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# Commerce Commission Annual Grocery Report

4 September 2024



# Overview

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- Some of the work completed over the past year includes:
  - Embedding the new grocery regime
  - Implementing and monitoring the wholesale regime
  - Introducing a grocery supply code and supporting suppliers and supermarkets to follow it
  - Settling a historic land covenants case against Foodstuffs North Island
  - Supporting compliance with new unit pricing consumer standard
  - Launching an anonymous reporting tool to support whistleblowers
  - Investigations in progress under the Grocery Industry Competition Act, Fair Trading Act and Commerce Act
  - Considering the merger application from Foodstuffs North Island and Foodstuffs South Island
  - Monitoring competition in the sector to publish the Annual Grocery Report 1 year earlier than required



# Key findings

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- No meaningful improvement in competition in the sector
  - increasing retail margins
  - continued high levels of profitability
  - ongoing dominance of the industry by the major supermarkets
- Improvement in some geographical areas
- Retail prices of the major grocery brands have been increasing faster than the prices they pay to their suppliers – despite the major supermarkets claiming otherwise
- Smaller suppliers are not yet getting the protection to address the power of the major supermarkets
- Ongoing issues with incorrect or misleading prices
- Some barriers to entry for new competitors have reduced, but a number remain

# Next steps...

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- This Annual Grocery Report provides clear evidence for stronger action
- We want to see more competition and sustained pressure on the major supermarkets to deliver better outcomes for consumers
- We'll be targeting our attention and all of our regulatory powers on the things that will make a positive difference for consumers



# Detering inaccurate pricing

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- Accurate and clear pricing is a consumer right and expectation of a competitive market
- Legislative change to the Fair Trading Act could lead to significantly higher penalties with ‘more sting’ and have a deterrent effect for breaches by retailers
- We’re not waiting for legislative changes to take action – we are putting in place a Disclosure Standard to make the major supermarkets report to the Commission on the rate and resolution of customer complaints
- We’re also continuing with our Fair Trading investigations into the pricing and promotional practices of the three major supermarkets, which we expect to be concluded by the end of this year



# Fixing the supplier-retailer power imbalance

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- We've brought forward a review of the Supply Code to more effectively address the ongoing power imbalance and lack of trust between suppliers and grocery retailers
- A well operating Code will give suppliers more confidence to innovate and invest in more choice for consumers
- The penalties for breaching the code could be significant – the maximum possible fine being the highest of \$3 million, the value of the commercial gain, or three percent of turnover



# A more competitive wholesale market

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- The ability to buy a range of wholesale goods at competitive prices will help other retailers to compete
- Total sales through the major supermarkets' wholesale offers between July 2023 and June 2024 was approximately \$7.4m, which represents around 0.03% of total supermarket and grocery retail sales in New Zealand
- We intend to introduce a wholesale code. The maximum penalty for breaching the code could be up to \$10 million, three times the commercial gain, or 10 percent of turnover, whichever is greater
- We are considering if stronger tools are needed to address issues in the wholesale market, such as the ability to demand that the major supermarkets charge the same prices to wholesale customers as to their own stores and set structures to ensure suppliers supply an adequate range
- We can recommend to the Minister to unlock these tools through a wholesale inquiry, which the Commission has released the terms of reference for today

# Enabling easier entry into the grocery market

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- We believe three major national supermarket networks would be significantly more competitive than two, and that this is achievable in New Zealand
- Our Report points to regulatory hurdles and actions by existing major supermarkets as limiting the opportunities for new entrants
- Important progress has been made to remove restrictive covenants, and we're now turning our attention to 'land-banking'
- With over 100 properties currently held by the major supermarkets that are not being used for retail stores, we need to look at whether these holdings are preventing competition, as has already been done for covenants
- Compared to Australia, there are also planning regulations slowing the development of new stores. This is due to additional costs or delays in the consenting process
- The Commission will be engaging with potential new entrants and investors to better understand their view on how we can remove remaining barriers to enable a third entrant in the grocery sector



# Timeline of action to strengthen market competition

	Q3 2024	Q4 2024	Q1 2025	Q2 2025
<b>To reduce barriers to entry and extension to encourage more competitors</b>	Improving access to wholesale by introducing an enforceable set of rules for wholesale suppliers and retailers (Wholesale Code), and investigating if stronger powers are needed (s56 inquiry)			
	Improving access to land by investigating land banking			
	Engaging with investors and potential entrants to better understand barriers to entry			
<b>Reduce power imbalance between suppliers and retailers to support suppliers to innovate</b>	Reviewing the Grocery Supply Code to ensure its protecting suppliers as intended			
	Prosecuting and deterring illegal activity when we see it or when issues are reported to us			
<b>Enhance consumer protections and transparency</b>	Unit pricing standard comes into effect	Assessing compliance with unit pricing and supporting consumers to shop around		
	Require the major supermarkets to report on the rate and resolution of their complaints by introducing a Disclosure Standard			
	Completing pricing investigations under the Fair Trading Act by the end of 2024 and recommending pricing accuracy improvements			
<b>Other</b>	Introduce a Disclosure Standard to make major supermarkets report their margins.			
	Monitoring key aspects of competition and preparing 2nd annual report on progress and trends			

# Final thoughts

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- You can find the full report, along with a separate executive summary on the Commission's website
- We've shared the Grocery Annual Report with the Minister of Commerce and Consumer Affairs and Ministry of Business Innovation and Employment and will be working through any next steps



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# Questions?