

Submission regarding the Commerce Commission's Retail Grocery Market Study
marketstudies@comcom.govt.nz

Kia ora. Ko Cathie Gould tōku ingoa.

I had the privilege of owning a small retail food shop – KETE on Mapua Wharf – focused on championing local food growers and producers in the Nelson Tasman region (Aug-15 to Nov-18). I am the ex-CEO of Daily Catch, a food ecommerce+ start up (Oct-19 to May-21) that sought to strengthen connections between producers and consumers, enable direct supply with technology innovation in the supply chain, and flip the model on food production, distribution, and purchase in New Zealand. I currently work within the food and grocery sector in Nelson Tasman.

These comments on the New Zealand grocery sector reflect my personal views and insights, at a macro level and prompted by attendance at the online Conference on the 1st and 2nd of November 2021.

Introduction

Just as a forest is not just a few mighty totara and kauri, but must contain a mix of species, sizes and ages of trees, so a healthy grocery ecosystem must enable the rise and fall of a healthy mix of types, styles, stages and models of organisation. Action must be taken to support breadth, depth and competition in the sector, preferably with impact investment into locally owned and financed solutions.

The 'duopoly' under scrutiny are victims of their own success. Their collective scale and dominance have reached a point where, no matter how well they behave, there are unintended consequences that are damaging to the whole food sector in New Zealand, including to this critical export industry.

I am conscious that these companies are critical for feeding most of our nation each and every day. They have risen to the many challenges of the current pandemic admirably. They employ - directly and indirectly – a significant proportion of the country's workforce. They hold huge influence over the lives, livelihoods, wellbeing, and future prospects of our people.

However we face the reality of relatively high prices, unfair business activities, bullied and fearful people, suppressed innovation, and growing public frustration over unfairness. Change is necessary.

National Culture around Grocery Provision and Innovation

I was surprised at how few participants spoke during the sessions on 1st and 2nd of November. It was clear from the representatives of Night & Day, Supie, and the NZ Grocery Council that this is a direct reflection of the culture of fear the power imbalance has created. Historic bad practices and poor behaviour by individuals reinforces this toxic culture. I reiterate my point above, that this has a life of its own beyond the practice and culture within companies of the 'duopoly'.

My own experiences as a tiny and independent retailer support this. While I have never faced attention or behaviour from anyone in the 'duopoly' directly, the impact of their structural position was a constant and overbearing issue. I was fortunate as a local-only retailer that I rarely faced wholesale/distribution issues as my 100 suppliers were all nearby and I had a direct relationship with

most of them. (A small aside is that, despite a few attempts, a local FS wholesale outlet had little interest in signing creating an account for me with them. Since most of the outlet's pricing on retailable product was higher than at nearby Pak'n Save, this did not overly concern me, but it acted as a subtle barrier in an environment where there is no competition for wholesale provision of product. It was clear to me that access to 'national brands' would have been difficult, but I was fortunate that my business model did not require this. Hearing Night and Day talk of their experiences was revealing, and corroborated my own feelings of unease.)

Most of the suppliers I dealt with were crying out for something to change. Small 'start up', market-oriented or lifestyle businesses, they were hard workers, innovators and passionate foodies struggling to keep their heads above water. They struggled to access outlets that would enable them to scale their businesses successfully. Some chose to stay 'Market only' or with the odd local specialist retailer. Others worked really hard to visit and access the small independent and specialist stores around the country with lengthy road trips. Those that did crack into Food Stuffs were faced with having to meet volume, shipping and margin requirements, of having to keep consistent availability despite seasonal and capacity realities. Several found themselves dropped when individual stores or distribution centres rationalised SKUs, categories, or suppliers, regardless of their product's sales success. Scaling from local artisan to national producer is incredibly difficult in New Zealand without access to the duopoly's massive retail customer access and distribution networks.

More recently, I have heard many first-hand stories of inappropriate behaviour and misuse of market position by individuals within the duopoly, including blatant lies, threats, inappropriate contact, and disrespectful interactions. Personally, I had suppliers express unwillingness to work with me due to their fear that it would be perceived as disloyalty: "I wouldn't sign with you because I've spent 18 months getting into Food Stuffs and I wouldn't want to jeopardise that."

