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## **Preliminary Issues Paper Market Study Into the Retail Grocery Sector**

**Submitters:** Vegetables New Zealand and Horticulture New Zealand Incorporated

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### ***Introduction***

New Zealand Horticulture welcomes the opportunity to make a submission on the preliminary issues paper on the market study into the retail grocery sector. We look forward to further engagement as the Commission progresses this study. In preparation for making this submission, we consulted with the horticulture industry's growers and representative groups. Their views are accordingly incorporated into this document, which brings together their feedback. This submission is jointly made by Vegetables New Zealand and Horticulture New Zealand, on behalf of the sector. This submission is also supported by the following organisations: Citrus NZ, Katikati Fruitgrowers, NZ Asparagus Council, Potatoes NZ, Process Vegetables NZ, Pukekohe Vegetables Growers, Te Awanui Huka Pak, NZ Tamarillo Growers and Summerfruit NZ.

The horticulture industry is valued at \$7 billion, employs over 60,000 people, grows fruit, berries and vegetables on 80,000 hectares of land and is an integral part of the regional economies in Northland, Auckland, Bay of Plenty, Hawke's Bay, Gisborne, Waikato, Manawatu, Wairarapa, Marlborough, Nelson, Canterbury and Central Otago (Ministry of Primary Industries March 2020).

### ***The Study***

Government's direction that the Commerce Commission enquire into the cost of groceries and produce bought from New Zealand's supermarkets is timely. This is because New Zealand is a small market by international standards. Therefore, consideration of how to make critical parts of our market as competition efficient as possible is always welcome. The cost of what the consumer buys, however, is not a single transaction at the supermarket checkout. The purchasing transaction commences right at the start of the supply chain, which in the case of produce, is on-farm. Therefore, in any pricing study, we submit that the entire supply chain needs to be assessed for anti-competitive elements.

This is because the price the consumer pays has as one of its core ingredients, the cost of growing the produce. To that cost is then added all the off-farm expenses such as processing, packaging, transportation and storage before the consumer even has the chance to purchase.

We submit that this study needs to consider the costs and margins along the entire supply chain, and not just the linear transaction at the supermarket checkout.

The Commission describes the study as an opportunity to consider whether competition in the retail grocery sector could work better for the benefit of New Zealand consumers. It also states that this includes competition between retailers when buying groceries from suppliers. The analysis of the competitive market is therefore for the Commission, the starting point of its study. We submit however that the ability to conduct a competition based analysis is made all but impossible due to the duopoly and the small size of the New Zealand market. There is in our opinion nothing that the Commission can identify to change either of these factors. In time there may be a new supermarket entrant and that will be the only factor that could alter the current duopoly.

We therefore submit that the Commission's study needs to focus on how to make the current duopoly more competition efficient. This does not mean that consumer will in effect pay less for their produce. In preparation for making this initial submission on the supermarket study, a targeted survey was conducted with key growers who supply the supermarkets.

Fresh product has a limited shelf life and this has a direct impact on pricing. In the purest sense, supply determines price. Oversupply results in lower prices and shortages can result in higher prices at the farm gate. The essential question for the study we submit is how the supply dynamics affect the price that consumers pay, and what monetary benefit of that price is returned to the grower.

### ***Power differential***

A further and important consideration for the study we submit is the power differential between supermarkets and growers. The supermarket duopoly means growers have limited market opportunity for selling. This, as has been shown by our study, results in growers being unable to maintain their margins in the face of increasing costs. It would seem, and this is something we submit for the study to determine, is that fresh vegetables have a higher margin than other supermarket category. Supermarkets can receive up to 50% gross margin on fresh vegetables, as compared to dry goods which have around 17.5% gross margin.

As part of the study, the argument over wastage and losses resulting in a higher margin needs to be validated; how much growers are required to contribute to these losses established; and the impact of competition assessed.

The core issue with any duopoly is that price setting is not dynamic and is not moderated by true competitive forces. In many cases, as is shown by our survey, growers of perishable produce are price takers and therefore, they have no control over price setting.

The study needs to find ways in which to introduce dynamic price setting. We believe that this can only be achieved by a greater degree of transparency over costs and margins along the entire supply chain. To achieve this in a duopoly, we believe that some form of code of practice (such as are found in other jurisdictions, such as Australia) that increase transparency and rebalance the power dynamic between growers, distributors and retailers should form a core part of the study.

To assist with this the following information is supplied with this submission:

- The Australian Competition and Consumer (Industry Codes—Horticulture) Regulations 2017.
- The Review of the Australian Code.
- EU directive 28 on the Food Supply.
- NZIER's report into Food Pricing.

### ***Farm-gate prices static***

The NZIER report found that over an eight-year period, the farm gate price of a basket of fresh fruit and vegetables, milk, eggs, meat and bread did not change. We submit that the study should enquire into the margin that growers are receiving to ascertain whether anticompetitive pressures from the existing system are forcing unprofitable trading situations.

One of the key aspects of the study we submit should be whether growers and suppliers take an appropriate margin from higher prices. To increase competition, all participants in a supply chain need to benefit from the higher pricing. The key issue for the study is whether the higher prices are justified. We believe increased transparency, enabled through a code of conduct similar to that in place in Australia, would enable equity for all participants in the supply chain and appropriate pricing for consumers. Risk also needs to be properly apportioned with notably, the grower taking the highest amount of risk. We submit the study should also consider balancing fair payment for risk.

This point is illustrated by comments often received from growers, which are encapsulated in the following grower comment: *"When cauliflower reached its heady price of \$15 per head in supermarkets this time last year, as growers, we received \$6-\$7 per head. Retailers retained the percentage mark up. They may normally make \$1 per head on a retail \$2 cauli."*

### ***Consistent conditions***

The survey response indicates that different growers have different supply arrangements with their distributors and supermarkets. Sometimes this benefits the growers concerned, which goes to the heart of competition and arguably helps to create a dynamic market. This may well be true in an open market situation, but where a duopoly exists, there may well be different outcomes. We submit that as part of the study, this issue is explored to ascertain its impact.

