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**Public version**

## **Consumer complaints disclosure standard**

**Draft reasons paper**

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## Associated documents

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Commerce Commission  
Wellington, New Zealand

## Glossary

Term	Definition
Act	Grocery Industry Competition Act 2023
Commission	Commerce Commission
Disclosure Standard	Consumer complaints disclosure standard
FSNI	Foodstuffs North Island Limited
FSSI	Foodstuffs South Island Limited
Main RGRs	Foodstuffs North Island, Foodstuffs South Island, and Woolworths New Zealand
RGR	<p>Regulated grocery retailer, as defined in section 26 of the Act. Section 26 currently defines "regulated grocery retailer" as:</p> <ul style="list-style-type: none"> <li>(a) Foodstuffs North Island Limited:</li> <li>(b) Foodstuffs South Island Limited:</li> <li>(c) Woolworths New Zealand:</li> <li>(d) a person that is designated as a regulated grocery retailer under section 27:</li> <li>(e) a person that is any of the following in relation to a person (<b>A</b>) referred to in paragraphs (a) to (d): <ul style="list-style-type: none"> <li>(i) a person that is an interconnected body corporate of A:</li> <li>(ii) a person that is a successor to A:</li> <li>(iii) a person that is a franchisee of A:</li> <li>(iv) a person that is a transacting shareholder of A.</li> </ul> </li> </ul>
WWNZ	Woolworths New Zealand Limited

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## Executive summary

- X1 Groceries are an essential purchase and a major expense for most New Zealand households. The Commerce Commission (**Commission**) has a role under the Grocery Industry Competition Act 2023 (the **Act**) to promote competition in this industry.
- X2 In a competitive grocery industry, we would expect retailers to seek to gain and retain consumers by:
- X2.1 competing across various combinations of price, quality, range, and service;
  - X2.2 actively monitoring complaints and acting to resolve any underlying issues; and
  - X2.3 offering refund policies and prominently promoting them.
- X3 However, as noted in our first annual grocery report, competition in New Zealand’s grocery industry is limited and muted.<sup>1</sup> Consumers suffer from this limited competition.
- X4 The Act allows for the Commission to issue disclosure standards, a tool that compels specified parties to supply information to the Commission (among other things), for the purposes of enabling the Commission to monitor competition and efficiency in the grocery industry and to ensure that sufficient information is readily available to the Commission to assess whether the purpose of the Act is being met.<sup>2</sup> The Act expressly provides that a disclosure standard may deal with, or otherwise relate to, the number and details of complaints received from consumers.<sup>3</sup>
- X5 The Commission has developed this Consumer Complaints Disclosure Standard (**Disclosure Standard**) because we consider that disclosure of information about consumer complaints and refunds will assist us to monitor competition and efficiency in the grocery industry, and ensure that we have sufficient information to assess whether the purpose of the Act is being met.

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<sup>1</sup> Commerce Commission “First Annual Grocery Report” (4 September 2024) at p. 5, [https://comcom.govt.nz/data/assets/pdf\\_file/0019/362305/Annual-Grocery-Report-2024.pdf](https://comcom.govt.nz/data/assets/pdf_file/0019/362305/Annual-Grocery-Report-2024.pdf)

<sup>2</sup> See section 192, for the criteria for issuing a disclosure standard. The purpose of the Act is to promote competition and efficiency in the grocery industry for the long-term benefit of consumers in New Zealand.

<sup>3</sup> Section 194(1)(a)(xi).

- X6 The proposed Disclosure Standard will allow us to monitor two areas of particular concern – pricing integrity issues and promotional errors – alongside other areas of the regulated grocery retailer (**RGR**)’s service quality such as product quality and product range.
- X7 The Commission has prepared a draft Disclosure Standard which is published alongside this draft Reasons Paper. We are interested in stakeholder’s views on both this draft Reasons Paper and the draft Disclosure Standard.
- X8 The key features of the draft Disclosure Standard are as follows:
- X8.1 It applies to the three RGRs as defined in the Act – Foodstuffs North Island, Foodstuffs South Island, and Woolworths New Zealand (**main RGRs**), and their franchisees, interconnected bodies corporate, and transacting shareholders.<sup>4</sup> The focus is on the New World, Pak’nSave, and Woolworths/Countdown banners.
- X8.2 The following disaggregated store-level information must be disclosed by the main RGRs to the Commission on a quarterly basis:
- X8.2.1 the number of consumer complaints per month by retail store and online shopping website, and by category;<sup>5</sup> and
- X8.2.2 the number and value of refunds paid out to consumers under a refund policy per month, by retail store and online shopping website, and by policy.
- X8.3 Copies of the RGR’s price integrity refund policies for the New World, Pak’nSave, and Woolworths/Countdown banners must be published online and disclosed to the Commission, and a one-page overview of the price integrity refund policies must be displayed in New World, Pak’nSave, and Woolworths/Countdown retail stores.
- X8.4 The main RGRs must also publish monthly complaint and refund statistics on a quarterly basis, at an aggregated banner level, rather than a store level.
- X8.5 Information on consumer complaints and refunds issued must be recorded and retained.

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<sup>4</sup> It also applies to any person that is designated as an RGR under section 27 of the Act, and the successors of the main RGRs or a person designated as an RGR under section 27.

<sup>5</sup> The proposed categories of complaints can be found at paragraph 4.18.

- X9 We consider that the draft Disclosure Standard will assist the Commission to better monitor competition and efficiency in the grocery industry by enabling it to:
- X9.1 track the types and trends of complaints that consumers are making to the RGRs and how RGRs are responding to the complaints;
  - X9.2 monitor the RGRs' establishment and maintenance of systems and processes for accurately and reliably recording and categorising customer complaints;
  - X9.3 compare the refund policies offered by each RGR (under their respective banners) and determine whether the refund policies are being adequately promoted to consumers; and
  - X9.4 compare the service quality of the shopping experience provided by each RGR.

## Chapter 1 Introduction

### Purpose of Disclosure Standard and draft Reasons Paper

- 1.1 The purpose of the Grocery Industry Competition Act 2023 (the **Act**) is to promote competition and efficiency in the grocery industry for the long-term benefit of consumers.<sup>6</sup>
- 1.2 The Act enables the Commerce Commission (**Commission**) to issue a disclosure standard where the Commission is satisfied that the standard is necessary or desirable to enable the Commission to monitor competition and efficiency in the grocery industry and/or ensure that sufficient information is readily available to the Commission to assess whether the purpose of the Act is being met.
- 1.3 In a competitive grocery industry, we would expect retailers to seek to gain and retain consumers by:
  - 1.3.1 competing across various combinations of price, quality, range, and service;
  - 1.3.2 actively monitoring complaints and acting to resolve any underlying issues; and
  - 1.3.3 offering refund policies and prominently promoting them.
- 1.4 The purpose of the Consumer Complaints Disclosure Standard (**Disclosure Standard**) is to provide the Commission with information to enable us to monitor regulated grocery retailers (**RGR**)s' service quality. This in turn assists us to monitor competition and efficiency in the grocery industry and ensures that information is readily available to us to assess whether the purpose of the Act is being met.
- 1.5 Accordingly, the draft Disclosure Standard proposes that the RGRs collect and disclose information on complaints and refunds issued. To support the Commission's monitoring function, the draft Disclosure Standard also proposes that the RGRs:
  - 1.5.1 prominently publish and display their pricing integrity refund policies; and
  - 1.5.2 publish statistics about their complaints and refunds issued.

