

Grocery Supply Code Review – Cross-submission

[REDACTED]

We appreciate the invitation to provide this cross-submission in respect of submissions on your review of the Grocery Supply Code Request for Views Paper.

We note the following from your publication “Review of Grocery Supply Code” dated 1 August 2024:

1. That the Grocery Supply Code sets rules about the conduct and supply agreements between Regulated Grocery Retailers (RGRs) and their grocery suppliers.
2. That the reasons for introducing a Code in NZ included:
 - to provide more transparency and certainty for suppliers when dealing with grocery retailers;
 - to prevent grocery retailers from using their strong negotiating power to force suppliers to accept unfavourable terms, such as costs and risks that the retailers are better placed to manage;
 - to benefit both consumers and suppliers by creating better incentives for suppliers to innovate and invest in new grocery products.

We submit that the Horticulture New Zealand (HortNZ) submission diverts attention away from the above, potentially due to the very close and cosy relationship some of its members enjoy with the duopoly retailers, at least one of whom in turn having openly declared in the past that they seek to “kill the wholesale markets” because their existence provides a life-line to small retailers and growers whom they also want to eliminate.

This is very concerning, as all large retailers and all large growers started off as small players one day, and yet once they achieve size and power, they tend to turn against those smaller players who don’t enjoy the economy of scale the “big boys” have.

Large retailers and large growers seem to encourage increasing barriers to entry such as more and more compliance, aware that the associated demands of time and costs on smaller players, compounded by the ongoing trend of the “big getting bigger”, is steadily forcing those smaller businesses out of the industry and/or creating barriers of entry to smaller players. To make things worse, in the retail sector, the fact that large retailers can saturate their sector in both large and small formats is steadily crushing and eliminating the much-needed independent retailers.

We submit that the limiting of the number of stores any one retail group can have within a given radius would go a good distance towards satisfying the above quoted reasons for introducing the Grocery Code in NZ.

We point out that the large powerful retailers can corner the market on products that are in high demand and/or in short supply by applying pressure on suppliers who have stock, through either paying above the market so as to dominate the available supply, or by insisting on exclusive supply from the supplier, which suppliers succumb to, due to hefty buying power going forward.

Independent retailers who rely on the produce markets are therefore often unable to purchase a full range or the best quality available, which in turn encourages consumers to give up on independents and rely more and more on the two big players.

We also submit, that rather than increasing competition, allowing / encouraging the large retailers to become wholesalers has actually lessened competition and given them more power and control, enabling them to build uncompetitive walls of entry for new / other players. This vertical integration including their “closed door” relationships with various growers restricts open and fair competition for other growers, wholesalers, importers and retailers.

Thank you for the opportunity to provide this cross-submission. We would be willing and keen to meet to explain the above in more detail if that would be of assistance.