[redacted]

I supply Woolworths and Coles, Chemist Warehouse, Amazon, Catch and others.

I have first hand experience into how they deal with small business, including emails etc

Market structure and impact on level of competition

Please provide feedback on:

1. Whether there is effective competition in the supply of groceries in Australia, and particularly between supermarkets.
2. Market structures for the retail supply of groceries in Australia.

There is zero effective competition between the two when dealing with suppliers, they both demand high GROSS Margins, Rebates and Allowances (**trading terms**), promotional, store planogram, freight and distribution charges. There has been so much staff cross over between the two, they both have massive clout. Aldi sells generic items, unless its brand is an icon like Vegemite and a few others. Metcash / IGA are so small and difficult to deal with as you dealing with Metcash and then individual store owners or groups with more stores like Ritchies. So you need reps, which are expensive and out of reach of small – medium business.

Woolworths and Coles are fully integrated and will pickup goods from you and deliver to their DC's. They call it Primary Freight. So they control the whole supply chain, from supplier to shelf.

My products [redacted], the margin requirements and trading terms and other costs to supplier requirements of Woolworths and Coles are UNIQUE to Australia. This is because Woolworths and Coles have been allowed to get around 80% market share.

When providing feedback, you may wish to comment on:

- factors impacting the level of competition between supermarkets at present
- the extent to which the level of competition differs between metropolitan and regional and remote areas, including details of local areas where the choice of supermarket is particularly limited
- the structure of markets for the supply of groceries by supermarkets, including:
  - the number and size of market participants (if possible, please provide retail market share estimates, detailing the data sources and any assumptions made in estimating the shares)
  - the extent of vertical integration
  - the impact of recent supermarket entry and expansion, including by small and independent supermarkets

- the role of mergers and acquisitions, including serial acquisitions

- the impact of these structural factors at a national, state and local level
- the ability for small and independent supermarkets to impose a competitive constraint on the major supermarkets, including their ability to attract consumers (for example, through product or in-store experience differentiation).

Price and non-price competition

Please provide feedback on:

3. The key areas of competition or differentiation between supermarkets in Australia.

Woolworths and Coles expect their RRP prices to be the same on most lines.

[redacted]

4. The practices supermarkets use to attract and retain consumers, and any changes observed over recent years (up to 10 years), including, for example:

Woolworths Rewards is decades ahead of Coles Loyalty program in terns of capability and penetration.

Woolworths are very effective is understating their consumer, what they spend on what and targeting weekly emails to their interest.

- price and discounting practices or promotional cycles

Woolworths and Coles expect to sell [redacted] units per store per week (UPSW) in this category. To achieve this the supplier must have promotional program to ensure the average UPSW exceed their requirements. Each year at category reviews they get the list of poorest performers in UPSW and they get probably deletion letters.

Woolworths and Coles expect the same or more promotional activity every year (its planned in 6 month segments, usually 9 months ahead (of start of 6 month period) for Woolworths and 7 months for Coles.

See attached emails from Woolworths and Coles [redacted]

- stocking particular products or brands.

5. How consumers respond to the supermarket market practices identified in your response to question 4.

The spike in sales during promotions is around 50% - 80% of non promotional periods.

During the current cost of living stress, its higher.

When providing feedback, you may wish to comment on:

- the relative importance of the following factors for consumers (and why):
  - price
  - product range (such as the types of products offered by the supermarket, including

different brands)

- quality
- product availability (such as whether the product is currently available in-store or online)

Woolworths and Coles sell stock in stores and online, where our is sold, and Woolworths sell and expanded set online, of products not sold instore.

[redacted]

- convenience (including location, delivery options, opening hours)
- loyalty and rewards programs
- in-store experience (for example, store amenities and speed of check-out)
- any other factors

- whether these factors have changed in recent years (please indicate the time period your response covers)
- whether these factors differ between metropolitan and regional and remote areas.

Pricing and margins

Please provide feedback on:

6. The factors determining pricing for groceries, including policies and strategies for setting discounts and promotions.

Woolworths and Coles require 52-55% gross margin (not gross profit). They then require 20 – 22% rebates and allowances or trading terms. With 15% a volume discount, 5% a warehouse allowance and the balance shrinkage or ullage (ie shop theft, waste, product not sold before expiry date). This 20 – 22% is deducted from suppliers invoice price.

