



A non-profit, volunteer organisation,
advocating to advance the interests of
consumers in Queensland

Secretary: *Max Howard*

[REDACTED]
[REDACTED]

7 April 2024

SUBMISSION ON UNIT PRICING TO ACCC SUPERMARKETS INQUIRY

BACKGROUND

The Queensland Consumers' Association (QCA) is a small non-profit organisation established over 40 years ago and which exists to advance the interests of Queensland consumers. QCA's members work in a voluntary capacity and specialise in particular policy areas. QCA is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups, and also works closely with many other consumer and community groups.

QCA has a very strong interest in ensuring high levels of retail grocery price transparency and fairness for consumers and its work in this area has included:

- Coordinating the consumer campaign that in 2009 resulted in the Retail Grocery Industry (Unit Pricing) Code of Conduct (the Code), administered by the ACCC, that requires some instore and online grocery retailers to provide consumers with the unit price (price per standardised unit of measure) for grocery products sold in constant measure packages (for example boxes of breakfast cereals and cartons of milk).
- On-going advocacy for improvements to the Code, and its administration, and for some other types of retailers to be required to provide unit pricing.

Therefore, QCA welcomes the opportunity to make this submission on the Issues Paper. **The submission is only about unit pricing.**

The contact person is Ian Jarratt email: [REDACTED]

RECOMMENDATIONS

THAT THE INQUIRY:

1. **Undertake a detailed investigation into, and make recommendations on, grocery retailer compliance with the Grocery Unit Pricing Code and the opportunities to increase the effectiveness of the grocery unit pricing system for consumers through changes to the:**
 - **current compliance monitoring and enforcement arrangements**
 - **Code's provisions and associated guidance documents**
 - **national measurement legislation.**
2. **Recommend that that the scope of the national unit pricing system be expanded to include the provision of unit prices for packaged products sold by relevant non-grocery retailers such as pet supplies stores, chemists, hardware stores, and stationers.**

JUSTIFICATION

We welcome:

- The references to, and questions on, unit pricing in the Issues Paper and agree that “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.”
- The recognition of consumer concerns regarding confusing and potentially misleading pricing practices such as “unit pricing which is intentionally confusing”.

However, we consider that the unit pricing system for groceries, which has been unchanged since the commencement of the Grocery Unit Pricing Code in 2009 and which only applies to products sold in packages of constant weight - for example 750g packets of breakfast cereal), has not been as effective as it could and should be, and as Australians need it to be.

We also consider that this situation reflects many influences not just “unit pricing which is intentionally confusing”. These influences include:

- **Grocery retailers** using small¹, non-bold print, using inconsistent units of measure, and not providing unit prices for all items.
- **The ACCC** insufficiently monitoring and enforcing retailer compliance with the Code.
- **The Grocery Unit Pricing Code** not being fit for purpose.
- **Trade Measurement Legislation** provisions which impede the achievement of a comprehensive and consistent grocery unit pricing system.

The above influences greatly reduce the ability of consumers to easily compare the unit prices and the relative value of all types of grocery products (packaged and loose) and thus the ability to save significant amounts of money or to get much more for the same expenditure.

This is a major issue for Australian consumers and the economy given that:

- For many consumers the cost of living is high and their living standard has declined.
- Grocery product unit prices vary greatly and can be used to make numerous types of value comparisons.
- Most consumers have thousands of grocery products and brands to choose between and are confronted by numerous and diverse “special offers” which can result in information overload and the use of less accurate rules of thumb to assess value for money.
- Package sizes vary greatly and self-calculation of unit prices by consumers, especially for different package sizes, is very time consuming.
- Consumers spend at least \$100 billion a year on grocery products.
- Low income households spend an above average proportion of their income on grocery products.
- Higher levels of consumer use of unit pricing would increase competition throughout the grocery supply chain, including between retailers.
- Disadvantaged/vulnerable consumers are disproportionately adversely affected.

¹ This causes problems for consumers in many different situations and are particularly severe when unit prices are on labels on the edge of high and low shelves and when the labels are not angled away from the shelf edge towards the viewer. We consider that prominently and legibly means that consumers should be able to notice and read all unit prices from a normal viewing distance and position. They should not have to bend very low, or even get on their hands and knees, or stretch high to be able to read any unit price.