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<sup>6</sup> Section 3.



- 1.6 These steps would assist the Commission to better monitor competition and efficiency in the grocery industry by enabling it to:
- 1.6.1 track the types and trends of complaints that consumers are making to the RGRs and how RGRs are responding to the complaints;
  - 1.6.2 monitor the RGRs' establishment and maintenance of systems and processes for accurately and reliably recording and categorising customer complaints;
  - 1.6.3 compare the refund policies offered by each RGR (under their respective banners) and determine whether the refund policies are being adequately promoted to consumers; and
  - 1.6.4 compare the service quality of the shopping experience provided by each RGR.
- 1.7 The Act requires the Commission to consult on a draft disclosure standard.<sup>7</sup> A draft Disclosure Standard has been published alongside this draft Reasons Paper.
- 1.8 The purpose of this draft Reasons Paper is to explain our draft decisions and reasons for proposing to issue the draft Disclosure Standard, and to invite submissions on the draft Disclosure Standard.

### **Structure of draft Reasons Paper**

- 1.9 This draft Reasons Paper has the following sections:
- 1.9.1 **Chapter 2 – Context for the Disclosure Standard** discusses known issues with service quality in the grocery industry, and the behaviour the Commission would expect to see in a competitive and efficient market in relation to customer complaints and refund policies.
  - 1.9.2 **Chapter 3 – Legal framework** outlines the Commission's power to issue disclosure standards under the Act and the process the Commission must follow when developing a disclosure standard.
  - 1.9.3 **Chapter 4 – Draft decisions and reasons** provides our reasoning for the content of the draft Disclosure Standard.

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<sup>7</sup> Section 193(1)(c).

## Change to process

- 1.10 In July 2024, the Grocery Commissioner wrote to all three RGRs about our ongoing concerns around pricing integrity issues in their supermarkets and stated that we were considering establishing a disclosure standard.<sup>8</sup>
- 1.11 In that letter, the Commission stated that we would publish a discussion paper on a consumer complaints disclosure standard later in 2024. We have chosen to proceed directly to a draft Disclosure Standard as the issues surrounding the pricing and promotional practices of RGRs are well-known and the RGRs have known about our concerns for some time.<sup>9</sup>

## Information for interested parties on making a submission

- 1.12 We are seeking submissions on the draft Disclosure Standard and this draft Reasons Paper. We are interested in hearing from a wide range of stakeholders, (not just the RGRs) during this public consultation. For example, we are interested in understanding the potential value of making consumer complaint statistics publicly available and the extent to which this would encourage greater consumer engagement and ultimately support the Commission’s monitoring function.
- 1.13 You are welcome to provide your views to us by email to [grocery.regulation@comcom.govt.nz](mailto:grocery.regulation@comcom.govt.nz) with the subject line “Consumer Complaints draft Disclosure Standard”.
- 1.14 To ensure your views can be taken into account, please provide these to us by **5pm Wednesday 19 February 2025**.
- 1.15 When including commercially sensitive or confidential information in your submission, we offer the following guidance:
- 1.15.1 Provide a clearly labelled confidential version and public version. We intend to publish all public versions on our website.
- 1.15.2 The responsibility for ensuring confidential information is not included in a public version of a submission rests entirely with the party making the submission.

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<sup>8</sup> The letters to each of the RGRs can be found at this link <https://comcom.govt.nz/regulated-industries/grocery/grocery-updates?target=documents&root=361935>

<sup>9</sup> Commissioners wrote to RGRs and/or publicly stated in May 2023, October 2023 and July 2024 that pricing integrity concerns were a priority issue. In December 2023, the Commission launched investigations into all three RGRs’ promotional and pricing practices under the Fair Trading Act 1986.

- 1.16 If we consider information disclosed in the confidential version to be in the public interest, we will consult with the party that provided the information before any such disclosure is made.

### Next steps

- 1.17 Table 1.1 below sets out the next steps in the development of the Disclosure Standard.

**Table 1.1 Next Steps**

Milestone	Indicative date
<b>Draft Consumer Complaints Disclosure Standard and draft Reasons Paper published</b>	23 December 2024
<b>Submissions on draft Consumer Complaints Disclosure Standard and draft Reasons Paper due</b>	19 February 2025
<b>Final Reasons Paper published</b>  <b>Final Consumer Complaints Disclosure Standard published (if the final decision is to make a standard)</b>	Q2 2025

## Chapter 2 Context for the Disclosure Standard

- 2.1 Groceries are an essential purchase and a major expense for most households. The New Zealand retail grocery industry is highly concentrated among the RGRs, and as such most New Zealanders will purchase groceries from a RGR (either online or at a bricks and mortar store).<sup>10</sup>
- 2.2 In a competitive market we would expect businesses to actively monitor complaints and act to resolve the underlying issues, as the business would fear losing customers to their competitors if it failed to do so. We would also expect to see competition in the way in which customers are compensated for poor quality or for pricing integrity issues to generate goodwill enabling the business to retain affected customers.

### Complaints are a helpful source of information

- 2.3 Complaint information sheds light on, and enables us to better monitor, competition and efficiency in the grocery industry (including whether competition is delivering improved benefits to consumers) and whether the purpose of the Act is being met. The number and type of complaints made by consumers is one indicator of how well competition is performing in a market.<sup>11</sup> Information on complaints will assist us to identify trends and issues, and provide a benchmark against which we can assess the effectiveness of internal compliance processes and improvements for the benefit of customers.

### But the RGRs may not be effectively capturing them

- 2.4 We have information that shows the RGRs' systems and processes for recording complaints across their full business, in particular store-level complaints, are incomplete and inconsistent.
- 2.5 In response to the July 2024 letters from the Grocery Commissioner, all RGRs referred to work underway to improve complaints systems and processes and reaffirmed their commitment to capturing robust complaint information.<sup>12</sup>

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<sup>10</sup> In 2023 the RGRs collectively held 82% of the retail grocery market. See Commerce Commission "First Annual Grocery Report" (4 September 2024) at p. 42, [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0019/362305/Annual-Grocery-Report-2024.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0019/362305/Annual-Grocery-Report-2024.pdf).

