



HEXIS QUADRANTS SUBMISSION
ON THE NEW ZEALAND COMMERCE
COMMISSION'S MARKET STUDY INTO
THE RETAIL GROCERY SECTOR

30TH NOVEMBER 2021

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INTRODUCTION

Introduction

This submission report to the New Zealand Commerce Commission is to address the current issue of high market concentration in the New Zealand grocery sector and to present best solutions. Our proposition is this will be for the betterment of the New Zealand consumer who currently pays one of the highest grocery prices in the world. This naturally puts a financial strain on the New Zealand consumer and further widens the socio-economic gap in society.

In addition, this high market concentration doesn't allow for fair and robust competition to enter the New Zealand Market. In all, it contributes to an unfair and unequal economy with reduced democratisation. We propose a complete stop to this and advocate for a total reform of the current New Zealand grocery market where a new and fairer market emerges that invites viable and sustainable competition. This benefits the consumer but also potential third-party entrants to the market.



This submission will address and answer the following five questions identified by Hexis Quadrant. The answers to each question in today's market highlight the difficulties and inequality that exists within the New Zealand grocery sector:

1. Is it easy for the existing supermarkets to leave their ecosystem today and acquire what they need to trade competitively?
2. Is it easy for the New Zealand consumer to buy what they need or want outside of the two existing ecosystems?
3. Is it easy for most New Zealand suppliers to acquire appropriate volume outside of the current two existing ecosystem?
4. Is it possible for existing fringe competitors to source products at a competitive price to compete in a meaningful way?
5. How do we remove the barriers to stimulate healthier competition and make consumers better off?


It is our contention that these difficulties and inequalities only serve to reduce competition in the sector which ultimately leads to higher prices for New Zealand consumers. This anti-competitive market structure has also created some of most profitable supermarkets in the world and wealthiest grocers in the world. In 2018 when 6 businessmen entered the NBR Rich List from the ownership of a single supermarket (most of them Pak'nSaves), it is reasonable for the government and Commission to ask a six question – Are New Zealand's grocers profiteering on the back of New Zealand's poorest citizens?

*Five solutions will be presented for these questions all of which have been substantiated by rigorous research and expert commentary.

*Please note that the above questions stem from concerns regarding additional societal issues which we will also be addressing in this submission.

*Please refer to the appendices for the list of abbreviations and acronyms referred throughout this report.

*Along with text there are various visuals like graphs and charts included in this report to illustrate key points and facts. These are all labelled.



**SECTION ONE:
OVERVIEW OF CURRENT NEW
ZEALAND GROCERY SECTOR**

Section One: Overview of Current New Zealand Grocery Sector

1A. The current New Zealand grocery sector operates in a heavily concentrated market which exists through two ecosystems:

1. Foodstuffs Co-Operative

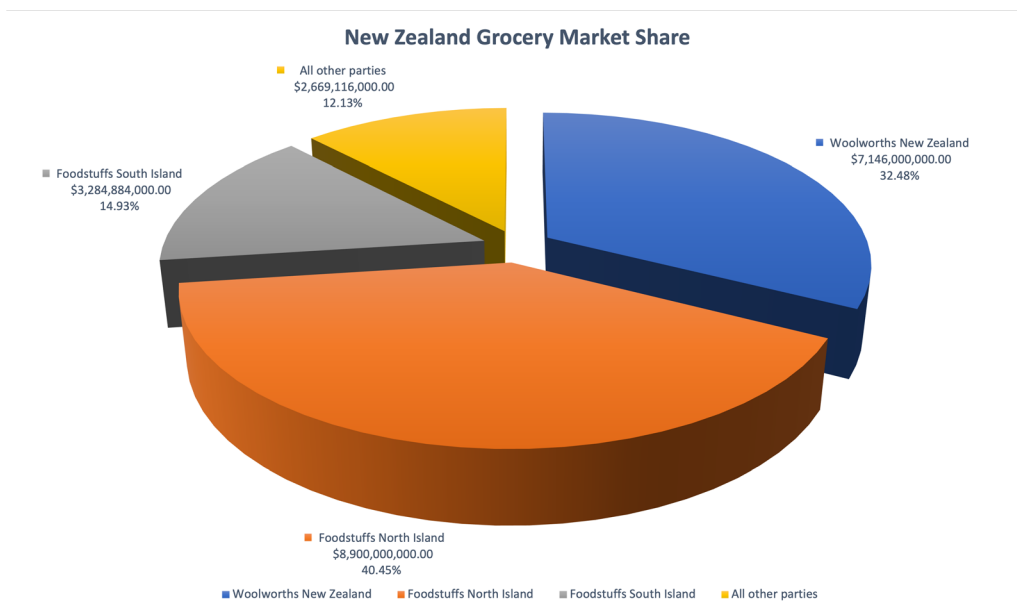
- Pak’n’Save, New World, Four Square, On the Spot etc.
- Foodstuffs North Island and South Island are non-competing entities

2. Woolworths New Zealand

- Countdown, Super Value, Fresh Choice

*Fringe retailers don’t make enough of an impact in these ecosystems (E.g. The Honest Grocer, The Warehouse Group, Supie, local Dairies, etc). They make up just 12% of the market share, whilst Foodstuffs and Woolworths make up 84% market share. It's obvious then which retailers have the biggest influence and power in the NZ grocer sector. The suggestion then of competition in the true sense of the word to these two behemoths is completely redundant given Commerce Commission findings.

Figure 1. Chart Showing New Zealand Grocery Market Share



Major Retailer	FY21 Revenue based on Annual Reports	Share of estimated market revenue
Woolworths New Zealand	\$ 7,146,000,000.00	32.5%
Foodstuffs North Island	\$ 8,900,000,000.00	40.5%
Foodstuffs South Island	\$ 3,284,884,000.00	14.9%
All other parties	\$ 2,669,116,000.00	12.1%
Total NZ Food & Grocery	\$ 22,000,000,000.00	100.0%

References: (Commerce Commission New Zealand: Market study into the retailer grocery sector; Draft report – Executive summary;) (https://comcom.govt.nz/__data/assets/pdf_file/0024/260376/Market-study-into-the-retail-grocery-sector-Draft-report-Executive-summary-29-July-2021.pdf), (Woolworths Group 2021 Annual Report), (Foodstuffs North Island Concise Annual Report FY21: Results and Highlights; <https://annualreports.foodstuffs.co.nz/our-results-and-highlights>), (Foodstuffs South Island Annual Report 2021)

1B. Given the lack of true competition in the true sense of the word between the major grocery retailers and other grocery retailers, the strength of competition between Foodstuffs and Woolworths NZ is a key driver of the prices, quality and range of grocery products available to consumers. They are each other's closest competitors. The major grocery retailers proactively choose and monitor strategies that seek to limit the reach to which their retail banners compete directly with each other especially on price. A good example of this is Pak'nSave which ostensibly aims to be the cheapest, New World which offers a wide range and premium service, and Countdown that is a go-between the two. This appears to be done mainly with the goal of attracting and retaining a more loyal and exclusive customer base rather than aggressive genuine price and service competition.

Reference: (Commerce Commission New Zealand Market Study into the Retail Grocer Sector; Draft report- Executive summary 2021)

1C. Groceries form an essential purchase for all consumers but also make up a major expense for most households. The Commerce Commission has identified that in the year to December 2020, more than \$22 billion was spent at supermarkets and grocery stores. Furthermore, it was identified that in the year to June 2019, food was the second largest expense for New Zealand households, with an average spend of **\$234** a week.

We propose that this cost can be reduced by at least 10% which would bring the average spend to **\$210.60** a week. Thus, it would be cheaper for consumers and enable them to be better off through an increased level of disposable income. It should be noted that other sources have put the weekly average spend at higher prices from - **\$275.50** to **\$330.50**.

When you consider that the average household income is \$37,000 per annum, and 30.4% of this income is spent on groceries it puts an obvious strain on households.

Grocery shopping shouldn't be a stressful experience given the essential role it plays in life. Yet for many families and individuals on low incomes, it is a stressful experience.

References: (Commerce Commission NZ Market study into the retail grocer sector; Draft report- Executive summary 2021, Labour Market Statistics Income New Zealand, 2021 <https://www.stats.govt.nz/information-releases/labour-market-statistics-income-june-2021-quarter>)

Voices From New Zealand Consumers

To highlight the issue of exorbitant pricing paid by consumers in NZ, we want the Commission to hear directly from the consumers themselves. We understand that the Commission has had various consumers put forth submissions along with Consumer New Zealand who have independently put forward a submission.

However, we still think it's important for the purpose of this submission to highlight the consumers viewpoint. After all, they are the ones at the register. The following are five submissions from various consumers in their exact words for your consideration.

01

Consumer 1

"At thirty years of age, my wife and I are having our first child. We both have good jobs, come from middle class whole pakeha families, and have been given every opportunity to be successful at life. Certainly, we have had more opportunity than most kiwis. And yet, when we go to the supermarket, we are forced to choose our purchases entirely based on what we can afford this week. We have not been able to purchase a capsicum, a zucchini, tomatoes, or lemons for years. Mushrooms and kumara are a real delicacy. Kiwi fruit are worshiped when we have them. I don't think we have had beef since 2019. Chicken is our staple meat, since it's the one thing that hasn't skyrocketed in price. Milk is no longer affordable for us. When almond milk is the cheaper option you know you have messed up. Despite this cautiousness and budgeting, we almost always spend over \$200 on groceries a week." (anonymous)

(Reference: Commerce Commission 2021)

02

Consumer 2

"Everyday low prices, multi-buys, loyalty rewards... Walking into the New Zealand supermarket it seems as if you see specials everywhere, but we are still paying too much for groceries. New Zealand's supermarket 'duopoly' is what's driving the high prices. The Commerce Commission findings have solidified our suspicions that we're paying simply too much." Gemma Rasmussen from Consumer NZ

(Reference: < <https://www.odt.co.nz/business/nzs-top-five-consumer-complaints>>)

03

Consumer 3

"It seems a systemic issue. Most people just don't have the patience to question prices nor the time for the long waits while [the store] sorts it out." Paul Bensemenn

(Reference: < <https://www.odt.co.nz/business/nzs-top-five-consumer-complaints>>)

04

Consumer 4

"Ten cents isn't a big deal but the price tag led me to believe the already expensive bread was on sale, not more expensive than usual!" Alex (no surname provided)

05

Consumer 5

"This is the bit that causes most annoyance – mistakes do happen but then for a retailer to just ignore the issue would suggest a particularly poor attitude to customer concerns and would heighten our suspicion that the retailer has a lax attitude to ensuring pricing is correct." Kim Santer

(Reference: < <https://www.odt.co.nz/business/nzs-top-five-consumer-complaints>>)

*The Commerce Commission has received more than 60 complaints from New Zealand shoppers since August 18, 2020, alleging that supermarkets have hiked up prices during lockdown. However, the above complaints presented do not reflect lockdown prices, which are a separate issue to the complaints referenced above.

*Consumer New Zealand made their own submission to the Commission highlighting numerous complaints. We believe that the Commission and the Government should come together and study these complaints in more detail. This way they have a much better understanding of the plight of the consumers.

*Please note that there are online forums including social media platforms like Facebook where NZ consumers are also expressing their concerns on grocery pricing. There is even a dedicated Bring Aldi to New Zealand Facebook Page. This further reinforces the sentiment of the consumers.

<https://www.facebook.com/BringALDItoNZ/>

**SECTION TWO:
SCALE OF COMPETITORS &
BARRIERS TO ENTRY OF NEW
ZEALAND MARKET**

Section Two: Scale of Competitors & Barriers to Entry of New Zealand Market

Given the duopoly that exists in the New Zealand grocery sector with Woolworths New Zealand and Foodstuffs New Zealand reigning supreme, the barriers to entry to the NZ market are incredibly high for both potential domestic and international operators, which reduces competition in the market. These barriers have been a long-standing issue, particularly in the last two decades. Concerns about them have been raised numerous times and most recently during the Commerce Commission Market study into the retail grocery sector published on 19th November 2020.

Some of these barriers are:

1. Wholesale Market Issues

The nature of having just two main players in the market naturally limits competition. Most retailers outside of the duopoly are supplied by wholesale entities owned by the grocers, so access to supply and price is controlled and bargaining power between buying and selling entities is impacted. Grocers have a lot of influence over the supply of food, beyond the grocery retail channel. No adequate wholesale supply currently exists for fringe retailers in NZ existing constricting supply. It is clear that the New Zealand wholesale market is broken.

2. Private Label, Home Brand, Own Brand Issues

Although the logic behind home branded products which have now become a staple of supermarkets around the world is to provide affordable food choices for consumers, in the NZ market it raises a possible barrier to entry. Grocers may use home branded products for their own personal gain through positioning these products as a direct replacement to branded goods from the same supplier during a negotiation in an effort to increase retailer margins.