Background information

The ACCC administers the Grocery Unit Pricing Code which since 2009 has required certain instore and online grocery retailers to: provide consumers with the unit price (price per standardised unit of measure) of packaged grocery products in order to facilitate value comparisons; increase informed consumer choice; and increase competition.

Changes to monitoring and enforcing Code compliance are urgently needed because consumer usage of grocery unit pricing is sub optimal due mainly to many unit prices not being easy enough for many consumers to notice, read, understand and use both instore and online².

This is a long standing and major problem due mainly to:

The ACCC insufficiently monitoring and enforcing retailer compliance with the Code³, especially the mandatory requirements that the unit price be displayed prominently and legibly in close proximity to the selling price, and that specified units of measure be used to indicate the unit price.

The Grocery Unit Pricing Code not being fit for purpose – for example not providing clarity on how to comply with the prominence and legibility requirements and there being no penalties for non-compliance.

Trade Measurement legislation provisions which impede the achievement of a comprehensive and consistent grocery unit pricing system – for example provisions on the quantity information displayed on packaged products and the units of measure that can be used to indicate the price of products sold loose from bulk.

The current situation greatly reduces the ability of consumers to easily compare the unit prices and the relative value of grocery products and thus the ability to save significant amounts of money or to get much more for the same expenditure. It is a major issue for Australian consumers and the economy given:

- The high cost of living and the declining standard of living.
- That grocery product unit prices vary greatly and can be used to make numerous types of value comparisons.
- Consumers spend at least \$100 billion a year on grocery products.
- Low income households spend an above average proportion of their income on grocery products.
- Higher levels of consumer use of unit pricing would increase competition throughout the grocery supply chain, including between retailers.

The legislative obstacles to increased consumer use of grocery unit pricing include:

- Some store-based and online grocery retailers are not required by the Code to, and do not, provide unit pricing.
- Grocery price comparison websites are not required to provide unit pricing.
- The Code only requires that unit prices be displayed prominently and legibly and there is no enforceable guidance on how that might be achieved and or on how compliance will be assessed, and there are no penalties for non-compliance.
- The need to modernise and make fit for purpose the Code's provisions on the units of measure to be used to indicate unit prices.
- Measurement legislation which allows the quantity in many packaged products to be shown in terms of count or weight and many products sold loose from bulk to be priced in terms of count or

² Photographs of some unsatisfactory unit pricing instore and online are provided in Appendix 1.

³ This is in complete contrast with the compliance monitoring and enforcement undertaken for the Country of Origin Food Labelling Information Standard 2016. For this the ACCC used the National Measurement Institute whose staff located throughout the country routinely visit to grocery retailers to monitor and secure compliance with national measurement legislation, including of unit pricing requirements for products sold loose from bulk and in random/catch weight packages.

weight, which results in inconsistent units of measure being used to unit price different items of the same product, or similar products.

Also, although possibly outside the Inquiry's scope, we consider that there is great potential to increase consumer use of unit pricing when buying packaged products instore or online from **non-grocery retailers** such as pet supplies stores, chemists, hardware stores, and stationers. This is because these retailers sell many packaged products, some of which also sold by grocery retailers covered by the Code, and consumers spend large amounts with these retailers, yet they are not required⁴ to provide unit prices, rarely do so voluntarily, and voluntary provision is usually inadequate. Therefore, we consider it relevant to ask the inquiry recommend that the scope of the national unit pricing system for packaged products should be expanded include products sold by non-grocery retailers, not just those sold by grocery retailers.

We consider that the overall costs associated with increasing consumer access to, and use of, unit pricing by grocery, and other types of, retailers would be low⁵ especially relative to the benefits which could be very large (potentially \$100s of millions annually) and that the costs to government would be extremely low.

ADDITIONAL INFORMATION

General

Consumer access to, and use of, effective unit pricing (pricing per standardised unit of measure) of products greatly increases price transparency and therefore the ability of consumers to compare prices, assess value, and save money or get more for the same expenditure. Effective unit pricing also helps consumers:

- To be less influenced in their purchasing decisions by the very sophisticated marketing and other tactics used by retailers and others in the supply chain.
- To be more resilient when experiencing economic challenges such as the current cost of living and standard of living crises.
- To notice when effectively the price of packaged products has increased due to a reduction in the amount in the package ("shrinkflation") and increases competition.