I have also heard stories of professional and supportive behaviour by duopoly staff, and I see how hard thousands of owners and employees work every day to support local suppliers and local communities. The actions of a few morally compromised individuals could be dealt with by a robust grocery code of conduct and a strong internal (plus independent?) complaints process that ensures that reports of inappropriate behaviour are effectively dealt with.

Huge numbers of New Zealanders are employed in the growing, processing, manufacturing, distribution, marketing, retailing, preparing and hospitality of food. We all need to eat at least three times a day! Even as individual consumers, food takes up a significant proportion of our time and money. In fact, the level of data overload and choice overwhelm around nutrition, tastes and preferences, moral/value/impact assessment and selection, purchasing, preparation, money, time and social engagement is significant. In other markets, different products are available in different stores, with consumers choosing to visit different stores for different products or shopping missions. Here in New Zealand we have limited macro options, which narrows choice and availability.

Embracing complexity

The nature of running a large and complex business is intense pressure towards simplification, efficiency, streamlined processes, centralisation, and integration. The resulting 'clear cutting' of the middle and lower canopies within the grocery environment (to borrow on my totara forest analogy) is impoverishing our food sector.

For growth and profitability, 'efficiency' means streamlining and simplifying, and pressure to reduce costs (usually from the power at the top down through the supply chain to manufacturers and then to growers/farmers at the bottom). This is leading to less choice between stores, for brands, for products, for suppliers, for values-based options. We have leaner and integrated distribution, with tightly integrated data and infrastructure, and reapportioned costs pushed down which used to be part of the costs of business for retailers. 'Cost reduction' and 'consumer feedback' usually means the selection of items within supplier agreements that favour lowest cost, regardless of wider impact factors.

As well as being a testing ground for product innovation, retail availability is also the growth and trial medium for new products before their launch into international markets (exports). I was interested to hear Farro Fresh given a shout out during the Conference for its impact on exports. Small volume artisan products may not be 'efficient' or 'cheap' but are an essential part of the ecosystem of trial and error and innovation required for a strong and confident export sector, supported by a strong and healthy food culture unique to Aotearoa New Zealand.

Values and 'vote with your dollar' choices around ethics, impact, social and environmental factors are often difficult for consumers to select for, even if they're willing to pay premiums to ensure alignment with personal convictions. Confusion regarding messaging – green, organic, sustainable, fat free, sugar free, vegan, meat-free, functional benefits, low carbon, zero plastic, climate positive – is usual. Consumer overwhelm is evident. It appears that many 'don't care', but I believe it's actually just too difficult and confusing for consumers to make the choices they would wish to make amongst the busyness and information overload of the typical large-scale grocery store. It doesn't help that accountability around values messaging difficult to ascertain and therefore trust as there is often little to distinguish marketing messages and product qualities between profit-oriented mass corporates and impact-positive (social) enterprises. Transparency, source and country of origin data, maker stories, sustainability and impact data analytics are not easy to pin down for many products.

Data asymmetry

There was discussion during the Conference around Structural Separation. This would purely be about governance, but issues would remain regarding physical infrastructure and information sharing.

The power imbalance isn't just about who sits on boards, on management teams, or as owners. It's about the power that is wielded by a few based on access to an impressive network of physical and relational infrastructure and data. And its access to the vast pools of data that support these integrated businesses that brings most of the internal efficiencies and much of the external pain.

Data relating to all aspects of the growing, processing, moving, storing, marketing, and selling of food are available for analytics, insight, and operational decision-making. It is access to this data that is highly-commercially sensitive, and it's the exploitation (positive and negative) of this data that provides us with the efficiencies, cost reduction and value maximisation we seek. Data transferability and integration is just as important as the physical infrastructure around product storage, pallet splitting, and distribution.

When the dominant players talk of 'efficiencies of scale', I believe that one of the most important efficiencies is around **data**. It is in the interests of the 'duopoly' to build values and allegiance to their brands, rather than support full openness and transparency through to their growers,

processors, and producers. It is therefore in their interests to maintain the asymmetry in information and data gathering that currently exists.

