

Notes and comments for the draft report by the NZ Commerce Commission into the retail grocery sector

REPORT OMISSIONS

Corporate culture

A key issue the report omits is corporate culture. In many industrial failures corporate culture is often the cause of the problem. Corporate culture can result in mass fraud like Enron or a major safety failure resulting in an oil spill like BP's Deep Water Horizon.

We view this as a problem with the duopoly especially Foodstuffs North Island. From its Headquarters, CEO, category managers to the buyers in store. We've been aware of nepotism when choosing suppliers, playing suppliers against each other, simple operational issues such as not merchandising or lying about having done so, and bizarrely during this and other lockdowns not ordering or stocking shelves even when stock is available.

We believe 'they just don't get it' or are negligently ignorant of their legal obligations under consumer and competition law.

On this basis we believe corporate culture needs to be addressed in the report.

Appropriate legislative settings

While the report discusses the Fair-Trading Act. A key omission is discussion of regulations controlling the supply side of the industry. These are:

- The Australia and New Zealand food labelling regulations and,
- Import Health Standards (IHS) as administered by The Ministry of Primary Industries which restrict the supply of goods and increase the cost of importing ingredients and finished goods. As well as other regulatory restrictions or bans on a range of fruit and vegetables from reputable offshore suppliers and countries.

Trent's and Gilmour's section 2.52

Trent's and Gilmour's should not be excluded from your analysis. They are increasingly moving into retail by stocking more products for direct consumer use and purchase. Since the first lockdown consumers are increasingly seeing them as a shopping option especially when membership requirements are ignored.

NOTES

We view the key issue as being the constraint of suppliers by the duopoly causing not only high prices but crucially resulting in a very small selection of high-priced low-quality goods which NZ consumers have been trained to not only accept but prefer.

New market entrants alone will not solve the problem of high prices but may only superficially appear to have lower prices. Metcash, Costco, Aldi etc. have mainly private label goods and like Woolworths and Foodstuffs these are usually sourced from overseas suppliers who also complain of being squeezed.

REPORT COMMENTS

Re 4.43 & 4.44

This is inaccurate. There is almost no scope to tailor product range especially in smaller stores. Larger stores are reluctant to tailor as it's frowned on by Foodstuffs. Also their current program to rationalize their range will in effect eliminate tailoring.

Our view is that Foodstuffs mission is to control the middle ground (the main shop of consumers) by limiting consumer choice to their private label brands.

Re page 186 and chapter 8

Sourcing better value goods has never been an issue for any supplier with an offshore network or footprint. Also, these goods can always be better priced using a lower margin than the duopoly.

The problem and risk for most wholesalers or importer/suppliers who can source more competitive products is that is that without Woolworths and Foodstuffs there is no efficient and economical way to sell and move goods such as basic commodities.

This is the primary reason why as a business we and others haven't operated as an independent wholesalers or retailers.

Foodstuffs and Woolworths block new products which threaten their own private labels and preferred supplier friends to maintain margins.

Re 6.3.2

Woolworth's statement here is nonsensical.

Re chapter 7 & 9.142

Per 100g pricing should be mandatory and more prominently displayed. Also, for specials the regular price and special price should be displayed together.

However, product weight is often an inaccurate measure for processed goods such as breakfast cereals, confectionery or snack foods which have ingredients, coatings or inclusions which increase weight.

Here the food labelling laws are the limiting factor. These laws require labelling of product weight.

Note: Re Data

In respect to sales data. This is and will be the biggest issue going forward as online platforms and sales increase.

Re chapter 8 & 9

Note: the enhancement of the FTA to include B2B is long overdue.