



Strengthening the Unit Pricing Code consultation

ACCC submission

September 2025

Acknowledgement of Country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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ACCC 09/25

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Contents

Executive summary	3
Introduction	4
ACCC response	5
Scope	5
Large grocery businesses under the Food and Grocery Code	5
Display and consistency	7
Display	7
Consistency	8
Shrinkflation.....	9
Penalties	10
Infringement notices and other enforcement tools	11
Application of penalties.....	11
Participating grocery retailers.....	12

Executive summary

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to make a submission in response to Treasury's consultation paper on strengthening the Unit Pricing Code (the code).

The ACCC is committed to a right-size, risk-based regulatory approach that protects consumer wellbeing and competition, fostering economic dynamism and productivity. The ACCC supports the improvement of the code, particularly in relation to reforms designed to improve readability and address inconsistent units of measure, both within stores and between competing retailers. The ACCC also supports the introduction of both a product size change notification regime, and civil penalties to the code.

Unit pricing assists consumers to compare the price of products, by improving the pricing information available to them. Results from the ACCC's Supermarkets Inquiry consumer survey indicate a significant majority of respondents (89%) 'always' or 'usually' use unit pricing.¹ Despite this, stakeholders have raised concerns with the ACCC about the code and how supermarkets apply unit pricing in Australia, particularly in relation to readability and inconsistent units of measure.

The ACCC's Supermarkets Inquiry Final Report made several recommendations in relation to improving unit pricing and price transparency:²

- recommendation 2 – supermarkets should be required to publish pricing information
 1. All supermarkets (including small rural stores and remote community stores) to publish prices on all products in-store.
 2. Large (i.e. ALDI) and very large supermarket chains (i.e. Coles and Woolworths) (by turnover) to publish prices in-store and online via their websites.
 3. Very large supermarket chains (by turnover) to make application programming interfaces available which provide dynamic price information for third parties.
- recommendation 4 – supermarkets should be subject to minimum information requirements for discount price promotions, supported by record keeping obligations
- recommendation 5 – the ACCC supports the Australian Government's proposal to consult in relation to proposed changes to the unit pricing code
- recommendation 6 – supermarkets should be required to publish notifications when package size changes occur in a manner adverse to consumers
- recommendation 7 – Coles and Woolworths should be required to provide members with periodic loyalty program information disclosure summaries

This submission is informed by the ACCC's compliance and enforcement work, including in relation to the unit pricing code and provides insights from the ACCC's Supermarkets Inquiry Interim and Final Reports in relation to implementing recommendations 5 and 6, for unit price display, consistency as well as shrinkflation notifications. The ACCC recommends behavioural economic expertise and consumer testing are both considered during the development of any changes to current obligations, as discussed in the *Applying Behavioural*

¹ ACCC, [Supermarkets Inquiry Interim Report](#), August 2024, p 93.

² ACCC, [Supermarkets Inquiry Final Report](#), March 2024.

Insights to the ACCC Supermarkets Inquiry report we commissioned as part of the Inquiry.³ In particular, the ACCC considers consumer testing is critical in developing the proposed shrinkflation notification requirements to ensure the notifications are useful to consumers, rather than providing additional information to the purchasing decision that may overwhelm or confuse.

If the scope of the code is widened to include smaller grocery retailers with a local footprint, consideration should be given to the importance of an enforcement role for state and territory regulators, noting that a code under the *Competition and Consumer Act 2010* (Cth) can only be enforced by the ACCC.

The ACCC welcomes the Government's commitment for future consultation relevant to recommendations 2, 4 and 7, related to publishing pricing information, and providing further information around discounts and loyalty programs, and broader commitment to address competition and consumer harms in the supermarkets sector.

Introduction

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The ACCC's primary responsibilities are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010* (CCA), regulate national infrastructure and undertake market studies. The CCA also contains the Australian Consumer Law (ACL) which is enforced by state and territory ACL regulators alongside the ACCC under a one law, multiple regulator model.

Unit pricing in Australia is mandated by the code, which came into effect on 1 July 2009 following a recommendation from the ACCC's 2008 Grocery Inquiry. The code is a mandatory industry code of conduct prescribed under Part IVB of the CCA. The ACCC is the regulator responsible for compliance and enforcement of the code.

A primary benefit of unit pricing is to meaningfully assist consumers with in-store price comparisons. This is because unit pricing allows consumers to more easily compare prices across different sized products and different brands of substitute products within a store (including online).