Perhaps it is time for a national infrastructure programme. Just as a diverse transportation industry uses commonly held roading infrastructure, perhaps it's time for a commonly held data platform/interface protocols for the digital information relating to the grocery industry. Commons access to "seed to feed" data, stories, and analytics – around all 'big data', social media/storytelling, metrics, and measures – open sourced, owned by its creators (i.e. suppliers, not retailers), and available for (appropriate) access and analysis by the best of the world's advanced computational tools and theories, and the general public. Such openness around all aspects of farming, making, moving, selling, cooking, and eating of food would be the democratisation of food and grocery. It would enhance the ability of all players to embrace complexity, rich data, true choice, and granular competition. Consumer values and choices would become evident, and not just through the current manipulations of 'loyalty' programmes.

Financial returns

The current market structure ensures that the 'cream' of the market is concentrated into the hands of a few. All too often this is the overseas financiers and shareholders. Since this is the result of structural imbalances, it is not possible for this to be reapportioned without strategic intervention.

Integrated and cooperative trading models by store owners ensure cumulative financial returns are concentrated at the top of the vertical. Strategic alignment across all scales of operation (the smallest dairies up to the largest warehouse-style stores) creates problems: It creates a false perception of competition between different store banners within local markets. While individual stores might compete, supply agreements mean that they're all playing for the same team – it's basically a game of 'shirts' and 'bibs' on the home pitch.

A healthy supplier and retailer ecosystem requires a wide spread of ownership, control and capital access at all levels of the vertical. The 'cooperative' of the current model is great for store owners (and their homes, boats and baches), but not so good for low-wage employees, small business owners, and export-oriented innovators. A wider spread of income/capital into lower levels of the vertical ecosystem fuels innovation.

It is notable that Government departments, agencies, and funds are often the biggest supporters of this sector, in lieu of scale and opportunity for independent funding and investment. This subtle and effective subsidisation reflects their recognition of the flow-on effects for farming, employment, land use, exports, taxation and national identity of innovation and strength in this sector.

Entry of a new competitor

Allowing incumbents to stifle local competition opens up international competition as the only viable alternative. This cannot be a good idea.

The impact of sending the 'cream' of the profits overseas can be clearly seen in the NZ banking environment, with NZ\$ billions drained from New Zealand every year. (And we wonder why there's no 'fat' in our 'skimmed milk' local economy for reinvestment, growth, risk, and social wellbeing.)

This is an opportunity for us to support locally attuned alternatives that reflect real choice and options for New Zealanders, in a way that supports sectors within the supply chains that are being poorly served by the current mega-organisations. This could mean cultural, ethnic, artisan, specialist, demographic and regional alternatives.

I appreciate that many remote locations and smaller towns cannot reasonably support more than one store. However, competition doesn't necessarily mean scale-for-scale, head-for-head. It could mean competition by scale (e.g. by encouraging divestment of dairies from small-mid size store banners and/or from the regionally significant mega-stores and/or from premium grocery and/or wholesale stores) or location specific divestments where competition can reasonably be supported.

(Example: In Nelson City, there are two large Countdown stores within 400 metres of each other. There is also a New World, supplemented by a Pak'n Save 10km away in Richmond. There is also a Fresh Choice in Nelson City which does its best to 'support local' but which is also constrained by supply agreement with Woolworths. This means that three out of four of the local options are dominated by the same products, and at a scale that I believe has stifled the viability of alternatives.)

I am wary of the creation of third 'totara', particularly an overseas chain with a business model built around imported food. While this might be attractive to consumers in the short-term, commitments to local wages, regulatory standards, local suppliers, fragile rural and regional supply chains, and community must not be overlooked.

Manufacturers and growers need to be able to choose their channels to market. Without the realistic ability to choose NOT to sell to a dominant company, each supplier's position in the market is unsustainable, they are relegated to position of price-taking. Things are even more complicated when they find themselves competing with themselves, as a contract manufacturer under a store's private label and with their own brand. The retail landscape is not straight-forward. What is critical is that real alternatives exist, that real choice exists, and that suppliers and buyers have a fair (if not completely even) playing field on which to cooperate, trade and compete.