This action can serve to pressure local growers and manufacturers into commercially restrictive outcomes. Such tactics can lead to a loss of products ranged which can result in reduced revenues for the supplier and diminished choice for New Zealand consumers. Additionally reduced revenues for the supplier can lead to reduced investment in innovation and increased unemployment levels if the product is sourced offshore which places additional burden on the New Zealand society and economy.

Given the highly concentrated nature of the New Zealand market, there is the potential for harm in terms of reduced choice for consumers, lower innovation and (counter-intuitively) higher prices than would be expected if there were genuine competition.

3. Access to Supply Chain Issues

Lack of access to large-scale independent supply chain and fulfilment infrastructure (E.g.: storage, transportation, refrigeration, etc) for a new entrant to the market or smaller grocer to partner with or acquire poses a real problem.

4. Cost Issues

Entry to the NZ market is a high cost given the duopoly that exists, and funding options are limited so cost then presents a real barrier to entry. We estimate that it would cost \$125 million dollars for a new entrant to build a distribution centre, and a further \$30+ million to fill the facility with stock.

5. Restricted Land Covenant Issues

Limited property site availability in NZ reduces access to the supply of suitable sites for new entrants. In addition, certain property leases contain covenants restricting the use of adjacent sites to set up shop for grocery products. Local councils have put in place laws that make it incredibly hard for entrants to set up shop in what can best be described as restrictive to current and future competition.

6. Legislation Issues

The current legislation presents a barrier to entry to overseas investment into the market (OIO) with its restrictive zoning and building approval processes.

7. Selling of Liquor Issues

In the current market those outside of the grocers must create a standalone shopfront and business to be able to qualify for a license to sell liquor. This negatively impacts the consumer's shopping experience and incurs additional operational costs for a retailer. For new entrants it poses a significant disadvantage.

8. Lack of Viable Third- Party Logistics

To date there exists no viable Third-Party Logistics (3PL) which therefore places an enormous strain on, and reduce the overall functionality of, the market.

References: (Eric Crampton, Submission By The New Zealand Initiative to the Commerce Commission 2021), (Commerce Commission 2021), (The Warehouse Group – Preliminary Issues Paper to Commerce Commission 2021), (Northelia1.4 Submission on Market Study into Grocery Sector Draft Report 26 August 2021)

*We encourage the Commission to get in touch with Aldi Australia and ask them directly what they saw as the main barriers against their entry to the New Zealand market six years ago. Additional barriers could be identified through this process which could then also be considered by the Commission.

*It's clear then (at least to us) that if the above barriers were removed with the help of the Commission and other relevant bodies within the New Zealand Government, that New Zealand would, at last, be officially open for business.

Removing the Barriers to Entry

The Commission is all too familiar with the barriers to entry but what is now needed is action - a removal of the barriers. This will encourage healthy and viable competition in the market and make NZ officially open for business. Without their removal nothing will change in the NZ marketplace and so the situation stays the same, reinforcing, and finally cementing in the duopoly.

So then how do we remove the barriers? As we are not economists it's beyond our capacity to present solutions to this problem. However, we do back up Chief Economist with The New Zealand Initiative, Eric Crampton's proposal for removal of the barriers. He has highlighted this in his submission to the Commission.

Crampton has put forward to the Commission both a short-term and long-term strategy for removing the barriers to entry which we are in full support of, and which consist of:

Short-term:

1. The voiding of any title encumbrances that have an anticompetitive effect; and
2. Urging the Overseas Investment Office to view any entry into grocery retail as being presumptively in the national interest and subject to automatic approval.

Long-term:

1. Include competition as an aim in council spatial planning by including it in the Spatial Planning Act, currently in development.

Setting a role for the Commerce Commission in providing input into spatial planning processes regarding the pro- or anti-competitive effects of proposed spatial plans. Ideally, the Commission would be able to veto spatial plans that have an anti-competitive effect.

This would require the Commission to look closely at and be involved in the current Resource Management Act reform process. It would have beneficial effects far beyond this current supermarket inquiry. The underlying barriers may be a source of weak competition in areas beyond grocery retail. Setting a market study process that seriously investigates regulatory and policy barriers to entry is important. Often, the agencies responsible for those regulatory or policy areas will never have considered the detrimental effects of their regimes on the competition.

IC. Economist's Viewpoint on Barriers to Entry

In discussion with Eric Crampton, New Zealand's Chief Economist with the New Zealand Initiative, a very strong viewpoint was raised by him on the barriers to entry to the market.

Crampton expressed that by removing the barriers to entry, the market can function on an even playing field, and economically the increased competition will make consumers better off.

He went on to express that the Commerce Commission's role is to protect competition, not particular potential entrants, or existing competitors. Freeing up entry, broadly promotes competition. Forcing existing competitors to sell off stores to Tex Edwards while maintaining regulatory restrictions that make it hard for international players to bid against him only protects Edwards. Setting up a government investment agency to throw \$150 million at Supie protects Supie, but hardly enables entry more broadly.

Removing the regulatory and legislative impediments to entry promotes competition more generally, and that's the game that Commerce Commission should be in expressed Crampton.

Case Study: The Honest Grocer and Barrier to Entry

The Honest Grocer is a good case in point of the barriers to entry to the NZ marketplace. When launched in 2020, the brand was challenged by suppliers for its low-cost pricing as they were concerned that it would upset/disrupt the major retailers like Woolworths NZ and Foodstuffs.

Ben Nathan, the founder behind The Honest Grocer upon launching boldly said "We see ourselves as a retail disruptor. "The supermarket duopoly needs a shake up and I think there is a power imbalance, where both consumers and producers are losing out to the might of the big chains... I encourage all suppliers to stand strong in the face of any pressure or heavy-handed tactics from the supermarkets."

This case really brings to light the problems with the existing modus operandi around entry to the NZ market. Despite initially entering the market with lower prices than the Grocers, prices on The Honest Grocer website appear to have been lifted to RRP.

(Reference: Commerce Commission 2021)

(Reference: Jonathan Milne, 2021, "Online Grocer Faces 'Bully' Tactics From Supermarkets" Available at www.newsroom.co.nz)

Issue of Population Size and Land Mass of New Zealand

We strongly believe that despite New Zealand being a small island country (landmass of 268, 021 square kilometres), with an obvious distance to supply chains and a population of just over 4 million there still exists room for a better and fairer grocery ecosystem. (Reference: Google 2021 Statistics).

Just look at the following countries some being island nations as great examples of not having a duopoly in their grocer sector and so encourage healthy competition and low barriers to entry. Countries like Dubai and Singapore import 90% of their goods as they don't have local manufacturing. They have multiple retailers competing for a share of the consumer wallet:

- Ireland (island nation of population of 4.995 million)
- Dubai (country of population of 3.331)
- Singapore (island nation of population of 5.6686 million)
- Denmark (country of 5.831 million)

(References: Ireland: <https://www.statista.com/statistics/534106/grocery-market-share-ireland/>), (Dubai: <https://www.bayut.com/mybayut/supermarkets-dubai/>), (Singapore: [BestinSingapore.com](https://www.bestinsingapore.com), Singapore Supermarket Statistics 2021), (Denmark: <https://www.statista.com/statistics/565747/market-share-of-selected-grocery-retailers-in-denmark/>)

*In such ecosystems consumers benefit by not having to pay exorbitant prices for their groceries as they do in NZ and barriers to entry are low for new entrants to the market. This stimulates healthy competition in the grocer sector and promotes a more democratic system. New Zealand should take inspiration from this and implement a better and fairer grocery ecosystem. The current duopoly must be deconstructed for this to occur.

*Singapore is likely the most expensive of these markets as it is completely at the dependence of product importation. New Zealand on the other hand has bountiful access to locally sourced and produced products that should lead to reduce prices for New Zealand consumers, yet presently does not.

*Please refer to our supermarket comparison sheet directly below to see the price differences between Australia and New Zealand which look at three different supermarket retailer brands in each market.

The table below speaks volumes about the current state of New Zealand's marketplace. New Zealand's primary discounter Pak'nSave is essentially line priced with Woolworths Australia and 60% more expensive than Aldi Australia for a comparable grocery basket. When New Zealand's so-called "discounter" aligns with Australia's most expensive grocery retailer we consider this a clear sign of a lack of competition.

Figure 2. Grocery Basket Value Comparison Table: Australia Vs New Zealand

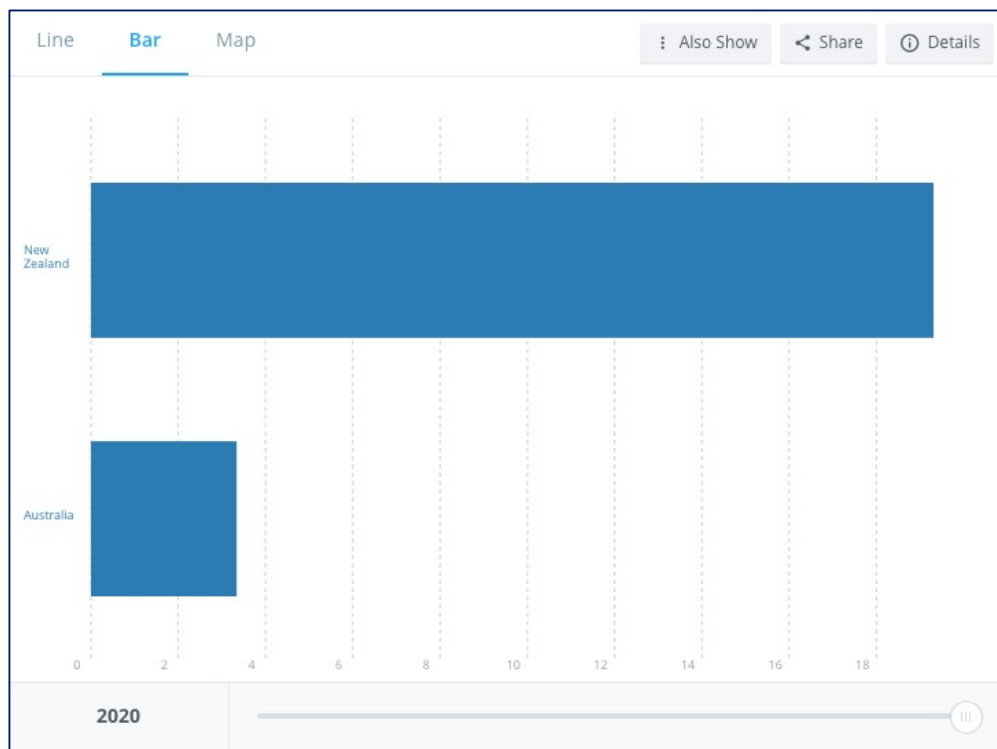
SKU	PACK SIZE	NEW ZEALAND			AUSTRALIA		
		C'DOWN	NEW WORLD	PAK'N SAVE	ALDI	W'WORTHS	COLES
MAINLAND SALTED BUTTER	250G	\$ 5.00	\$ 5.99	\$ 5.69	\$ 2.79	\$ 5.00	\$ 4.50
MAINLAND CHEESE	500G	\$ 12.00	\$ 9.99	\$ 8.99	\$ 4.99	\$ 9.50	\$ 9.50
FREE RANGE LARGE EGGS	600G	\$ 6.00	\$ 11.99	\$ 6.95	\$ 3.69	\$ 4.50	\$ 4.10
MILK	2LT	\$ 4.80	\$ 3.69	\$ 3.65	\$ 1.99	\$ 2.39	\$ 2.39
THICKENED CREAM	600ML	\$ -	\$ -	\$ -	\$ 2.99	\$ 3.00	\$ 3.00
THICKENED CREAM	500ML	\$ 4.39	\$ 3.99	\$ 3.89	\$ -	\$ -	\$ -
YOPLAIT VANILLA	1KG	\$ 6.00	\$ 3.79	\$ 3.59	\$ 3.00	\$ 4.00	\$ 4.00
FROZEN BABY PEAS	1KG	\$ 3.50	\$ 4.49	\$ 3.79	\$ 2.99	\$ 4.40	\$ 3.30
FROZEN MIX, PEAS, CORN & CARROTS	1KG	\$ 2.80	\$ 4.49	\$ 2.79	\$ 2.79	\$ 3.00	\$ 3.00
FROZEN BLUEBERRIES	500G	\$ 5.00	\$ 5.49	\$ 5.29	\$ 4.49	\$ 4.90	\$ 4.90
GRASS FED ANGUS BEEF SAUSAGES	500G	\$ 9.00	\$ 9.99	\$ 9.49	\$ 7.49	\$ 8.50	\$ 8.50
BONELESS SKINLESS CHICKEN BREAST	PER KG	\$ 13.00	\$ 12.99	\$ 9.29	\$ 8.99	\$ 9.50	\$ 9.50
RUMP STEAK	PER KG	\$ 25.30	\$ 24.99	\$ 20.99	\$ 14.99	\$ 27.50	\$ 24.00
SMOKED SALMON	100G	\$ 10.00	\$ 8.49	\$ 11.49	\$ 4.00	\$ 6.00	\$ 8.50
SMOKEY BACON	200G	\$ 6.50	\$ 5.79	\$ 3.59	\$ 3.49	\$ 4.50	\$ 5.50
MOCCONA CLASSIC	100G	\$ 9.00	\$ 12.99	\$ 9.79	\$ 3.99	\$ 4.00	\$ 6.00
TIM TAMS	PACK	\$ 3.00	\$ 3.79	\$ 2.79	\$ 1.99	\$ 4.00	\$ 4.00
ARNOTTS SHAPES	PACK	\$ 3.30	\$ 3.29	\$ 2.89	\$ 1.50	\$ 2.50	\$ 1.60
FABRIC SOFTNER	2LT	\$ 5.00	\$ 6.99	\$ 2.99	\$ 2.79	\$ 5.00	\$ 5.00
TOILET PAPER	8 PACK	\$ 8.50	\$ 5.49	\$ 5.19	\$ 3.99	\$ 4.40	\$ 4.00
AJAX SPRAY & WIPE		\$ 5.00	\$ 4.99	\$ 4.75	\$ 3.69	\$ 3.00	\$ 3.00
FINISH DISHWASHING TABLETS	36PCS	\$ 25.00	\$ 24.99	\$ 19.99	\$ 7.69	\$ 18.00	\$ 18.00
L'OREAL REVITA LIFT	50ML	\$ 34.00	\$ 33.99	\$ 26.99	\$ 16.99	\$ 33.00	\$ 32.90
COLGATE ADVANCED WHITENING T/PASTE	140G	\$ 4.00	\$ 4.99	\$ 4.99	\$ 1.99	\$ 4.80	\$ 4.80
COLGATE MOUTH WASH	1LT	\$ 8.00	\$ 6.99	\$ 7.59	\$ 3.49	\$ 8.00	\$ 8.00
UNISEX INFANT NAPPIES 4-8KG	56 PACK	\$ -	\$ -	\$ -	\$ 9.99	\$ 18.48	\$ 10.00
UNISEX INFANT NAPPIES 3-5KG	52 PACK	\$ 17.00	\$ 14.99	\$ 13.99	\$ -	\$ -	\$ -
UNSCENTED BABY WIPES	80 PACK	\$ 2.00	\$ 2.69	\$ 2.59	\$ 1.89	\$ 2.80	\$ 2.00
TAMPONS U BY KOTEX REGULAR	PACK	\$ 4.89	\$ 4.89	\$ 3.99	\$ 2.99	\$ 4.25	\$ 4.25
DEODERANT MITCHUM ROLL ON		\$ 4.49	\$ 3.69	\$ 4.05	\$ 2.29	\$ 3.80	\$ 3.80
PANTINE SHAMPOO	900ML	\$ 17.00	\$ 16.49	\$ 15.69	\$ 6.00	\$ 17.00	\$ 17.00
REXONA MEN	220ML	\$ 7.99	\$ 7.99	\$ 7.19	\$ 2.89	\$ 8.00	\$ 5.00
TOTAL		\$ 271.46	\$ 275.40	\$ 234.94	\$ 142.84	\$ 237.72	\$ 224.04
VARIANCE TO ALDI PRICES		90.04%	92.80%	64.48%	0.00%	66.42%	56.85%