Therefore, ensuring that consumers have access to and use effective unit pricing is highly relevant to the Inquiry and the potential benefits⁶ from increased consumer access to, and use of, unit pricing to compare prices and values of all types of products are very large⁷.

The benefits are particularly large with **grocery products** for many reasons including because:

- Australian consumers spend at least \$100 billion a year on groceries⁸ and high grocery bills are one of the main causes of financial stress for many households.

⁴ They are required to do so in several EU countries and the UK.

⁵ The cost of significantly improving the unit pricing currently provided by grocery retailers would be particularly low.

⁶ Other benefits include: increased consumer protection and empowerment, Improved social justice (it is a social justice principle that cost pressures should be eased, particularly for the disadvantaged and vulnerable groups), and increased supply chain competition and efficiency.

⁷ For example, they were the main reason why in the 1970s in response to the economic problems caused by the Oil Price Shocks that several states in the USA become the first places in world to mandate the provision unit pricing by grocery retailers for packaged products. For similar reasons, other countries have also done the same, including Australia in 2009 following a recommendation by the ACCC inquiry into retail grocery prices commissioned mainly because of the negative economic effects of the Global Financial Crisis.

⁸ Equivalent to an average of around \$10,000 per household per annum.

- Grocery unit prices differ greatly between: pack sizes, brands, loose/packaged products, package type, fresh/frozen/canned products, substitute/alternative products, retailers, etc. and they can be used to make many types of value comparisons.
- Grocery retailers, and others in the supply chain, use very sophisticated marketing and other tactics to influence what consumers buy, so the provision of effective unit pricing reduces the information asymmetry between businesses and consumers and facilitates informed consumer choice.
- Many disadvantaged and vulnerable consumers spend above average proportions of their, often low, incomes on groceries.

However, as shown later, consumer usage of unit pricing for groceries is currently sub optimal for a variety of reasons including retailer noncompliance with the Code, and some instore and online grocery retailers not being required by the Code to provide unit pricing.

And, consumer usage of unit pricing is extremely low when buying packaged products from non-grocery retailers⁹, such as pet supplies stores, chemists, hardware stores, and stationers, because these retailers are not required to provide unit prices and they rarely do so voluntarily. Consequently, since consumers spend large amounts with these retailers, the consumer detriment due to non-provision of effective unit pricing is very high.

The Grocery Unit Pricing Code

The provision of unit pricing for products sold loose (for example fruit and vegetables) and in packages of random weight (for example meat and cheese) has been required and regulated by measurement legislation for many years. And, these forms of unit pricing are much used by consumers to compare values and prices.

However, for many years the provision of unit prices was **not** being required for products sold in constant measure packages even though since the 1950s and 60s these have become the most common way to buy groceries and many other products.

However, since 2009 very large supermarkets and some online grocery retailers have been required by the Grocery Unit Pricing Code, administered by the ACCC, to provide the price per unit of measure for packaged grocery products and the unit prices have to be prominent and legible and specified units of measure must be used.

Code compliance and consumer use

Although many consumers use the grocery unit pricing regulated by the Code, the extent and frequency of usage is sub optimal for many reasons including:

- Many grocery unit prices are not easy enough even for consumers with normal vision and mobility to notice, read, understand and use both instore and online due mainly to small, non-bold print, inconsistent units of measure, and non-provision¹⁰.
- Insufficient proactive monitoring and enforcement of retailer compliance with the Code.

The high levels of difficulty consumers experience using grocery unit pricing are clearly shown by a 2022 national survey¹¹ commissioned by the Australian Consumers Association (CHOICE) which found that 71%

⁹ Who often sell products also sold by grocery retailers – for example pet foods and health and beauty products.

¹⁰ Photographs of such unit pricing instore and online are provided in Appendix 1.