<sup>11</sup> This was noted in our recommendations relating to the collection of information to support a review of competition. Commerce Commission "Market Study into the retail grocery sector – final report" (8 March 2022) at paragraph 9.276 [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf)

<sup>12</sup> The RGRs' responses to the letter can be found at this link <https://comcom.govt.nz/regulated-industries/grocery/grocery-updates?target=documents&root=361935>

- 2.6 While this suggests positive progress, we consider it necessary and desirable to monitor this element of the grocery industry to ensure we have sufficient information so that we can assess the promotion of competition and efficiency in the grocery industry for the long-term benefit of consumers in New Zealand.

### **Ongoing pricing integrity issues and promotional errors**

- 2.7 While complaints can cover a wide raft of issues from the shopping experience, products themselves, pricing errors, collectable campaigns, staff interactions, and more, we have identified particular issues around pricing integrity and promotional errors.
- 2.8 When purchasing groceries consumers will be presented with product prices on the shelf (or via the online store or in promotional materials, such as brochures), make a choice of what product(s) to purchase, and then proceed to the checkout to pay. We refer to instances where the advertised price does not match the price charged at the point of sale as a pricing integrity issue. Circumstances where a product is incorrectly promoted at a special or discounted price when the promotional price does constitute a genuine special (eg, multibuy promotions where it is cheaper to purchase the products individually) are referred to as a promotional error.
- 2.9 Consumers in markets which lack competition suffer in terms of price, service, quality, and range. In an industry with limited competition like the retail grocery industry, companies have weaker incentives to compete for business by improving consumer outcomes.
- 2.10 Competition works better when consumers are able to easily compare offers and make informed purchasing decisions that best satisfy their needs. Consumers who actively shop around incentivise businesses to offer products or services at a price and level of quality that meets consumer preferences. The integrity of a retailer's pricing and promotions are therefore a key driver of consumer confidence and competition.

- 2.11 The grocery Market Study noted that consumers have raised concerns relating to pricing inaccuracies and potentially misleading promotional practices.<sup>13</sup> For instance:
- 2.11.1 In the fifteen-month period from 1 November 2020 to 31 January 2022 the Commission received 181 complaints making allegations about supermarket promotions and 218 complaints making allegations about price inaccuracies.<sup>14</sup>
  - 2.11.2 The Market Study received approximately 200 responses to its consumer survey which discussed concerns relating to perceived consistency of prices between advertisements/in-store, shelf prices/till prices.<sup>15</sup>
- 2.12 Consumer NZ ran a ‘dodgy special’ campaign from September 2022 until June 2023 which they reported as finding over:<sup>16</sup>
- 2.12.1 50 cases where it was alleged that the shelf pricing did not match the price the customer was charged at the checkout;
  - 2.12.2 75 cases where it was alleged that a “special” did not save shoppers money; and
  - 2.12.3 15 cases where it was alleged that a multibuy was misleading, ie, the products would have been cheaper if bought individually.
- 2.13 Based on these, Consumer NZ lodged a complaint with the Commission in July 2023.<sup>17</sup>

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<sup>13</sup> Commerce Commission “Market Study into the retail grocery sector – final report” (8 March 2022) at paragraph 7.196 [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf)

<sup>14</sup> Commerce Commission “Market Study into the retail grocery sector – final report” (8 March 2022) at paragraphs 7.202 and 7.208 [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf)

<sup>15</sup> Commerce Commission “Market Study into the retail grocery sector – final report” (8 March 2022) at paragraph E172.3 [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf)

<sup>16</sup> Radio New Zealand “Hundreds of misleading supermarket specials and price errors reported to Consumer NZ” (6 April 2023), <https://www.rnz.co.nz/news/national/487456/hundreds-of-misleading-supermarket-specials-and-price-errors-reported-to-consumer-nz>

<sup>17</sup> Consumer NZ “Consumer NZ has lodged a complaint with the Commerce Commission, asking it to investigate Woolworths and Foodstuffs stores for potential breaches of the Fair Trading Act” (3 August 2023) <https://www.consumer.org.nz/articles/consumer-nz-has-lodged-a-complaint-with-the-commerce-commission-about-potential-breaches-of-the-fair-trading-act-at-supermarkets>

- 2.14 The Commission has continued to receive complaints from consumers regarding price differences between the shelf and the checkout. In the first six months of 2024, the primary issue raised in approximately 20% of all grocery-related concerns is the alleged price difference between the advertised or shelf label price and the price charged at the point of sale.<sup>18</sup>
- 2.15 The Commission's investigations into pricing integrity issues in the grocery sector led to it announcing on 10 December 2024, that it would file criminal charges against Woolworths New Zealand (**WWNZ**), and two individual Foodstuffs North Island (**FSNI**) stores – 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.<sup>19</sup> Other investigations into supermarket operators under the Fair Trading Act are ongoing.
- 2.16 In a competitive and efficient grocery industry, our expectation is that RGRs would have systems and processes in place to ensure accurate prices, that their staff would be adequately trained in them, and the RGRs would be systematically investing and tracking performance to ensure that any issues that do arise are addressed and systems and processes are improved upon.

### **Refund policies help motivate consumers**

- 2.17 In a competitive grocery industry, we would expect retailers to offer refund policies to generate goodwill towards their customers and to help bring issues to their attention. We have observed that RGRs offer two different kinds of refund policies:
- 2.17.1 pricing integrity refund policy – for circumstances where the displayed or otherwise advertised price does not match the price charged; and
  - 2.17.2 product quality refund policy– for circumstances where customers are unhappy with the quality of products.

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<sup>18</sup> Commerce Commission "First Annual Grocery Report" (4 September 2024) at p. 76, [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0019/362305/Annual-Grocery-Report-2024.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0019/362305/Annual-Grocery-Report-2024.pdf)

<sup>19</sup> Commerce Commission "Criminal charges on the way for major supermarkets" (10 December 2024). <https://comcom.govt.nz/news-and-media/media-releases/2024/criminal-charges-on-the-way-for-major-supermarkets>

- 2.18 Customers can play an important role in bringing issues to retailers' attention and they will be more motivated to bring issues forward if there is a benefit to them. As such, well-promoted and publicised refund policies helps empower customers. The more generous the refund policy the greater incentive customers have to take the time to report errors or issues. This is particularly important in the case of pricing integrity where issues may only become known when a customer proceeds to purchase a good (in comparison to product quality which may be more readily observable).
- 2.19 The existence of price integrity refund policies may also encourage more consumers to check for pricing accuracy and to complain, and this in turn provides more feedback to RGRs on possible issues with their pricing, and should, if RGRs then address underlying causes, lead to more accurate pricing.
- 2.20 Unlike Australia which has had a voluntary code for dealing with inaccurate pricing since 1995, New Zealand has no such code.<sup>20</sup> Instead it is left up to the individual RGR's pricing integrity policies.

