

Canterbury Employers' Chamber of Commerce Submission on the Commerce Commission Market Study into The Retail Grocery Sector

August 2021

INTRODUCTION

1. In November 2020, the Government asked the Commerce Commission (The Commission) to carry out a year-long study into whether competition in the grocery sector is working well, and if not, what can be done to improve it. The Commission released its draft report on 29 July 2021. This is a submission from the Canterbury Employers' Chamber of Commerce (The Chamber) on that draft report.
2. The Chamber is a not-for-profit membership-based service organisation that has been the home and voice of business in Waitaha Canterbury since 1859. Comprised of over 2,600 member organisations, The Chamber's purpose is to empower people in business by providing advisory and consultancy support in employment relations, human resources, health and safety, international trade, migrant support, manufacturing, research and development grants, training and development, and events to inspire, inform and educate our members. In the COVID-19 environment, this includes providing support to all businesses in the South Island through our 0800 50 50 96 COVID-19 Business Helpline and our dedicated COVID-19 Response Team.
3. We are pleased to provide a voice for the local business community and to advocate for policies that will help shape and enable a local and national business environment that promotes innovation, productivity and economic growth as critical success factors underpinning a thriving economy and community. We are committed to responsible business behaviour and proactively encourage our members to engage in best business practices in relation to positive social and environmental outcomes for all.
4. This submission includes insights raised by The Chamber's member and wider business community as well as our observations as a result of our longstanding relationship with the grocery retail sector. As a founding member of national business advocacy group BusinessNZ, The Chamber and our members are also represented through all BusinessNZ advocacy.

COMMENTARY

5. The high level of concentration in the grocery sector, potential competition concerns and the prices consumers pay for their groceries were reasons cited by the Minister of Commerce and Consumer Affairs for asking The Commission to undertake a market study – to consider whether competition is working well for grocery consumers. Its purpose is to identify and assess factors that may affect competition for the supply or acquisition of groceries by retailers in Aotearoa New Zealand, and to make any recommendations that The Commission considers may improve competition.

6. As with any market study, comprehensive and ongoing engagement with market participants is key to understanding the specific details of the sector situation, which is why our submission will leave the technical specifics to those market participants. Our focus is on raising more general issues and concerns relating to the process and implications of the findings in the draft report.
7. At The Chamber, our membership base includes a diverse range of businesses that will potentially be impacted by the recommendations and potential regulatory changes that come about as an outcome of this study. This includes supermarkets and others in the grocery sector, as well as those in the supply chain such as suppliers, producers, manufacturers and small businesses, as well as the general business community.
8. It is also worth noting that the grocery sector – like every other business in Aotearoa New Zealand – is currently navigating an already complex operating environment with the pressures of COVID-19, including freight and logistics, and demand and supply challenges. So any recommendations need to be considered in this wider context.

Timeframe

9. The relatively short timeframe for the market study is concerning. The grocery sector has a fairly complex structure, which means any recommendations require a high level of comprehension so as to ensure any recommendations minimise the risk of unintended consequences. This includes fully understanding the potential impacts and consequences of the 'ripple effect' of any changes to those businesses that feed into the sector.
10. Given also that there is no 'one-size-fits-all' within the grocery sector, and there will likely be variances by geographical location, we would question whether one year is an adequate timeframe for The Commission to properly undertake the market study and provide robust and high-quality analysis for their draft report.
11. We would like to see consideration for an extension of time to provide the final report to Government, particularly given the magnitude of potential changes to the structure of the sector.

Level of regulatory intervention

12. We are concerned with the largely heavy-handed approach by Government to control the grocery sector structure. While a number of the options outlined in the draft report are light-handed options, where market participants and the Government could come to agreements around change, other options propose a serious regulatory shift that would have significant implications for existing players in the market, with potential flow-on adverse effects on consumers and on other sectors.
13. Where there are justifiable measures based on sound evidence to correct specific concerns, the business community would usually be prepared to have an in-depth discussion about proposals for change, however the best outcomes are those where both the public and private sector reach an understanding of what changes need to be made, and what long-run benefit the changes will bring for consumers and the wider economy.
14. Unfortunately, in recent years we have seen the Government move with haste to introduce severe regulatory options to remedy a perceived problem. For example, the impending introduction of fair pay agreements represents a massive industrial and commercial disruption to the country – again at a time when businesses are already shouldering a heavy financial burden and it would be preferable to see the Government playing a stronger, more

proactive role in being an enabler of businesses and reducing barriers (financial and operational) to ensure businesses can thrive.

15. We are also concerned about the precedent that each recommendation could set, not only for the sector in question, but also for what may be expected across other sectors.
16. This raises the question of escalation of regulatory measures: if the decision is made by the Government to introduce more heavy-handed regulatory options which then fail, can we accordingly expect even more stringent measures to be introduced? Would this mean greater steps towards the removal of property rights, measures around ceiling prices for food or other decisions that could restrict the free-market economy that New Zealanders generally expect?
17. We would like to see a greater understanding of the implications of the more heavy-handed recommendations for other businesses and sectors before they are included in the final report to the Government.

SUMMARY

18. In summary, the potential for significant upheaval in the sector, and ripple effects on the wider business community, as well as a precedent set for other sectors, should mean a very high threshold for regulatory intervention, especially when the intervention is looking to displace market practice.
19. As the home and voice of Canterbury business, The Chamber appreciates the opportunity to provide feedback on this key issue and look forward to continuing to be part of this conversation.

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