¹¹ Available at <https://www.choice.com.au/unitpricing>

of unit price users in grocery stores and 80% of online users experienced difficulties doing so. It also showed that the main instore and online difficulties were:

| <u>Difficulty experienced using unit pricing</u> | <u>Instore shoppers</u> (% who experienced problems) | <u>Online shoppers</u> (% who experienced problems) |
|--|--|---|
| Difficult to read | 34 | 23 |
| Obstructed/covered | 31 | N/A |
| Different units of measurement for the same type of products | 26 | 31 |
| Not displayed | 35 | 29 |
| Being unable to sort/search by lowest unit price | N/A | 20 |
| Difficult to compare products of interest side by side | N/A | 25 |

Significantly, most of these difficulties were caused by retailers not complying with the Code. And, the levels of difficulty were substantially higher for some types of consumers. For example, unit prices being difficult to read instore was a problem for 47% of retired users compared with 29% of non-retired users and 79% of people with a disability experienced difficulties using unit pricing instore compared with 69% of other users.

Also, in a 2018 Treasury online survey involving 3775 respondents 74% said they had trouble finding and reading the unit price away/often/sometimes.

Importantly, since these consumer surveys were undertaken, some major supermarkets have replaced paper shelf labels with electronic ones which has substantially reduced the prominence and legibility of many unit prices. Therefore, new consumer surveys would likely indicate even higher levels of consumer difficulties finding and reading unit prices.

Also, when the unit prices of packaged grocery products are mentioned in the media or when individual consumers are interviewed, it is extremely common for the unit prices to be described as “the prices in small print on shelf labels or the internet”.

Therefore, we consider that, in order to increase consumer usage, increased retailer compliance with the Code is required and that this can be best achieved by improved priority to monitoring and enforcement of compliance¹².

Need for legislative changes

The extent and frequency of consumer use of grocery unit pricing could also be substantially increased by legislative changes that would result in major benefits for consumers and the community.

The current legislative obstacles to increased consumer use of unit pricing include:

- Some supermarkets and online grocery retailers are not required by the Code to, and do not, provide unit pricing¹³.

¹² This would also make the system fairer and less discriminatory.

- Grocery price comparison websites are not required to provide unit pricing.
- The need to modernise and make fit for purpose the Code's provisions on the units of measure to be used to indicate unit prices, for example to require more products to be unit priced per kg and per litre, to clarify the requirements when different sizes of packaged products are sold by number or on a roll, and to allow the use of per wash load for laundry detergents.
- The Code only requires that unit prices be displayed prominently and legibly and there is no enforceable guidance on how that might be achieved and or on how compliance will be assessed, and there are no penalties for non-compliance.
- Measurement legislation allows the quantity information on many packaged products to indicate either the number of items or the weight and for many products sold loose to be priced per item or per unit of weight. These result in significant inconsistencies in the units of measure retailers use to unit price different items of the same product, or similar products.

Also, non-grocery retailers such as pet supplies stores, chemists, hardware stores, and stationers sell packaged products, and consumers spend large amounts in these stores yet they are not required¹⁴ to provide unit prices and rarely do so voluntarily.

Yet, consumer surveys have shown that many consumers want unit pricing for packaged products to be provided by more grocery retailers and some non-grocery retailers.

For example, in a national CHOICE survey in 2018: 86% of respondents believed mandatory unit pricing should be extended to shops that are not currently covered by the Code and over 50% believed convenience stores and smaller grocery retailers should also be required to provide unit prices, Also, 66% of participants said unit pricing should be extended to pharmacies and 44% to hardware stores.

Furthermore, an independent and comprehensive¹⁵ review of unit pricing was supposed to be, but never was, undertaken 5 years after the Code started in 2009¹⁶.

It is also very relevant that in the UK, where provision of unit pricing is also compulsory for some grocery retailers, and where much of the unit pricing provided is also inadequate and/or non-compliant that a recent Competition and Markets Authority report¹⁷:

- Recommended numerous reforms to the unit pricing legislation including changes aimed at: improving the consistency of the units of measure used to show grocery unit prices; improving the legibility and display of unit prices; and clarifying the application of unit pricing to products sold on promotion.
- Noted the relevance of other legislation including on weights and measures, and the Consumer Protection from Unfair Trading Regulations which deal with unfair, misleading or deceptive conduct/practices

¹³ Only retailers who sell all of 11 specified categories of grocery products are required to provide unit pricing and the only instore retailers required to provide it are those with more than 1000 square meters of floor space.

