



Tēnā koutou,

It has been a busy year for the Commission as we continue to make progress in the grocery sector. As important participants in the sector I know that our work has likely kept you busy this year as well, and so I'd like to thank you for all the feedback, information, and engagement you've provided.

In particular I'd like to thank those who completed our supplier survey in November. We had over 550 responses, which will all be reviewed and contribute to our ongoing work.

We've hit some big milestones— the Grocery Supply Code came into effect for existing agreements and we provided feedback to the major supermarkets on their templates, we announced a review of the supply code which is currently underway, unit pricing requirements came into effect for physical stores on the 31st of August 2024, we released the first Annual Grocery Report and announced the commencement of a Wholesale Supply Inquiry on the 4th of September, on the 1st of October we announced the Commission's decision on the merger application from Foodstuffs North Island and Foodstuffs South Island, and on the 10<sup>th</sup> of December we announced that we were filing criminal charges against a number of supermarket operators for what we allege were misleading specials and pricing inaccuracies.

The first Annual Grocery Report (the Report) provided the first comprehensive analysis of the state of competition in the grocery sector since the Commission's Market Study. The Report showed that there had been no significant increase in competition – with continued high levels of profitability, increasing retail margins, and ongoing dominance of the industry by the major supermarkets. The report also included a progress assessment of the supermarkets' wholesale offers, which have been developed in response to requirements within the Grocery Industry Competition Act 2023 ("the Act"). The progress assessment

identified issues with range and pricing that have led to us commence an inquiry under s 55 of the of the Act to consider whether stronger regulation is necessary.

As part of the release of the Report, we also outlined what we're doing next to drive competition and improve outcomes for consumers. This work is already underway including the review of the Grocery Supply Code and the Wholesale Supply Inquiry, and further effort is being made to shine a light on margins and complaints with disclosure standards, as well as to looking into the impact of non-retail land holdings on grocery competition.

The Commission is continuing to work at pace as we progress these next steps and it's so important that we hear from you and other stakeholders. You can contact the Commission directly by emailing [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz), or use our [anonymous reporting tool](#). We're getting some good responses through our anonymous reporting tool, and I encourage grocery industry participants to continue using this to share any issues with us.

Tēnā koutou katoa  
Pierre van Heerden  
Grocery Commissioner

*If you wish to get in touch with the grocery team or subscribe to the newsletter, please contact [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz).*

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## **Criminal charges on the way for major supermarkets**

Earlier this month, the Commerce Commission announced it will be filing criminal charges against Woolworths NZ, Pak'nSave Silverdale, and Pak'nSave Mill Street for what the Commission alleges was inaccurate pricing and misleading specials that may have breached the Fair Trading Act.

Shoppers should have confidence that the price they see will be the price they pay, and specials really are special.

The charges we are filing against major supermarket brands are to remind all supermarket operators that they're expected to fix ongoing pricing accuracy issues and implement better processes to prevent issues like these in the future.

The Commission has other ongoing investigations into supermarket operators.

The work we are doing to put in place a mandatory disclosure standard under the Grocery Industry Competition Act will make it easier to identify trends and issues going forward, so they can be remedied.

The standard will require the major supermarkets to regularly disclose information about customer complaints, including around pricing and promotional issues.

We expect to have a draft disclosure standard published for consultation in the new year.

You can read more about the charges and disclosure standard on our [website](#).

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## **Pricing now in effect for physical stores**

On 31 August, it became mandatory for grocery retailers with an internal floor space of over 1,000sqm who sell goods in all of the ten specified product categories to comply with the Unit Pricing Regulations. Consequences for not complying can include infringement notices or prosecution.

Online grocery retailers who sell goods in all of the ten specified product categories, have until 31 August 2025 to comply. We encourage all major grocery retailers to comply earlier, if they can.

The Commission's focus in the first months of the regulations coming into effect is to raise awareness and encourage compliance. If the Commission identifies unit pricing that is non-compliant (or not present), we will consider our [enforcement criteria](#) and use our discretion when deciding what, if any, action to take.