Exchange rate @ 28/11/21 NZD:AUD	\$ 1.0445	\$ 1.0445	\$ 1.0445			
Converted to \$AUD	\$ 259.89	\$ 263.67	\$ 224.93			
Variance to Aldi	81.95%	84.59%	57.47%	0.00%	66.42%	56.85%
Converted to \$NZD	\$ 149.20	\$ 248.30	\$ 234.01			
Variance to Aldi	81.95%	84.59%	57.47%	0.00%	66.42%	56.85%

Although one could easily argue that there is no point in comparing the two countries given the differences in population and land mass, it is appropriate to note that Australia's grocery prices are significantly cheaper despite far more significant logistical challenges based on land mass and population density.

According to The World Bank Australia's population density is 3 people per sq. km of land area, whereas New Zealand's population density is 19 people per sq. km of land area. More than six times the population density of Australia as referenced in the chart below.

Figure 3. Chart of Population density (people per sq. km of land area) – Australia, New Zealand.




Source: <https://data.worldbank.org/indicator/EN.POP.DNST?end=2020&locations=AU-NZ&start=2020&view=bar>

We contend that every country has to deal with logistics costs, and this is not the reason why New Zealand is expensive. While there is presently an issue surrounding shipping costs into New Zealand due to the impact of Covid-19 on global supply chains, this is a present-day issue. The ongoing high prices experienced in the New Zealand market are a legacy issue, and this is due to a lack of competition in the market. For New Zealand shoppers there is certainly a duopoly penalty or "tax".

Furthermore, according to Worldometer 86.9% of New Zealand's population is urban which further dilutes any contention from the duopoly surrounding population spread as a driver of costs.

Source: <https://www.worldometers.info/world-population/new-zealand-population/>

A photograph of a person's hands using a payment terminal at a counter. The terminal is a handheld device with a screen and a keypad. The person is pressing a button on the keypad. In the background, there is a laptop on a red counter. In the foreground, there is a large, clear plastic cup filled with a beverage and a lid. The scene is set in what appears to be a retail or food service environment.

SECTION THREE:
DOWNPLAYING OF MARKET
SHARE BY SUPERMARKET
GIANTS

Section Three: Downplaying of Market Share by Supermarket Giants

In order to maintain the 'status quo' and hence preserve the duopoly both Woolworths and Foodstuffs are downplaying their percentage of the market share. What could be described as a tactical misrepresentation, Woolworths and Foodstuffs are promoting the illusion that the NZ marketplace is fair and competitive and so there is no problem.

Woolworths and Coles supermarkets in Australia took a similar approach in the late 1990's with their CEO's disputing that the big three supermarket chains (Woolworths, Coles and Franklins) held **80.4%** of the retail grocery market as published by the AC Nielson Statistical Services. They put the market share of the big three at just **43.1%**.

In relation to Woolworths Australia, Roger Corbett the then CEO put the market share of the supermarket in Australia at just 22% but the figures told a different story.

It's clear that this was an attempt to maintain the status quo of the supermarket giant and so downplaying the actual market share was a strategic tactic used.

We believe that such strategic tactics won't be uncommon by supermarket giants that clearly have the bigger share of the pie in the market. They will do what they can to hold on to it. Economics assumes that monopolists work hard to maintain and protect monopolies.

(References: (Joint Selective Committee On The Retailing Sector Report 1999), (Commerce Commission Grocery Market Study Virtual Conference 2021)



SECTION FOUR:
NEW ZEALAND RETAIL SECTOR
IS A TREASURE ISLAND FOR
DUOPOLY

Section Four: New Zealand Retail Sector is a Treasure Island for Duopoly

In 2007 Ian McLeod and John Durkan took over the leadership of Coles Australia, and they referred to the market as “Treasure Island” due to the soft pricing by the incumbent retailers and lucrative pricing structures of many suppliers. Over the next two-three years Coles aggressively drove a “Down Down” pricing strategy that was only matched and bettered by Aldi. (Reference: Commerce Commission 2021).

But suppliers have strongly debunked these Treasure Island claims made by Coles. Their argument is that they have done all they can to look after Australian consumers but with a weak Australian dollar they had to look at offshore markets to source products which then raised prices. They claimed that retailer’s profits, improved whilst their profits decreased.

(Reference: Sue Mitchell, Suppliers Debunk Coles ‘Treasure Island’ Claims, 2015 published <https://www.smh.com.au/business/companies/suppliers-debunk-coles-treasure-island-claims-20151210-glizwh.html>)

We strongly argue that the current NZ grocery market is more of a Treasure Island than the Australian market could ever be. This argument is based on two verifiable facts:

1. New Zealand has a much more concentrated grocer sector than Australia with just two supermarket chains Woolworths and Foodstuffs reigning supreme.
2. Entry into the Australian market is much easier as is evident by numerous fringe retailers and international retailers including Aldi and Costco.

Additionally, it is highly conceivable that some major multinational suppliers with global reach and sourcing are currently enjoying higher than average margins in the New Zealand grocery sector such as Unilever, Mars, and Pernod Ricard. These suppliers have global scale and benefit from a broader reach across retail channels than the majority of local suppliers due to a far more diverse portfolio of products that reach into non-grocery sectors such as convenience, pharmacy, dairies, department stores, cafes, restaurants, duty-free stores, etc.

As a result of their broad reaching distribution, strong market share and internationally backed commercial positions, it is logical to expect them to support the incumbent retailers and seek to prevent further change to the already lucrative market.

Such evidence of this can be seen in the submission by Pernod Ricard Commercial Managing Director Kevin Mapson who suggests in his submission to the Commerce Commission that:

1. "Requiring the separation of wholesale from retail would further deter competition and add cost and other pressures to the supply chain. It is also likely to create cashflow issues for suppliers."
2. And on the topic of a Grocery Code of Conduct for supermarkets, "As a supplier to the grocery sector in other markets, we do not consider this would be materially beneficial in New Zealand. Markets that have similar codes are not necessarily more functional in our experience."

(Reference: Pernod Ricard Winemakers Submission on Market Study into Grocery Sector Draft Report, 25 August, 2021

https://comcom.govt.nz/__data/assets/pdf_file/0032/265757/Pernod-Ricard-Winemakers-Submission-on-Market-study-into-grocery-sector-draft-report-25-August-2021.pdf)

The position of our team as well as our direct contact with multiple CEO's, category personnel and buyers of existing retail and wholesale businesses strongly disagree with point one above on the basis that true competition between retailers stimulates price competition in the market. Increased competition also places additional scrutiny on the pricing and margins of manufacturers such as those listed above, as seen in the example of Coles in 2007.

Furthermore, we are confused by the opinion of Mr Mapson as he has never traded under a Code of Conduct himself and the only market Pernod Ricard has traded under a code is the UK and Australia, both markets where supplier surveys confirm significant improvements in trading relationships. To that point we recommend the Commission speak with Christine Tacon to understand her dealings with Pernod Ricard as it is our understanding that her discussions with Pernod Ricard reflected an entirely contradictory view to that of Mr Mapson.

It is our contention that this is one example of an international supplier seeking to maintain the status quo to stifle meaningful competition entering the New Zealand grocery sector.

Equally some of the larger domestic manufacturer such as Fonterra (New Zealand Co-Operative) and Dairyworks (owned by Synlait) benefit from higher export prices which could result in upward pressure on the prices domestic consumers pay at the register should the manufacturers seek to match healthy export margins. If this were to be the case, it would clearly have a detrimental effect on prices paid by New Zealand consumers.

SECTION FIVE:
IGNORING THE NEED FOR A
TRUE WHOESALE SERVICE &
OPERATION

Section Five: Ignoring the Need for a True Wholesale Service & Operation

Both Woolworths NZ and Foodstuffs have repeatedly ignored the need for a true wholesale service and operation to be provided to the market with meaningful pricing. The reason for this is obvious at least to us. The moment they open up a viable wholesale service and operation it would make them open to competition. They don't want competition! So, they will do everything in their power to preserve the status quo.

Furthermore, the duopoly won't recognise that there is a problem in the first place. In fact, they are actively promoting that the NZ grocery market is healthy, competitive, and viable. This couldn't be further from the truth! A quick Google search on New Zealand supermarket chains will instantly confirm this. In addition, all the findings presented here in this submission substantiates our proposition.

The reality is that the Commission is faced with two primary challenges in regard to this situation:

1. Carving out a meaningful market share to a third entrant by busting up the existing duopoly
2. Establishing a wholesale presence that enables the rest of the trade to have meaningful relationships directly with the suppliers

These give rise to a further challenge of managing and regulating the two primary challenges on an ongoing basis. We propose that the best way to do this is through an industry Ombudsman, funded by a levy on the supermarkets, which would manage and regulate and oversee the market including primary areas of:

- Consumer pricing
- Supplier negotiations and trading conditions
- Wholesale market pricing
- Logistics, warehousing (end to end supply chain)
- Cost to serve

(Reference: Commerce Commission Grocery Market Study Virtual Conference 2021).



**SECTION SIX:
WHAT DEFINES A THREAT TO
THE NEW ZEALAND GROCERY
MARKET?**

Section Six: What Defines a Threat to the New Zealand Grocery Market?