**RGRs' pricing integrity refund policies not advertised and Foodstuff's refund policies could be more generous**

- 2.21 When a customer is charged more than the advertised price, all three RGRs have policies to refund consumers. However, we are concerned that these policies are not always advertised clearly and prominently for consumers, so they are unaware refunds are available.
- 2.22 For example, there is no Foodstuffs South Island (**FSSI**) specific refund policy available online.
- 2.23 In addition, at FSNI and FSSI the refund provided is only the difference between the shelf/online price and the price charged. This compares to WWNZ (and the supermarket chains in Australia) where the full price of the first item is refunded to the consumer.<sup>21,22</sup>

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<sup>20</sup> Australian Supermarket Institute *Code of Practice for Computerised Checkout Systems in Supermarkets* (Australian Supermarket Institute, Sydney, 1995).

<sup>21</sup> Subject to some exclusions such as liquor and tobacco products, or when the price exceeds a certain threshold (\$30 for Woolworths Australia and \$50 for Coles).

<sup>22</sup> Choice "Misleading pricing – what is it, and what are your rights?" (6 May 2024), <https://www.choice.com.au/shopping/consumer-rights-and-advice/your-rights/buying-guides/misleading-pricing>



- 2.24 FSNI indicated in their response to our July 2024 letter that they intend to update their policy in line with WWNZ and the Australian supermarkets and offer a full refund of the first mispriced item.<sup>23</sup>
- 2.25 Refunding only the differences may compensate some affected consumers (those who observe the integrity issue and complain) but it does not create effective incentives for consumers to check prices and submit complaints such that pricing integrity issues are likely to reduce over time.<sup>24</sup>
- 2.26 As discussed above, we consider firms facing effective competition would face incentives to ensure accurate pricing and promotion information is available to consumers, and offer compensation that would effectively generate goodwill enabling the business to retain affected customers.

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<sup>23</sup> FSNI's response letter can be found here [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0031/361939/Foodstuffs-North-Island-Response-to-Commerce-Commission-letter-on-ensuring-customers-are-charged-correctly-9-August-2024.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0031/361939/Foodstuffs-North-Island-Response-to-Commerce-Commission-letter-on-ensuring-customers-are-charged-correctly-9-August-2024.pdf)

<sup>24</sup> All RGRs have committed to reviewing and/or updating their refund policies in line with the expectations expressed in the Grocery Commissioner's July 2024 letters. The RGRs' responses to the letter can be found at this link <https://comcom.govt.nz/regulated-industries/grocery/grocery-updates?target=documents&root=361935>

## Chapter 3 Legal framework

### Power to issue disclosure standards

- 3.1 The Commission may issue a disclosure standard where we are satisfied that the standard is necessary or desirable for either or both of the following purposes:
- 3.1.1 to enable the Commission to monitor competition and efficiency in the grocery industry; and
  - 3.1.2 to ensure that sufficient information is readily available to the Commission to assess whether the purpose of this Act (to promote competition and efficiency in the grocery industry for the long-term benefit of consumers in New Zealand) is being met.
- 3.2 The issuing of disclosure standards supports the Commission’s monitoring function under section 4 of the Act, the objective of which is to promote the purpose of the Act.<sup>25</sup>
- 3.3 We consider that the threshold for issuing a disclosure standard will be met where the standard would be likely to assist us in performing our function of monitoring competition and efficiency in the grocery industry and assessing whether the purpose of the Act is being met.

### Subject matter of disclosure standards

- 3.4 Section 194 of the Act sets out a number of matters that a disclosure standard may deal with or otherwise relate to, including:
- 3.4.1 the disclosure of information to the Commission about any matter in connection with the grocery industry, including the matters listed in section 194(1)(a) of the Act (which includes the number and details of complaints received from consumers, suppliers, wholesale customers, or other persons);
  - 3.4.2 assumptions, policies, and methodologies used or applied;
  - 3.4.3 the circumstances in which the information must be disclosed (eg, the frequency of disclosure, or requiring information to be disclosed on the occurrence of a specified event);
  - 3.4.4 requirements related to publishing, or otherwise making available, information to the Commission, other parties, or the public generally;

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<sup>25</sup> Grocery Industry Competition Act 2023, s 4(2).

- 3.4.5 requirements for certifying the information by statutory declaration or otherwise;
- 3.4.6 requirements for how the information must be provided;
- 3.4.7 requirements with which the information that is provided must comply; and
- 3.4.8 requirements relating to record keeping and retention of information (including methodologies that must be applied in recording information).

### **Process for issuing a disclosure standard**

- 3.5 Under section 193 of the Act the Commission may use any process that it considers appropriate to develop a disclosure standard, but we must:
  - 3.5.1 publish a draft disclosure standard;
  - 3.5.2 publish a statement of our reasons for proposing to issue a disclosure standard; and
  - 3.5.3 consult the persons, or representatives of the persons, that we consider will be substantially affected by the disclosure standard.
- 3.6 After issuing the draft standard, we must publish a statement of our reasons for issuing the disclosure standard.

## Chapter 4 Draft decisions and reasons

- 4.1 This chapter details the reasons for the proposed content of the Disclosure Standard.
- 4.2 This chapter is structured as follows: we detail who the proposed Disclosure Standard applies to, the scope of complaints it relates to, and certification requirements. We then describe each proposed requirement, and provide further detail on the parameters of these, including the information to be disclosed, the level of detail, and implementation timeframes.

### Disclosure Standard applies to RGRs

- 4.3 We propose that the Disclosure Standard applies to the three RGRs as defined in the Act – FSNI, FSSI, and WWNZ (**main RGRs**) and their franchisees, interconnected bodies corporate, and transacting shareholders.<sup>26</sup> As discussed at paragraphs 4.13 - 4.14 below, the focus is on the following specified banners New World, Pak’nSave, and Woolworths/Countdown.<sup>27</sup>
- 4.4 The current state of each RGRs’ complaint systems and pricing integrity refund policies differ, but to ensure consistency in the disclosure of information and to improve transparency, we propose that all provisions of the Disclosure Standard apply to all three RGRs.
- 4.5 We consider that it is appropriate for the Disclosure Standard to only apply to these three participants (including their franchisees, interconnected bodies corporate, and transacting shareholders) as they are the main focus for regulatory intervention through the Act and are patronised by the majority of retail grocery customers.<sup>28</sup>

### RGR head offices to co-ordinate disclosures

- 4.6 The draft Disclosure Standard distinguishes between main RGRs - the FSNI, FSSI, and WWNZ head-offices - and RGRs – the wider companies that encompasses FSNI, FSSI, and WWNZ’s franchisees, interconnected bodies corporate, and transacting shareholders.

