

From: [REDACTED] >
Sent: Friday, 10 February 2023 2:41 pm
To: IP Guidelines
Cc: [REDACTED]
Subject: Guidelines on the Application of Competition Law to Intellectual Property Rights

10 February 2023

Project Lead (Guidelines on the Application of Competition Law to Intellectual Property Rights)
Commerce Commission
PO Box 2351
Wellington 6140
New Zealand

Email: ipguidelines@comcom.govt.nz

Dear Sir/Madam

1. The New Zealand Food & Grocery Council (“**NZFGC**”) welcomes the opportunity to comment on the *Guidelines on the Application of Competition Law to Intellectual Property Rights: Draft as of 19 December 2022*.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.
3. NZFGC supports the provision of *Guidelines on the Application of Competition Law to Intellectual Property Rights* (“**the Guidelines**”) and the clarification that they deliver around the impact of the repeal of the section 36(3) statutory intellectual property rights (“**IPR**”) exception. This is a complex area and all clarification efforts are of assistance.
4. The characteristics of the food and grocery sector and the importance of appropriate protections for intellectual property rights were well traversed in the Commerce Commission Grocery Market Study released in March 2021. We suggest it would be useful for this document to be reviewed as part of setting the proposed guidance to ensure it addresses issues identified in the market study adequately.

We would be happy to discuss this matter further with officials.

Ngā mihi nui

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