This extends to the channels of supply, which in some cases may be direct to the supermarket and in other cases, through distributors or other intermediaries. We submit that the study should examine if there are any anticompetitive outcomes, based on the channel taken to get produce to the supermarket. Also, whether growers are disadvantaged by using one channel for one of the supermarkets when they then seek to supply the other supermarket.

### ***Growers' position different***

Retailers need to and do follow a strong gross profit metric and their profitability is delivered over 12 months of the year. Growers are not in the same position to extract profit. Their revenue is over a seasonal cycle, delivered with a small basket of goods. Grower financial risk is higher due to seasonal supply and a small basket of goods to generate profit. This puts growers at margin risk during promotional price weeks, which are programmed into the annual retail budgets to generate revenue comparable to the promotion of the year before, or exceed the year before. The promotional price requires a lower price point than the normal price the grower receives for their produce. The price point for the promotional item will also be sold in the retail store at a special reduced price. The volume of product sold will be significantly higher for the retailer and grower, with promotion weeks normally running two to four times a year.

In addition, category development within retail channels is typically funded through compulsory rebates. Rebates are taken from the gross sales price. The retailer decides how the category development fund is invested and the grower often has no input into the development fund allocation. We submit that these practices should form part of the study to assess, not only the impact of them on the competitive forces at play, but whether equity is achieved for all participant in the supply chain including the grower.

### ***Maintaining supplier numbers***

We further submit that due to the size of the New Zealand market, to maintain competition, the study needs to assess how the largest number of supermarket suppliers can be maintained. The more suppliers, with transparency and a suitable code of practice, will result in much improved competitive outcomes. We therefore submit that the study consider the impact on competition of the substitution of locally grown produce by imported dumped produce.

Feedback from growers has raised the issue of the supermarkets using their buying power to abrogate intellectual property (IP) rights of growers. We have specific cases where growers have developed their own retail brands. Supermarkets have then forced these growers to relinquish their brands and pack into house branded packs. This maintains the ability of the supermarkets to “switch out” packers and rides over both grower IP development and competitive outcomes. We therefore submit that the study look into this issue and how growers can be protected in these situations, once again, perhaps through a code of conduct.

We submit that the anticompetitive impact of supermarkets’ requirements around the packaging and packing crates that are used to supply the supermarkets should also be part of the study. This is because, through the disparity of negotiating power, these costs are transferred to the growers. We submit that the study needs to consider the anticompetitive effect of this transfer of costs to suppliers.

### ***Strategic product development, resilience building & future proofing of the fresh vegetable sector***

There is a fundamental issue which has been referenced in part by grower feedback. Growers are trapped in a market dynamic that makes it very difficult for them to plan and “future proof” their businesses. The asymmetric market dynamics means the suppliers of fresh produce are unable to develop and improve both their products and their production practices to better align with consumer preferences and environmental regulatory requirements.

In many case the supermarkets have not engaged in building long term strategic relationships with their suppliers. This means that decision making becomes short term and growers are trying to maximise short run profits. This distorts grower practices and leads to “extractive” production practices in order to maintain profitability.

Further, growers are unable through the lack of long term commercial arrangements and confidence in the buyers to invest in better production techniques to add value to exploit any international market opportunities. This limits the fresh vegetable producers to a domestic market and does not allow them to invest in further downstream processing technologies which could lead to increased export opportunities.

This short run profit maximisation model also leads to a lack of resilience in the suppliers which means growers are unable to cope with major exogenous shocks to the market e.g. COVID lockdowns and climate change. The results in price instability and is an issue we recommend the Commission consider in its study.

### ***Further Consultation***

As the study is progressed, we would like to meet with and explain our submission and assist with the collection of information.

## Targeted Grower Survey – a summary of responses:

KEY:

RED response - smaller growers

GREEN response - medium growers

BLUE response – larger grower

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?
  - a. *3 types of retail price agreements based on Countdown, Foodstuff NI, Foodstuff SI*
  - b. *Tender type arrangement – weekly market where price is negotiated, volume is not part of negotiation and will fluctuate – price is locked in and accepted as part of weekly auction/ tender*
  - c. *Foodstuff SI is a tender like above*
  - d. *Foodstuff NI – best price on the day. Very much influenced by competitor pricing. Further issues with growers supplying both retailers causing friction and lost contracts. Loss leader pricing then becomes status quo as market now in high supply to one retailer.*
  - e. *Wholesaler plans the annual volume supply – no commitment from the retailers to buy. Wholesaler controls the price to the retailer based on basket of crop and volume. Wholesaler directs daily supply into retail DC. Price taker.*
  - f. *Deal directly with retail buying teams – large volume based on key supply planning and price planning reviews*
  - g. *Changed from a wholesaler broker to direct supply into retailer – this is better for growers.*
2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations? (see point 15 below if you prefer to talk to the Commission about this)
  - a. *Tender or on the day*
  - b. *Wholesaler negotiates price on behalf of grower*
  - c. *Weekly tender process – negotiate on final price, dutch auction on price*
  - d. *Depends on timing, volumes and planning*
3. How are pricing promotions funded?
  - a. *Grower funded. No grower control. Imbalance of power with decision making. Price point focus (high GP factor), no brand loyalty.*
  - b. *Supply models from previous seasons – promotion week by cycle. Price points that dictate retail margins for the week*
  - c. *Supplier most often – supplier lowers price – retailer same price*
  - d. *Product category lead has more balance in the relationship. Partly funded by price, part funded by margin.*
4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?
  - a. *Some direct suppliers to retailer pay a rebate for category development.*
  - b. *Rebates associate with DC and promotional levy – came off gross price*
  - c. *Yes but vary depending on customer and supplier. Have visibility but not negotiation power*
5. What are the rebate fees used for? Do you (grower) gain any benefit?
  - a. *Grower see no benefit.*
  - b. *Rebates funded staff education, promotional activity*
  - c. *Promotions, Distribution from DC to stores. Difficult to know if we get full value*
6. Are you aware of different growers and growers from other regions being offered different prices?
  - a. *Yes, frequently*
  - b. *At times in winter the SI pricing was better than NI*
  - c. *Yes. Industry is driven by supply and some growers need to move product quickly. The need to act quickly promotes exploitation behaviour.*
7. If there are differences, why do you think there are differences?.
  - a. *Retailers employ tactic like dutch auction and freeze out actions*
  - b. *Tiered systems between growers are developed in some retailer operations*
  - c. *Transport factors can influence pricing. SI market dominated by larger retailer which distorts the price. Race to the bottom in price.*
  - d. *Oversupply in NI can cause produce to travel to SI and crash the price in SI. Sold as a loss leader or at a loss*
  - e. *Higher overall costs. Winter month supply factors*
  - f. *Perishable products are influenced by supply factors. A dumped product has no return.*
8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?