The Commission published [Unit Pricing Guidelines](#) in March 2024 to help grocery retailers understand the obligations under the regulations. The Unit Pricing Guidelines are available on our [website](#).

We encourage you to read our guidelines. If you're unsure of your obligations under the regulations, we recommend seeking legal advice.

If you have any questions or comments, please email [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz)

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## Foodstuffs is appealing Commerce Commission merger decision

The Commerce Commission declined to give clearance for Foodstuffs North Island Limited and Foodstuffs South Island Limited to merge to become a single national grocery entity.

Foodstuffs North Island Limited and Foodstuffs South Island Limited have subsequently filed an appeal of this decision with the High Court.

When announcing our decision, Commerce Commission Chair Dr John Small said the Commission was not satisfied that the proposed merger would not have the effect of substantially lessening competition in multiple acquisition and retail markets.

“The proposed merger would result in a permanent structural change to the New Zealand grocery industry. We are concerned about the impact this could have on competition and New Zealand consumers,” Dr Small said.

A public version of the Commission’s full determination, including complete reasons for its decision is available on our [case register](#).

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## Wholesale Supply Inquiry

On 24 September 2024 we published a [Preliminary Issues Paper](#) summarising our current understanding of the issues affecting the wholesale regime and the opportunities we see to address them.

Submissions on the Preliminary Issues Paper closed on 8 November 2024, and cross-submissions closed on 11 December 2024. Public versions of the submissions are available to read on our website.

Feedback on this paper will be used to inform our Wholesale Supply Inquiry (Inquiry) Draft Report, which will consider whether additional regulation or other action is necessary or desirable to increase competition in the wholesale grocery market.

### **Wholesale Supply Inquiry and stronger regulation factsheet**

We have also published a factsheet outlining the regulatory options under the Grocery Industry Competition Act 2023 that may be considered as part of the Inquiry. The factsheet has more information about each option and how they could work in practice.

We encourage stakeholders to consider the potential impacts of the regulatory interventions outlined in the factsheet and to engage with the Inquiry.

The factsheet is available on our website [here](#).

### **Next steps**

The Inquiry Draft Report is scheduled to be published in April 2025 for consultation. We welcome your feedback on the Draft Report as this is what allows us to make informed decisions about additional interventions or actions.

More information on the Inquiry can be found on our website [here](#).

If you have any questions or comments, please email [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz).

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## **Review of the Grocery Supply Code**

As part of its grocery responsibilities the Commission is required to review the effectiveness of the [Grocery Supply Code](#), with the first review due by 28 September 2025.

In August the Commission released a [Request for Views paper](#) seeking feedback to help determine the scope, focus, and overall approach we adopt in reviewing the Code. Submissions and cross-submissions on the Request for Views are now closed and have been published on our [website](#). We are considering these submissions alongside the responses to our recent grocery supplier survey.

Taking this feedback into consideration, a draft report will be released for consultation early next year. Your input into this review is very important and we encourage all interested parties, whether or not you have provided feedback to date, to provide feedback on the draft report when it is released next year. The expected timeline for the review can be found below. If you have any questions about the review process, please contact us on [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz).

Process steps	Indicative timeframe
<b>Submissions in response to request for views received</b>	Closed 16 September 2024
<b>Cross-submissions</b>	Closed 11 October 2024
<b>Further information gathering</b>	Last quarter 2024
<b>Draft review conclusions and if changes are proposed draft statement of reasons for changes and draft code published for comment</b>	First quarter 2025
<b>Final review conclusions and if changes are made final statement of reasons for changes and final code published</b>	Mid-2025
<b>Report to the Minister about the review's outcome</b>	As soon as practicable after the review is complete

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Please feel free to share this with colleagues and any other contacts who you think might benefit from these updates, which the Grocery Commissioner will also be promoting through LinkedIn. Anyone who wants to subscribe can email our engagement team at [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz).



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