GST is excluded for ease of analysis

So product is say $20 RRP

Sell price to Woolworths and Coles is $9

After trading terms supplier gets $7.02 (assume trading terms is 22%)

Woolworths and Coles insist small suppliers FULLY fund promotions, so you take say $1 off, you get charged $1 for every product sold during the promotion, recorded by the scanner at every store or online sales.

So effectively you are getting $6.02 for your product during promotions.

Woolworths and Coles change their planograms or store shelf layout annually in the main (sometimes there is a mid year small review) the Suppliers are charged the cost for changing their shelves, the height, the shelf labels, the products being discontinued or added.

They spread it over all suppliers in that category. Generally, its $5000 - $10,000 a year or whatever they can get away with.

Woolworths have a much slicker supply chain operation and suppliers send stock to Regional DC's (RDCs) if the have high moving products or National DC's (NDC's) if they have slow moving products. Generally Woolworths will have a supplier send stock to one NDC and Woolworths will send it from there to all stores. Woolworths then charge the suppliers a fee for every movement of stock from the NDC to each store, so it's a percentage of total truck cost, bases on weight and volume.

Same for Regional DC's.

Coles have a very inefficient supply chain and require suppliers to send stock to 3 NDC's in each Eastern State (VIC, QLD and NSW). This means small – medium suppliers have to hold stock in 3 States or ship from one State to the other two. Coles and Woolworths require one pallet per product, so the freight costs using line haul interstate freight is massive.

For both, the supplier pays the freight to the RDC or NDC. The cost is a VIP service as Coles and Woolworths tell you when in a 30 minute time slot they want the delivery. So if they keep the truck waiting, its bad luck, it at the suppliers cost. Also an interstate truck would be delayed, causing a missed timeslot etc, all the to the suppliers cost.

Coles and Woolworths introduced Coles Collect / Woolworths Primary Freight in the last decade and they will pick up stock from the supplier. If they offer the supplier this service, they will send a truck to pickup from the supplier and charge the supplier a fee.

Generally the fee is slightly cheaper that the VIP service described above.

So instore planogram and logistics costs are pushed back on the suppliers and its another profit margin for Coles and Woolworths.

Woolworths and Coles also want suppliers to have shelf ready / friendly packing (SFP), so its quicker in the store to refill a shelf. This is an additional cost to the supplier and an environmental waste of the extra packaging. SFP use to be popular in the US and Europe 20 years ago and Coles and Woolworths copied it and now its only Australia that has it.

https://www.supplierportal.coles.com.au/wps/wcm/connect/colessupplier_en/CSP/Product+Ranging+and+Promotions/Shelf+Ready+Packaging+Guide

This is another cost to the supplier they mandate.

For large suppliers, the trading terms differ, some as low as 7% versus 22-25% and they don't make the suppliers 100% fund the promotions. Woolworths will fund 50% and the supplier 50% so small – medium suppliers are disadvantaged again.

7. **Whether supermarket prices, profits and margins have increased or are in excess of those likely in a competitive market.**

There is no doubt, the huge +/- 80% market share of Coles and Woolworths have contributed to forcing suppliers to very unfavourable margins, costs and trading terms

Pricing and promotions are at a National level. The RRP of prices is sometimes higher in the NT.

The margins are stable, however if the supplier is sent a possible deletion letter, the only way to stay on the shelf if to increased Coles or Woolworths margins or promotional spend.

Woolworths and Coles send out more probably or possible deletion letters than they needs to, as it's a good way of getting a better deal from suppliers, profitability of which falls to their bottom line profit.

When suppliers ask for a price increase, they say they don't threaten suppliers with deletion, cause this is against the grocery code, so they use words like uncompetitive or no one else in that category has asked for an increase.

One other tactic Coles and Woolworths use is called regrading. They insist you give them better margins or better promotional plan or you risk regrading, which is where the reduce the number of stores you are ranged in.