The duopoly has talked of the “threat” Costco Wholesale poses in NZ in 2022 when they will open their first store. But upon closer examination we argue that this argument lacks merit due to factors like:

- Costco Wholesale will only open one store in New Zealand in 2022. According to Costco Wholesale’s 2020 Annual Report their average sales per warehouse are \$192m USD, with 54.1% of total store revenue being attributed to Food & Sundries and Fresh Foods. When converted to \$NZD this equates to approximately \$103m NZD in grocery sales annually which is 0.67% of the current New Zealand grocery market. Our calculations can be seen in the following table:

Figure 4. Table of Costco Wholesale: Estimated Food & Grocery Values for One Store

	\$ USD	Share of basket	
Costco Wholesale: Global average store revenue	\$ 192,000,000	100.0%	Item 6 P.19 2020 AR
Food and sundries	\$ 77,770,028	40.5%	Data sourced P.63 of 2020 AR
Fresh foods	\$ 26,184,088	13.6%	Data sourced P.63 of 2020 AR
Total Food, sundries and Fresh Foods	\$ 103,954,115	54.1%	

Exchange Rate to NZD	\$ 1.429	@ 21/11/2021
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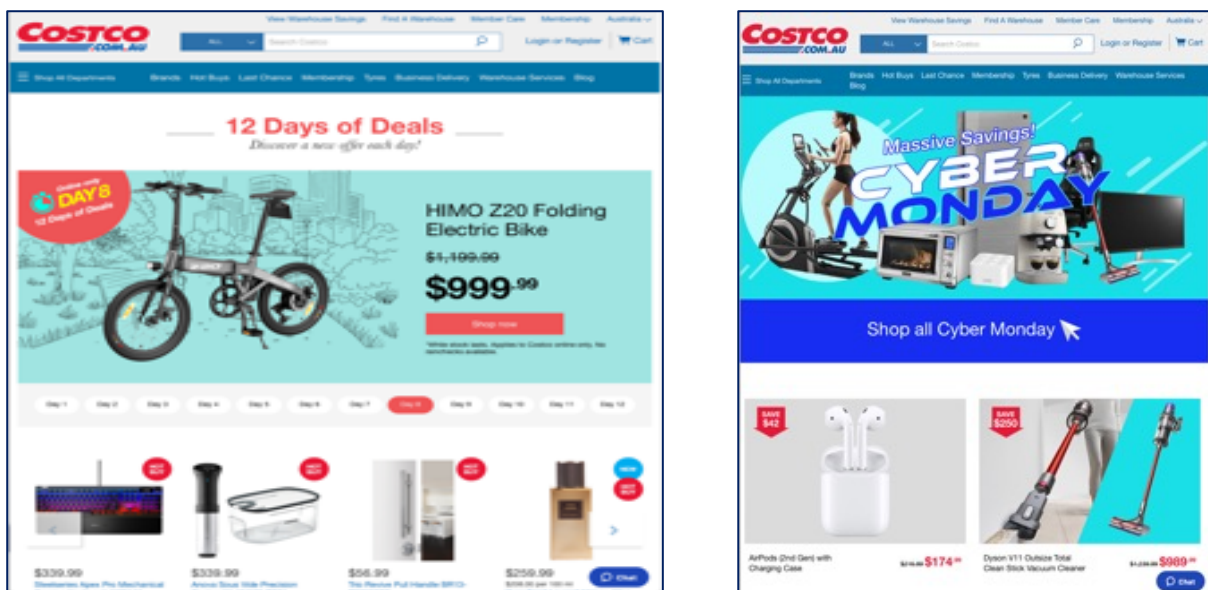
Converted to \$ NZD	Revenue in \$ NZD	Share of NZ market
Total Food & Sundry + Fresh Foods per store	\$ 148,550,431	0.675%
If three Costco stores	\$ 445,651,292	2.026%

Source: Costco Wholesale - 2020 Annual Report; Fiscal Year Ended August 30, 2020

- Costco Wholesale has a limited product range targeted at wholesale customers, and customers who can afford to purchase good in bulk quantities
- Costco Wholesale’s ranges 3,700 Stock Keeping Unit (SKU’s) in its wholesale warehouses and employs a strategy of only carrying a limited product range. Such a range therefore can’t compete with existing supermarkets that carry a much higher SKU count
- Due to its wholesale target, Costco Wholesale carries high volumes of bulk items in large pack formats that are more suitable for business customers than consumers

- Only 54.1% of Costco's revenue is generated from grocery products. The ranging held by Costco Wholesale is significantly broader than a pure grocery or food offer alone as can be seen through their website. To suggest that the compact range of one Wholesale store in Auckland will significantly disrupt the New Zealand grocery sector is ludicrous and not worthy of further debate
- Costco Wholesale operates purely on a membership basis. Customers must purchase an annual membership which costs approximately \$60 per year. This reason alone would be a deterrent for many consumers who do not wish to pay for membership and consumers on very low incomes who need to save as much money as possible
- Costco Wholesale cannot replace a primary grocery shop that is available through two existing ecosystems. Consumers simply don't go to Costco Wholesale to do their weekly shopping as they would with a primary supermarket as its set up entirely differently

Figure 5. Costco Wholesale offers far more than grocery products alone



SOURCE: <https://www.costco.com.au>

***Important Note** - As can be seen in their annual report, Costco's operating model has a lower retail margin due to its lower overhead costs. This therefore would be seen as a price challenge to the existing two ecosystems, however, only serves to benefit the New Zealand consumers if it were to result in lower prices, though this risk remains minimal off one store.

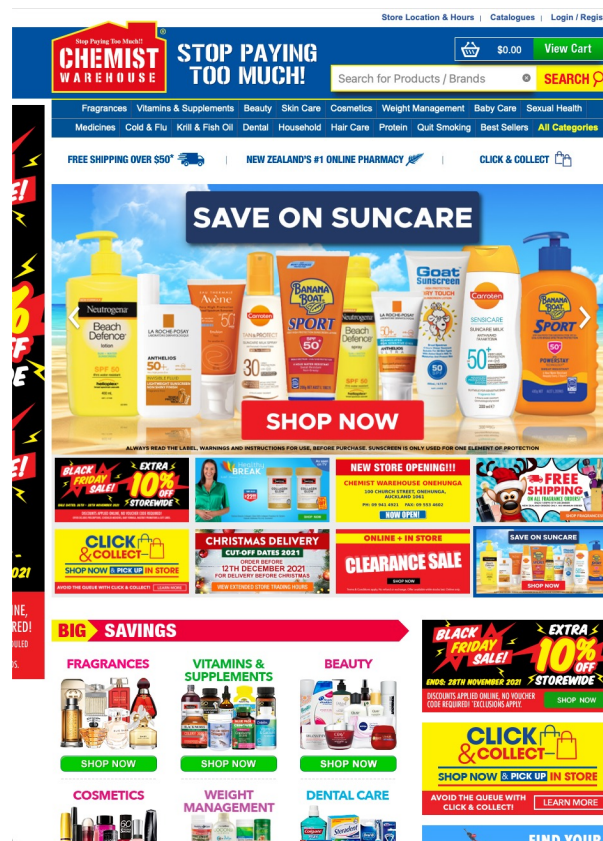
Chemist Warehouse Versus Woolworths!

Woolworths NZ Josh Gluckman repeatedly referenced the threat of Chemist Warehouse as strong competition in the NZ grocery sector. While there is some overlap of product ranges held within supermarkets and retail pharmacy stores, this remains limited to a minimal number of categories.

Furthermore, any such competition should only be seen in the best interests of the New Zealand consumer, thus rendering comments made by the duopoly in relation to the competition instigated by Chemist Warehouse as irrelevant. We wish to bring to the attention of the Commission the following obvious facts:

1. Chemist Warehouse is a chemist with a relatively focused merchandise offer whose main product range are items like prescriptions, vitamins, beauty, cosmetics, and fragrances. These are not primary grocery categories, and reviewing their website substantiates this.

Figure 6. Chemist Warehouse has a very focused range of products yet no bread, milk or apples!




(SOURCE: www.chemistwarehouse.com.au)

2. If anyone should see Chemist Warehouse as a threat, it should be the New Zealand pharmacy sector. They potentially have a lot to lose with a direct competitor who is in the same industry offering pharmacy products at a much lower price than what is being offered by pharmacies in New Zealand.

(Reference: Commerce Commission 2021, Chemist Warehouse Website <https://www.chemistwarehouse.com.au/>)

It's a logical argument that Chemist Warehouse is just fair competition in the NZ marketplace and there shouldn't be a barrier to entry for them. Any complaints against them by Woolworths or Foodstuffs should then be taken with a grain of salt, as this is a contradiction by the grocery retailers who claim the market is competitive, and we strongly voice this position in this submission.

We do however agree that a Code of Conduct could be relevant to the pharmacy sector based on our experience in the Australian marketplace to ensure that the conduct of retailers with a dominant market share position (such as Chemist Warehouse in Australia) are kept in line with fair and reasonable practices. We also contend that any such code of conduct should be separate to a grocery code of conduct.



SECTION SEVEN:
CREATING A VIABLE
WHOLESALE OPERATION

Section Seven: Creating a Viable Wholesale Operation

1. The Current Wholesale Market

No viable or meaningful wholesale offer currently exists for tier two or fringe retailers to source a full range of grocery products and if this continues it will only put strain on their operations and hence decrease their overall functionality. Not to mention it will further reinforce the current duopoly. Some of the modus operandi of the current wholesale operation framework is as follows:

- Grocery wholesalers are owned and controlled by Woolworths and Foodstuffs which enables them to determine how they operate
- In most instances existing supply is limited to Foodstuffs or Woolworths at uncompetitive prices as evidenced by Matthew Lane's submission representing Night'nDay
- There are no meaningful independent wholesale options in NZ presently
- Independent retailers (current and future) don't have access to cost effective purchasing. The fact that independent retailers must purchase their stock in queues alongside consumers in supermarkets is evidence that the New Zealand wholesale market is broken
- Restrictive issues around zoning issues, building permits, land approvals etc further contribute to the current wholesale market being what it is
- There is no National List Price (NLP) which would create a more unified pricing strategy
- The relationship between suppliers, retailers and wholesalers in the current environment is not one which is as ordered and cohesive as it could be

(Reference: Commission Report 2021)

We also challenge the notion that neither of the incumbent grocery operators are capable of providing a wholesale supply chain solution. In fact, it is absolutely critical that both ecosystems be forcibly instructed to provide immediate wholesale access to the rest of the market in the interests of competition.

To substantiate the ability of both Woolworths and Foodstuffs businesses ability to deliver such solutions to the market we draw on the following facts:

- According to its 2021 Annual Report Foodstuffs South Island already services 2,800 customers on the South Island with a fleet of 140 trucks which are covering 85,000km per week. Foodstuffs South Islands supermarket network only represent approximately 121 stores across four retail banners. It therefore defies the logic that they cannot provide a wholesale supply chain to other parties, as they clearly have the capacity regardless of its present form and operating model
- Woolworths New Zealand already operates Wholesale Distributor Limited which is franchisor to 71 locally owned and operated SuperValue and Fresh Choice stores. The notion that this is not a capability set that Woolworths NZ possesses is nothing more than conflict avoidance for its own grocery business
- Foodstuffs North Island clearly promotes on its website “Enjoy five different shopping experiences, all 100% NZ owned and operated – from local grocery stores to large scale supermarkets and wholesale.”

(Source: <https://www.foodstuffs.co.nz/our-brands/our-store-brands>)

- Foodstuffs North Island also has multiple warehouse facilities across the north island, reverse logistics (factory gate) capabilities, an extensive fleet of trucks operated by Foodstuffs as well as 3PL's, and sufficient scale to expand beyond their current footprint efficiently

We contend that both duopoly ecosystems have the capacity to generate a meaningful wholesale solution to a new entrant and fringe retailers quickly. Both use SAP in their back office and could easily separate data securely to ensure that privacy of pricing and volumes could be managed. We have SAP data experts and solutions architects within our team who are used to implementing SAP operating systems on a global scale. We would be happy to explain how such an initiative could be undertaken.

Essentially the challenge as we see is it that neither of the incumbents want to create or facilitate a meaningful wholesale supply channel as it creates a risk to their business through enabling competition to enter the market.

Mistreatment of Suppliers

We would like to highlight the mistreatment of suppliers to the Commission. This of course shouldn't come as a surprise to the Commission as there have been various submissions that have talked about the issue. We are simply reaffirming what's already been discussed and ask that along with **consumer complaints**, the Commission and the Government take a closer look at these incidents and even possibly launch an inquiry of some sort into the issue. But more importantly implement tougher control measures that make such behaviour obsolete.

We recommend the Commission be mindful to look for coercive or bullying behaviour that must be called out. This includes tactics like:

- Intimidating suppliers with pressure to get them to agree to unfair terms and conditions
- Penalising suppliers for non-cooperation (including cancellation of promotions which ultimately harms consumers) and poor treatment of staff
- Threat of deletion for not adhering to demands
- Rebates based on the measures outside of the supplier's control such as the retail price

*Such behaviour is completely unacceptable and determinantal to the market. It paints a very bad image of the New Zealand market on both a local and international scale. Furthermore, such tactics would be illegal in countries like Australia and Britain.