The position of marketing and distribution companies in the market should not be overlooked. Selling into a duopoly that sells into a duopoly does not result in a healthy supply chain! Producers become price-takers fearful of losing their place to larger growers with deeper profits and stronger supply relationships. Centralised national account management and integrated distribution networks favour large producers close to highly populated regions. The threat to viability for smaller and geographically-diverse producers must be recognised.

Supporting regional diversity and food security

The loss of regional production in conjunction with the threats to prime horticultural land to urban development is an increasingly important matter of national food security. Lack of choice and complexity in the market means that there is a threat to diversity of fruit/veg/grain varieties, and increased risk exposure to extreme environmental/weather events.

It is also important to maintain skills, knowledge and training opportunities for people in our regions, and to the support industries and communities supporting food production outside of the dominant horticultural production area. Viability for smaller, specialist and regional producers is part of the cost/benefit analysis for New Zealand that goes beyond 'cheap food' as this is a vital part of the engine room of our rural communities and our export economy.

Local food security and affordability issues can be exacerbated by insatiable export markets for our 'premium' products which inflate the everyday prices paid domestically. The scale of our food bank networks is a loud alarm that change is required. There are great examples of industry support, such as Meat the Need, and poor examples, such as Pak n Save customer donation boxes AFTER checkout.

There are many small independent retailers and specialists out there serving communities, supporting local makers, and trying to survive in a very hostile environment. There are also many other formats of 'competition' or provision of food to our communities: Hospitality, institutions, marae, community hubs, plus the rapidly changing environment around online orders with meal kit deliveries, ghost kitchens, dark stores, and doorstep deliveries.

These are our 'saplings' and they carry the sparks and seed of our grocery *ngahere* of the future.

Summary and Recommended Actions

The success and strength of the 'duopoly' in the New Zealand domestic grocery market is no longer serving our country well. It is more than contracts and market structures – it shapes our culture, our psyche, our future hopes, our identity as a nation. It is a matter that impacts the wellbeing, livelihoods, and communities of all New Zealanders.

I believe the following would help improve matters:

1. Robust and independent Code of Conduct for New Zealand's grocery industry:
 - a. Limitations around fairness on sales and promotions (with flexibility for clearance, damaged, seconds, etc. This could be included within the Code of Conduct, covering RRSP standards, best price provisions, own stores, local specials, etc. Culture as well as contract.
 - b. Protect suppliers from parties seeking to influence them beyond their 2-way relationship – i.e. freedom to trade with all and any other parties, unless FULLY integrated for supply to a single retailer (contract manufacture, contract provision of branded product) (Exclusivity) or subject to some form of co-investment and limited around appropriate terms of trade, timeframe, geography, etc.
 - c. Principles-based provides more flexibility – not just written contracts, also other elements of behaviour.
 - d. Improvements in internal culture, effective HR processes, and robust internal complaints procedures.
2. Increased competition:
 - a. Another national-level competitor, supported regionally on a case-by-case basis, to improve local supply and competition.
 - b. Specialist access only by international retailers (i.e. not as a head-to-head competitor with the current 'duopoly'.)
 - c. Support for alternative models of food supply, such as specialists and artisans, with encouragement of an independent wholesaling provision or direct supply protocols/data infrastructure.
3. Continued Government support to food innovators, entry-level and artisan producers, with a view to innovation and to strength in export markets.
4. National infrastructure programme for product data.
 - a. Flip the model. Put data power into the hands of consumers and producers, not just retailers.

- b. Better data flow will result in better business decisions throughout the sector.
- c. More transparency and knowledgeable choice will provide consumers with the ability to 'vote with the dollar' for the values, for the social and environment impacts, that matter most to them.

I am happy to meet/talk with members of the Commission to discuss any aspects of this work further, or with any other party with an interest in improving the impact of the food and grocery sector in Aotearoa New Zealand.

Thank you for your commitment to making things better.

Submitted by Cathie Gould

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