Woolworths and Coles pay suppliers in 30 – 70 days, from receipt in their RDC or NDC's. But they deduct their rebates and allowances and promotional spend immediately, off invoices, for stock you may have delivered over 2 months ago. So it's the suppliers cash flow that is disadvantaged and not Coles or Woolworths.

Industry trends

Please provide feedback on:

8. The role of supermarket loyalty and rewards programs and how they affect competition.
9. The role of data and data analytics in how supermarkets compete.

10. How online retailing has impacted competition between supermarkets.

11. The role of home brands in how supermarkets compete.

Woolworths and Coles sell their register scan data to third party companies, who process the data and sell the competitive landscape to suppliers. Its very expensive, like $20,000 - $50,000 a year, so well out of reach of small and some medium suppliers.

In recent years Woolworths have brought this in house through a company they acquired called Quantium. Quantium sells the data to suppliers and they now through Cartology sell instore (video, displays, point of sale etc) and website marketing to suppliers.

Woolworths is using its Rewards system and analytics to target customers through their app and emails effectively, a decade ahead of Coles at least.

Online retailing has impacted Supermarkets on bulk lines, that Chemist Warehouse and Catch and Amazon sell, but its bulk lines they import like laundry detergent, dishwashing tablets etc from places like Eastern Europe or South America. So generally cheaper than getting same brand in Australia.

Home Brands that are made in Australia by the large suppliers, have an impact on suppliers, especially during the cost living crisis. Woolworths and Coles don't promote them or put them on special.

▪

1.1. Barriers to entry and expansion

The entry (or potential entry) of new supermarkets, and growth of competitors to the major supermarkets, are important sources of competition. It is therefore important to assess whether there are any barriers that may be preventing or hindering effective new entry or expansion.

Some of the barriers previously identified by the ACCC include:

- lack of access to suitable retail sites, or wholesale supply or inputs
- the presence of economies of scale and scope, sunk costs, and strong brand loyalty and

reputation

- links to other industries (such as petrol and liquor)
- strategic behaviours of competitors.

The availability of retail sites may be impacted by strategic practices (such as land banking, restrictive leases and other contractual restrictions or arrangements with developers) and regulatory hurdles (such as planning and zoning). Other barriers may also include the presence of exclusivity arrangements between supermarkets and suppliers, or 'most favoured nation' clauses.

With the rise of online retailing in recent years, the ACCC is also interested to understand if access to distribution and logistics networks has impacted entry or expansion.

Supermarkets collect and use large amounts of consumer data to inform their product, pricing and other strategic decisions. In addition to loyalty and rewards programs, this data may be obtained through the supermarkets' various businesses in addition to grocery retailing. For example, the major supermarkets now offer services across a wide range of industries including banking, retail, telecommunications and insurance. In this context, a lack of access to comparable data sets or sources may increasingly be considered a barrier to entry or expansion.

The ACCC welcomes stakeholder views on barriers to entry and expansion of supermarkets.

Please provide feedback on:

12. The factors relevant to decisions on whether to enter or expand in Australia, including any barriers.
13. Examples of supermarket entry, exit or expansion (particularly in the last 10 years), including the reasons for the success or otherwise of new entry or expansion and the reasons for exit.

It is very hard for new vendors to break into Coles and Woolworths, it took us over 10 years of annual attempts. Then Coles and Woolworths, tell them the margin requirements and trading terms, which are the worst offer for any supplier and best for the Retailer.

[redacted]

14. Whether you foresee any new supermarket entry or expansion in the next 5 years.

When providing feedback, you may wish to comment on:

- the extent to which the following are factors in the entry or expansion decision (and their relative strength), and any other relevant factors:
  - the opportunity to earn a return on investment relative to other investment options
  - the level of risk involved in entering the industry, including the amount of upfront investment and sunk costs
  - the availability of, or ability to gain access to, retail sites
  - the ability to secure wholesale supply at competitive prices
  - the contestability of the market and the ease and speed with which sales can be gained, particularly relative to economies of scale, scope and density
  - loyalty and rewards programs and the impact they might have on customers switching to a rival supermarket
  - brand loyalty and the impact it may have on customers switching to a rival supermarket
  - the importance of reputation and its impact on sales and gaining market share
  - connections to other industries and the impact it may have on accessing data when implementing competitive sales offers, and the ability to offer cross-market sales promotions
  - access to data more generally, including whether important data may not be available due to exclusivity arrangements
  - access to technologies, including whether important technology may not be available due to exclusivity arrangements
  - access to distribution facilities for online orders
  - any other strategic behaviours
- whether these barriers or decision factors have changed over the past 5 to 10 years (please indicate the time period your response covers)
- whether these barriers or decision factors differ between metropolitan, regional and remote areas
- if you expect new entry, the likelihood of such entry and whether such entry would be of sufficient scale and within a sufficient timeframe to impose a competitive constraint on the incumbents.