- a. *High end retailers value quality and branding, mainstream retailers do not.*
  - b. *Independents are a mix of quality focus at a price.*
  - c. *Yes – spec requirements, logistic and pricing decisions – consistency in market. Independents generally negotiate on price and not spec or other supply factors.*
  - d. *Promotional activity changes price*
  - e. *Countdown auction system was good for cash flow as prices known and so was prompt payment. Made for better planning*
  - f. *Yes. Standard vary widely in industry. Retailers have very tight bands for quality and food safety. This has an affect on pricing and supply factors.*
9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?
- a. *Yes – wholesaler has more scale, multiple growers and more transparency on the market price. This moderates market supply and demand.*
  - b. *Large retailers can manipulate the supply and demand forces.*
  - c. *Large retailers are moving to direct supply grower contracts. This will give them more control over the price.*
  - d. *Yes – Smaller growers have no choice on who they supply. They are too small to supply retailers direct into DC, hence the choice is wholesale, independents, farmer markets or own channel.*
  - e. *Wholesaler takes a significant commission which puts them under direct supply to retailers. A direct supply to retailer is more transparent. Wholesalers can run a tiered supply list which is detrimental to some growers.*
  - f. *Product category leads get good visibility through retail. This is not so with wholesalers. Direct supply allows growers to have transparency with most of the supply chain costs.*
10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?
- a. *Large retailers.*
  - b. *Genuine shortage of produce the power shifts to the grower - but this needs to be moderated for future sales through the retailer – who never forgets?*
  - c. *Retailers have all the power – price, packaging, logistic, variety and spec.*
  - d. *The retailer. The weekly auction tender does not guarantee the grower will supply the retailer. The price needs to be accepted before a contract for supply is generated.*
  - e. *Depends on supply factors. Short supply the grower. If it is long the retailer. A good relationship between the parties will generate a fair outcome for all parties including the consumer*
11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?
- a. *Pak n Save have a record of bully boy tactic. This behaviour remains due to a power imbalance.*
  - b. *A price war between retailers will give benefit to the consumer for the short term. The grower is the victim and can only sustain small shocks in financial cash flow. A long term loss of cash will cause growers to go out of business and then the prices will go up.*
  - c. *A fair and transparent system. An independent watch dog to moderate the supply chain. (CoC)*
  - d. *NA*
  - e. *A level playing field is the ultimate position. Some good work is being done to achieve this. Compliance is a big issue in food. This is not a level playing field. A retail supply chain is managed to best practice at a cost. This is not the case with Farmers markets. There is no compliance of food safety systems.*
12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?
- a. *Yes at times it is fair. This is not a consistent practice*
  - b. *No – cost increasing faster than price increases- if any. Wholesale price is less compared to previous year. Will be out of business by 2030, if this continues.*
  - c. *Most of the time.*
  - d. *Depending on the product and its alternative market. For example processed sweetcorn vs fresh sweetcorn. The battle between the 2 major retailers can be problematic for growers, but it can be reviewed with negotiation. This is not the same in wholesale markets.*
13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?
- a. *No*
  - b. *No – growers pick up any additional costs.*
  - c. *Retailers could help to improve this situation – better utilisation of crate volumes, better crates for logistic efficiency, better traceability, trust and support grower brands – improve traceability*
  - d. *Not always*
  - e. *No - everyone operates different compliance, supply chain and quality parameters. There is competitive advantages with in each supplier. This provides variances in costs. One part of the supply chain will have advantage over another at some point.*
14. How could the supply chain be more equitable for all parties?

- a. *Each product being single desk market so actual supply-demand forces are then at play – transparency. Rather than retail manufactured supply-demand forces.*
- b. *Cap on margin take, equity in prices setting and distribution of all parties (75% margin) – market forces would give needed checks and balances. Transparency would mean true supply and demand rather than artificial retailer price setting.*
- c. *Traceability through quality systems or levy systems – currently no robust system. Growers name needs to be on product not a home brand like PAMS.*
- d. *Create a level playing field with Cool – Country of Origin Labelling? Make everyone use it?*
- e. *Retailers stifle new varieties, branding and new technology that could benefit the growers. Retailers prefer home brands to remove the need for royalties and brand quality drivers.*
- f. *Allow for more economic, sustainable and circular economy packaging. All produce must conform to a set packaging regime under a retailer system. Retailers control the supply chain but do not pay into the supply chain to DC. Retailers do not pay for lost or damaged crates. Nor do they run inventory on produce crates to track issues of de-hire to grower. If a de-hire is missed, the grower crate account can balloon out quickly. Growers carry all the risk on a \$11+ gst crate.*
- g. *Food security should be factored into supply agreements. The lockdown under C-19 highlighted the need for local produce. Local produce can navigate closed borders and removes the risk of regional and international freight pathways and risk pathways.*
- h. *A Food Security plan supporting local produce would also improve the carbon footprint of produce.*
- i. *SI growers are critical for Food Security for the SI population. However under climate change protocols they need to decarbonise their process heat. This comes at a cost that should increase the price under a true supply and demand cycle. This is not possible with the current supply model in retail.*
- j. *Transparency*
- k. *Climatic variables like a rain event can influence supply, as does the planting cycles of growers. Supply is the factor influencing the supply chain*

