

[REDACTED]

From: [REDACTED]

Sent: Thursday, 25 January 2024 11:45 am

Subject: Foodstuffs Merger

25/01/2024

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Good Morning

I am writing to you not just as a stakeholder in the New Zealand food manufacturing sector but as a concerned citizen deeply troubled by the trajectory our industry is taking. My company plays a significant role in supplying staple food items, essential to every household and pivotal to the market. These categories are often at the centre of discussions due to their fundamental importance to consumers and the economy. The proposed merger of Foodstuffs North Island and Foodstuffs South Island, coupled with the aggressive promotion of supermarket home brands, paints a bleak future for local food manufacturers, and by extension, the entire agricultural and food sector of our nation.

I am writing to you from a under the pseudonym 'Joe' via a personal and non-identifiable email address, I wish to address these issues while requesting that my identity remains confidential, as I am a supplier to these supermarket chains and fear potential reprisals for voicing my concerns.

The proposed merger, as detailed by the Commerce Commission's preliminary statement of issues, is a significant cause for concern. Currently, Foodstuffs operates as two legally separate cooperatives, providing a semblance of choice and competition, however minimal. This structure offers suppliers like myself a fighting chance to negotiate, to secure shelf space, and to reach different consumer bases through the distinct operations of the North and South Island entities.

However, a critical aspect that needs attention is the stark contrast in the operational models between Foodstuffs North Island (FSNI) and Foodstuffs South Island (FSSI), particularly concerning their procurement and buying practices. With the change to centralized buying in FSNI, the ranging, pricing, store layout, and promotions are tightly controlled by the category manager at FSNI headquarters. This centralised approach, while theoretically streamlining operations, is causing significant practical challenges for suppliers.

The discrepancies between what is stated by FSNI and the actual scenario are concerning. The category managers, burdened by their workload, have significant control over which products get shelf space. If a category manager decides not to feature a product in a store, the supplier has practically no recourse. Even if the products are

optionally ranged or local ranged, due to the category manager control over compulsory ranged products (generally large corporates) acquiring shelf space is very challenging for some.

Moreover, even when products make it to the shelves, the category manager controls the retail price, meaning the lowest purchase price does not necessarily translate to the lowest selling price in the store. This disconnection is not beneficial for manufacturers or consumers, as evidenced by the lack of visible savings in the North Island despite products being sold to Foodstuffs at lower prices. The inability of local store buyers to negotiate deals due to the centralised buying system further removes any remaining influence or flexibility local manufacturers might have had.

Additionally, the centralised buying system in FSNI involves a number of rebates and levies that muddy the waters between invoice price and retail price, a complication less prevalent in FSSI's approach. This disparity not only complicates financial transparency but also can be detrimental to both manufacturers and consumers.

Contrastingly, in the South Island, the more decentralised approach allows small or new manufacturers to directly contact local stores to get their products ranged. This model, while not perfect, offers a lifeline to local producers, providing them with the opportunity to negotiate directly with store owners or buyers – an avenue that is crucial for new entrants to get established and thrive.

The merger threatens to upend this delicate balance. By consolidating operations, the merged entity would not only streamline its processes but also centralize its decision-making power. This power, unchecked, could lead to a scenario where the needs and voices of small, local suppliers are sidelined or altogether ignored. The implications are manifold:

Bargaining Power and Supplier Terms: As the Commerce Commission rightly points out, the merger would consolidate the purchasing functions and supply term negotiations under a single entity. This concentration of power risks tipping the scales even further against suppliers, potentially leading to reduced bargaining power, less favourable terms, and an overall squeeze on the already thin margins that many local producers operate on.

Market Competition and Pricing: While Foodstuffs argues that the merger would not lessen competition due to the distinct operational regions and infrastructure of the North and South Island entities, this perspective fails to address the core issue – the potential for the merged entity to wield its increased market power to influence pricing and service quality. The risk of coordinated behaviour to exercise collective market power, as highlighted by the Commission, could lead to higher prices and reduced output, adversely affecting not just competitors but consumers as well. Making trade harder for small/local suppliers will have severe adverse effects in the long run, removing competition and raising prices.