1.2. Consumer experiences

The Inquiry will examine consumer experiences with supermarkets and how this has changed in recent years.

A key development following the Grocery inquiry 2008 was the introduction of unit pricing, which requires certain grocery retailers to list prices for most grocery products using a standard unit of measurement (for example, per 100 grams). Unit pricing has made it easier for consumers to compare products and find the best value for money when shopping. However, in addition to consumer concerns regarding rising supermarket prices and reduced value-for-money (for example, due to 'shrinkflation'), consumers have raised concerns regarding confusing and potentially misleading pricing practices. For example, misleading 'was/now' prices and other discounts that are not true discounts, bulk-buy offers that don't offer additional value for money and unit pricing which is intentionally confusing. Recently, Coles announced refunds for thousands of customers after it raised the price on 20 products that it had promised would remain 'locked' for a certain period of time.[11] The ACCC is interested to understand the nature and extent of such practices, and the impact on consumer purchasing behaviour.

The supermarket shopping experience has also changed for many consumers over the past 20 years, spurred on by technological developments.

Consumers are increasingly shopping online (through desktop websites and mobile apps) and getting their groceries delivered (including through third parties such as UberEats).

In-store experiences are also changing, for example through self-checkout. These changes have privacy and job impacts. The ACCC will not be focussing on these issues directly, but they are relevant in the context of understanding competition in grocery retailing. For example, some independent supermarkets have removed self-checkouts as a means of competitively differentiating their offer from the major supermarket chains. Sustainability has also recently come into focus, with some supermarkets (such as The Source Bulk Foods) seeking to differentiate themselves on the basis of reduced packaging.

Supermarkets have also further developed their loyalty and rewards programs (for example, Coles' Flybuys program and Woolworths' Rewards program) which provide consumers with both price and non-price benefits. However, consumers may also face increased data collection and targeted advertising as well as costs to switch to alternative supermarkets.

The ACCC welcomes feedback on consumers' supermarket shopping experiences and how recent developments have affected consumer purchasing behaviour. The ACCC encourages consumers to complete the survey on our Consultations Hub.

Please provide feedback on:

15. The experiences of consumers in their dealings with supermarkets.

When providing feedback, you may wish to comment on:

- the extent of any pricing or other supermarket practices which may be considered confusing, misleading or deceptive and their impact on consumer purchasing behaviour
- the growth of online shopping and how this has impacted consumer purchasing behaviour and experiences, including, for example, total spend and types of products purchased
- the extent to which in-store experiences have changed over the past 5 to 10 years and how this has impacted consumer purchasing behaviour and experiences (please indicate the time period your response covers)
- the impact of increased data collection and use, particularly through loyalty and rewards programs, including whether this has led to an increase in targeted advertising
- the impact of technological developments
- the impact of unit pricing on consumer behaviour.

[11] CHOICE, Coles caught red-handed raising 'locked' prices, *CHOICE website,* 10 December 2023, accessed 26 February 2024.

2. Grocery supply chains

Efficient supply chains are crucial to ensuring markets for the supply of groceries are working well for consumers, suppliers and the Australian economy.

In addition to examining competition and practices at the retail level, the ACCC has been directed to consider the state of competition for the supply of groceries by suppliers (that is, those carrying on a business of supplying groceries for sale by a retailer).

In particular, the ACCC will examine:

- the level and nature of competition at each level of various grocery supply chains
- relationships between the parties at different levels of various grocery supply chains
- factors affecting the price of inputs along grocery supply chains.

