

Kia ora koutou,

This email provides further detail on the indicative topics we intend to include in discussions as part of Sessions 9 and 10 of our conference.

Session 9: Divestment and sponsorship of entry

A. *Operational and structural separation*

Topic 1: Is Operational and Structural Separation appropriate?

- When should more significant interventions like operational or structural separation be considered?
- Would operational separation be technically possible?
- What would the costs of separation be?
- If structural separation occurred, could the business be run on an arms-length basis, without requiring divestment? For example, it could have the same shareholders but separate boards and management incentives aligned with the narrow interests of the separated entities.
- Would an independent wholesaler or wholesalers have market power that might require further regulatory intervention?

B. *Divestment*

Topic 2: What general principles should be applied when considering divestments

- In what circumstances might it be appropriate for the Commission to recommend a divestment remedy in the context of a market study? What, if any, preconditions or criteria should be satisfied before the Commission recommends a divestment remedy?
- What criteria or framework should the Commission use in framing a recommended divestment remedy in the context of a market study? For example, is the framework for divestments set out in the Commission's Merger Guidelines (Attachment F) suitable in this context?
- What are the potential negative consequences of government intervention of this type? What can be done to minimise any adverse impact on investment incentives or reputational risk for New Zealand?

Topic 3: In what circumstances might a retail divestment be effective?

- What is the minimum efficient scale required or minimum number of stores which would need to be divested to create a viable and effective competitor to the major grocery retailers?
- What should be the process or criteria for selection of stores to be divested?

- What other assets would need to be divested or other arrangements put in place (possibly on a transitional basis) to ensure the acquiring entity would be viable and would operate as an effective competitive constraint on the major grocery retailers?
- How should a divestment process be conducted?
- Would a contestable sale process ensure a fair return to the divesting party or parties for the assets divested? Or might some additional minimum price requirement or compensation mechanism be required to ensure the divesting party or parties are appropriately compensated for the divested assets?
- What are the likely potential challenges which would need to be overcome in implementing a retail divestment?
- What are the potential risks or unintended consequences associated with such a divestment?

Topic 4: What would be required for the effective divestment of a wholesale business?

- If it were thought that adequate competition in the sector could be generated by establishing a stand-alone wholesaler, what assets would need to be divested to enable the establishment of a viable standalone wholesaler?
- What would the risks or potential unintended consequences be of a divestment designed to establish a stand-alone wholesaler?

Topic 5: Would a divestment of an integrated wholesale and retail business or the assets necessary to establish an integrated wholesale and retail business be more effective than simply a retail divestment?

- Would the divestment of an integrated wholesale and retail business or the assets necessary to establish an integrated wholesale and retail business give a greater likelihood of successfully establishing a viable and effective competitor than simply the divestment of a selection of retail assets?
- What assets would need to be divested in order to establish a new integrated wholesale and retail business?
- What other arrangements would need to be put in place (possibly on a transitional basis) to ensure the acquiring entity would be viable and would operate effectively as a competitive constraint on the major grocery retailers?
- What are the likely potential challenges which would need to be overcome in implementing an integrated wholesale and retail divestment?
- What are the potential risks or unintended consequences associated with such a divestment?

C. *Facilitation of entry and expansion*

Topic 6: What general principles should be applied when considering recommending facilitation of entry or expansion?

- In what circumstances might it be appropriate for the Commission to recommend to the Government that it considers the possibility of taking steps to facilitate entry or expansion in the grocery sector? Would this require the same pre-conditions or criteria to be met as for a divestment or might some lower threshold or different criteria be appropriate?

- Are there barriers to entry or expansion that the Government is better able to overcome than private enterprise?
- What principles or framework should the Commission apply when considering whether to recommend facilitation of entry or expansion?

Topic 7: Might a recommendation of facilitation of entry or expansion be appropriate in this case?

- What would it take for facilitation of entry or expansion to be effective?
- What is the minimum extent of facilitation of entry or expansion which would be required to make a meaningful difference to the competitive landscape?
- Might facilitation of entry or expansion occur in conjunction with a divestment remedy?

Session 10: Reserved for overruns

- Topic 1: Any overflow from Session 9
- Topic 2: Is there any other strategic behaviour that may restrict new entry and access and how might it be redressed?

Confirmation of conference agenda

A reminder that the session dates and times are as follows:

Day	Date	Time	Session
1	Thurs 21 Oct	9.30-10.45 11.15-12.30	Session 1: The nature of competition in the retail grocery sector
2	Fri 22 Oct	9.30-10.45	Session 2: Pricing and promotional practices and loyalty programmes
		11.15-12.30	Session 3: Unit pricing
3	Tues 26 Oct	9.30-10.45 11.15-12.30	Session 4: Grocery code of conduct, private labels and collective bargaining by suppliers
4	Weds 27 Oct	9.30-10.45	Session 5: Indicators of competition – international price comparisons and innovation
		11.15-12.30	Session 6: Indicators of competition – principles underlying profitability analysis
5	Thurs 28 Oct	9.30-10.45	Session 7: Options to improve conditions for entry and expansion
		11.15-12.30	Session 8: Options to improve conditions for entry and expansion – wholesale
6	Mon 1 Nov	9.30-10.45 11.15-12.30	Session 9: Divestment and sponsorship of entry
7	Tues 2 Nov	9.30-10.45	Session 10: Reserved for overruns
		11.15-12.30	Closing comments

Any further updates on the conference agenda will be provided by email prior to the beginning of each day's session.

Any questions prior to or during the conference should be emailed to marketstudies@comcom.govt.nz.

How to join the conference

The conference will be run via a Zoom webinar platform. To register for the webinar please click on the following link:

https://us02web.zoom.us/webinar/register/WN_vUMF-0voQwk3n4RJZb1gWw

After registering, you will receive a confirmation email containing information about joining the webinar.

Please make sure you have downloaded an up-to-date version of Zoom prior to the conference.

We encourage participants to join each conference session 10-15 minutes prior to the start time so you can review any updates to the agenda for that day and ensure you are properly connected.

Tips for those speaking at the conference:

- For the best sound quality, please use a headset
- To avoid bandwidth issues, please do not use virtual backgrounds or blurring
- Please mute pop-up notifications, including any from social media accounts

Please be aware that media members may be in attendance throughout the conference. This will be in an observing capacity only.

We will record all conference sessions and will publish transcripts of these as soon as possible following the conference. The recordings will not be published.