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

- a. *No*
- b. *No*
- c. *Yes – the system is working and a survey like this could destabilise the work that has been undertaken to get to this point. Should marketers play a greater role in the process?*

### **Survey – Individual Grower Feedback:**

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?

*MGs sell produce on growers' behalf to Countdown / Foodstuffs. Generally, a manager from Foodstuffs and salesmen from MGs will come for a visit together once a year to discuss about the upcoming crop plans, produce volume, potential promotion activities in the broadest sense. There is no commitment from Countdown nor Foodstuffs to purchase the grown produce, despite the fact that after they've been harvested, they've been prepacked into Countdown/Foodstuffs brand punnets. Same goes with specialty varieties specifically grown for supermarkets. However, from a grower's perspective, it is MG's responsibility to see to it that all produce is sold for fair prices.*

*Only Countdown and Foodstuffs have complete picture of production plan from all their growers as growers do not share crop plan between each other as it is sensitive information. There may be opportunity to exploit this but this is hard to prove.*

*Any given day, MGs will pass on the request from Foodstuffs or Countdown to transport X amount of produce to their distribution centres. This can vary from everything you have, to taking nothing for the day.*

2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations ? (see point 15 below if you prefer to talk to the Commission about this)

MGs negotiate the price on growers' behalf such as myself.

3. How are pricing promotions funded?

I'm going to assume the question is asking when there is a reduction in retail price during a promotion, where is that reduction in price coming from.

From the grower.

Say the wholesale price of a produce is \$3/kg and the retail price is \$6.99/kg in the month of October. A forecast of November supply based on historical figures says current pricing will lead to oversupply. Hence, a promotion is planned in 2<sup>nd</sup> and 3<sup>rd</sup> week of November to reduce the retail price to \$3.99/kg instead. But wholesale price will need to be lowered to \$1.80/kg and majority of the supply will be bought out. Meanwhile, independent stores are getting wholesale price of \$2.50/kg during promotion weeks.

4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?

N/A

5. What are the rebate fees used for? Do you (grower) gain any benefit?

N/A

6. Are you aware of different growers and growers from other regions being offered different prices?

Yes

7. If there are differences, why do you think there are differences?

Generally speaking, a produce grown locally will always be cheaper compared to the same produce that have to be transported in simply due to New Zealand's geography.

New Zealand is a longitudinally skinny country, the North Island climate will always be more favourable compared to the South, this can lead to supply differences which in turn means price differences.

This is additionally compounded by the fact that in the South Island, the produce market is dominated by Foodstuffs alone. South Island growers will have no choice to sell through Foodstuffs. Both MGs and T&G fights for percentage of the produce category that Foodstuffs will buy from them. In essence, it is a race to the bottom for Foodstuffs to buy the cheapest produce.

Normally the difference in price between the two islands will be the transportation cost. If a produce going for \$2/kg in North Island, but is \$4/kg in South Island, then there will be a flood of North Island produce coming down and the South Island price will quickly equalise to \$2.50/kg. The extra \$0.50/kg is the transportation. This is extremely detrimental to South Island growers as there are additional costs of growing in cooler climate.

However; due to Foodstuff's influence, there can be times when excessive amounts of produce get transported down from North Island leading to South Island prices completely crashing to the point where South Island produce is significantly cheaper than North Island counterpart. At that point, the only logical course of action would then



be to transport South Island produce to North Island. Foodstuffs gets all the benefit of cheap produce, while growers from both North and South Island bear the cost of transportation and low prices. Madness.

8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?  
Yes.

Spec requirements, logistics and pricing discussions are different.

Countdown can be treated as a single entity. All retail pricing is consistent across their stores.

Foodstuffs own Pak'n Save and New World. Foodstuffs can buy produce for a price, then pass them on to Pak'n Save and New World. After which, the retail price will be up to individual stores. However, Pak'n Save and New World can also buy produce direct, bypassing Foodstuffs. The exception would be duration promotion activity. All Foodstuffs stores must adhere to pre-negotiated retail pricing during promotion.

Independent retailers lack the bargaining power of the supermarkets; hence they don't really have a say on spec requirements, logistics and pricing. It is essentially market price or leave it.

9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?  
Yes.

For certain produce categories such as tomatoes, both Countdown and Foodstuffs already have pre-existing agreements between MGs, T&G and the few largest growers to buy exclusively from them. Small growers have no chance of selling direct. The only way for small grower is to sell through distributor like MGs and T&G.

10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?  
Countdown and Foodstuffs have absolute power in every aspect of the trade. This includes pricing, packaging, branding, specs, variety, logistics.. etc.

11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?  
There needs to be a fair, transparent, third party, without hidden ties or self-interests to either sell on behalf of growers for a fee, or act as a guide to let every party knows (growers, supermarkets and independents) what the current fair wholesale price of the produce is.

New Zealand lacks such entity. Both MGs and T&G act as agents and growers, which present conflict of interests when selling on behalf of other growers. Countdown and Foodstuffs are too big to be traded directly by individual growers.