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<sup>26</sup> It also applies to any person that is designated as an RGR under section 27 of the Act, and the successors of the main RGRs or a person designated as an RGR under section 27.

<sup>27</sup> Woolworths New Zealand is currently in the process of rebranding all Countdown stores to trade under the Woolworths banner.

<sup>28</sup> In 2023 the RGRs collectively held 82% of the retail grocery market. See Commerce Commission “First Annual Grocery Report” (4 September 2024) at p. 42, [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0019/362305/Annual-Grocery-Report-2024.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0019/362305/Annual-Grocery-Report-2024.pdf).

- 4.7 We have proposed this distinction as:
- 4.7.1 individual retail stores (which may be owned and or operated by a RGR's franchisee, interconnected body corporate, or a transacting shareholder) are required under this Disclosure Standard to display an overview of the RGR's price integrity refund policy; and
  - 4.7.2 the collection and retention of complaint and refund information captured by this Disclosure Standard is likely to be undertaken by a RGR's franchisee, interconnected body corporate, or a transacting shareholder; but
  - 4.7.3 it is desirable that disclosures to the Commission are collated and submitted by the main RGR head office, rather than individual stores; and
  - 4.7.4 it is proposed that the Chief Executive Officer of a RGR has ultimate responsibility through certification (see paragraph 4.39 below) over compliance with the Disclosure Standard.
- 4.8 In practice, because the Disclosure Standard focuses on the specified banners New World, Pak'nSave, and Woolworths/Countdown we anticipate that this distinction will only be relevant to FSNI and FSSI as New World and Pak'nSave retail stores are run through an owner-operator model.
- 4.9 An overview of where the responsibility for each provision of the draft Disclosure Standard sits is set out in Attachment A.

## **Scope of complaints**

### **All consumer complaints**

- 4.10 Complaints can cover a wide raft of issues from the shopping experience, products themselves, pricing errors, collectable campaigns, staff interactions, and more.
- 4.11 We consider it important to collect information on the full spectrum of complaints regarding any matter related to the supply of goods to or services by the RGR or any other element of the RGR's business to provide us with a clearer view of the consumer grocery experience. From this, we will be able to identify issues and trends, including the breadth and seriousness of complaints and the proportion of pricing integrity complaints.
- 4.12 Complaints that are not relevant to the RGRs' supply of groceries to consumers or the RGRs' business are out of scope of the Disclosure Standard. For example, complaints about other shoppers.

### **Banner coverage**

- 4.13 The draft Disclosure Standard sets out that the RGRs' main banners (New World, Pak'nSave, and Woolworths/Countdown) are captured. Money spent at the RGRs largely happens at these banners and we expect implementation of the draft Disclosure Standard is likely to be smoother with these banner stores than the smaller ones (such as Four Square, and FreshChoice) as we assume these banners have more sophisticated IT systems.
- 4.14 The exception is where complaints are received at head office about one of the RGRs' smaller banners. We propose that these also be captured to provide a wider view on complaints as the systems and processes surrounding complaints received at head office should be the same regardless of the banner.

### **Complaint channels**

- 4.15 The draft Disclosure Standard limits the scope of complaints to those collected through select complaint channels – complaints made to the head offices of the main RGRs, retail stores under the New World, Pak'nSave, and Woolworths/Countdown banners, and the online shopping websites of New World, Pak'nSave, and Woolworths/Countdown. For the avoidance of doubt, direct email or phone complaints to these channels are within scope.
- 4.16 The purpose of this is to focus on active consumer complaints. Complaints from wider channels such as social media comments and information gathered through RGR-commissioned consumer surveys are outside of scope.
- 4.17 Our assumption is that including these wider channels would increase the complexity of compiling complaints, for instance, the channels may require a greater level of filtering to split out enquiries from complaints. However, we welcome stakeholders' insights into whether this is the case.

### **Complaint categories**

- 4.18 There are a wide range of consumer issues that are potentially relevant to competition and efficiency in grocery markets. Our draft Disclosure Standard therefore proposes that complaints be split into the following categories – pricing integrity, promotional errors, collectables, loyalty scheme, customer service, product quality, facilities, product range, country of origin labelling, unit pricing, online services, and other.
- 4.19 We acknowledge that there may be instances where a complaint could be placed in multiple categories, our expectation is that complaint statistics would be compiled based on complaints' primary issue.

- 4.20 We are seeking feedback on whether:
- 4.20.1 the categories strike the right balance of being specific enough that trends can be tracked over time but also workable at shop floor level (including workable for the customer);
  - 4.20.2 there are complaint types where it is unclear which category they should be recorded in and how that should be addressed; and
  - 4.20.3 stakeholders consider that the categories should be further defined in the disclosure standard.

### **Pricing integrity issue**

- 4.21 Instances where the advertised price does not match the price charged at the point of sale. Includes the following circumstances – the shelf and the checkout price do not match, the advertised price (eg, window posters, mailers, TV advertisement) does not match the checkout price, the online shopping price does not match the price charged at the online checkout.

### **Promotional errors**

- 4.22 Instances where a product is promoted at a special or discounted price when the promotional price does not constitute a genuine special. Includes situations such as misleading 'was now' prices, and misleading multi-buy deals. In addition, instances of product misplacement where a product is displayed with a shelf label that does not relate to the product (for example, because products have been displayed on the wrong shelf in error, or because a shelf label has not been changed) should be recorded in this category.

### **Collectables**

- 4.23 Refers to promotions offering collectables or household items (eg, knives, containers) that can be redeemed using points or stickers earned during a specified period. Includes complaints about stock availability of the collectables and reward items.

### **Loyalty schemes**

- 4.24 Complaints about loyalty schemes, including issues with earning points and accessing rewards, issues with signing up to schemes, and general complaints about how the schemes work. This category would only be relevant to banners that offer a loyalty scheme – currently New World and Woolworths/Countdown.

### **Customer service**

- 4.25 Consumers interactions with staff and their general experience at the checkout in-store. For example, perceived rudeness, staff not being helpful, lack of staff, issues with self-service checkouts, and problems with vouchers.

**Product quality**

- 4.26 Consumer issues or dissatisfaction with product/s. Such as quality of products and goods being sold past the expiry date. But also, complaints about food safety, foreign objects being found, products and/or packaging being faulty or broken.

**Facilities**

- 4.27 Consumer complaints about the state of the supermarket shopping environment. For example, lack of cleaning, layout of the store, lack of signage, stock blocking aisles and general complaints about a store is run-down.