*Our team takes a strong stance against bullying and strongly believes that there should be serious repercussions for bullying tactics used by supermarkets on suppliers. Bullying is well known to impact mental health in whichever form it takes and some suppliers' mental health has been impacted as a direct result of these bullying tactics.

(Reference: <https://med.uth.edu/psychiatry/2021/03/12/the-impact-of-bullying-on-mental-health/>)

Example of Impact on Mental Health on Supplier From Bullying

We wish to bring to the attention of the Commission an email in their exact wording from a supplier (who wishes to remain anonymous) to a prominent industry leader on the impact that bullying has had on their mental health. Unfortunately, it wouldn't surprise us at all if there are more individuals out there with similar experiences and many of whom fear to come forward because of repercussions.

"Hi XXX, I refer to your post 2hrs ago with the article in the newspaper, with the Types of behavior section at the base. I am a silent person on many aspects in fear of retribution from buyers or my company. However, these articles and posts are timely for me this week. See, I am having my 1st mental health day off, in years. Why? Because the bullying behaviors from buyers and sadly the flow effect from my management (because I'm not winning fast enough in stores) has got to the absolute extreme for me.

I've been a sales rep for 20yrs in the FMCG trade and the past 12mnths has been the absolute worst. In fact, the past 3-6mnths critical. I have experienced nearly every one of those Types of Behavior from my buyers in the past few weeks alone. And they laugh at me when I say I'm offering the absolute lowest cost price I can give. It takes months of demanding negotiations and then suddenly a better offer comes along and I'm out.

All the time and effort wasted. My poor suppliers too. Then 'as a middle man' to this industry, I am not being bullied by my own management for the negotiations between supplier and store not closing with a win. I feel like I'm now worthless. I feel like I'm being managed out of my role (although as a Senior, I know they need me, because I am usually damn strong willed and am right for the job). I have never felt so lonely in my 20yr career. I want out.

I can't tolerate the bullying any longer. Yet I love my brands, the people in general and all else I love what I do. But I'm lost. I'm broken. My health is suffering severely under the pressures these buyers put us under. This is the only moment I am comfortable using my voice on this.

I'm sorry it's long. But I needed to share a Reps view (I am far from alone in this) I don't expect anything from this. I just wanted to share the fact nothing has changed since the survey in March. In fact, it's getting worse. Thank you for your time. Blessings to you for all you are doing for us. You are our voice." Thank you x

Direct from Suppliers – In Their Own Words

Along with the above example there have also been numerous complaints from consumers on grocery shopping in NZ (refer to section 1). But here we have also compiled here for the Commission four complaints from suppliers in their own words on their mistreatment at the hands of the duopoly. We wish to protect their privacy so have not identified them. These complaints are taken directly from our own research project conducted back in February 2021.

01

Supplier 1

“ This is not about making prices cheaper for New World Shoppers it's is about Foodstuffs Owner Operators even more wealthy than they already are.”

02

Supplier 2

“What I do not agree with is their bolshie approach to the process. Foodstuffs have always been the nice guys up against Countdown when it comes to supplier relationships, but the tables have well and truly turned.”

03

Supplier 3

“There is key messaging coming from leaders that their mission is to become the most customer driven retailer in the world, yet will happily delete products (key brands that are household staples) if suppliers are not willing to hand over margin and play their game. How is that customer led?”

04

Supplier 4

“Main issue in the current NZ market is the way FSNI interacts with suppliers and taking a very 'bully' approach.”

*The Food and Grocery Council has raised the issue of mistreatment of suppliers to the New Zealand Government.

3. Wholesale Access is Critical for Tier Two Retailers But Remains Restricted


Wholesale access is fundamental on so many levels, but at its simplest level, it paves the way for a more competitive playing field in the NZ marketplace for all retailers to compete. Currently wholesale remains restricted for tier two or fringe retailers like Supie and The Honest Grocer who can't access products at competitive pricing due to the duopoly.

A case in point is Night 'n Day who referenced a +43% price differentiation between their wholesaler cost and the cost of the same products in a supermarket. No one could logically argue that this is a small difference and hence isn't noticeable. Clearly, it is just another way of reinforcing the modus operandi of the current market.

So, then it becomes obviously clear that if the current 'second tier' or 'fringe' retailer like access products at competitive pricing under the existing duopoly then the market is dysfunctional at both a wholesale and retail level. This then has a ripple effect of poor relationships between supplier, warehouse, and retailer, poor grocery sector practices, and a less enjoyable shopping experience for the consumer who feels ripped off.

We propose that all restrictions to wholesale access for these tier two retailers/fringe retailers be removed which will then pave the way for a fairer and competitive wholesale market that ultimately will end up benefiting the consumer.

(Reference: Commerce Commission Report 2021).



**SECTION EIGHT:
ACCESS TO PRODUCT,
WAREHOUSE, AND SUPPLY
CHAIN MANDATORY FOR ANY
NEW ENTRANT**

Section Eight: Access to Product, Warehouse, and Supply Chain Mandatory for any New Entrant

The way that the current model operates in relation to access to product, warehouse, and supply chain is not efficient nor effective when you take into consideration long-standing issues that the Commission is all too aware of like:

1. The long time required to build a distribution centre (Circa 5 years)
2. The huge monetary cost needed to build (\$125 million)
3. The excessive monetary (revenue) cost to sustain it (\$1 billion)
4. Building approval and building permit issues
5. No independent wholesale options existing in NZ
6. No vertical integration exists for a third entrant as you are either part of Woolworths or Foodstuffs.
7. Complications around purchasing of land (land banking, land covenants etc)
8. Access to adequate supply of stock and if access is secured, purchasing it at a wholesale price which allows the newcomer to be competitive in the market

(Reference: <https://comcom.govt.nz/>)

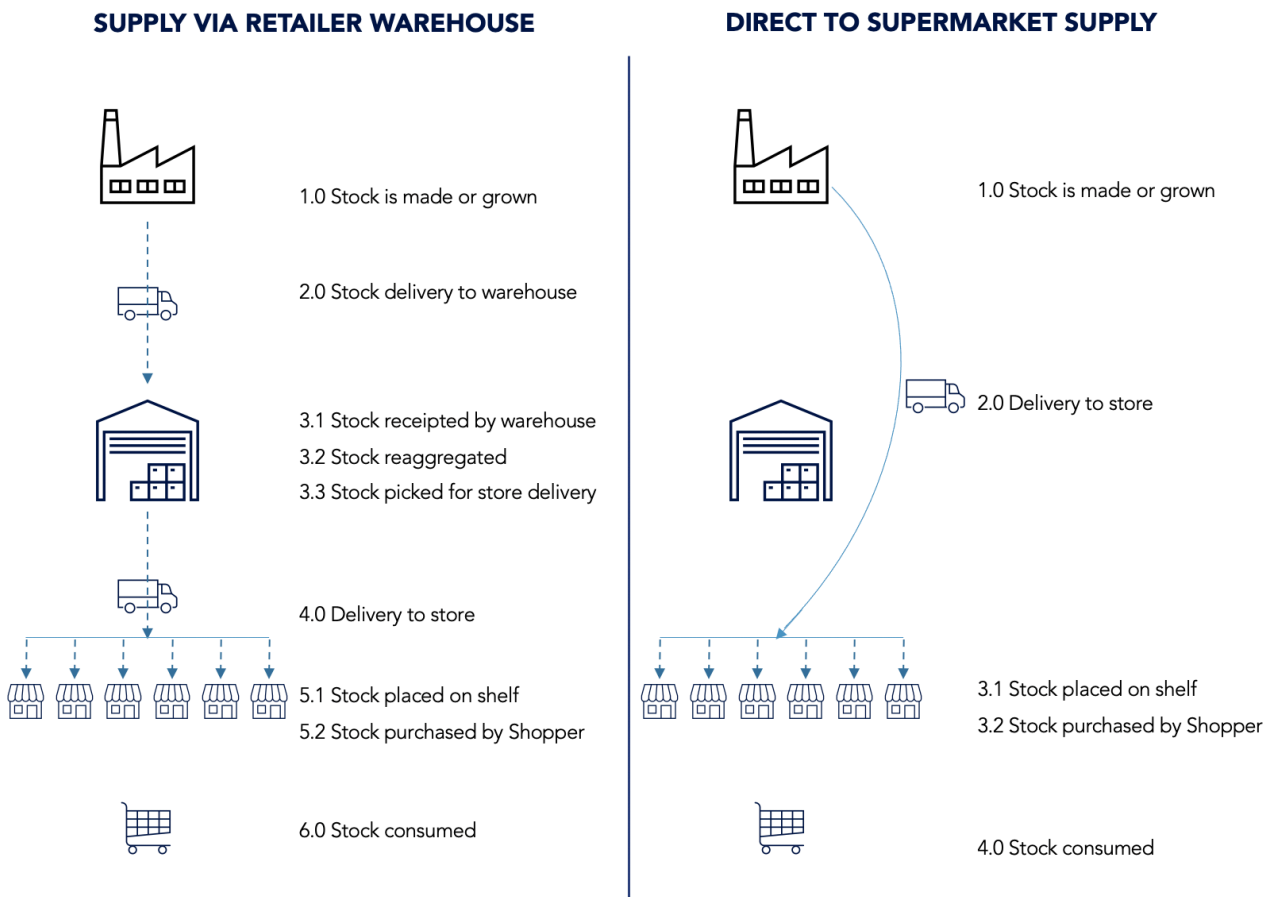
*Foodstuffs supermarket chain has built a 77-hectare warehouse, which is equivalent to the size of eight rugby fields and standing shoulder to shoulder, more than a third of Auckland's population would be able to fit inside. The warehouse stores 80,000 pallets. This clearly demonstrates how much power the supermarket giant has when it comes to the acquiring of land, its use and overall approval.

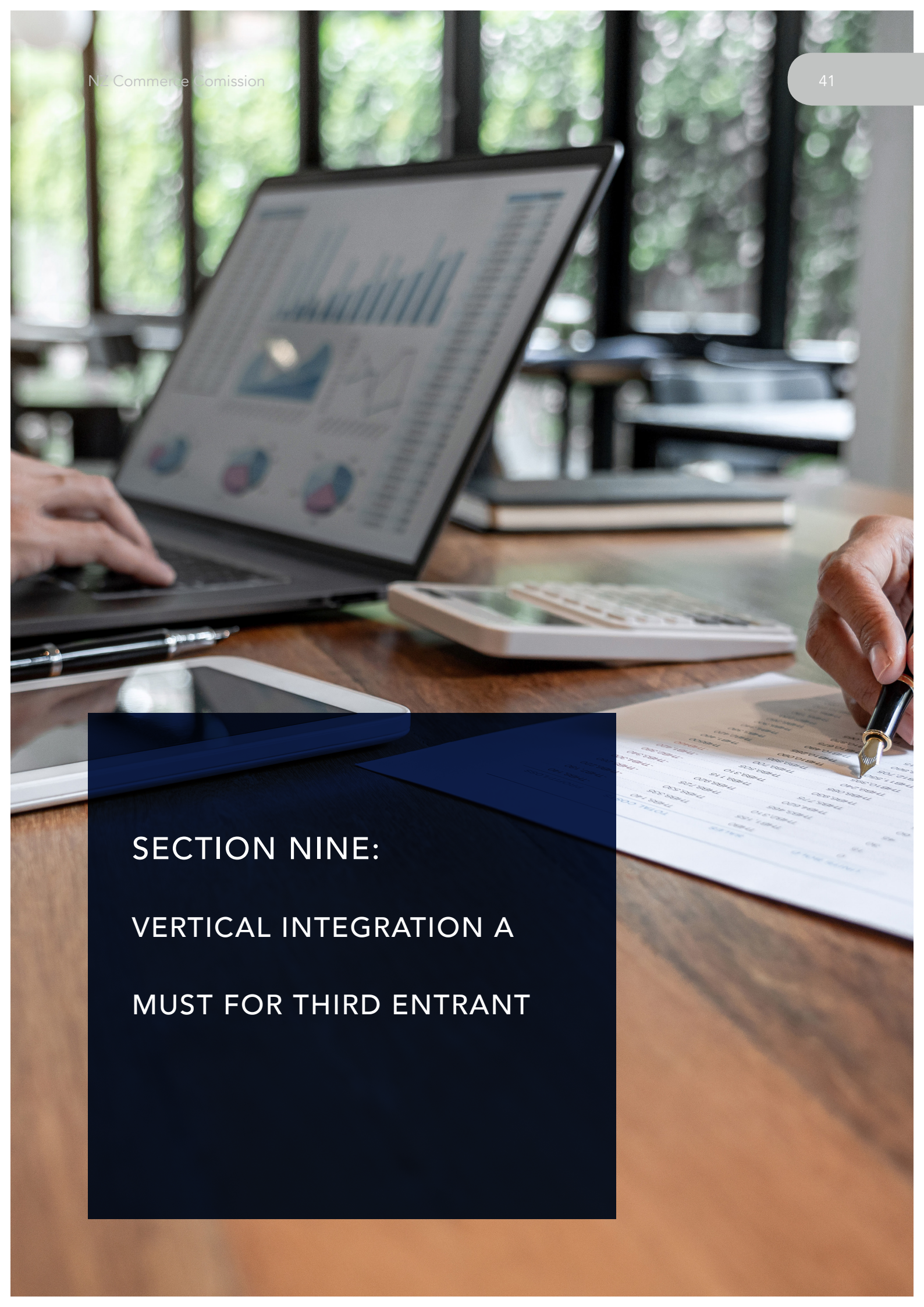
(Reference: Catherine Harris, "Foodstuffs staff move into building big as 8 rugby fields", April 2021, published on www.stuff.co.nz/business)