We are seeking information and views from participants across all levels of the various grocery supply chains about the factors influencing prices along the supply chain, including the difference between farmgate and supermarket prices and any impediments to competitive pricing along the supply chain.

To assist the ACCC in understanding the context in which your feedback is provided, please provide details about:

16. The structure of the grocery supply chain(s) and market(s) you operate in, including:

    (a) an overview of each step in the supply chain(s)

Our products are manufactured [redacted] and sea freighted in full 40 foot container loads to [redacted]. We stored Woolworths inventory in [redacted] and Coles stock in [redacted].

Up until [redacted] we shipped directly to Woolworths, but it was cheaper to use Woolworths Primary Freight (around $50 per pallet) , due to VIP delivery described earlier. With Coles, we delivered to them directly until [redacted] and then Coles Collect took over, as it was slightly cheaper for us ($10 per pallet).

2.1. Competition in grocery supply chains

Grocery supply chains from the farmgate or manufacturer, potentially through wholesalers and distributors, to the end retailer are numerous and varied, depending on the product or category of products.

Broadly, groceries on supermarket shelves typically either come:

- directly from suppliers, such as farmers, growers and dry goods manufacturers
- via processors, manufacturers and wholesalers (often passing through multiple of these).

A lack of competition at any level of a supply chain can have flow on effects throughout the supply chain. For example, it can result in lower prices for farmers at the farmgate, higher prices for consumers at the retail level, or both.

The ACCC welcomes views from stakeholders on the level of competition between both buyers and suppliers of products or inputs across all levels of the various grocery supply chains.

Please provide feedback on:

17. The nature and extent of competition at each level of the grocery supply chain(s) in which you operate (other than at the retail level, which is discussed in section 2 above).
18. How vertical integration across retail and wholesale levels of the supply chain(s) by the major supermarkets affects competition.
19. How these market dynamics have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the major competitors at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s)
- market share estimates at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s) (to the extent possible). Please detail the data sources and any assumptions made in estimating the shares.
- who you supply inputs or products to and why you choose to supply (or not supply) certain buyers
- who you buy inputs or products from and why you choose to buy (or not buy from) certain suppliers
- recent entry, exit or expansion, including the reasons for the success or otherwise of new entry or expansion and the reasons for exit
- the factors relevant to decisions on whether to enter or expand in Australia, including any barriers
- the impact of imports and exports

Costs of importing its becoming prohibitive with sea container, customs, quarantine charges and port to warehouse charges.

- the impact of vertical integration in the supply chain(s) in which you operate
- the extent to which retailers bypass wholesalers and deal directly with suppliers, the extent to which this differs depending on the product or category range, and the impacts of this.

2.2. Trading arrangements

The ACCC is aware of concerns raised regarding trading arrangements, particularly as a result of the buyer power of the major supermarkets and wholesalers.

The ACCC is seeking to understand the experience of market participants, in particular with respect to how buyer power may impact pricing and other trading terms, and any impacts of this on their ability to efficiently operate their business. The ACCC is also interested to understand the nature and intricacies of the relationships and trading arrangements across each level of the various grocery supply chains.

2.2.1. Trading terms and practices

Grocery supply chains are numerous and varied and can differ significantly based on the product or product category and the characteristics of the relevant supply chain. Accordingly, the types of trading arrangements also vary significantly.

Broadly, trading arrangements are either formalised contracts or, particularly in relation to some types of fresh produce, less-formal trading arrangements that may not lock in price or volume. For the purposes of this Issues Paper, the ACCC groups these into 'contracting practices' and 'other trading arrangements'.

In some circumstances, trading terms are subject to voluntary or mandatory codes of conduct, such as:

- The **Food and Grocery Code of Conduct:** a voluntary code that prohibits specific types of unfair conduct by retailers and wholesalers in their dealings with suppliers and imposes an obligation to deal in good faith. ALDI, Coles, Woolworths and Metcash have signed up to and are bound by the code.
- The **Horticulture Code of Conduct:** a mandatory code enforced by the ACCC that applies to unprocessed fruit, vegetables, including mushrooms and other edible fungi, nuts, herbs and other edible plants. The code includes requirements that horticulture produce must be sold under a compliant horticulture produce agreement, and that traders must publish their terms of trade and provide growers with statements for the sale of their produce.
- The **Dairy Code:** a mandatory code regulating the conduct of dairy farmers and processors by establishing rules for the use of standard form milk supply agreements in the dairy industry.