**Product range**

- 4.28 Products being out of stock or not being stocked at all. This might be in reference to competitors or previous availability. Includes complaints about seasonal item availability (eg, running out before the seasonal event occurs).

**Country of origin labelling**

- 4.29 Issues raised with the use or lack of country of origin labelling.

**Unit pricing**

- 4.30 Issues raised with the unit pricing of goods. Includes instances where unit pricing appears to be missing, problems with the legibility of unit pricing labels, and concerns over the unit of measurement chosen.

**Online services**

- 4.31 Complaints resulting from consumers' use of online services (online delivery, click & collect). For example, complaints about drivers and delivery instructions not being followed, wait times for services, missing products or poor substitutes being chosen, and the website not operating as it should.
- 4.32 For the avoidance of doubt if the alleged issue occurs on the RGRs' online shopping website but it relates to one of the earlier categories (eg, price integrity) then it should be recorded against the more specific category rather than the online category.

**Other**

- 4.33 Other issues that consumers may experience which are related to the RGRs' supply of goods or services or other element of the RGRs' businesses but do not fall under the other categories.



## **Scope of refund related requirements**

### **Disclosure and publication of all refunds recorded**

- 4.34 Refunds may be issued after purchase when a customer goes back to the checkout after noticing an issue and requesting a refund on the amount paid. In other instances, refunds can be issued on the spot when a customer notices an issue as products/s are being scanned. In the later scenario a customer has not yet paid but for the purposes of this draft Disclosure Standard we consider that this should be captured in the refund statistics disclosed and published. As both situations capture the same types of issues, the difference is only when the customer identified it.
- 4.35 The draft Disclosure Standard proposes that statistics on refunds under all of the RGR's refund policies should be disclosed and published, ie, statistics are not limited to pricing integrity refund policies. This information is desirable to enable the Commission to monitor the promotion of each refund policy and the number of refunds issued under each policy. For example, it would allow us to compare the number of refunds issued under a pricing integrity refund policy against the number issued under a produce quality refund policy.

### **Price integrity policies made visible to the public and the Commission**

- 4.36 As outlined in paragraphs 4.63 to 4.69, the draft Disclosure Standard proposes requirements to make the RGRs' pricing integrity policy more visible to the public (which in turn helps provide the Commission with a fulsome picture of pricing integrity issues that are occurring). And a related provision to disclose copies of their pricing integrity policy to the Commission (see paragraph 4.44).
- 4.37 These provisions only apply to the RGRs' pricing integrity refund policies not any other refund policies they may have (such as product quality ones). We consider it appropriate to limit the scope to pricing integrity refund policies as the Commission has particular concerns about pricing integrity issues in RGR stores.

### **Certification**

- 4.38 Requirements for certifying the information is listed in section 194(1)(e) of the Act as one of the matters that may be included in a disclosure standard.
- 4.39 We consider that certification by the Chief Executive Officer of a main RGR is necessary to ensure that there is sufficient oversight over this matter at the highest level. In particular, we require assurances on the completeness of the data disclosed and the establishment and maintenance of background systems and processes that produced this data as the RGRs would likely have incentives to under-report complaints.

## Disclosure to the Commission

### Information to be disclosed

- 4.40 We propose that each main RGR be required to disclose:
- 4.40.1 the number of consumer complaints per month, by retail store and online shopping website, and by complaint category; and
  - 4.40.2 the number and value of refunds paid out to consumers under a refund policy per month, by retail store and online shopping website, and by policy.
- 4.41 Grocery retailers compete across various combinations of price, quality, range and service. The quality of products and services is important to some consumers and as such information on these provides a more comprehensive picture beyond pricing. Gathering statistics on consumer complaints will enable the Commission to monitor competition by the RGRs to meet consumers' preferences. For instance:
- 4.41.1 information on the number and type of consumer complaints each RGR receives allows us to compare the relative service quality each is providing; and
  - 4.41.2 trends in complaints and complaint types over time provides an indicator of how effectively RGRs are responding to systemic issues that are important to consumers.
- 4.42 Statistics on consumers' usage of RGRs' refund policies will assist us to assess how effectively customers are benefiting from improving competition in the grocery industry. And the disclosure of information on the number and value of refunds by policy will allow us to compare the promotion of each policy and monitor the comparative frequency that issues covered by each policy occurs.
- 4.43 To enable fair comparison of these metrics between the RGRs, the consistent method for collection and classification set out in this Disclosure Standard is necessary.
- 4.44 Additionally, the main RGRs will be required to disclose copies of the pricing integrity refund policies for the New World, Pak'nSave, and Woolworths/Countdown banners. This provides potentially important context to the information disclosed about the number and value of refunds paid out to consumers. The terms of the RGRs' respective pricing integrity refund policies may also provide valuable information as to competition in the grocery industry.

- 4.45 If we do introduce a Disclosure Standard, we intend to use the information disclosed as a result of the Disclosure Standard to monitor competition and efficiency in the grocery industry, including in terms of:
- 4.45.1 trends in the level and composition of complaints and refunds over time; and
  - 4.45.2 differences in the number and type of complaints, and amount of refunds between banners, stores, and different geographic areas.
- 4.46 The conclusions we reach from our monitoring will likely form the basis of (or otherwise contribute to) public reports or summaries on the state of competition and efficiency in the grocery industry.<sup>29</sup> This aligns with one of our statutory objectives for monitoring and reporting – which is to contribute to a trading environment in which businesses compete effectively and consumers and businesses participate confidently.<sup>30</sup>
- 4.47 One such way we may make our conclusions public is through our annual grocery reports under section 175 of the Act. However, we also have the option of making this information public through other publications or other means.

#### **Level of detail**

- 4.48 We consider it is desirable for the Commission to receive information at the store-level as this will help inform us if there are particularly problematic stores, for example:
- 4.48.1 stores with consistently high levels of complaints could indicate that escalation and resolution of systemic issues is not occurring; but
  - 4.48.2 stores with barely any complaints could indicate that systems and processes for recording and disclosing complaints are insufficient or are not being adhered to.<sup>31</sup>
- 4.49 Store-level information will also allow the Commission to identify if there are any geographic trends that are occurring.
- 4.50 We consider that it is desirable to receive the number of complaints split by category as this will allow us to understand the types of complaints that are most prevalent and understand any trends over time.

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<sup>29</sup> This aligns with the Commission's function under s 4(1)(e) of the Act to make available, or co-operate in making available, information in connection with the grocery industry.

<sup>30</sup> Section 4(2)(d) of the Act.

<sup>31</sup> Alternatively, this could indicate that the store is meeting or exceeding the level of service quality that consumers demand.

- 4.51 Similarly, we are proposing that information on refunds (number and value) are split by refund policy as this will provide insights into the promotion and visibility of each respective refund policy.