A Simple Process Being Made Complex

Our proposition to the Commission is that the process of access to product, warehouse, and supply chain is simple and should remain this way to benefit all parties involved and especially the consumer. To demonstrate this simple process (modus operandi) we've put together this diagram: We propose that access to product, warehouse and supply chain shouldn't be a complicated process as is the current model. It is actually a very simple process that is streamlined in a step-by-step process as demonstrated in the illustration below:

Figure 7: Simplifying the Direct Vs Indirect Supply Chain





**SECTION NINE:
VERTICAL INTEGRATION A
MUST FOR THIRD ENTRANT**

Section Nine: Vertical Integration a Must for Third Entrant

Our proposition is that for increased efficiency of entry to the NZ market, there should be vertical integration. This is not a nice to have, it's a must have. Our reasoning behind this is as follows:

1. A vertically integrated third entrant will ensure costs are managed both efficiently and efficiently and of course allow for better competition in such a highly concentrated market
2. This will drive further price benefit at the register for NZ consumers as the third entrant seeks to grow and drive market share and stimulate healthy competition
3. Scale and coverage is critical for success and to improve efficiencies that lead to overhead (operating expense) cost reductions

*Vertical integration needs a sustainable wholesale operation for it to be feasible in the first place.

*We expect a viable supply chain to take five years to implement for a third entrant

Case Study – Northelia and their Support of Vertical Integration

New entrant to the market Northelia has put in their own submission to the Commission in favour of vertical integration for a third entrant in the NZ market. They have clearly stipulated in their submission that they want a vibrant wholesale market and want market power to be given to consumers and not monopolists. Their submission discusses the following:

1. Why they are prepared to enter the market after a satisfactory intervention by the Commission and the government
2. The type of international style regulation relevant and benchmarked in NZ to solve the problem
3. The ongoing supervision of the market as a new entrant comes out of the starting blocks
4. Why their group operates in stealth
5. Expectant incumbent reactions to a competition proposal
6. Barriers of entry to the market

Closer Look at Barriers of Entry Identified by Northelia

Along with barriers of entry already put forward by us (refer to section 2), Northelia in their submission to the Commission has further reaffirmed our proposition to remove the barriers to entry by identifying the following barriers for third entrants:

- Store footprints and cost to buy
- NZ government would need to intervene to remove 'monopolised pricing of any sites divested
- A minimum of 125 stores would need be required for fair competition and genuine competition
- A right and strategic approach is needed for securing these
- Further changes needed for Section 36 of the Commerce Act
- Further strengthen for preventing abuse of power
- Access to wholesaling and supply chain
- Need to assist new entrants while new distribution centres are built
- Capital budgeted at \$250m (assuming leased stores)
- Risk of litigation
- Endless lobbying of politicians
- Need by the Commission and government to break the duopoly

*Third entrants like Tex Edwards and Northelia are needed in the New Zealand market to stimulate healthy competition and ultimately benefit the consumer.

**One CEO with extensive retail and wholesale experience made a very important point in relation to vertical integration which we believe the Commission should take into consideration. This CEO wishes to be anonymous, "Wholesale supply is only one ingredient in a vertically integrated operating model."*

Reference: (Commerce Commission 2021, Northelia Version 1.4 Greenfields Institutional Start Up 2021).

*'Good' commercial lawyers in NZ will tell you that Section 36 of the Commerce Act that deals with abuse of market power is ineffective and so useless and you could 'drive a bus through it'. The truth of the matter is that the Ministry of Business and the Commission have been wanting to update it for years.

(Reference: Commerce Commission 2021)

*At the time of writing the parliamentary debate on the Commerce Amendment Bill is number 5 on the order paper and in the Committee stage.

Source: <https://comcom.govt.nz/>, Commerce Commission 2021

The Passing of Fair Trading Amendment Bill to update the Fair Trading Act

Amendments to the Fair Trading Act passed earlier in the year introducing new provisions to deal with unconscionable conduct and unfair trade practices are also aimed at stopping the abuse of market power in New Zealand come into effect August 22, 2022.

Based on our dealings with New Zealand suppliers who sought counsel from us over the past two years, we are highly concerned by the existing conduct of Foodstuffs North Island as it seeks to complete the full implementation of its New Commercial Model.

While some recent documented disputes with suppliers (e.g., Sealord) have been aired publicly we are severely concerned by the number of suppliers who are too scared to speak out for fear of retribution from a retailer due to the severe imbalance in power between many suppliers and the duopoly.

It is our observation that Foodstuffs North Island have accelerated their efforts to complete the roll out of their commercial model dealings with all suppliers prior to the 22nd August 2022 on the basis that the methods used to implement this model may not pass scrutiny under the new legislation once it comes into effect.

This then should really showcase to the Commission that Foodstuffs North Island's integrity and overall character are highly questionable.

For this reason, we urge the commission to conduct a separate investigation into Foodstuffs North Islands dealings through all stages of the release of the Commercial Model dating back to 2017 when it was first announced. Any such review should include access to all digital records including direct communications with suppliers. The Commission might also consider requiring the supermarkets to roll back some arrangements rushed through in 2020 and 2021 which are clearly unconscionable in terms of the new rules coming into law.

In the meantime, Foodstuffs North Island, is doing all they can to complete its range rationalisation and new margin demands with remarkable speed and ferocity.

Source: <https://comcom.govt.nz/>, Commerce Commission 2021

The Warehouse Group Limited and their Submission


The Warehouse Group Limited (TWG) have put in a submission on the Market Study into the Retail Grocery Sector and have raised concerns brought up in our submission. They are championing the need for better market entry and better outcomes for New Zealanders when it comes to their grocery shopping. Like us they have identified numerous barriers to entry to the NZ market. They are proposing a complete removal of these barriers.

* There are some concerns with TWG as they have a strong disposition towards sourcing products offshore in several of their businesses as evidenced in their latest Annual Report where they identified "In FY21, The Warehouse's private label products were sourced from around 500 factories¹ primarily located in China, Bangladesh, India, Vietnam, Malaysia, and Pakistan" which is counter intuitive to a strong NZ grocery sector. Source:https://www.thewarehousegroup.co.nz/application/files/6416/3281/2654/TWG_Annual_Report_2021_Our_Relationships.pdf

* Should TWG be assisted in its entry into the grocery sector we would urge the commission to ensure that there is a clear minimum % of product range carried by any NZ retailer to be exclusively sourced from New Zealand manufacturers. While we don't anticipate this being an obstacle for The Warehouse Group we recommend to err on the side of caution to protect the entire market sector for the betterment of the consumer, local industry and employment.

* Any such ruling should also be clear on the definition of New Zealand manufacturers to ensure that product is truly sourced in New Zealand and not (for example) imported by NZ owned companies. An example of this can be seen with Zuru Edge's product XYZ which is sourced offshore and sold in retailers exclusively, often at the expense of a local manufacturer thus resulting in monies leaving the NZ economy, increased unemployment of NZ people and further centralisation of wealth within NZ.

(Reference: The Warehouse Group Submission 2021)



SECTION TEN:
WOOLWORTHS &
FOODSTUFFS ENDLESS
GROWTH

Section Ten: Woolworths & Foodstuffs Endless Growth

Australia’s two major supermarket retailers, Coles and Woolworths already have vested interests in fuel, convenience, liquor, hardware, hotels, apparel, general merchandise, and technology. While they continue to battle each other for a share of the household food shopping spend, pharmacy represents an opportunity to further grow their enterprise. No doubt Foodstuffs and Woolworths NZ with their vested interests regard each of these channels and sectors as opportunities to further their interests. Without intervention there will be nothing to stop the duopoly expanding and continuing vertical integration into every available part of the New Zealand economy from fuel, school lunches, cafes etc.

It is worth noting that both businesses have presence in liquor, pharmacy and smaller footprint stores. E-Commerce continues to be an aggressive area for expansion for both businesses with Woolworths NZ listed as the largest eCommerce retailer in NZ according to ecommerceDB.

Source: <https://ecommercedb.com/en/markets/nz/all>

* Woolworths wide range of developments and innovations are designed to continue its ongoing expansion and breadth of reach in local markets and hold on to a large chunk of the market share.

* Foodstuffs expansion plans continue to develop as they gain further control over their members and their retail footprint.

The Numbers Don't Add Up - Foodstuffs Value Chain Doesn't Make Sense

Figure 8. Table of Foodstuffs End of Year Profits

Projections:	4Square		New World		Pak'n'Save		Total FSNI
Store Count	173		103		45		321
Store Weekly Revenue	\$ 10,000		\$ 775,000		\$ 2,000,000		
Store Annual Revenue	\$ 520,000		\$ 40,300,000		\$ 104,000,000		
Network Annual Revenue	\$ 89,960,000		\$ 4,150,900,000		\$ 4,680,000,000		\$ 8,920,860,000
FSNI stated costs - by store type							
Revenue	\$ 520,000		\$ 40,300,000		\$ 104,000,000		
GST	\$ 67,826.09	13%	\$ 5,256,521.74	13%	\$ 13,565,217.39	13%	
Wages & Opex	\$ 78,000.00	15%	\$ 6,045,000.00	15%	\$ 15,600,000.00	15%	
Suppliers	\$ 353,600.00	68%	\$ 27,404,000.00	68%	\$ 70,720,000.00	68%	
Profit	\$ 20,573.91	4%	\$ 1,594,478.26	4%	\$ 4,114,782.61	4%	
Check	\$ 520,000.00	100%	\$ 40,300,000.00	100%	\$ 104,000,000.00	100%	
FSNI stated costs - Total FSNI Network							
Revenue	\$ 89,960,000		\$ 4,150,900,000		\$ 4,680,000,000		\$ 8,920,860,000
GST	\$ 11,733,913.04	13%	\$ 541,421,739.13	13%	\$ 610,434,782.61	13%	\$ 1,163,590,435
Wages & Opex	\$ 13,494,000.00	15%	\$ 622,635,000.00	15%	\$ 702,000,000.00	15%	\$ 1,338,129,000
Suppliers	\$ 61,172,800.00	68%	\$ 2,822,612,000.00	68%	\$ 3,182,400,000.00	68%	\$ 6,066,184,801
Profit	\$ 3,559,286.96	4%	\$ 164,231,260.87	4%	\$ 185,165,217.39	4%	\$ 352,955,765
Check	\$ 89,960,000.00	100%	\$ 4,150,900,000.00	100%	\$ 4,680,000,000.00	100%	\$ 8,920,860,002

Based on Foodstuffs North Islands website and annual report we would like to raise what we believe is an anomaly in their representation of the Foodstuffs end to end value chain.