12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?  
No. Costs are increasing much faster than innovation or advancement in technology to offset the costs. Year on year, wholesale value of the produce is steadily going down, despite rising costs and inflation. At the current rate, majority of growers barring the biggest ones, will be out of business before 2030.

13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?

No. Majority of the increase in costs in the produce supply chain gets loaded on the growers.

There are plenty of things the supermarkets can help growers in terms of lowering the cost of the supply chain without changing the wholesale/retail price. Minor things like increasing the punnet count per crate so each crate is fully loaded rather than half empty. Takes no more than 30 seconds to change the punnet count on the system, saves a grower like myself >\$25,000 in crate hire and >\$10,000 in transportation costs per year.

Another example would be traceability regulations. Each punnet needs to be able to be traced back to the grower that produced it. Simple solution would be to have grower's name on the punnet label. No additional costs would be incurred to the grower. But instead, growers are forced to pack into generic Pam's brand punnets with the stipulation that each punnet needs to be date stamped. Costs grower like myself \$20,000/year in labour, \$6,000/yr in labelling costs and \$20,000 setup cost.

14. How could the supply chain be more equitable for all parties?

There needs to be a cap on the retail price based on the % mark-up. A figure that is fair would be somewhere in the ballpark of +75% mark-up, or +25% + \$1 whichever is the lower of the two. Eg, say a produce has wholesale price of \$1/kg. The maximum retail price will be \$1.75. If the wholesale price is \$4/kg, then retail price is maxed at \$6/kg.

Free market forces will determine what the actual wholesale price is based on supply/demand. In summer, when there is a surplus of produce, the flow of produce will naturally increase when prices drop to match the supply. Unlike the current system, when supermarkets have free reign over the pricing, they could mark-up the produce by over 300%, which leads to excess supply and killing the wholesale price. Meanwhile, retail price remains sky high. The difference goes directly to the supermarket while growers sell below cost.

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

Anonymously yes.

Below are some of the recommended changes, which at this point can really only come from government regulations as the supermarkets are simply too powerful.

- Mandated place of origin for prepacks within New Zealand, with grower branding.

Currently, there is no incentive for growers to innovate in the direction of rich and flavourful produce. But rather grow the most generic, bland and high yielding varieties. Supermarkets want absolute controls over their prepacks and brand. Put it bluntly, growers are essentially slaves to grow for supermarkets. However; with own branding, it is up to each grower to trial, and individualise their growing style to suit the market. Supermarkets will be forced to negotiate a fair wholesale price for successful brands, placing some bargaining power back to growers.

- Deny supermarkets the means to reject produce that is transported in certain form that has nothing to do with produce itself. Eg, Supermarkets must accept produce in FCC crates, FCC pallets, WECK pallets rather than only CHEP/LOSCAM crates. Punnet count can be any, as long as they're full. Pallet height can be any, as long as they're safe.

Majority of South Island growers use CHEP, as they're the only crate supplier with the ability to supply enough crates during peak season and because they're required by Foodstuffs. FCC is another supplier that worked perfectly fine in the past, but with no real competition, CHEP crate hire is another big problem.

CHEP charges \$11/crate +GST as deposit as you take their crates from their yard. Each crate costs 89c +GST in hire. Once a crate loaded with produce goes to a distributor or Foodstuffs, or returned to CHEP empty, the \$11/crate +GST gets return to the grower's account. However; Foodstuffs do not take any responsibility on any of the crates, and they don't pay any crate hire. This means, if a crate gets lost in the supply chain, grower bears the cost of the \$11/crate +GST.

CHEP denies any responsibility for lost crates, even if they're lost outside of grower's control.

CHEP account cannot tell the grower how many C23s, C37s or red pallets the grower should have at any given time for stocktake purposes.

If a grower takes 1200 crates of produce to Foodstuffs, and the crates are not credited to growers properly due to omission. The grower will now be liable for \$13,200+GST worth of crates which the figure won't even come up as a notice unless each and every sales report is investigated under scrutiny and cross referenced with CHEP report. Bear in mind, this amount is just one transaction, imagine 100,000+ transaction / year, it'll be impossible to spot an omission.

By increasing competition, this forces CHEP to take responsibility for their own system, or at the very least, for them to take it up with Foodstuffs.

- Regional generic produce gets first priority. Followed by produce grown in NZ, then lastly imported produce.

This will counteract Foodstuffs South Island's influence to destroy the market for their benefit. Local produce must get sold first, before having to transport produce from other regions.

Everyone is quick to jump on coal and how much greenhouse gases coal produces. However; if South Island growers are out of business, due to rising cost of coal and low prices, then all produce need to be transported from North Island. One hectare of greenhouse can yield up to 650 Tonnes of tomatoes in the South Island. There are approximately 20 hectares of indoor tomatoes currently for South Island. The emission to transport 20 hectares worth of production from Pukekohe region to Christchurch each year, would be unimaginable. This is on top of emissions grown from North Island too. This is just for tomatoes, not counting other produce.

**1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?**

At Countdown we were initially supplying via a broker, mid 2000's we approached Countdown to do business direct they agreed and the process was setup from there.

**2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations? (see point 15 below if you prefer to talk to the Commission about this)**

Prices for both supermarkets are set via an upload form (excel or pdf) that fits into the respective software platforms. Negotiations then take place if there is more competitive pricing coming from other suppliers, though this taken at the word of the buyer.

**3. How are pricing promotions funded?**

By the supplier often – supplier offers lower cost price and retailer still achieves their gross margin.