While the ACCC is not specifically reviewing the operation or scope of these codes, the impacts they have on trading arrangements in grocery supply chains are relevant to this Inquiry. A separate review assessing the effectiveness of the Food and Grocery Code of Conduct is being undertaken by Dr Craig Emerson.[12]

The ACCC welcomes views from stakeholders on the nature and dynamics of contracting practices and other trading arrangements across all levels of the various grocery supply chains.

Information on contracting practices

Please provide feedback on:

20. Contracting practices and dynamics, including:

    (a) the contracting process including the nature and extent of negotiations

[12] Department of Treasury, *Food and Grocery Code of Conduct Review 2023–24*, treasury.gov.au, 2023, accessed 26 February 2024.

(b) the general terms and formats of your contracts (for example, contract length, how quality thresholds or other requirements are assessed, and the terms of supply including flexibility of supply)

(c) pricing terms and practices including whether prices are fixed or variable, the methodology for determining prices including cost pass-through or other adjustments, allowances, incentives or deductions, and the timing of payments

(d) the extent to which you are able to effectively exercise rights and options under contracts in practice

(e) how risk and reward are allocated between the contracting parties

(f) the transparency and certainty over the terms of supply

(g) renewal practices (for example, notice periods and timing).

Covered this previously, if they are going to potentially delete you, they give you 14 days warning to setup a meeting with the buyer (Category Manager) which is usually by Zoom. Then after the zoom, it will take them 2 months to make a decision. Then if they do delete they will start marking down your stock (100% funded by the supplier), then when the new planogram is done, maybe 3 months after they, they send you a bill for part of the planogram relay!!

[redacted]

How these contracting dynamics and terms vary between the different buyers and sellers you contract with. Where relevant, please explain how your costs vary between different buyers and sellers (for example, transport or distribution costs).

21. For suppliers who have direct contractual relationships with retailers, or wholesalers representing retailers:

(a) The nature and types of rebate arrangements, either reflected in the written terms of contracts or otherwise negotiated, and the process for negotiating and agreeing on rebates

There is zero negotiation of rebates and allowances or trading terms, Its like it or lump it, we have others who want shelf space.

(b) any provision, whether written in a contract or negotiated outside of the written contract, in relation to self-placement or promotional activity (including in-store activity, product advertising and retail price discounts, whether ad hoc or regular discounting cycles).

Previously answered

22. How these contracting practices have changed over the past 5 to 10 years (please indicate the time period your response covers).

Information on other trading arrangements

Please provide feedback on:

24. Trading arrangements, practices and dynamics, including:

(a) the supply process, including the nature and extent of negotiations

(b) the general terms and formats of your trading arrangements (for example, how quality thresholds or other requirements are assessed, and how and when outcomes are communicated)

(c) whether any agency or trader relationships are involved

(d) pricing terms and practices including the methodology for determining prices, allowances, charges or deductions, the timing and communication of actual prices to be received, and the timing of payments

(e) how easy it is to compare prices and conditions offered by different participants (sellers and buyers)

(f) how risk and reward is allocated between parties to the arrangements

(g) the transparency and certainty over the terms of supply, including final volumes and prices.

25. How these dynamics and practices vary between the different buyers and sellers you deal with. Where relevant, please explain how your costs vary between different buyers and sellers (for example, transport or distribution costs).
26. Whether formalised supply contracts or some other form of supply arrangement would be preferable and why.
27. How these trading arrangements have changed over the past 5 to 10 years (please indicate the time period your response covers).

2.2.2. The impact of buyer power

At a high level, buyer power refers to the ability of a person to exercise market power in a market in which they are a buyer. Buyer power is typically demonstrated through the ability of a buyer to demand lower prices for goods and services or otherwise influence the terms of supply in its favour.

The ACCC is aware that concerns have been raised by suppliers regarding the buyer power of larger supermarkets and wholesalers. A common concern is that larger supermarkets and wholesalers are able to use their buyer power to extract more favourable terms and conditions from suppliers than would otherwise be the case, potentially impacting the sustainability of their operations.