As outlined in the ACCC's Supermarkets Inquiry Interim Report, there have been developments in the grocery retail environment in the years since the code was introduced. Supermarkets have taken steps to make pricing information more accessible online, including by providing pricing information on websites and mobile apps, which has facilitated cross-retailer price comparison by consumers. The use of electronic shelf labels and digital price displays in-store may improve price accuracy, however, unit pricing information is often competing for space with other in-store labels and notifications making it more difficult for some consumers to read.

Stakeholders have raised concerns about the code, particularly with how supermarkets are applying the unit pricing requirements inconsistently and that penalties are not available for breaches of the code. The ACCC's submission to the consultation paper addresses these points.

³ Behavioural Insights Team, [Applying Behavioural Insights to the ACCC Supermarkets Inquiry](#), p 17.

ACCC response

In February 2024, the ACCC conducted a consumer survey as part of the Supermarkets Inquiry. The survey received over 20,000 responses. Many respondents raised concerns about increasing grocery prices. Some said they were buying less food, skipping meals and experiencing emotional distress from grocery shopping. Seventy-six per cent of households earning less than \$500 per week said they were spending more than 20% of their post-tax income on groceries, as well as 54% of households earning between \$500 and \$749 per week. Respondents on lower incomes said they were more likely to compare grocery prices than respondents on higher incomes.

Unit pricing regulation is a key part of addressing these challenges. However, regulation needs to ensure that unit pricing works for all Australians, including older or visually impaired consumers. Right-sized and correctly targeted regulation that better enables consumers to make informed decisions about grocery prices will lead to significant benefit to consumers at a time when cost of living pressure is impacting many households.

Scope

The consultation paper seeks feedback on options for expanding the scope of the code to apply to additional types of retail businesses or premises, and on revising the minimum range of food-based grocery items.

Noting the issues raised above, we consider there is a good case to examine expanding the scope of the code by reducing the square metre threshold for physical stores or revising the minimum range of food-based grocery items for a grocery retailer to be subject to the code. We note that an effect of such a reform could be additional retailers being covered, including potentially smaller grocery retailers.

If the code is expanded to cover smaller retailers with a local footprint, the ACCC is of the view that the role of state and territory ACL regulators needs to be considered, as action against smaller entities will present a regulatory challenge for the ACCC in terms of breadth and proportionality of compliance and enforcement.

The one law multi regulator model of the ACL envisages a complementary compliance and enforcement approach between the ACCC and the state and territory ACL regulators. Under this model, the ACCC addresses national matters and the state and territory ACL regulators address matters that are more localised.

Large grocery businesses under the Food and Grocery Code

The consultation paper seeks feedback on extending the code obligations to all stores that are owned and/or operated by large grocery businesses under the *Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024* (the food and grocery code).

Under the food and grocery code, the definition of a 'large grocery business' includes both large retailers and large wholesalers. A retailer or wholesaler is a large grocery business for a financial year when:

- it carries on a supermarket business, or a grocery wholesaling business that sells to supermarkets, in Australia, and

- the total revenue earned by that retailer or wholesaler, and each related body corporate of that retailer or wholesaler, from that business exceeded \$5 billion for the previous financial year.

Large grocery businesses currently covered by the code are:

- ALDI Stores (A Limited Partnership)
- Coles Group Limited
- Metcash Food & Grocery Pty Ltd (Metcash), and its related bodies corporate: Rainfresh Vic Pty Ltd, Nu Fruit Pty Ltd, Girrawheen SPV Pty Ltd
- Woolworths Group Limited, and its related bodies corporate: PFD Food Services Pty Ltd, Australian Grocery Wholesalers Pty Limited.

Application to large grocery businesses

Extending the code obligations to the large grocery businesses currently covered by the food and grocery code could impose the code's obligations on large retailers, large wholesalers, and smaller retailer and wholesaler subsidiaries owned by those large retailers and large wholesalers.

We consider it is appropriate for the obligations to apply in respect of sales to consumers, whether in store or online. As a result, we consider it most appropriate to extend the unit pricing code's in-store application to all premises operated by a large retailer as defined in the food and grocery code, in addition to those other retailers' premises captured by a square metre threshold (provided, as the consultation paper notes, that the premises are also required to meet the minimum grocery range threshold).