#### **Responsibility for disclosure**

- 4.52 Under the Disclosure Standard, the main RGRs would be responsible for complying with the disclosure requirements, but franchisees, interconnected bodies corporate and transacting shareholders of a main RGR are required to take all reasonable steps to provide the main RGR with the information necessary to enable the main RGR to comply with the disclosure requirements.

#### **Format of disclosure**

- 4.53 We propose that complaint and refund statistics be disclosed to the Commission using Excel templates. If a final Disclosure Standard is issued, then the templates would be made available on the Commission's website for RGRs to use.
- 4.54 The template approach ensures that the Commission can efficiently ingest and analyse the information disclosed by each RGR.
- 4.55 The draft Disclosure Standard includes an attachment outlining the columns we expect the Excel templates would have.

#### **Frequency of disclosure**

- 4.56 We consider that receiving monthly complaint and refund statistics, provided on a quarterly basis allows us to balance receiving sufficient data to understand trends against the compliance burden of the RGRs collating and providing information to the Commission.
- 4.57 It is proposed that main RGRs will be required to disclose copies of any amended pricing integrity refund policies within two weeks of an amended pricing integrity refund policy taking effect. This requirement mirrors the original implementation timeframe for providing a copy of policies to the Commission.

#### **Implementation**

- 4.58 The requirement to disclose information to the Commission comes into force on the first day of the third full quarter following the Disclosure Standard being issued. This provides time for RGRs to make any required IT system changes and provide staff training, ensuring record keeping processes are embedded before disclosures are required.
- 4.59 The actual disclosure is not required until no later than one month after the end of the quarter being reported on.

- 4.60 In effect this means that the first disclosure to the Commission would not be due until at least seven months after the final Disclosure Standard is issued.
- 4.61 Identical to publication of the policies, the proposed timeframe for main RGRs to disclose a copy of the RGRs' pricing integrity refund policy or policies to the Commission is within two weeks of the Disclosure Standard being issued.

### **Information to be made available to the public**

- 4.62 Section 194(1)(d) provides that a disclosure standard may address requirements relating to publishing, or otherwise making available, information to the Commission, particular persons or classes of persons, or the public generally.

### **Information to be published**

#### *Pricing integrity refund policy*

- 4.63 We consider that it is necessary that each main RGR's pricing integrity refund policy is published and maintained on the online shopping websites of Pak'nSave, New World, and Woolworths.
- 4.64 For the Commission to effectively monitor the prevalence and trends associated with pricing integrity issues we need a fulsome picture of the issues that are occurring. And to achieve that fulsome picture, consumers need to bring these issues to the RGRs attention. This is more likely to occur when consumers are aware that there is an established process for responding to the issues and compensation available to them.
- 4.65 Pricing integrity policies should be published on each main RGR's online shopping websites rather than their corporate websites as the online shopping website is the website consumers visit most frequently.
- 4.66 We also consider that it is desirable for all RGRs to display a one-page overview of their pricing integrity refund policy in all New World, Pak'nSave, and Woolworths/Countdown retail stores.
- 4.67 Even if pricing integrity refund policies are available online, a visible reminder instore is important as not all consumers visit online shopping websites, and most purchases occur in bricks and mortar stores.<sup>32</sup> As such these one-page summaries are another step towards improving transparency for consumers' benefit.

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<sup>32</sup> Between 2019 and 2023 online sales as a percentage of total RGR sales never exceeded 7%. See Commerce Commission "First Annual Grocery Report" (4 September 2024) at p. 26, [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0019/362305/Annual-Grocery-Report-2024.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0019/362305/Annual-Grocery-Report-2024.pdf)

- 4.68 Many RGR retail stores already have requirements to display regulatory information for consumers' benefit, for example food safety information certificates.<sup>33</sup>
- 4.69 Our draft decision is that the exact format and display location of this one-page overview be left to the RGRs' discretion, but it must be clearly visible to the public and must cover circumstances in which compensation is payable and to the extent reasonably practicable contain details of the refund a consumer may be entitled to.

*Publication of statistics on complaints and total number of refunds*

- 4.70 We propose that the main RGRs also be required to publish:
- 4.70.1 The number of consumer complaints per month by category; and
  - 4.70.2 The number and value of refunds paid out under a refund policy per month, split by policy.
- 4.71 We consider that publication of these statistics will encourage customers to continue to bring issues to RGRs' attention, and publication will therefore assist the Commission in gathering the information we need to monitor and understand current and emerging trends or issues in relation to customer complaints.

**Level of detail**

- 4.72 As noted earlier, we consider it appropriate to limit publication of refund policies and display of refund one-page summaries to the RGRs' pricing integrity policies. As the Commission has particular concerns about pricing integrity issues and we want to ensure that we are getting a full picture of any errors that are occurring.
- 4.73 We consider that it is sufficient for publication of complaint and refund statistics to be at an aggregate banner-level. We are conscious that there are approximately 394 New World, Pak'nSave, and Woolworths/Countdown banner stores which may make public disclosure unduly burdensome. And as the Commission will be collecting disaggregate store-level data we have the ability to publish store-level information and summaries in the future if we consider it appropriate. In particular, we will be able to present comparisons between RGRs in one geographic area.

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<sup>33</sup> One example is Auckland Council's Food Safety Information Bylaw 2020. <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/bylaws/Documents/food-safety-information-bylaw-2020.pdf>

- 4.74 As with disclosures to the Commission, we consider that it is desirable that the main RGRs publish the number of complaints split by category as we consider this level of detail will help to engage customers and encourage them to continue to bring issues to RGRs' attention thereby allowing us to understand the types of complaints that are most prevalent and understand any trends over time.
- 4.75 For the same reason, we are proposing that information on refunds (number and value) are split by refund policy (where multiple policies exist).

### **Responsibility for publication**

- 4.76 As with the disclosure requirements, the main RGRs would be responsible for complying with the publication requirements, but franchisees, interconnected bodies corporate and transacting shareholders of a main RGR are required to take all reasonable steps to provide the main RGR with the information necessary to enable the main RGR to comply with the publication requirements.

### **Frequency of publication**

- 4.77 We consider that it is desirable to require publication of monthly complaint and refund statistics on a quarterly basis. This is consistent with the disclosure requirements to the Commission and so will not materially increase the compliance burden of the RGRs.

### **Implementation**

#### *Complaint and refund statistics*

- 4.78 Identical to disclosure to the Commission the requirement to publish complaint and refund statistics comes into force on the first day of the third full quarter following the Disclosure Standard being issued. This provides time for RGRs to make any required IT system changes and provide staff training, ensuring record keeping processes are embedded before publication is required.<sup>34</sup>
- 4.79 Publication is not required until up to one month after the end of the quarter being reported on.