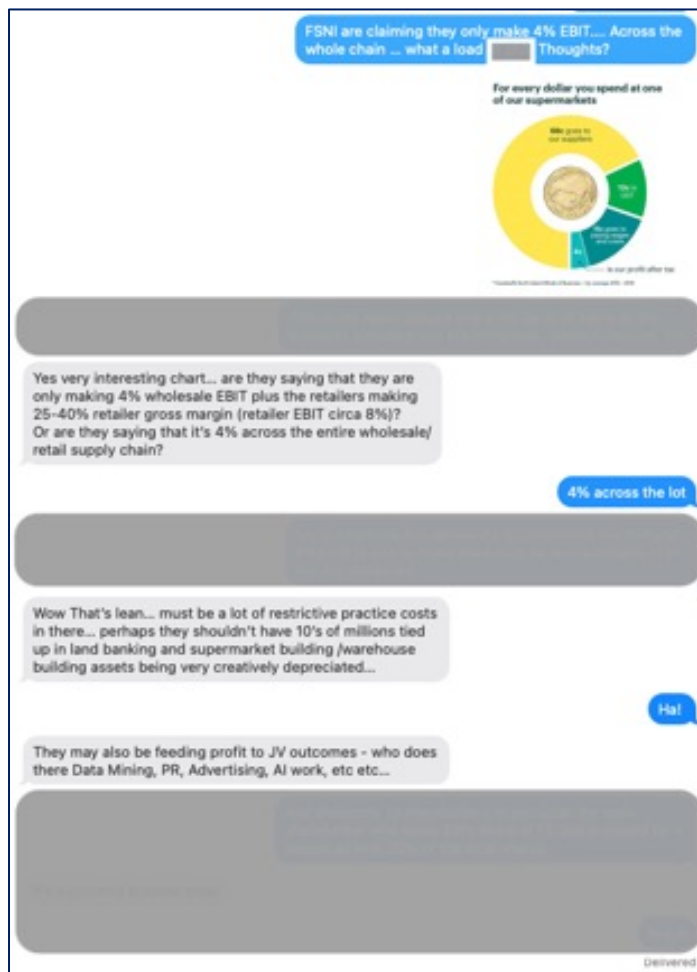
As previously stated, Foodstuffs North Islands reported \$8.9bn in retail and wholesale store sales in FY21
Source: <https://annualreports.foodstuffs.co.nz/our-results-and-highlights>

We would like to raise further challenges in relation to the financials being reported by Foodstuffs North Island (FSNI). Even if you do accept FSNI's supposition that 4% is the EBIT number that still equates to profits in the millions for its individual members and remains well in advance of global retailing standards for FMCG (I.e. Grocery) retailers internationally. For comparison to other global retailers refer to Deloitte's Global Powers of Retailing 2021 via the following link: <https://www2.deloitte.com/global/en/pages/consumer-business/articles/global-powers-of-retailing.html>

When we consider some base assumptions around the performance of the retail banners that sit within the Foodstuffs North Island ecosystem per the financials and above it appears that there may be the need for further questions by the Commerce Commission in relation to the disclosure of more detailed financials. In our opinion the financials raise more questions than answers with a particular emphasis on actual revenue achieved within each banner and at store level.

Confidential SMS Highlighting Wholesale Problem

To further highlight the problem with the current wholesale operation framework in NZ, we wanted to bring to the attention of the Commission an SMS exchange between Nick Hogendijk, Managing Partner of Hexis Quadrant and a CEO with extensive retail, wholesale and Co-Operative experience. For the sake of respecting this CEO’s privacy their name has been withheld. As a result, we are only referring to some of the text of the original SMS below:



In further conversations the CEO commented that Foodstuffs could be considered similar to the McDonalds business model in that they own the properties and have heavy influence over the franchisee, or in the case of Foodstuffs retailer. To change this the CEO noted the following:

1. There needs to be a change to the leasing structure
2. Demutualising Foodstuffs would be prudent however:
 - a. Valuations will be contentious
 - b. Earnings at store level will be the challenge
3. Businesses/properties should be sold at fair market value



SECTION ELEVEN:
VIABLE THIRD-PARTY
LOGISTICS DO NOT EXIST
TODAY

Section Eleven: Viable Third-Party Logistics do not Exist Today

1. The lack of a viable and scalable third -party logistics provider(s) is a significant challenge for NZ. Currently nothing is being done to address this challenge so it will continue to pose more of a significant challenge.

We propose that an independent logistics expert is bought in as they can then be able to provide a viable logistics solution leveraging the warehouses of Woolworths and Foodstuffs. The logistics expert would be able to identify what the real cost of delivery to the store would be as a direct cost to any new entrant or existing fringe retailers which would be further supported by having one national list price.

*Both parties (WW & FS) also stated clearly that supply chain was expensive and a limiting factor early in the consultation sessions before changing their positions to suggest there were plenty of viable options. Where exactly are these viable options, we ask the Commission?

We find the lack of a viable scaled 3PL clearly highlights the need for both WW and FS to provide a 3PL feature to any new entrant until they can properly establish a viable solution of their own.



**SECTION TWELVE:
LACK OF OPTIONS FOR
SUPPLIERS**

Section Twelve: Lack of Options for Suppliers

According to Woolworths New Zealand during the Commission's Consultation Sessions there are 1,400 suppliers of products within the New Zealand market.

For many of these suppliers they have few options beyond selling to the two major grocery retailers and their broader ecosystems due to the scale and reach of these businesses.

While several global FMCG suppliers are less likely to feel this affect due to their global scale and diversity, the pressure is very real for a great many of the local NZ growers, and manufacturers who supply these ecosystems.


One of the primary influences experienced by a smaller or local supplier when compared to a global blue-chip supplier can be quickly identified through scale. For example, global billion-dollar organisations such as Unilever, Mars, and Pernod Ricard will have a diverse portfolio of products that span a great number of categories and in turn retail sectors including:

1. Grocery
2. Pharmacy
3. Convenience
4. Departments
5. Pet stores
6. Online
7. HoReCa / Foodservice
8. Etc.

* These suppliers reflect the "treasure island" comment made by Coles CEO in 2007 as they benefit from global sourcing and most likely healthy margin, however smaller domestic or ANZ suppliers remain far more exposed due to the over dependence on the two existing ecosystems in New Zealand e.g., Sealord, Orchard Gold, Sujon Berries, Tasman Bay Foods, and many others.

While the NZ suppliers are exposed we cannot show unfair sympathy to their cause but merely illustrate how exposed they are under the current market structure.

It is our position that new retail entrants will enable the agile suppliers to seek alternate customers, reduce dependency and increase competition across both suppliers and retailers that ultimately benefits the consumer.

A person wearing a blue and white plaid shirt is shown from the chest down. They are holding a white plastic bag with their right hand and a green plastic shopping basket with their left hand. The background is slightly blurred, suggesting a grocery store setting. The text is overlaid on a dark blue rectangular area in the lower-left portion of the image.

**SECTION THIRTEEN:
COMPETITION INCREASED
INNOVATION & LOWER
PRICES**

Section Thirteen: Competition Increased Innovation & Lower Prices

We would like to put forward to the Commission that competition isn't something to be shunned and discouraged, rather the opposite – endorsed and encouraged as it leads to increased innovation and lower prices. Overall, we would like to bring to the attention of the Commission the following benefits of competition:

1. Competition is the driver of innovation and ensures a fairer market both domestically and internationally
2. Increased competition leads to lower prices and more choice in the market
3. Competition is better for the consumer who stands to benefit directly with not just lower prices but a wider range of products to choose from
4. It paves the way for new entrants into the market to be smoother
5. The relationship and dynamics between supplier, warehouse and retail store are healthier and more pleasant
6. Competition leads to better democratic outcomes which ultimately are for the good of a country
7. Competition encourages innovation as it fosters entrepreneurship and 'outside the box thinking'
8. It stimulates overall healthier relationships with all parties involved as competitors seek to find advantages over each other but do on a level playing field
9. It's not uncommon for competition to foster collaboration and bring together parties for a common cause which serves a wider purpose

(Reference: Michael E. Porter, "How Competitive Forces Shape Strategy", 1979, Harvard Business Review)

Notwithstanding the above points, Australia is one example of the impact increased competition had on the grocery sector because of the introduction of Aldi, Costco, and the continued drive to compete and expand by independent grocers such as Drakes and Ritchies supermarkets.

While there will (and has in the instance of Australia) inevitably be some 'thinning of the herd' with this type of approach, the long-term benefits to NZ consumers will be healthier, more competitive (lower) prices at the register and more innovative solutions as retailers seek to identify competitive advantages over each other through new approaches, strategies, tactics and technologies.

We would also challenge the two existing retail ecosystems to provide evidence of when competition has hurt a national grocery sector under normal trading conditions. We find it preposterous that competition will lead to higher prices for consumers as Woolworths New Zealand and Foodstuffs North and South Island suggested in the commerce commission consultation sessions.



SECTION FOURTEEN:
CODE OF CONDUCT

Section Fourteen: Code of Conduct

1. We restate our position that a mandatory code of conduct is required.
2. Any code of conduct is directed squarely at the retailers per the UK and Australian examples
3. An independent ombudsman is required
 - A. Ability to make quick decisions
 - B. Ability to serve fines to the retailers for inappropriate tactics / behaviours
4. The inclusion of Mandatory clauses in contracts that neither retailer can deviate from
5. Inclusions should be based on a common measure e.g. \$ Revenue, Sq Metres, etc.
6. A Code may include online retailers depending on metrics, and could include pharmacy under the right construct though we feel a Pharmacy Code of Conduct may be better suited to that sector
7. Must cover all categories present within a grocery store without exception
8. We recommend the Commission refer once more to the BlackMarket Research submitted by the New Zealand Food and Grocery Council to substantiate supplier sentiment factually, with particular attention paid to the verbatims at the rear of the file where detailed feedback is provided by many of the 150+ respondents (https://comcom.govt.nz/__data/assets/pdf_file/0023/253148/NZFGC-Members-Survey-February-2021.pdf)
9. A Code may include reference to the Grocers having regard to New Zealand's indigenous suppliers in recognition of New Zealand Treaty principles

We note that both Woolworths and Foodstuffs North/South have agreed that a Code of conduct be implemented. We caution the commerce commission to ensure that their involvement in the development is managed cautiously.

We also note that we have developed a code of conduct with inputs from retailers and suppliers alike to ensure a mutually viable solution, notwithstanding the fact that a Grocery Code of Conduct is aimed squarely at the conduct of the retailer and must remain as such.



SECTION FIFTEEN:
PROPOSALS FOR CHANGE TO
BE IMPLEMENTED

Section Fifteen: Proposals for Change to be Implemented

We have nine clear non-negotiables we believe must be mandated by the commerce commission to facilitate enhanced competition of the NZ grocery sector. These are:

Improved site access (existing and greenfield):

1. All restrictive covenants gone without exception
2. Cessation of all land banking with immediate effect
 - Enforce a "use it or lose it" ruling on all land purchased by the market
 - Effective 1st Jan '22 (back dated by Commission when findings passed down)
 - Applies to **any** site owned longer than 3 years as of 1st January 2022
 - Wholesalers/Retailers have three years to gain development approval
 - Once approval is passed a further 18 months is allowed for completed development
3. Zoning restrictions are eased to allow competition to access neighbouring sites

Improved trading practices

4. Introduce an industry ombudsman with binding and timely decision-making ability
 - Introduce Logistics Assessor to ensure wholesale logistics costs are fair and passed through at cost based on independent assessment
5. Mandate a National Wholesale List Price as standard for all manufacturers
 - This cannot be used to create unrealistic rebates for the duopoly
7. Introduce a mandatory code of conduct
8. Reverse all Trading Terms negotiations back dated to 1st Jan 2020 without exception for both ecosystems

Mandated wholesale access of products

9. Force wholesale accessibility onto both WWNZ and Foodstuffs North/South

The following are the proposed structural changes we recommend the Commission consider as viable options to recalibrate the New Zealand grocery sector.

Proposal One: Setting the foundation through unrestricted access to wholesale supply

At the core of today's lack of market competition clearly lies the inability to access consistent and competitive wholesale supply for retailers who sit outside of the Woolworths and Foodstuffs ecosystems.

Given the two major grocers/wholesalers have benefitted handsomely from this predicament it is only fair that they carry the burden of undoing the current market conditions to create a far more open, vibrant and competitive market.

For this reason, we propose that effective from 1st July 2022 both Foodstuffs and Woolworths are mandated to provide unrestricted access to the wholesale supply of all products within their range.

There are some clear conditions that must surround this solution including:

1. National Wholesale List Price
 - a. It must be developed and implemented for all vendor products
 - b. It must not be discriminatory towards fringe retailers and new entrants into the market
 - c. It must not be deliberately high to provide barriers to smaller retailers
2. Supply chain as a pass-through cost not a profit centre for the duopoly for five years which means:
 - a. All supply chain costs would be incurred as a pass-through cost only
 - b. Supply chain costs invoiced by Woolworths or Foodstuffs may only break even to enable competitors to reach scale
3. Data firewalls will be implemented in both new wholesale businesses to ensure protection of data for all parties
4. Both wholesale businesses (Foodstuffs and Woolworths) will be run completely independently of their retail counterparts meaning:
 - a. All financial performance and reporting will be fully independent from any retail business operating within the sale ecosystem
 - b. No management personnel can work across two businesses within the same ecosystem
 - c. Board members & executive team members cannot transition from one business to the other during the five-year time period unless approved by the industry Ombudsman

The benefit of such a change to the wholesale market structure and access for New Zealand is that it releases pricing and trade terms negotiations to be solely between suppliers and the retail customers, with no crossover in sensitive financial information or negotiated outcomes between any party. All negotiations would be between suppliers and retailers on a volumetric basis further stimulating competition between retailers for the betterment of consumers.