We do not have evidence to suggest that any one threshold as measured in square metres would be more appropriate than another. We note that, in its 2021 Grocery Unit Pricing Code Review,⁴ Treasury found that the value of unit pricing to consumers shopping in very small grocery stores and specialty retailers (who sell a very limited number of groceries) is more limited. This is particularly the case because there are fewer items in each grocery category to select from and because consumers often shop at such stores for convenience (for example, to top-up items such as bread and milk) or to obtain a premium product. This suggests that the code is of most value (for in-store use) in larger stores.

However, we consider that a broader extension of the unit pricing code's in-store application to other businesses or premises captured by the food and grocery code would be complex and risk unintended consequences. As a result, we do not consider the requirements should apply to any premises operated by large wholesalers as defined in the food and grocery code.

If the Government decides to pursue an extension of the unit pricing code's scope along these lines, the ACCC also considers that it would be appropriate to exempt situations where a large wholesaler may assume temporary ownership of individual grocery retail stores (e.g., where those stores are in temporary financial distress). Application of the unit pricing code in these situations is likely to achieve limited marginal benefit for consumers at the expense of creating unintended incentives around these store-by-store transactions. A right-sized regulatory approach is unlikely to require unit pricing code coverage of such stores.

⁴ Treasury, *Grocery Unit Pricing Code Review: Review outcomes*, < <https://treasury.gov.au/review/grocery-unit-pricing-code-review/reviewing-code> >

Such an approach could be achieved through a carve-out in the unit pricing code for these situations (e.g., a transition period or a time-limited exemption), or through granting a broader power to the ACCC for a public exemptions process for mandatory industry codes prescribed under Part IVB of the CCA, to ensure unintended regulatory consequences can be managed in a fair and transparent manner.

Limited application to independently owned and operated stores

Extending the code obligations to the large grocery businesses currently covered by the food and grocery code would not have the effect of extending the application of the code to smaller supermarket businesses that are supplied by a large wholesaler but are independently owned and operated.

For example, Metcash is a large grocery business as a large wholesaler under the food and grocery code and supplies a network of over 1,600 independently owned stores in Australia.⁵ This proposal does not appear to have the effect of extending the code obligations to these independently owned stores, such as most IGA and Foodland stores where these stores do not meet the square meterage criteria.

Display and consistency

The consultation paper seeks feedback on whether the display requirements of the code should be improved, and whether the code should be amended to provide increased consistency of units of measurement for in-store and cross-retailer comparisons. The ACCC supports changes to the code to improve legibility and prominence of unit prices and address inconsistent units of measure.

The ACCC considers these improvements to unit pricing will help consumers compare products (both within stores and between competing retailers), enabling them to make more informed purchasing decisions.

As noted in the Supermarkets Inquiry Interim and Final Reports, consideration would need to be given to reaching the right balance between providing transparency and comparability while maintaining readability and reducing the risk of cognitive overload for consumers. As discussed in the *Applying Behavioural Insights to the ACCC Supermarkets Inquiry* report, further research is needed to establish how and under what conditions consumers give increased attention to unit pricing information.⁶ Research could also determine under what conditions any increased consumer attention to unit pricing may translate into changes in purchasing behaviours. For example, examining the relative effects of changes to highlighting vs font size.

The ACCC recommends behavioural economic expertise and consumer testing as fundamental inputs in the development of any changes to the display and consistency obligations.

Display

The ACCC has found that the presentation of in-store unit pricing creates difficulties for some consumers. This includes consumers with visual impairment or who cannot easily stoop or stretch to read to see smaller labels on higher or lower shelves. Respondents to the

⁵ <https://www.metcash.com/our-businesses/food/>, accessed by the ACCC on 3 September 2025.

⁶ Behavioural Insights Team, *Applying Behavioural Insights to the ACCC Supermarkets Inquiry*, p 17.

ACCC's Supermarkets Inquiry consumer survey aged 50 years and over were more likely to report that unit pricing 'is not easy to read' as a concern than younger respondents.⁷

More generally, as the provisions related to legibility and prominence are examined, we encourage consideration of the needs of a range of demographic groups, including:

- Older consumers (16% of Australians, rising to around 22% by 2066),⁸ and
- Consumers with limited mobility.

Submissions to the ACCC's Supermarkets Inquiry Interim Report raised concerns about:

- Unit prices being hard to notice and not easy to read as supermarkets often use small, nonbold print.
- Units of measure being displayed inconsistently between products within store and across different retailers.
- The increasing use of electronic shelf tags, as these tags may have less visual contrast and so reduce the overall visibility of unit pricing.