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<sup>34</sup> In effect this means that the first disclosure would not be due until seven months after the final Disclosure Standard comes into force.

### *Pricing integrity refund policies made public*

4.80 We note that all RGRs have existing pricing integrity refund policies. All three stated in August 2024 that they were in the process of reviewing and/or updating these policies.<sup>35</sup> But we would expect that these updated pricing integrity refund policies should be ready for release to the public by Q2 2025. As such the following implementation deadlines have been proposed in the draft Disclosure Standard:

4.80.1 A copy of the pricing integrity refund policy must be available on the online shopping websites of New World, Pak'nSave, and Woolworths no later than two weeks after the Disclosure Standard comes is issued.

4.80.2 The one-page overview of the pricing integrity refund policy must be displayed in all New World, Pak'nSave, and Woolworths/Countdown, stores no later than one month after the Disclosure Standard comes is issued.

### **Record keeping**

4.81 Section 194(1)(h) expressly allows the Commission to set record keeping requirements.

4.82 Record keeping requirements set the foundation for transparency and underpin the disclosure of information to the Commission and to the public. Consistent record keeping gives us assurance that the information disclosed to us is comparable. It also provides the Commission with the ability to further drill into any stores or complaints we identify through the high-level complaint disclosures provided to the Commission.

### **Information to be recorded**

#### *Consumer complaints*

4.83 We propose that for all consumer complaints, RGRs be required to record:

4.83.1 Banner and store name;

4.83.2 Date of complaint;

4.83.3 Date of event;

4.83.4 Primary complaint category;

4.83.5 Summary of what happened; and

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<sup>35</sup> The RGRs' August 2024 letters to the Commission can be found at this link <https://comcom.govt.nz/regulated-industries/grocery/grocery-updates?target=documents&root=361935>



- 4.83.6 Whether the complaint was substantiated and how the issue was resolved.
- 4.84 We note that these roughly align with the July 2024 letters to the RGRs where minimum requirements for record keeping were expressed. While we are not proposing disclosure of all of this information at this stage, ensuring that records are kept of this information will enable the Commission to make targeted requests for information and will thereby ensure that information is readily available to the Commission to assess whether the purpose of the Act is being met.
- 4.85 We propose that:
- 4.85.1 information relating to consumer complaints made directly to the main RGRs via their head office, relevant stores or the online shopping website for the three main banners –New World, Pak’nSave, and Woolworths/Countdown must be maintained by the main RGR;
- 4.85.2 information relating to consumer complaints made to a franchisee, interconnected body corporate, or transacting shareholder of a main RGR, operating under one of the three main banners, must be maintained either by:
- 4.85.2.1 the relevant franchisee, interconnected body corporate or transaction shareholder; or
- 4.85.2.2 the main RGR.

### *Refunds*

- 4.86 We propose that for all refunds issued to consumers, RGRs be required to record:
- 4.86.1 Banner and store name;
- 4.86.2 Date refund issued;
- 4.86.3 Name of refund policy; and
- 4.86.4 Amount refunded to consumer.
- 4.87 We propose that:
- 4.87.1 information relating to refunds issued by the main RGRs, in relation to a specified banner, must be maintained by the main RGR;
- 4.87.2 information relating to refunds issued by a franchisee, interconnected body corporate, or transacting shareholder of a main regulated grocery retailer operating under a specified banner must be maintained by either:

4.87.2.1 the relevant franchisee, interconnected body corporate or transaction shareholder; or

4.87.2.2 the main RGR.

*Requirement on franchisees, interconnected bodies corporate and transacting shareholders to provide information to main RGRs*

4.88 Franchisees, interconnected bodies corporate and transacting shareholders of a main RGR would be required to take all reasonable steps to provide the main RGR with such information as is necessary to enable the main RGR to comply with its disclosure, publication and certification requirements.

### **Retention timeframes**

4.89 We propose that RGRs be required to retain the records of complaints and refunds for five years from the date the complaint was lodged to them or the refund was issued. We consider that five years is a reasonable period of time to retain records for.

### **Implementation**

4.90 It is proposed that the record keeping requirements come into force on the first day of the second full quarter following the Disclosure Standard being issued. Data collection for the first quarterly disclosure to the Commission and for publication would begin at the same time.

4.91 In effect this means that RGRs would have at least three months following publication of the final Disclosure Standard to make any required IT system changes and provide staff training.

## Attachment A Requirements on main RGRs and interconnected bodies corporate, franchisees and transacting shareholders

Clause	Requirement	Main RGRs <sup>36</sup>	Interconnected bodies corporate, franchisees, and transacting shareholders of main RGRs (operating a retail store under a specified banner) <sup>37</sup>
E1	Requirement to disclose information on consumer complaints and refunds to the Commission	✓	
E2	Requirement to disclose pricing integrity refund policies to the Commission	✓	
F1	Requirement to publish pricing integrity refund policy on online shopping website	✓	
F2	Requirement to display overview of pricing integrity refund policy in retail stores	✓	✓
F3	Requirement to publish information on consumer complaints and refunds on online shopping websites of specified banners	✓	
G1	Requirement to keep records of all consumer complaints <sup>38</sup>	✓	✓
G2	Requirement to keep records of refunds paid out to consumers <sup>39</sup>	✓	✓

<sup>36</sup> A “main regulated grocery retailer” means: Foodstuffs North Island Limited; Foodstuffs South Island Limited; Woolworths New Zealand Limited; or a person designated as a regulated grocery retailer under section 27 of the Grocery Industry Competition Act 2023; and any successor to the preceding persons.

<sup>37</sup> “Specified banners” means any of the following banners: Countdown, New World, PAK’nSAVE, or Woolworths.

<sup>38</sup> Information relating to consumer complaints made to a main RGR must be maintained by that main RGR. Information relating to consumer complaints made to a franchisee, interconnected body corporate, or transacting shareholder of a main RGR may be maintained by either the franchisee, interconnected body corporate, or transacting shareholder of the main RGR, or by the main RGR itself.

<sup>39</sup> Information relating to refunds paid out to consumers by the main RGR for a specified banner must be maintained by that main RGR. Information relating to refunds paid out to consumers by a

Clause	Requirement	Main RGRs <sup>36</sup>	Interconnected bodies corporate, franchisees, and transacting shareholders of main RGRs (operating a retail store under a specified banner) <sup>37</sup>
H	Requirement to provide information to main RGRs		✓
I	Requirement to certify disclosure of information	✓	

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franchisee, interconnected body corporate, or transacting shareholder of a main RGR operating under a specified banner may be maintained by either the franchisee, interconnected body corporate, or transacting shareholder of the main RGR, or by the main RGR itself.