



Ngā mihi o te tau hou, I hope your 2024 is off to a great start!

I've got a real passion for this sector and am excited to be sharing my inaugural quarterly newsletter to update you on the sector and our work programme - giving you the information you need to help contribute to our common objective – delivering better outcomes for Kiwi consumers and opportunities for retailers and suppliers to flourish in this \$25 billion sector.

In talking to people across the sector, I think it's fair to say there is a sense of pride in the focus on the grocery sector – major supermarkets, suppliers, and new and expanding entrants – and the important role you all play as part of this ecosystem that fuels New Zealanders, their homes, and livelihoods. I know that you are also aware that the expectations of achieving greater competition and delivering meaningful outcomes for New Zealanders are higher than ever.

When I started in the newly created role as Grocery Commissioner in July last year, I said to achieve greater competition in the sector is a long game, to create long-term, sustainable change for the benefit of Kiwi consumers.

Part of achieving this is ensuring that you play your part in helping the sector to deliver on this opportunity. Whether you're a regulated supermarket or expanding retailer, supplier, or another stakeholder – it's important you understand your obligations, exercise your rights, and please bring important information which could be hampering competition to the Commission's attention.

Within our Grocery team, we have been monitoring the implementation of

newsletter. We are also focused on requesting information from the major supermarkets to help us with our first annual monitoring report to be published this year. This report will look at how competition is working in the sector. I will have more to share on this soon so watch this space.

Success of the new grocery regime relies on everyone playing their part, and I am heartened by the level of support I am getting from across the sector. I encourage you all to read up on your obligations, bring any potential issues or matters forward to us and understand your rights.

My team and I will continue to keep you updated with key developments, reminders around compliance and deadlines, and issues. I can assure you that we will continue to call out concerning behaviour and take action where needed so we can deliver on our long-term goal.

A well-functioning market is good for all of us and together we will be able to deliver better prices, better quality innovation, and consumer choice.

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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## **Anonymous Reporting Tool now live**

The grocery Anonymous Reporting Tool is now live and available for use. This tool allows for individuals to report on conduct in the grocery industry without revealing their identity.

We have heard from the industry that there are situations where someone who has knowledge or specific information about the conduct of a grocery industry participant (e.g., a regulated grocery retailer, supplier, or other retailer) and might be reluctant to report it for fear of negative consequences or reprisals (such as being delisted from a retail store).

The Anonymous Reporting Tool can be accessed via our Make a Complaint page (<https://comcom.govt.nz/make-a-complaint>).

It is important that the correct steps are followed when using the tool to ensure that your identity is not

## The Grocery Supply Code

The Grocery Supply Code came into force on 28 September 2023. The Code creates new rules for regulated grocery retailers around how they deal with grocery suppliers and for the content and processes associated with supply agreements.

The Code applied immediately to supply agreements that have been made since 28 September 2023. In the case of supply agreements made prior to the Code's introduction, regulated grocery retailers have a grace period of six months to identify inconsistencies with the Code and offer variations or new supply agreements. That six month grace period will end on 28 March 2024.

Please note the obligation is for the regulated grocery retailer to make the offer, there is no requirement for suppliers to accept the offer. Suppliers also shouldn't feel pressured to sign any offers from regulated grocery retailers. After 28 March, the provisions of the Code apply irrespective of what is in the agreement. We encourage you to seek legal advice to help understand your rights and individual situation.

We have conducted a preliminary review of the standard grocery supply agreements being issued by regulated grocery retailers to suppliers and are in the process of providing feedback to regulated grocery retailers as to any issues we think need attention.

We are developing a Grocery Supply Code Checklist to help suppliers and legal advisors to determine if agreements are compliant with the provisions of the Grocery Supply Code. We intend to make this available in February.

Other useful resources include:

- [Grocery Supply Code Factsheet](#)
- [Open Letter: Introduction of the Grocery Supply Code.](#)

You can make a complaint or submit an anonymous report through the Commerce Commission website - <https://comcom.govt.nz/make-a-complaint/>.

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## Wholesale update

Another key part of the reforms was introducing requirements for the major supermarkets to provide a wholesale offering to other retailers. Through this new wholesale regime, it is intended other grocery retailers can access some of the benefits of the major supermarkets' scale and efficiency, so they are better able to provide competitive range and pricing to consumers.

The Commission is watching the roll-out of the major supermarkets wholesale offerings carefully and will

We are keen to hear from different stakeholders in the sector to understand their perspectives on the new wholesale operations. This includes retailers who are trying to obtain goods, and suppliers who play a really critical role in enabling wholesale supply.

If we haven't been in contact already and you would like to share your perspective, we encourage you to email [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz). If you are concerned about revealing your identity, you can report information to us through our anonymous reporting tool.

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### Other work being led by the Commission

You may be aware that the Commerce Commission has recently opened investigations into Foodstuffs North Island, Foodstuffs South Island, and Woolworths NZ, considering whether certain pricing and promotional practices of the parties comply with the Fair Trading Act. As these are ongoing investigations, we are unable to provide further information. However, further information may be uploaded to our case register as the investigations progress - <https://comcom.govt.nz/case-register>.

There has also been a significant amount of attention around the application the Commission received for the proposed merger of Foodstuffs North Island and Foodstuffs South Island. Submissions on this merger closed on 1 February 2024 and are being assessed by the mergers team. Mergers are assessed using the substantial lessening of competition test. If you would like to read more about this process, there is more information [here](#).

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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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