4. **When supplying directly into a retail operation is your gross price affected by other fees like rebates?**  
Countdown had fees/rebates associated with the DC and promotional levys – these came off gross price. Unsure about Foodstuffs
5. **What are the rebate fees used for? Do you (grower) gain any benefit?**  
At CD they funded things like educating produce department staff, ad spend for general produce, television, social, and print I believe.
6. **Are you aware of different growers and growers from other regions being offered different prices?**  
There were times especially in winter when south island would get better returns than the North (Auckland),
7. **If there are differences, why do you think there are differences?**  
Higher overall costs possibly, and tougher conditions through cooler months.
8. **Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?**  
A positive of supplying countdown was having a constant income stream and knowing relatively in advance what we were being paid made planning easier.
9. **Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?**  
The additional commission taken by a distributor on top of the fees/rebate they are charged meaning the final return you get is lower than selling direct. the added layer selling via distributor clouds transparency further, the risk of Supermarkets not taking your produce when selling direct and the distributors then putting you further down the list to sell wholesale (because you aren't a regular supplier to them)
10. **Who has the bargaining power when selling to Countdown and/or Foodstuffs?**  
the retailer, if the price you offer doesn't suit them despite being a 'supply partner' they can choose not to use you and get something cheaper.
11. **What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?**
12. **Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?**  
Most of the time
13. **When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?**  
not always,
14. **How could the supply chain be more equitable for all parties?**  
transparency was the main answer that came back
15. **Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?**  
Yes on an anonymous basis

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?

*Countdown operates a tender type system (they call it their PVQ) where you "offer" them a volume and a price a week in advance. Once they receive all of the "offers" from their suppliers, they use the lowest offer to drive the other suppliers down to the same level. Once "agreed/accepted" by Countdown the price is then "locked in" (unless another supplier suddenly needs to move more volume and so drops their price at short notice, at which time you can agree to match it) but there is no guarantee from Countdown that they will take the whole tendered volume. They will only take the volume that is derived from their actual store orders on the day.*

*Foodstuffs Nth Island and Foodstuffs Sth Island are two quite different businesses with very different behaviours. Foodstuffs Sth Island run an advance tender system reasonably*

*similar to how Countdown do their PVQs except they will try harder to move the volume that has been a part of the volume and price negotiation. Foodstuffs Nth Island are best price on the day, and are completely obsessed with what their opposition Countdown are doing. They are very suspicious of growers giving favour to Countdown and are very quick to throw their toys if they think they are disadvantaged. Countdown are well aware of this and regularly run a produce loss-leader as they know Foodstuffs Nth Island will then get very upset with their own suppliers of the same produce which ultimately leads to a fallout in relationship and so more product being offered to Countdown, thus speeding up the oversupply to them and meaning the loss-leader doesn't run at a loss for very long after all...time and time again!*

2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations ? (see point 15 below if you prefer to talk to the Commission about this)

3. How are pricing promotions funded?

*With Pak'n Save its ultimately by the grower as they flat-out refuse to promote our product unless they can do so at a cheaper price than any other retailer has already advertised our product at, for that season. This forces you to drop your price so that they will put it in their flyer. Pak'n Save are the ultimate ruthless "bully boys" of the NZ Supermarket Industry. The bigger issue is how are promotions decided...for Foodstuffs Nth Island they have a "Promotions Committee" made up of supermarket owners who have to approve if a product is going to be promoted in their flyer...and it will only make it into that flyer if there is a substantial GP for the supermarket...ie it doesn't go into the flyer because the produce is good value to the end consumer, its only going in there if the supplier has agreed to drop their pants in order to have it in the flyer which is the only way that supplier can get the necessary volume moved through the stores (ie the heart of the season for a product when there is lots around and so prices are cheap anyway).*

4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?

*We are only direct to Countdown. We are very lucky to have no rebates attached to us but that is because we are their "necessary evil" in that we are not their main supplier but are big enough that they need to have a relationship with us. This means that we get poor continuity/consistency with our orders from them. If they were our only customer then our business would not be able to survive with our relationship in its current form.*

5. What are the rebate fees used for? Do you (grower) gain any benefit?

*I don't know exactly what they are used for. I don't believe the grower sees any benefit.*

6. Are you aware of different growers and growers from other regions being offered different prices?

*Yes frequently.*

7. If there are differences, why do you think there are differences?

*The produce buyers for the NZ Supermarkets are masters of their craft. Compared to a grower who has to focus on growing their crop, managing staff, running their business etc, the buyers sole focus day-in and day-out is to maximise the margins for the supermarkets by driving their purchase prices down. They are highly trained negotiators who run dutch-auctions and "freeze-out" producers by creating perceived oversupplies etc. They can often use 1 cheap crate of a product to crash the price of hundreds of crates as the grower doesn't have the market visibility that they have. Each supermarket has their main favoured supplier(s) and so will frequently pay a higher price to another grower if they need to top up their volume.*

8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?

*Yes but that's a mixed bag too. Some of the high end retailers really value quality and your brand story and are happy to pay for it. Other independents are price obsessed as they try to compete with the supermarkets superior buying power and so more often than not will choose to purchase a poorer quality product or from an unregistered grower (GAP etc) and compete with the supermarkets on price that way.*

9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?

*Yes at times. Because the distributor has more scale and is generally dealing with multiple growers they have more transparency on the true market price which reduces the supermarkets ability to artificially generate a perceived oversupply. Supermarkets are aggressively trying to encourage more direct supply so that they can influence the lower prices more easily.*

10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?

*For the most part its undoubtedly the supermarkets. At rare times of genuine product shortage the supplier has the bargaining power but even then an elephant never forgets so you need to be very very careful if you want to continue to get orders once the shortage is over.*

11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?

*Pak'n Save need to stop bullying producers into continually lowering their prices if they want to get their product on promotion. If Foodstuffs want to match a loss-leader that Countdown is running then they need to do it as a loss-leader themselves. Rather than NZs rich list being full of supermarket owners, it would be nice if the margins were shared with the producers too rather than all being with the supermarkets.*

12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?

