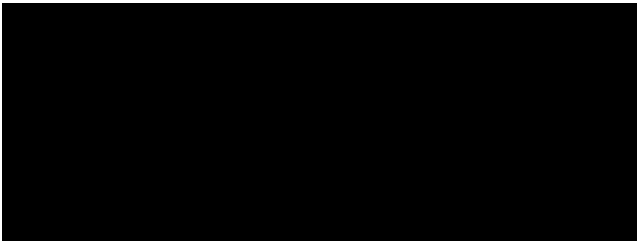


19 January 2023



Official Information Act #22.091 – Response

1. We refer to your request received on 4 December 2022 for information on supermarket promotions and the regulation of supermarkets profit margins.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

3. As New Zealand's competition consumer and regulatory agency, the Commerce Commission (the Commission) is responsible for educating, monitoring and enforcing a number of New Zealand's competition and consumer laws, including the [Fair Trading Act 1986](#) and the [Commerce Act 1986](#), as well as regulating a number of specific industries.

Fair Trading Act 1986

4. The Fair Trading Act prohibits businesses from conducting themselves in a misleading and deceptive manner or making false representations. This would include, for example, ensuring that any reasons given for price increases are correct and accurate.
5. Where the Commission becomes aware that a business is breaching the Fair Trading Act, the Commission may choose to open an investigation and may take enforcement action, including prosecution. Examples of previous enforcement cases the Commission has taken in relation to breaches of the Fair Trading Act are available on our [case register](#).
6. New Zealand law does not prohibit price gouging/excessive pricing generally. High prices and increasing prices above levels charges previously is not illegal in New

Zealand (under the Fair Trading Act), because businesses are free to set their own prices. Please see our [pricing factsheet](#).

7. If a business gives a reason for the increase, then that reason must be true. This is because the Fair Trading Act prohibits misleading and deceptive conduct, and false representations. Consumers may ask for the reason a price has increased and if they are concerned the reason that is given is not true, they should let us know by filling out the [complaint form](#) on our website.

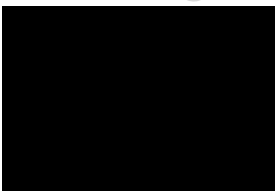
Proposed regulation of the grocery industry

8. In March 2022, the Commission released the [final report](#) of its Market Study into the retail grocery sector. The Government's response can be found [here](#).
9. On 6 July 2022, the Government announced that the Commission had been appointed as the grocery regulator, and that a Grocery Commissioner would be established within the Commission to provide a strong and ongoing focus on this sector. The Commission is now establishing a new function to support the work of the Grocery Commissioner.
10. As a part of a suite of actions and reform, the Ministry of Business Innovation and Employment have developed a Grocery Industry Competition Bill, which outlines the Commission's roles, functions and powers. The Bill was introduced into Parliament and is currently in [Select Committee](#) stage. It is not proposed to regulate profits – in our Market Study, we recommended a number of initiatives to increase the level of competition in the retail grocery sector. Increased competition will ultimately lead to greater choice and lower prices for Kiwi consumers.

Further information

11. Please note the Commission will be publishing this letter on its [website](#). Your personal details will be redacted from the published response.
12. Please do not hesitate to contact us at oa@comcom.govt.nz if you have any questions about this response.

Yours sincerely



OIA and Information Coordinator