¹⁴ They are required to do so in several EU countries and the UK.

¹⁵ One which looks at unit pricing in general not just grocery unit pricing and the Code.

¹⁶ A Treasury review of the Code published in 2021: was not independent; was mainly undertaken to prevent the legislation being "sunsetted"; was insufficiently comprehensive; and did not accept any changes suggested by the ACCC, some grocery retailers and organisations, some academics, and several consumer and community organisations. No significant changes were made to the Code. The ACCC improved its retailer guidance document. However, we are unaware of any resultant improvements in the quality of retailer provision.

¹⁷ <https://www.gov.uk/government/publications/unit-pricing>

The UK government welcomed the CMA's report and following the release of a consultation paper¹⁸ on unit pricing and other ways to increase price transparency (and information about products) and is now considering changes to legislation.

In New Zealand, a requirement of the mandatory Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023¹⁹, which start to take effect in August 2024, is that the font size used to display the unit price be not less than 25% of that used for the selling price. Furthermore, the Guide for Grocery Retailers²⁰ issued by the Commerce Commission indicates that "unit pricing should be easy for consumers to notice, read, understand and use" and that it considers that the display requirements mean that "Unit pricing should be clearly displayed in a consistent, unambiguous and legible manner – this means it can be easily seen and read by consumers (including those with impaired sight and/or restricted mobility) from normal viewing positions and distances."

Therefore, we consider that the inquiry should:

- 1. Undertake a detailed investigation into, and make recommendations on, grocery retailer compliance with the Grocery Unit Pricing Code and the opportunities to increase the effectiveness of the grocery unit pricing system for consumers through changes to the:**
 - **current compliance monitoring and enforcement arrangements**
 - **Code's provisions and associated guidance documents**
 - **national measurement legislation.**

- 2. Recommend that the scope of the national unit pricing system be expanded to include the provision of unit prices for packaged products sold by relevant non-grocery retailers such as pet supplies stores, chemists, hardware stores, and stationers.**

¹⁸ Available at <https://www.gov.uk/government/consultations/smarter-regulation-improving-price-transparency-and-product-information-for-consumers> and the Minister's Foreword includes the following statements:

- "Information and consumer transparency is not a luxury or a nice to have, it is a must."
- "Choice and information go hand in hand, and in this economic climate it is even more important. When shopping for your groceries, you should know at a glance which products are best value."
- "Clearer information allows consumers to make more informed choices, thereby encouraging producers to compete with one another. Increased competition amongst producers generally leads to better functioning markets, including higher quality products, innovation, and price reductions. These changes further improve consumers' ability to gain welfare from their consumer spend."

¹⁹ <https://www.legislation.govt.nz/regulation/public/2023/0185/latest/whole.html#LMS824115>

²⁰ <https://mailchi.mp/59f84a4d789c/grocery-supply-code-checklist-for-suppliers-now-available-1419467?e=3397c094ef>

APPENDIX 1

EXAMPLES OF UNSATISFACTORY GROCERY UNIT PRICING

INSTORE



Unit prices very difficult to read on electronic labels on lower shelves due to small print, non bold font and some labels being vertical



Unit prices very difficult to read on paper labels on bottom shelf due to small non bold print



Unit prices difficult to notice and read on special offer label due to use of small, non bold font and not being close to selling price



Unit price on paper shelf label obscured by edge of label holder



Unit price not provided



Tea bags unit priced per 100g and per bag (all should be the same unit of measure)



Beverages unit priced per 100mL and litre (all should be per litre)



Salmon unit priced per 100g (should be per kg), unit price not prominent even though room on label for larger print size, and unit of measure shown as per 100g \$4.12 not \$4.12 per 100g



Unit price not provided for special offer



Garlic unit priced per 100g (should be per kg)



UP for bean sprouts shown per each but meant to be per 100g and should be per kg



Unit prices on electronic labels for single and double items very difficult to notice and read on bottom shelf even though angled out













Unit price in very small non bold print and unit of measure 100g (should be per kg for flour)