*At times yes but its very inconsistent.*

13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?

*No*

14. How could the supply chain be more equitable for all parties?

*Each product being single-desk marketed so actual supply-demand forces are then at play rather than supermarket buyer manufactured supply-demand.*

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

*No*

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?

*Countdown – We have a direct account with them so better communication than through a wholesaler. We still tender prices every week and this is accepted or rejected. If rejected, we can still renegotiate.*

*Foodstuffs – We sell through a wholesaler with an account manager. We quote prices weekly. Volumes of product are grown at our own projections, usually based on previous years sales. We promote our own brand through multiple media mediums.*

2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations? (see point 15 below if you prefer to talk to the Commission about this)

*We set prices based on partly our production costs, supply demand, competition from other categories.*

3. How are pricing promotions funded?

*The grower always funds promotions by price reduction.*

4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?

*Yes, rebates come with all products which are paid to both Countdown and Foodstuffs.*

5. What are the rebate fees used for? Do you (grower) gain any benefit?

*Rebates in Countdown are used for promotional purposes for the whole category, but because our categories can be so diverse, we seldom see any direct benefits.*

6. Are you aware of different growers and growers from other regions being offered different prices?

*Yes – this is due to transport costs for different regions and as a free market, competitive pricing will have a factor in securing a sale.*

7. If there are differences, why do you think there are differences?.

*Transport costs – Competition from other suppliers.*

*Competition from other associated categories.*

*Costs of production may vary from business to business.*

*Profit percentage may vary from each producer.*

8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?

*Yes, supermarkets have a higher standard of compliance across all aspects of supply chain. Therefore, compliance procedures have to be met in order to supply.*

*Foodservice is a close second with independent retailers being the least progressive.*

*Countdown/Foodstuffs much superior organisational procedures. Can move good volumes when on promotion.*

*Countdown more consistent in their operational structure, whereas Foodstuffs has multitude of rules which seems to be applied to some stores and not others. This is due to the ownership structure of these business units and creates ambiguity in terms of supply rules for growers.*

9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?

*Direct selling to Countdown is more preferred as we can talk directly to the buyers. However, an account manager through wholesaler can have benefits where the grower does not have the resources to handle day to day aspects of being a supplier.*

10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?

*The bargaining power in my opinion is fairly equal which swings in roundabouts that can be upset by oversupply/flush or short supply scenarios.*

11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?

*A more even level playing field in the sense that some categories are controlled completely by very large producers thus cutting out smaller-medium growers.*

12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?

*Difficult to answer, but our margins vary due to the nature of our growing business. We could demand higher price and sell less or nothing or a sellable price that the consumer is willing to pay for. In a free market the consumer ultimately chooses whether or not to buy your product. With increasing costs the margins are being eroded and will dampen reinvestments and profits.*

13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?

*Difficult to answer, A supplier who has an exclusive product maybe able to command a profitable return, while a grower who deals in commodity type products may have a smaller margin, depending on variables such as supply, weather, competition. Because of the number of individuals in the industry, there are varying perceptions of acceptance returns, therefore market forces determines ultimately supplier/customer relationships. Fair and unfair would apply to both parties in certain circumstances.*

14. How could the supply chain be more equitable for all parties?

*Larger producers verses smaller producers, wholesalers and retailers should preserve the livelihoods of smaller-medium size growers as they offer diversity, choice and value. When smaller operations disappear due to tougher competition from larger operations, the dominant business eventually dictates pricing to both the wholesalers and retailers, which results in monopolistic practices which eventually costs consumers more. This also applies to retail outlets, as without independent businesses, larger chains would dictate prices.*

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

*Yes*

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?

Long standing relationship. Historically the largest producer of the category. Usually a pre-season meeting

2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations ? (see point 15 below if you prefer to talk to the Commission about this)

Price is suggested by the supplier and is submitted electronically weekly/daily. Conversations with the buyer are one sided and are based on the lowest current supplier price irrespective of quantity. If the supplier wants any business they will comply with the 'price' suggestion from the buyer. Price is largely determined by three factors: competitors store pricing/ advertising, promotional calendar and gross profit margins (20%+ min) to the stores.

3. How are pricing promotions funded?

Funded by the grower

4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?

One chain no rebates. Other chain – 7% into DC, 2% direct to store.

5. What are the rebate fees used for? Do you (grower) gain any benefit?

Growers receive little benefit from rebates. I believe that they are used to fund operation of the distribution centres.

6. Are you aware of different growers and growers from other regions being offered different prices?

Yes

7. If there are differences, why do you think there are differences?

Allows better control/manipulation by the supermarkets to segregate regions. Divide and conquer.

8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?

Yes

9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?

There is a whole additional layer of cost via a distributor. Also reliance on supermarkets by distributors forces them to be weak sellers.

10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?

The Supermarkets

11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?

Removal of rebates and promotions. Transparency of how pricing is achieved, and contracts to supply volume at minimum pricing.

12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?

Most of the time

13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?

No. Grower accepts all of the risks.

14. How could the supply chain be more equitable for all parties?

Return to the Dutch auction system, or introduction of supply contracts which guarantee minimum pricing levels for set volumes. Introduction of more supermarket competition.

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

yes

1. Can you describe how Countdown and/or Foodstuffs make their arrangements to purchase your produce?

Both operate differently however we deal directly with both buying teams through there DC's in both North Island and South Island. We also deal direct with some individual Foodstuff stores as well as Super Value and Fresh Choice. This is completed through a



series of interactions from year planning, seasonal planning category management, annual reviews and weekly (sometimes daily) volume and price discussions.