I would also like to turn our attention to the issue of supermarket home brands, the situation is equally disconcerting. Brands such as Pams (Foodstuffs) and Essentials range (Countdown) have gained substantial market share and shelf space, often at the expense of independent producer brands. This trend is not merely a matter of product choice but a reflection of a deeper, systemic issue within the grocery sector. The aggressive promotion and strategic pricing of home brands, often as loss leaders, undermine the viability of local producers' brands. This not only affects our sales but also hampers our ability to invest in innovation, quality improvement, and sustainable practices.

The strategic placement and pricing of home brands effectively corner local producers into an unenviable position – either participate in a race to the bottom, often at unsustainable price points, or face obscurity due to limited shelf visibility and availability. The argument of limited shelf space, often cited by supermarkets to sideline independent brands, further exacerbates this issue.

In light of these concerns, it is crucial for the government and relevant regulatory bodies to consider alternative

approaches to the proposed merger of Foodstuffs North Island and Foodstuffs South Island to ensure the maintenance of a competitive and fair market.

Measures could include, but should not be limited to:

- **Conditional Acceptance of the Merger with Chain Split:** While the outright merger of Foodstuffs North Island and Foodstuffs South Island is not in the best interest of a competitive market, a conditional acceptance could be considered, provided it involves a strategic restructuring of the supermarket chains. A viable approach might be to allow Pak'nSave to stand alone due to its significant market presence and operational scale. In contrast, New World and Four Square could be combined into a dual-entity system. Alternatively, New World could operate independently, with Pak'nSave and Four Square forming a two-tier entity, aligning their operations while catering to different market segments. This restructuring would ensure that each entity, especially the smaller Four Square, has the support system it needs to thrive. It's crucial that in this restructuring, the chains become independently operated entities that operate across both islands. With this change, it would introduce new, distinct players into the market, diluting the concentration of power and fostering competition. Such a move would not only benefit consumers through enhanced choices and potentially better pricing but also offer suppliers more avenues and fairer conditions for their products.
- **Establishment of Independent Distribution Centres:** Parallel to the supermarket chain split, the transformation of Foodstuffs North Island and South Island distribution centres into independent, neutral logistics depots is essential. This move would guarantee that distribution and logistics services are provided fairly and competitively, serving not just the independent supermarket entities but also other retailers and wholesalers in the market. Such a system would prevent any single entity from gaining undue advantage or influence over the supply chain, fostering a more competitive and efficient market environment.
- **Complete Elimination of Supermarket Home Brands:** The dominance of supermarket home brands such as Pams and Essentials range is not just a market issue; it's a question of fairness and diversity. I propose the complete elimination of these home brands to ensure that local producers are not unjustly marginalised in the market they helped build and sustain. Removing these brands would not only provide local producers with a fair opportunity to compete but also encourage supermarkets to establish more equitable and sustainable partnerships with these producers. It's a step towards a market that values diversity, quality, and local enterprise, reflecting the true spirit of a competitive and consumer-friendly industry.
- **Prohibition of Loss Leader Strategies:** Supermarkets' use of loss leaders, while seemingly beneficial to consumers in the short term, has long-term detrimental effects on market dynamics and pricing honesty. This strategy, where a product is sold at a loss to entice customers into stores, often results in inflated prices on other goods to compensate for these losses. It's a deceptive practice that not only misleads consumers but also distorts the true value of products. Banning this practice would encourage supermarkets to compete on the quality, variety, and value of their offerings, rather than resorting to manipulative pricing strategies. This move would foster a healthier market environment where fair pricing and quality service are the primary drivers of competition.

Furthermore, to ensure these crucial issues receive the necessary public attention, I intend to share this letter with various media outlets. It's important that the broader community understands the potential impact of these industry practices and the proposed merger, prompting a transparent and informed discussion on the future of New Zealand's food sector. With this in mind, I sincerely hope you receive and read this letter, acknowledging the gravity of the concerns presented.

In conclusion, the proposed measures – ensuring the independent operation of supermarket chains post-merger, establishing neutral distribution centres, eliminating supermarket home brands, banning loss leader strategies, and critically addressing the disparities in procurement and buying practices between FSNI and FSSI – are designed not just to maintain but to enhance the competitive landscape of New Zealand's grocery sector.

I trust these proposals will be given the serious consideration they merit. The decisions made today will shape the future of our food industry, and it is crucial that these decisions pave the way for a market that is fair, competitive, and diverse, benefiting all stakeholders involved.

Yours sincerely,

'Joe' - A concerned New Zealand citizen and stakeholder.