

Market Study into the Retail Grocery Sector – Statement of Process

Our intended process and how you can contribute

Date: 19 November 2020



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Introduction

Market study into the retail grocery sector

1. The Minister of Commerce and Consumer Affairs (Minister) has asked us to carry out a market study into the retail grocery sector (retail grocery study) under Part 3A of the Commerce Act 1986 (Act). This study provides an opportunity to consider and evaluate whether competition in the retail grocery sector is promoting outcomes that benefit New Zealand consumers over the long term.
2. In line with the terms of reference issued by the Minister, we will consider factors that may affect competition for the supply or acquisition of groceries by retailers in New Zealand.
3. We expect this study will help inform the public, industry and Government about competition in the retail grocery sector and about how the sector operates. We have been asked by the Minister to make our final report from the study publicly available by 23 November 2021. Our final report may include recommendations that identify ways to improve competition outcomes for the long-term benefit of New Zealand consumers.

Purpose of this paper

4. This paper outlines:
 - 4.1 the process we intend to follow over the course of the retail grocery study; and
 - 4.2 how you can remain informed and contribute to the retail grocery study.
5. This paper does not discuss our proposed approach to responding to the terms of reference or the key issues that we may consider as part of our study. We intend to include this in a preliminary issues paper to be released for consultation in December 2020. The preliminary issues paper and stakeholders' responses to it will inform our approach and help to define the issues that we will consider in the retail grocery study.

Related document – Updated Market Studies Guidelines are available on our website

6. You may find it useful to read this paper in conjunction with our updated Market Studies Guidelines, which can be found here: <https://comcom.govt.nz/about-us/our-role/competition-studies>.
7. The guidelines describe our general processes and approach to market studies under Part 3A of the Act.¹ They may assist you to understand what a market study is and how market studies are initiated, how we run our market studies, how we will work with you, and how we deal with information gathered during a market study.

¹ “Competition studies” is the term used under the Commerce Act 1986 to describe a “market study”, which is the term we use in this document.

Scope of the market study into the retail grocery sector

8. The terms of reference for the retail grocery study have been issued by the Minister. They set out the matters we must analyse and report on, and our timeframe for doing so.²
9. The terms of reference state that:³

I, Dr David Clark, Minister of Commerce and Consumer Affairs, pursuant to section 51(1) in Part 3A of the Commerce Act 1986, require the Commerce Commission to carry out a competition study into any factors that may affect competition for the supply or acquisition of groceries by retailers in New Zealand. Matters to be considered in the study must include, but are not restricted to:

1. the structure of the grocery industry at the wholesale and retail levels;
2. the nature of competition at the wholesale and retail levels of the grocery industry;
3. the pricing practices of the major grocery retailers;
4. the grocery procurement practices of the major grocery retailers; and
5. the price, quality, product range and service offerings for retail customers.

The Commerce Commission should make its final report for this study publicly available by **23 November 2021**.

Key process steps and how you can contribute to the study

10. We will be carrying out the study over the next 12 months, publishing our final report by 23 November 2021.
11. **Table 1** below sets out our intended timetable and indicative dates for our study, including key opportunities for you to contribute.

² Under Section 51A of the Act, we may also exercise our discretion in relation to any ancillary matters that are related to, but not explicitly covered by, the terms of reference.

³ The terms of reference have been published in the Gazette and can be found at: <https://gazette.govt.nz/notice/id/2020-go5278>

Table 1: Key process steps and how you can contribute

Indicative dates	Key process steps	How you can contribute and remain informed
17 November 2020	Terms of reference for the study issued by the Minister and published in the Gazette.	
November – December 2020	Initial engagement and information requests sent to stakeholders.	
December 2020	Release of preliminary issues paper. This will seek feedback on potential issues we may explore during our market study.	<p>You will have an opportunity to comment on our proposed approach and preliminary issues.</p> <p>These submissions will help inform our approach and help to define the issues that we will consider.</p>
January – July 2021	Further information gathering and engagement with stakeholders, including with consumers. Undertaking of analysis.	We will engage directly with stakeholders, including with consumers.
April – May 2021	Testing information and analysis as required with stakeholders.	We will provide updates on opportunities to contribute.
Around July 2021	Release our draft report. This will include our preliminary findings on factors that may affect competition in the retail grocery sector and draft recommendations for improving competition (if required).	<p>You will have an opportunity to comment on our draft report.</p> <p>We will provide an update on submission opportunities, including details relating to any consultation conference that may be held.</p>
August – November 2021	Consideration of responses to our draft report. We may hold a consultation conference during this time.	We will provide updates on opportunities to contribute.
16 November 2021	Report back to the Minister on our findings.	
23 November 2021	Release and launch our final report.	
From November 2021 onwards	The Minister responds to our final report.	

12. These indicative process steps and dates may change. We anticipate providing further details on specific steps and key opportunities for you to contribute to our study as it progresses.

Subscribe to our mailing list to remain informed about our study

13. We will be providing updates on our study on our website at www.comcom.govt.nz/groceries
14. If you have any information about the New Zealand retail grocery sector that may assist our study, or would like to speak with us about the study, please email us at marketstudies@comcom.govt.nz
15. If you would like to be kept informed and receive updates on our study, please subscribe to our mailing list at www.comcom.govt.nz/groceries

Gathering and managing information

16. **Table 1** notes some of the ways that we will gather and analyse information and the timeframes for doing so.
17. The information you provide will help us better understand how well competition is working in the retail grocery sector in New Zealand. This information will inform our analysis, findings, and ultimately our final report. Our final report will set out our findings and any recommendations for changes to the sector.

Targeted consultation and information requests

18. Over the course of our study, we will seek to engage directly with, and gather evidence from, a range of stakeholders we identify as having information that is relevant to our study. This includes industry participants involved at different levels of the supply chain for retail groceries, including retailers (large and small), wholesalers, distributors and suppliers. Stakeholders are also likely to include consumer bodies, consumers, government departments and other interested parties or market participants.
19. More information on the Commission's role in undertaking a market study is available in our Market Studies Guidelines, available at <https://comcom.govt.nz/about-us/our-role/competition-studies>

What will we do with information you provide?

20. Much of the information the Commission will need to complete its market study will likely not be in the public domain. We expect some information we obtain will be commercially sensitive. There may also be firms or individuals who hold relevant information, but who would be concerned if details of the assistance that they provide to the Commission was made public.
21. We have mechanisms in place to protect information that we are provided with, to ensure interested stakeholders are not discouraged from coming forward and providing information to us. If a party provides us with information that it claims is confidential, we will endeavour to first discuss it with the party that provided the information if we intend to disclose the information to another person.
22. More information about information gathering and how we deal with information can be found in our Market Studies Guidelines and other Commission documents referred to in them.