2. How is price set? Can you provide an example of typical conversation with buyer(s) during in-season pricing negotiations ? (see point 15 below if you prefer to talk to the Commission about this)

Happy to discuss this with the Commission and it does depend on the product, timing, volume etc. It also involves the above interactions.

3. How are pricing promotions funded?

Again it depends on the product line and our position within that line. If we are the category lead then this is different to being a part supplier. Also this is dependent on supply volume. As a rule it is part funded by price (not always discounted but mostly) and part by customer gross margin changes.

4. When supplying directly into a retail operation is your gross price affected by other fees like rebates?

Yes and these vary depending on which customer and supplier. We have visibility of these but not often the opportunity to negotiate them.

5. What are the rebate fees used for? Do you (grower) gain any benefit?

Promotional funds to advertise products, distribution to stores those sorts of things. Yes we have seen good use of some of these funds that are generated, but difficult to know if we get full value.

6. Are you aware of different growers and growers from other regions being offered different prices?

Yes for sure. Also plenty of times growers or marketers are out there offering at lower or higher prices as the industry is driven by supply and an absolute need to move product now. Some of the behaviour of the marketers in the industry is much more detrimental to returns than the market practices, in some ways the industry gives opportunity for ourselves to be exploited.

7. If there are differences, why do you think there are differences?

Every grower and supplier is looking at a different picture in fresh. They then have to make a decision about what they need to do for their own set of drivers. Supply is the key to any differences as product cannot be held and must be sold or dumped, not many are prepared to dump!!

8. Is there a difference selling to Countdown and/or Foodstuffs vs. other retailers?

Yes very much so and in the end no. All customers are subject to the supply of product and when it is short price is high, when it is long price is short. These two players are very strong on food safety and looking after the product which many other players are not. The standards vary widely within the industry and therefore the costs linked with this have an impact on consumer pricing.

9. Is there a difference between selling direct to Countdown and/or Foodstuffs vs. selling to Countdown and/or Foodstuffs through a distributor?

Yes big, as a grower dealing directly with retail you get visibility through a distributor you get no visibility. Distributors are driven by different drivers to achieve bottom line results for their business and that does not usually work in unison with profit for growers. Dealing direct removes these inconsistencies and starts to get clarity on real cost and returns for all parties.

10. Who has the bargaining power when selling to Countdown and/or Foodstuffs?

Depends on the supply, if it is short, grower, if it is long retailer. If the relationship is good both have same drives as it is about delivering value to consumers.

11. What would you like to be done differently when selling either direct or through a distributor to Countdown and/or Foodstuffs?

There are floors in every market transaction but the produce industry has made some good progress in getting to a more level playing field with the move from retailers to get closer to the growers. Compliance between these retailers is similar but in other sales channels there is very little or no compliance requirements. How can a farmers market, for example, sell product in the heat without refrigeration when this compromises food safety let alone quality.

12. Do you get sufficient return when selling your produce to Countdown and/or Foodstuffs?

This is a loaded question, if we compare it to kiwifruit then no, if we compare it to process sweetcorn then yes!! I do not think these two customers are making it insufficient, the industry will do this through supply more than anything. Competition is strong and sometimes the battle between these two retailers can cause issues for grower returns but it takes growers to play the game for this to happen, and can be made many times harder with the involvement of wholesales/marketers/distributors!!

13. When supply produce into retail / wholesale do you consider the produce supply chain to be fair on all parties?

No, everyone operates to different levels of compliance, quality and delivery logistics. Every operator has some advantage over others and all use this advantage be it grower, wholesaler or retailer, to ensure they achieve what they want achieve for their business. It does not work equally for all parties all the time. Is it always tilted in favour of one group, no but some may have a different view depending on their relationships in the market.

14. How could the supply chain be more equitable for all parties?

It cannot as no one can control the weather let alone what each grower plants so no matter how you try to "control" it, outside influences will always come into play over time, be it short time of long time.

15. Are you prepared to talk direct to the Commerce Commission either on the record or on an anonymous basis?

Yes, I think the industry has changed a lot in the last 10-20 years and this process has the potential to unsettle and destabilise an industry that is on a better pathway. I worry when I read questions like should the marketers play a greater role in the process!!!

#### GENERAL COMMENTS:

The observed price difference between grower price and final consumer price is often 50%-100% , and sometimes greater than 200%.

When Cauliflower reached its heady price of \$15 per head in supermarkets this time last year, as growers we received \$6-\$7 per head. Retailers retained a percentage mark up. Ie they may normally make \$1 per head on a retail \$2 cauli.

Remember growers take all risk and cost to grow and get to market.

Domestic Onions are at present about 60 cents per kilo to the grower ( less crate and pallet hire etc)

Next time you supermarket shop have look at their per kilo price.

Recently Food stuffs have demanded a change to collapsable crates. No grower I have talked to wants to use them as they are not seen as fit for purpose.

The largest 60lt collapsable will only hold 4-5 cauli, lettuce, cabbage etc, as against 8 in the 75 lt crate used by the industry for the last 25 years. I recently attended a meeting about these crates. A Foodstuffs spokesperson was asked directly if they would contribute to the extra crate costs ( obviously the grower has to hire more crates as they only get 5/8 the product per crate). The Food stuffs spokesperson stated that the market decides the price. When asked if they would contribute half ie grower pays half/ retailer pays half, she stated that this is not a model they are familiar with Foodstuffs cites H&S as the reason for smaller crates (lighter to lift) but they are much less safe to use from a growers perspective because of their construction. They are unstable, rely on perfect assembly and stacking etc. Not great attributes in a paddock mid winter!

The real reason is they take up less storage space , and the largest crate you can build that folds down onto itself is 60 lt.

So Foodstuffs has demanded a change of crate type and size with big ramifications for growers. This seems to have been presented as fait accompli with little consultation and no compensation for a large increased cost to growers.