Unit price not provided






ONLINE

| | | | | | |
|---|---|---|--|---|---|
|  |  |  |  |  |  |
| | <p>Tetley Tea Bags 100 pack 180g</p> | <p>Tetley Extra Strong Black Tea Bags 100 pack 200g</p> | | <p>Bushells Blue Label Tea Bags Teacup 100 pack</p> | <p>Twinings English Breakfast Extra Strong Tea Bags 80 pack 200g</p> |
| | <p>\$3.80 \$0.04 per 1ea</p> | <p>\$4.60 \$0.05 per 1ea</p> | | <p>\$4.50 \$4.50 per 100ea</p> | <p>\$13.50 \$0.17 per 1ea</p> |
| |  |  | |  |  |

Tea bags in 100 bag packages unit priced per ea (bag) and per 100ea (100 bags). All should be per 100ea (bags) or per ea (bag). Unit price should be in larger and bold font to be more prominent.

| | | | | | |
|---|---|---|--|---|-----------------------------------|
| Browse products | Specials & catalogue | Recipes & ideas | Help | More | Shop for business |
|  |  |  |  |  | |
| <p>\$48.00 \$0.48 / 1EA</p> | <p>\$66.00 \$16.50 / 1EA</p> | <p>\$64.00 \$106.67 / 100EA</p> | <p>\$65.00 \$108.33 / 100EA</p> | <p>\$60.00 \$60.00 / 1EA</p> | |
| <p>Primo Caffe Coffee Espresso Hermetic Capsules 2PK - 50pc</p> | <p>Primo Caffe Ristretto Hermetic Coffee Capsules 50pc 3 + 1</p> | <p>Di Stefano Coffee Capsules 1735 Blend 60pc 54g</p> | <p>Di Stefano Coffee Capsules 1820 Blend 60pc 54g</p> | <p>Di Stefano Decaf Coffee Capsules Decaffeinato 60pc 54g</p> | |

Coffee capsules unit priced per ea, per 100 ea, and per package. All should be All should be per 100ea or per ea. Unit price should be in larger and bold font to be more prominent.





| | | | | |
|--|--|--|--|---|
|  <p>\$5.00 \$27.78 / 1KG</p> <p>Sunbeam Strawberry Yoghurt Coated Sultanas 30g X 6 Pack</p> <p>Add to cart</p> |  <p>\$4.50 \$1.13 / 100G</p> <p>Lucky Sultanas 400g</p> <p>Add to cart</p> |  <p>\$5.50 \$1.22 / 100G</p> <p>Sunbeam Sunmuscat Sultanas 450g</p> <p>Add to cart</p> |  <p>\$6.80 \$9.71 / 1KG</p> <p>Lucky Sultanas 700g</p> <p>Add to cart</p> |  <p>\$3.00 \$4.00 - \$20.00 / 1KG</p> <p>Ocean Spray Craisins Reduced Sugar 150g</p> <p>Add to cart</p> |
|--|--|--|--|---|

Sultanas unit priced per 100g and per kg. All should be per kg. Unit price should be in larger and bold font to be more prominent.

Product Filters

Brand

- Coca Cola
- Schweppes
- Kirks
- Sprite
- Pepsi
- Fanta
- Sunkist
- Bundaberg
- KIRKS
- Mountain Dew
- Solo
- 7Up
- Diet Rite

| | | | |
|---|---|--|---|
|  <p>7Up Lemonade Soda 1.25 Litre</p> <p>\$3.40 <small>\$2.72 per 1L</small></p> <p>Add to Cart</p> |  <p>Bundaberg Brewed Ginger Beer 750 Millilitre</p> <p>\$4.49 <small>\$0.60 per 100mL</small></p> <p>Add to Cart</p> |  <p>Bundaberg Ginger Beer 10 Pack</p> <p>was \$19.15 \$13.60 <small>\$1.36 each</small></p> <p>Add to Cart</p> |  <p>Bundaberg Sarsaparilla 750 Millilitre</p> <p>\$4.25 <small>\$0.57 per 100mL</small></p> <p>Add to Cart</p> |
|---|---|--|---|

Beverages unit priced per 100mL, per litre and per pack (all should be per litre) and unit price not close to the selling price. Unit price should be in larger and bold font to be more prominent.