale offer." (Page 20).

These statements appear to indicate that ComCom considers that a competitive wholesale offer does not exist for fresh produce, or that where a competitive wholesale offer for fresh produce exists, it is of limited scope or scale.

Based on United Fresh's understanding of the Preliminary Issues Paper, fresh produce is now being discussed and adjudicated alongside several other fresh perishable categories, which were determined to have non-workable wholesale markets, unlike fresh produce.

This is not in line with the findings of all parties (including ComCom) across the 2021-2024 period.

Previous Determinations Made On Fresh Produce

Starting with the release of the Market Study Draft Report by ComCom in July 2021, it was consistently recognised by ComCom, MBIE, the Parliamentary Select Committee, and the NZDRC, that fruits and vegetables (fresh produce) had a different supply chain structure to other products, and that competition in the fresh produce sector at the wholesale level was present. Several statements were made in the documents to which United Fresh was responding, such as:

- The Market Study **Draft** Report:
 - “There do appear to be at least some wholesale options for... single product categories such as fresh produce (e.g., T&G Fresh, Fresh Direct, MG Marketing)” (Page 30).
 - “We are aware that wholesale options appear to exist for sourcing some product categories in New Zealand such as fresh produce (e.g., T&G Fresh and MG Marketing)” (Page 180).
 - “There appear to be viable wholesale options for some grocery product categories (e.g., fresh produce, meat, international products)” (Page 186).
- The Market Study **Final** Report:
 - “However, there are some wholesale options for: single product categories such as fresh produce (e.g., T&G Fresh, Fresh Direct, MG Marketing)” (Page 38).
 - “We are aware that wholesale options exist for sourcing some product categories in New Zealand such as fresh produce (e.g., T&G Fresh and MG Marketing) and meat.” (Page 229).
 - “As discussed at paragraphs 6.134 and 6.134.1, there appears to be viable wholesale options for some grocery product categories (e.g., fresh produce, meat, international products).” (Page 239).

Additionally, in the release of the 2024 Annual Grocery Report by ComCom, the following was stated:

- “There are some wholesale options for single product categories such as fresh produce (e.g., T&G Fresh, Fresh Direct, MG Marketing)”. (Page 22).
- “Products in fresh categories are often available through specialty wholesalers (e.g., T&G Fresh) and other alternative channels of supply. (Page 100).

These statements, by ComCom, show that there is an accepted, workable, effective wholesale market for fruits & vegetables, **available to all retailers**, given that it is the sole exemplar ComCom continually refers to when considering the availability of perishable products in general.

United Fresh did not make a submission on the 2024 Annual Grocery Report, as it considered the focus of that document to be groceries other than fresh produce. Nevertheless, we believe that the phrase “are often available”, as used in the bullet above, does not apply in the case of fresh produce. In the case of fresh produce, fruits & vegetables are **always** available through fresh produce wholesalers.

United Fresh's Previous Engagement

Since the publication of the "*Market study into the retail grocery sector Preliminary issues paper*", United Fresh has engaged with ComCom, MBIE, a Parliamentary Select Committee, and NZDRC in the following activities:

Submissions Made To:

- Commerce Commission:
 - Submission on "*Market Study Into The Retail Grocery Sector*", in February 2021.
 - Response letter to ComCom in March 2021, to answer additional questions of ComCom following the first submission.
 - Submission on the "Commerce Commission Draft Report – Market Study into the Retail Grocery Sector", in August 2021.
 - Response letter to ComCom in November 2021, to answer additional questions of ComCom following the October 2021 Conference sessions.
- MBIE:
 - Submission on "MBIE Discussion Paper – Mandatory Unit Pricing For Grocery Products", in June 2022.
 - Submission on "MBIE Consultation Paper – New Zealand Grocery Code of Conduct", in August 2022.
 - Submission on "MBIE Draft Consumer Information Standards (Unit Pricing For Grocery Products) Regulations 2023 Consultation Paper", in May 2023.
 - Submission on "MBIE Consultation Paper Exposure Draft - Grocery Supply Code of Conduct", in July 2023.
- Parliamentary Select Committee:
 - Submission on "Grocery Industry Competition Bill", in December 2022.
- New Zealand Dispute Resolution Centre (NZDRC):
 - Submission on "Grocery Industry Dispute Resolution Scheme Rules", in February 2024.

Participation In:

- Commerce Commission October 2021 Conference Sessions:
 - Participation in the October 2021 Conference Sessions, to discuss the Draft Report findings.
- MBIE Code of Conduct Working Group:
 - Participation in the Code of Conduct Advisory Group meetings in April and May 2022, to discuss with MBIE the proposed framework for the Grocery Code of Conduct.

United Fresh's Position

United Fresh is concerned that further investigation in the Wholesale Inquiry may continue to consider a workable, competitive, wholesale market (the fruit & vegetable wholesale market) as identical to the product categories which have limited/non-existent wholesale markets, as identified in the work completed between 2021 and 2024.

ComCom, the Ministry for Business, Innovation, and Employment (MBIE), the Parliamentary Select Committee on Economic Development, Science, and Innovation (the Parliamentary Select Committee), and the New Zealand Dispute Resolution Centre (NZDRC) have all acknowledged over the last 4 years that there exists a workable wholesale market in New Zealand for fresh produce.

Continually grouping fresh produce with other perishable and non-perishable product supply chains, and considering them to all have non-competitive wholesale offerings, **does not reflect the reality** that ComCom has acknowledged in its previous reports: an already workable, competitive, and effective wholesale market system, with several national scale competitors, exists in the fruits & vegetables category, and to which **all retailers have access**.

The produce industry acknowledges six mainstream wholesale businesses with nation-wide coverage, extensive wholesale offers of fruits & vegetables year-round, and with systems in place to support & supply any existing or new retailer wishing to avail themselves of the wholesalers' services. These are listed alphabetically below.

Company	Website
Carter & Spencer Group Ltd	https://www.carter-spencer.com.au
Fresh Direct Ltd	https://www.freshdirect.co.nz
MG Fresh Produce Group	https://www.mggroup.co.nz
Primor Produce Ltd	https://primor.co.nz
Seeka Ltd	https://www.seeka.co.nz
T&G Fresh Ltd	https://tandg.global/tandg-fresh

In addition, there are several secondary produce wholesale suppliers, whose range is less extensive compared to the six companies identified above, or that may be stronger within limited regional/seasonal contexts.

United Fresh therefore requests that the fruits & vegetables supply chain be explicitly separated from other perishable products in ComCom's future work, and that fruits & vegetables are treated as having a supply chain with competitive wholesale availability of products, at a national scale, **which is what it is**.

United Fresh is available to provide further information and clarification, written or orally, should the Commerce Commission consider this to be of benefit.