

Addendum to Submission 11 September 2021

Monopoly Watch thanks the commission for facilitating an equivalent extension to all participants

Consumer and supplier harm is being inflicted by an erroneous market structure of supermarkets in NZ, we urge urgency in resolving this matter.

Monopoly watch was concerned that initial polling showed 100% of consumers surveyed wanted a unbundling of the NZ supermarket industry.

A 3rd party expert polling company has verified **that 70%** of NZ consumers want regulatory intervention and a forced sale to 3rd parties of a scalable number of supermarkets.

Our Polling showed that (after appropriate introduction and explanation) in response to the question " Do you think the Government should split up the two existing supermarket groups to create more competition?" the following results were obtained:

92% of people think groceries too high priced

53% of people are aware of the Commerce Commission review

70% of people want unbundling of the supermarket chains

What is noteworthy to reflect on with an extension of time is

- 1) There are a series of factual errors in the incumbent monopolists' submissions that are worthy bringing to the commission's attention.
 - a. There is no like for like competition or competition in NZ,
 - b. The lack of wholesale competition completely quarantines the ability for there to be any competition, only peripheral non substitute goods are suggested as competition
 - c. To Suggest Faro is a competition is a fantasy and not correct, Faro don't have the full range of cleaning products, toilet papers, personal hygiene products, Whilst Faro is an innovation turbo charger for creative food offerings , innovative bespoke produce

and new brands , it's a pitiable claim that Food kits and the Chic Chic 7 store Faro represents serious competition to the \$10bn 200 store incumbents ,

- d. The Incumbents have will have changed their position, now since the publication of the July 29 report they see how serious the commission is on action with the intensity of their research, - this is already prevalent in PR, and discussion of the social contract that the supermarkets have with the NZ public.

- e. The barriers to entry are not a large distribution centre, (these are easy to build & relatively cheap to build) , the barriers to entry are a scalable footprint of 100+ suburban supermarket outlets with carpark attached)

URGENT

WHAT THE COMMISSION MUST DO WITH THE EVIDENCE COLLECTED

Proceed to recommend to Central Govt that they structurally separate the 2 supermarket chains to unwind the egregious FY 2005, 3:2 merger of Countdown and Foodtown.

The Commission must hire an independent 3rd party game theory economist to deliver a detailed separation agreement and structure which unwinds the series of suburban monopolies effectively creates another 1, 2 or 3 like for like supermarket operators which has scale to finance central distribution and procurement. Countdown must sell a Minimum of 100 Supermarkets and Foodstuffs 100, these must be sold on the condition that 30 months after sale they are using a different wholesaler, who must build a new distribution wholesaler.

The commission must not get misled by spurious, misguided, factually incorrect submissions from vested interest monopolists.

The Commission has acknowledged supermarkets in NZ earns 500% more profit for its rapacious shareholders than similar investors internationally require for their capital contribution.

The Commission must not accept some pyrrhic cheeseburger style competition but look for an immediate structural change in the way NZ organises itself.

The Commission has correctly proven in its 517 page report that consumer loyalty schemes create confusion and a “cost “ to transfer business . The NZ Commerce Commission must take action to lead the world to introduce loyalty card transferability and data protection – similar to number portability – where the data remains the property of the consumer. – This empowers consumers to negotiate with their spend. ##

The Commission’s 517 pg report, also helps catalogue the mess in government in NZ , and illustrates world’s worst practice in Government . there is no – absolutely no interface between council RMA and building consenting and competition agencies. (Case Study: Herne Bay Supermarket, is sold to existing geographic monopolist, with land owners sharing the premium monopoly use rent with the operators) . (Case Study: Richmond Road Supermarket, premium price achieved attributed to monopoly preservation) .

Many Kiwis have noticed that New Zealand is a proud, bespoke, niche, premium, chic -chic , Green , food exporting nation, to fertilise our productive capability and competitive position , we need vibrant domestic like for like competition , not a series of rapacious geographic monopolies , whose market structure doesn’t serve the public interest.

The Commission needs to acknowledge the misinformation in any process in NZ because of

- 1) *The Duopolistic supermarkets spent, NZD \$144, 537,483 * (source SMI and Neilson) in media advertising in 2020 and NZD \$ 153,582,841 in 2019 , this will quarantine independent journalist reach in discussion of the ComCom report and the introduction of change .*
- 2) *NZ is the only country in the OECD that doesn't have lobbyist legislation, this means incumbents run riot in Wellington and the Commission's work will be undermined by the same lobbyists who argued for a 3 to 2 merger.*
- 3) *A brave dismantling of this erroneous and unprecedented market structure is the only proper method of introducing competition, forced wholesaling a industry code of conduct and help to new entrants, will create no meaningful benefit to consumers.*

ACTION POINTS FOR COMMERCE COMMISSION

- 1) INTRODUCE A FORCE A SALE OF OVER 180 SUPERMARKETS TO INDEPENDENT GROUPS WHO ARE COVENANTED TO USE NEW 3RD PARTY DISTRIBUTION FACILITIES
- 2) LIBERATE CONSUMERS BY ENABLING THEM TO OWN THEIR LOYALTY CARDS DATA AND BE ABLE TO USE IT TO NEGOTATE A BETTER DEAL (SIMILAR TO TELECOMMUNICATIONS INDUSTRY)
- 3) INTRODUCE A GLIDEPATH TO REMOVING ALL RESTRICTIVE CONVENANTS ON SUPERMARKET LAND AND BUILDINGS TO DISMANTLE SUPERMARKET FORTRESS NZ
- 4) WRITE TO THE 5 MAJOR COUNCIL GROUPS IN NZ AND COMMENCE DIALOUGE IN CONSIDERING COMPETITION ISSUES IN CONSCENTING SUPERMARKETS

STUDY POINTS FOR POLITICANS & PUBLIC POLICY ANALYSTS

- 1) Why is the market structure in Supermarkets such a world class mess?
- 2) Why is there no lobbyist legislation in NZ , what impact has it had on crapshoot market structure in important industries ? Why Did Sue Kedgley's 2012 Lobbyist disclosure bill fail ?
- 3) What would happen in another decade if no change were to happen in supermarket, market structure
- 4) Major councils need to consider competition issues when permitting supermarkets
- 5) What is the legal process, with the new market study powers of the commission which enable NZ consumers (and suppliers) to be empowered with improving prices , innovation and productivity.
- 6) Data ownership, privacy and data portability are new age public policy matters, empowerment of consumers must be at the for front.
- 7) Loyalty cards can stimulate climate change progress, as in 2026, carbon footprint impacts will be able to be published on loyalty card information , and thereby consumers will be able to swap supermarkets to lower their footprint using data generated , supermarkets will therefore compete not only on price but also carbon footprint .
- 8) The NZ media were misguided in their reporting of fights over supermarket RMA consent , these are fights over owning a monopoly, not a fight of competitive industry battle to serve consumers .

consumer " Barry White " lives in a retirement village and spends only \$800 a year in supermarkets , whilst consumer "Diana Ross , " is a foster Mum , and she spends \$30k a year in supermarkets , and "Ngahere Raharaha" purchases food for entire Marae on a regular basis , he spends \$80k a year these 3 consumers want to use their spend to negotiate a Swapping of their primary supermarket provider (similar to telephone number portability) .

Monopoly Watch NZ. kiwi, thanks all the helpers, consultants, millennials ,friends, babby boomers, pacific community, digital media experts , climate change activists, Māori groups, neighbours , LBQGT community of St Heliers ,consultants and back in the day activists who have contributed to this submission .