The ACCC is interested to understand the extent to which any party in the supply chain has buyer power and, if so, whether they are exercising it in a way that may damage the long-term efficiency and sustainability of the supply chain. In particular, the ACCC is interested to understand in the circumstances where, as a result of buyer power, the price paid to suppliers is decreased so low (or other terms of trade so unfavourable) that it stifles supplier innovation and investment, reduces the viability of suppliers' businesses, or causes existing suppliers to exit the market.

The ACCC welcomes stakeholder feedback on the impact of buyer power across all levels of the various grocery supply chains. The ACCC is also interested to understand the extent to which, and the circumstances where, suppliers may have countervailing bargaining power in negotiation with supermarkets or wholesalers, which may limit or negate buyer power.

Please provide feedback on:

28. How any buyer power is or might be exercised and the consequences (for example, lower prices received, transfer of risk or costs, decreased incentive for investment and innovation along the grocery supply chain).
29. Any evidence or examples of buyer power (please specify which market participants and grocery products or product categories your answers relate to).
30. The extent to which larger supermarkets and wholesalers are able to acquire grocery products from suppliers for lower prices or on better terms than smaller grocery retailers and wholesalers, and how this has changed over the past 5 to 10 years (please indicate the time period and products or product categories your response covers).
31. Any evidence or examples of buyer power being exercised in a manner which impedes or may impede the efficient supply of grocery products and how this has changed over the past 5 to 10 years. In particular, whether (and, if so, how) lower prices or unfavourable terms have:

(a) reduced the viability of suppliers' businesses

(b) prevented suppliers from undertaking investment necessary to support their business (for example, capital expenditure to support the improvement or expansion of the business)

(c) resulted in exit by suppliers or other reductions in the extent or quality of supplier output.

32. The extent and impact of any countervailing negotiating power, including:

(a) at the retail level, the value consumers place on your specific brand and how they might react if their desired brand were not available

(b) the effectiveness of collective bargaining arrangements in negotiating trading arrangements with major processors, wholesalers or retailers

(c) how this has changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the impact that pressure from one buyer has on your dealings with other buyers (for example, by reducing your ability or incentive to offer favourable terms to other buyers)
- the impact and importance of trading terms such as:
  - slotting fees (fees paid by manufacturers or producers to have their products placed on supermarket shelves)
  - rebates, loyalty or other bonuses
  - promotional activities (including who bears the cost of these activities)
  - exclusive supply terms in contracts
  - specific sourcing or packaging requirements
- the impact of any other promotional or discounting practices by retailers, whether ad hoc specials or through regular promotional cycles (such as periodically heavily discounting the retail price of particular products)
- whether any retailers can credibly threaten to 'delist' a product or brand, substitute or give preference to a private label or general brand, or import products in preference to local brands
- the impact of private label products including:
  - whether, and if so how, opportunities or pressure to win private label supply contracts impact the negotiation of trading terms for the supply of branded products
  - any instances of retailers requiring a supplier to provide a private label version of a product in order to have their branded product stocked
- the effectiveness of industry codes of conduct (such as the Food and Grocery Code or Horticulture Code) or other regulations in limiting buyer power
- whether you are or have been encouraged or pressured to use services (for example, logistics or advertising services) owned or controlled by supermarkets or suppliers in order to secure a supply arrangement with them
- any other examples of behaviour or conduct by participants in your dealings with them that may suggest they have buyer power or which may be potentially anti-competitive

- the availability and viability of trading with alternative suppliers or buyers (including import or export markets)
- how easily and quickly you can switch between buyers or suppliers and any impediments to switching.

2.3. Margins and price transparency in grocery supply chains

One of the key concerns that has been raised, and which has prompted this Inquiry, is the difference between farmgate prices and the prices paid by consumers at the checkout. In this context, the Terms of Reference directs the ACCC to consider the approaches of suppliers and wholesalers to setting grocery prices and factors affecting pricing of inputs along the supply chain.