To ensure parity on supply chain cost between Foodstuffs and Woolworths as standalone business to all parties sourcing product from them, an Industry Supply Chain Regulator (ISCR) will be required to ensure the integrity of logistics costs. The ICSR will review ongoing all supply chain costs to ensure prices are purely pass-through costs and not a profit centre to disadvantage any emerging retailer.

The benefit of this is threefold:

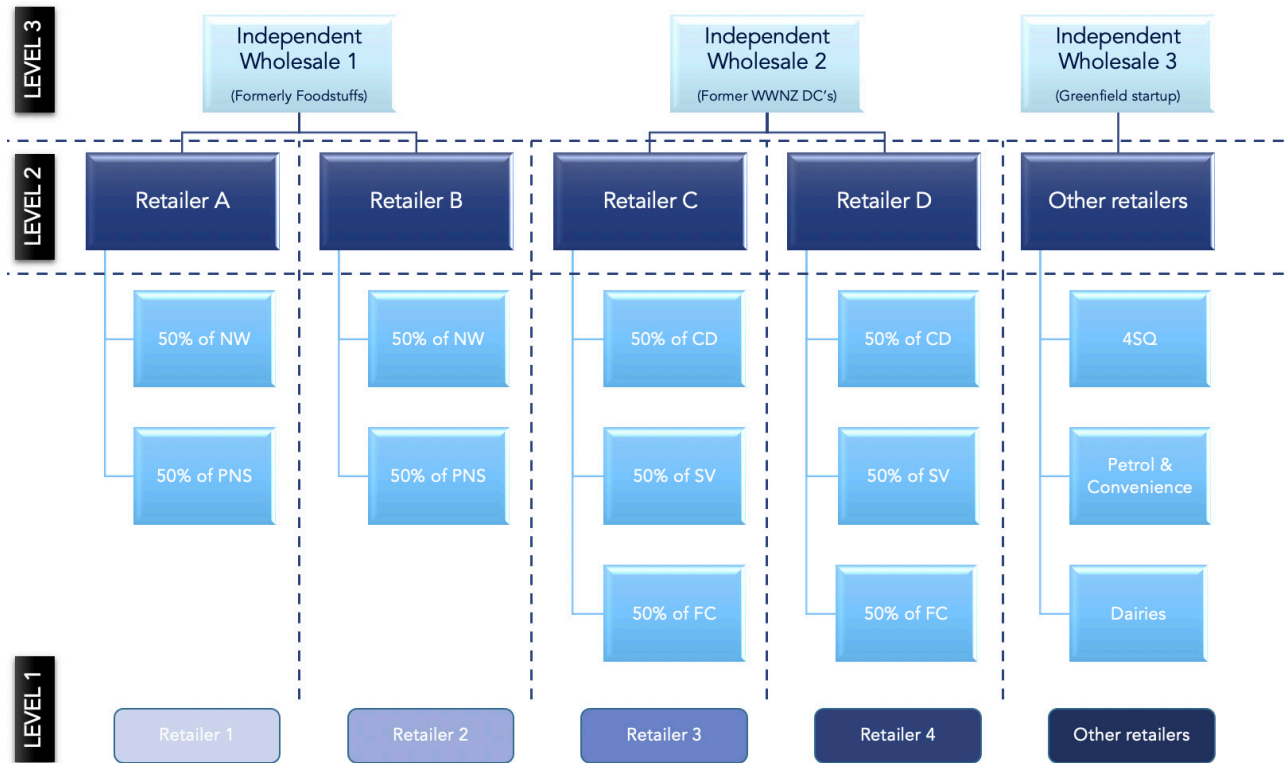
1. A new third entrant such as Northelia would instantly gain unrestricted access to efficient wholesale supply of product while establishing their footprint and operating model
2. Other existing retailers seeking to enter the grocery market such as The Warehouse Group could immediately scale up their grocery offer within their existing network
3. Fringe retailers would have access to, and the benefit of, immediate access to a full assortment of grocery products at standard wholesale national list prices enabling them to quickly build scale while managing their cost base

Whilst this proposal may be deemed extreme and be received with a great deal of resistance by the duopoly, this wholesale market restructure directly addresses the primary issue of limited product accessibility and inability to generate scale for the multiple retailers seeking to expand into food and grocery in NZ.

This is, at its core, the most basic wholesale market change the Commission needs to facilitate to affect pricing change for New Zealand consumers in the long term through increased competition. It provides the ability to buy competitively and to the equivalent of the incumbent competitors through forced change.

Proposal Two: Breaking up the duopoly

BREAK UP OF THE CURRENT ECOSYSTEMS



In addition to Proposal One, we recommend the Commission considers the following measures to stimulate competition at the retail level:

1. Merging Foodstuffs North & South into one entity
 - a. Including demutualising Foodstuffs under its current structure
2. Forcibly separate the wholesale and supply chain functions from the retail functions in both the newly formed national Foodstuffs entity and Woolworths New Zealand
3. Separate the existing retailers equally into two new national retailers
 - a. Foodstuffs A
 - b. Foodstuffs B
 - c. Woolworths A
 - d. Woolworths B
4. All retailers would have representation in both the North and South Island to ensure competition between four retailers is implemented

5. Woolworths and Foodstuffs cannot decide which stores are allocated to which retailer
 - a. It must be an impartial separation of assets that provides equal revenue and geographic spread to all parties
6. Under the restructure a new entrant can buy one of the newly formed entities (E.g. Northelia, The Warehouse Group, Wesfarmers, etc.)
7. It is conceivable that a third wholesale entrant could be established under this model with assistance for the first 5 years from the existing wholesale entities to stimulate greater competition at a wholesale level
8. After the first 3 years retailers can elect to change wholesale supply
9. Independent retailer stores (I.e. Single Site operators) can freely choose to change retail banner through independent negotiation
10. Independent retailer owners can purchase and operate more than one site

Proposal Three: Creating a third entrant

FORCIBLY CREATING A THIRD ENTRANT



It is our opinion following discussions with CEO's and experienced retail professionals with extensive grocery retail and wholesale experience that the Commission consider a clean separation of the existing market to create a third major supermarket retailer in New Zealand.

To do this we recommend the following steps are taken:

1. Merge Foodstuffs North and South into one entity
2. Demutualise the Foodstuffs entities
3. Separate wholesale and retail functions in both Foodstuffs and Woolworths into standalone businesses
4. Democratically remove 30% of the retail store footprint from each of the existing retailers and sell off to a third entrant (E.g. Northelia) which could reflect something like the following market structure:

		No. of stores	Retain	New Entrant
		100%	70.0%	30.0%
FSNI	Pak'nSave	45	31.5	13.5
	New World	103	72	31
	4 Square	173	121	52
		321	225	96
		No. of stores	Retain	New Entrant
FSSI	Pak'nSave	12	8	4
	New World	42	29	13
	4 Square	62	43	19
	Raeward Fresh	5	4	2
	121	85	36	
		No. of stores	Retain	New Entrant
WWNZ	Countdown	183	128	55
	Fresh Choice NI	14	10	4
	Fresh Choice SI	19	13	6
	Supervalu NI	25	18	8
	Supervalu SI	13	9	4
	254	178	76	
Foodstuffs North Island		225		
Foodstuffs South Island		85		
Total Foodstuffs New Zealand		309		
Woolworths New Zealand		178		
1/3 of FSNI		96		
1/3 of FSSI		36		
1/3 of WWNZ		76		
Total New Entrant Stores		209		

5. Woolworths and Foodstuffs cannot decide which stores they retain, it must be an impartial separation of assets that provides equal revenue and geographic spread to all parties
6. Due to the cost and time required to develop a distribution centre in both the north and south islands the new entrant **must** be able to utilise existing warehouse capacity of the incumbents for a period of five years to enable new entrant to generate scale and develop their own sites
7. This model would also allow other significant entrants to build scale quickly over the next 3-5 years to further improve competition in the market such as:
 - a. The Warehouse Group
 - b. Night'nDay
 - c. e-Commerce retailers (E.g. Supie, The Honest Grocer, etc.)

Proposal Four: Invite international retailers to enter the market

The impact on market pricing by international retailers cannot be underestimated and would send a clear message to international markets that New Zealand is open for business.

By addressing the barriers to entry to foreign investors or supermarket operators, the Commission could stimulate significant capital investment in the local market. There are also several benefits that immediately impact the market from increased buying scale driving retail prices down faster for consumers, to increased levels of retail innovation sourced from a global network.

Groups that could be considered for such requests or proposals to the Commission and relevant New Zealand international trade bodies could include:

- Aldi Australia (ALDI Süd)
- Lidl (part of the Schwarz Group)
- Spar
- Dairy Farm
- Coles Australia
- Wesfarmers
- Metcash Australia
- Smaller groups such as Drakes or Ritchies Supermarkets

The risk that arises with such a move however is to run against national sentiment within New Zealand, and for profits generated in the long term to return offshore once these businesses have generated a sustainable, profitable and scalable model.

It is for this reason that we recommend this as the least favourable option, though we do ask the commission to consider does the benefit to New Zealand consumers outweigh the value of profits going offshore as we feel this point must be considered.



CONCLUSION

Conclusion

This submission has been put forward by Hexis Quadrant to the Commission in the hope to see change and reform occur in the New Zealand grocery sector. Currently the New Zealand consumer pays one of the highest grocery prices in the world given the highly concentrated market that is New Zealand.

Our hope and vision are for a much fairer and democratic grocery sector to emerge in New Zealand as a result of this submission that ultimately benefits the consumer.

But it will also benefit the New Zealand market which will gain a reputation of being fairer, transparent and competitive. We believe it will make New Zealand officially open for business.

For this to occur though, various changes must be implemented which we have put forward in this submission. It will take a collective to introduce and implement these changes and this will consist of the Commission, the New Zealand Government and various relevant industry bodies who must work together in bringing about change.

Any egos and biases must be cast aside for the purpose of benefiting the New Zealand consumer and the market.

This submission has addressed and answered the following five questions identified by Hexis Quadrant and which directly reflect the difficulties, challenges, and inequality that currently exists within the New Zealand grocery sector:

1. Q: Is it easy for the existing supermarkets to leave their ecosystem today and acquire what they need to trade competitively?
A: The answer today is no.
2. Q: Is it easy for the New Zealand consumer to buy what they need or want outside of the two existing ecosystems?
A: The answer today is no.
3. Q: Is it easy for most New Zealand suppliers to acquire appropriate volume outside of the current two existing ecosystem?
A: The answer today is no.
4. Q: Is it possible for existing fringe competitors to source products at a competitive price to compete in a meaningful way?
A: The answer today is no.

5. Q: How do we remove the barriers to stimulate healthier competition and make consumers better off?

A: We propose four approaches that can remove barriers at the wholesale and the retail level.

In order to make the answers a resounding YES that would reform the current market, Hexis Quadrant has put forth four proposals that would make this possible and which consist of the following:

Proposal One: Setting the foundation through unrestricted access to wholesale supply

Proposal Two: Breaking up the duopoly into four national retailers

Proposal Three: Forcibly creating a third grocery retailer

Proposal Four: Invite international retailers like to enter the market

In order to get momentum going and set these changes in motion the CEO of a major wholesaler advised that the Commission needed to ensure the following four attributes are in place in order for true change to occur:

1. The political will to implement these changes
2. A viable plan by the Commission
3. Entry point for a new supermarket chain to start in New Zealand

It is necessary for New Zealand consumers that these changes occur. However, the duopoly is all too happy to maintain current market conditions as they don't want to disrupt the "status quo." If New Zealand wishes to be a fairer and inclusive society, we must disrupt the "status quo". This means that the duopoly will need to adjust their strategy, and if they are genuinely world class competitive retail operations, they will withstand the market changes and the competitive headwinds that a truly competitive market incurs.

In closing our final proposition to the Commission is that if nothing is done to make the New Zealand market fairer and more democratic, the consumer will continue to suffer from exorbitant prices for everyday commodities that are one of life's essentials: groceries.

This investigation is not about protecting retailer profits and the 'status quo', it is about providing fair prices to the New Zealand consumer every day. For that to happen, wholesale changes must occur.

Appendices

Please find a list of acronyms and their meanings below:

- ComCom New Zealand Commerce Commission
- CD Countdown Supermarkets (the Woolworths stores in NZ)
- FS Foodstuffs
- FSNI Foodstuffs North Island
- FSSI Foodstuffs South Island
- GSV Gross Sales Value
- PNS Pak'n'Save Supermarkets (discount supermarket stores)
- SVFC Supa Value and Fresh Choice supermarkets also part of the WWNZ business
- 4SQ 4Square convenience stores
- RSV Retail Sales Value
- NZFGC New Zealand Food and Grocery Council
- WWNZ Woolworths New Zealand
- NW New World Supermarkets 4SQ
- NSV Net Sales Value
- RRP Recommended Retail Price
- NWLP National Wholesale List Price



THANK YOU

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