

16 September 2024

Grocery Commissioner  
Commerce Commission of New Zealand  
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Kei te rangatira, tēnā koe

## REVIEW OF THE GROCERY SUPPLY CODE

Retail NZ welcomes the opportunity to respond to the Commerce Commission's request for views on issues and opportunities to consider within the review. Retail NZ is not a party to the Code but has members regulated by it and we seek to represent our members interests.

We acknowledge the purpose of the review is to assess the operation of and effectiveness of the Code, including whether the Code should be amended. We believe that the operation of the Grocery Supply Code could be improved by disapplying some suppliers, specifically, large and multinational suppliers. They are potentially powerful counterparties with highly sophisticated negotiating skills, who are unlikely to need the protection of the Code.

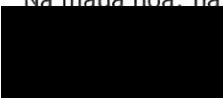
We propose that, as part of its review, the Commerce Commission exercise the authority granted under section 12 of Grocery Industry Competition Act 2023 to review New Zealand's grocery supply markets and consider whether any supplier or class of supplier should be removed from the Code's coverage by virtue of the bargaining power held.

Retail NZ strongly supports having a Code which provides protection for suppliers who are disadvantaged by an imbalance in bargaining power with the regulated retailers, however, in some cases, the power imbalance runs the other way. In some supply markets there are just one or two suppliers, often multinationals, and it is the regulated retailers who are in the weaker position. Where the power imbalance favours a supplier, it would be in the interests of promoting competition, and advancing consumer interests, that these suppliers are disappplied from the Code, so that the regulated retailers are able to negotiate with them more robustly.

Section 15 of the Act sets out the requirement for disapplication of the Code. The Commerce Commission must be satisfied that doing so is necessary or desirable to promote the purpose of the Act. The purpose of the Act is to promote competition and efficiency in the grocery industry for the long-term benefit of consumers. It serves both the interests of competition, and that of consumers,' that the regulated retailers can negotiate terms and conditions of supply that lead to lower retail prices and encourage strong product innovation. This is less likely to occur where suppliers hold too strong an upper hand.

Retail NZ thanks the Commission for considering this submission. We are very willing to meet to discuss it.

Nā māua noa, nā

  
Carolyn Young  
Chief Executive