As discussed in section 2.1.2, the ACCC will examine margins generally for groceries at a retail level. However, the ACCC will also examine how suppliers and wholesalers set prices along the supply chain, price transparency, and how these contribute to the difference in price received at the farmgate and the price paid by consumers for groceries. Specifically, this will involve the ACCC taking a closer look at the end-to-end costs of production and distribution, prices and related margins including through obtaining documents and information from market participants using compulsory information gathering powers.

The ACCC welcomes views from stakeholders on factors impacting costs, margins and pricing across the supply chain. The ACCC is also interested to understand the extent to which suppliers can access and are using data and data analytics.

Please provide feedback on:

33. How cost changes along grocery supply chains are reflected in retail prices, and how this has changed over the past 5 to 10 years (please indicate the time period your response covers).
34. The key factors influencing profitability and margins at each level of the supply chain and how these have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the pricing structure in each step of the supply chain (for example, price per unit or price mark-up)
- how and when pricing is determined (for example, fixed-price or variable, margin-based)
- the use of data analytics in setting prices
- the transparency of the data used, including prices and demand information, and the impact of any lack of transparency about data used
- the proportion of the final retail price accounted for by your level of the supply chain and, if known, other levels of the supply chain
- the volatility of input prices and how this is managed

- your ability to respond to variations in input costs by adjusting prices charged and any impediments to increases in input costs being passed through the supply chain
- any other factors relevant to your pricing strategy, such as strategic goals
- how changes in the prices you pay your suppliers affect the prices you charge buyers
- the speed and extent to which retail prices rise and fall in response to price increases and decreases in the supply chain (including how quickly increases in the price wholesalers and supermarkets pay for grocery products are reflected in retail prices compared to how quickly reductions in the price paid by retailer and wholesalers are reflected in the retail price)
- the extent to which cost savings in the supply chain are passed through to retail prices for consumers
- to what extent your contract terms and conditions or trading arrangements allow for, require or limit passing on cost savings or increases.

2.4. Other factors impeding or supporting efficient supply or pricing

As noted above, efficient markets that work well for both suppliers and consumers are essential and competition is a key tool for ensuring that markets remain efficient.

In addition to bargaining power imbalances or the exercise of buyer power (as discussed above in section 3.2.2), other factors may impede the efficiency of supply or pricing in markets, such as:

- market characteristics (including legal barriers)
- lack of transparency over supply or demand
- supply or demand shocks
- behaviours that impact the ability or incentive of market participants to invest in increasing supply or demand or efficiency-enhancing innovations
- insufficient access to inputs such as produce, food processing services or equipment or other grocery product inputs.

In recent years, events such as the COVID-19 pandemic, extreme weather and geopolitical tensions have created significant supply and demand shocks which substantially disrupted supply chains across the globe, including those relating to groceries.

In contrast, the increasing digitisation of businesses may have contributed to increased efficiency throughout the supply chain, particularly in combination with increased data collection and analytics tools.

The ACCC is interested to understand the extent of any inefficient supply and pricing of inputs and the factors which may be contributing to or offsetting such inefficiencies, such as the impact of these technological and analytical developments.

The ACCC welcomes stakeholder views on any impediments to the efficient supply of inputs and products along the grocery supply chain and factors that may have improved the efficacy of the operation of grocery supply chains.

Please provide feedback on:

35. Your ability to respond to shocks or changes in the operating environment.
36. Any impediments to undertaking investment necessary to support your business, for example capital expenditure to support the improvement or expansion of your business.
37. Any other impediments to the efficient operation of your business.
38. Any factors that have improved the efficiency of your business operations.
39. How the extent, and types, of impediments to efficient supply or improvise to the efficacy of business operations have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the availability and quality of inputs
- the importance of economies of scale and scope
- the impact of shocks and how you respond to them (for example, the COVID-19 Pandemic, extreme weather events, and geopolitical tensions)
- the impact of demographic changes to demand such as potential shifts in population to larger metropolitan areas, an ageing population and immigration to certain areas
- the impact of private label products (either supplied by your business or other businesses) in competition with branded products
- the impact of vertical integration or other vertical relationships (such as toll processing) in the supply chain
- impacts of technology and data analytics (for example, through facilitating buyers to move towards just-in-time operations)
- hold ups or blockages in the supply chain
- any other practices such as predatory pricing or bundling.