Consumer testing relevant to possible changes addressing visibility and consistency could include consideration of:

- What specific changes are most likely to lead to consumers increasing their attention on, and use of, unit pricing.
- Whether there are specific changes that could assist particular consumer cohorts, such as older or visually impaired consumers.
- What specific requirements may be necessary to ensure unit pricing is sufficiently legible and prominent on electronic labels.

Consistency

The consultation paper seeks feedback on a proposal to require prescribed grocery retailers to use the same unit of measurement within grocery categories, unless impractical to do so.

It is important that retailers are required to use consistent units of measure for goods of the same nature, to facilitate comparison within stores, and between different retailers, including online.

Inconsistent units of measure for unit prices can make it more difficult for consumers to compare the same product, or similar or substitute products in-store. Unit pricing information is also an important input for online price comparison tools. Currently the utility of online unit pricing for cross-retailer price comparison is impacted by the ability of different retailers to use inconsistent units of measure.

The use of inconsistent units of measurement can occur in relation to many of the grocery categories that have alternative units of measurement provided under Clause 11 of the code, because they can be supplied using different units of measurement. These grocery categories include fruit, vegetables and meat, which are commonly supplied either per item, or by weight.

The ACCC considers that if Clause 11 is amended to require prescribed grocery retailers to use the same unit of measurement within each grocery category, the required unit for each

⁷ ACCC, [Supermarkets Inquiry Interim Report](#), August 2024, p 95.

⁸ Australian Institute of Health and Welfare, [Older Australians web report](#), July 2024.

category should be prescribed by the code rather than determined by each grocery retailer. This would better enable consumers to make price comparisons across different retailers, as well as within the same retailer. As noted in the Supermarkets Inquiry Final Report, when considering what might constitute best practice for online unit pricing of fresh produce in Australia, the experience of Tesco in the UK could be instructive.

Tesco uses an interface which gives consumers the option to shop for loose fresh produce either by 'quantity' or by 'weight' by toggling between 2 checkboxes.⁹ Tesco ultimately charges based on weight and provides its unit prices by weight. While Tesco also provides a 'per item' price, it cautions that this should be used as a guide only.

The ACCC considers that this presentation provides flexibility for consumers and sets out the comparative per-unit pricing information in a very clear way.

Shrinkflation

The consultation paper seeks views on the extent to which manufacturers are engaging in the practice of shrinkflation, how this may disadvantage consumers and the potential impact on consumers and businesses of introducing a new product size notification.

The ACCC considers that greater transparency is needed in relation to shrinkflation. The current unit pricing regime does not bring these product-sizing changes to the attention of consumers because understanding when a product's size has changed, and whether or not its price has, would require consumers to retain knowledge of the product's historical unit price. As such the ACCC supports the proposal to introduce a product size change notification regime to the code.

As noted in the Supermarkets Inquiry Final Report, while product size changes are not in themselves problematic, consumers and stakeholders have raised concerns about the lack of transparency around shrinkflation, and that they are ultimately paying 'more, for less' (potentially without their knowledge).

In the Supermarkets Inquiry Final Report, the ACCC was unable to precisely quantify the extent to which shrinkflation is occurring in Australia, however there is evidence that shrinkflation does occur across a range of grocery categories and that it is a concern to consumers.

As noted in the Supermarkets Inquiry Final Report, one option could be to include:

- a notice that the product's unit price has increased due to a change in package size
- information about the previous and current unit price.

This information would, at a minimum, be required to be published prominently, legibly and in proximity to the pricing ticket on shelves, and to include notifications on website product pages. It would also need to be published for a set period (such as 1–2 months) to enable consumers to become aware of the unit price change.

The ACCC considers that such notifications would not be overly burdensome for retailers to implement, given the number of promotional tickets that retailers publish each week. In addition, with the introduction of electronic ticketing, there may be increased opportunities for this information to be quickly and easily flagged with consumers. Further, the requirement would be limited and relate only to products where a package change results in a unit price

⁹ Tesco, [Groceries & essentials: large pink lady apples loose class 1](#), accessed 18 February 2025. See also the ACCC Supermarkets Inquiry Final Report section 4.4.2 for screenshot examples of this interface.

increase, and would not extend to other products which have price increases without sizing change.

As noted in the Supermarkets Inquiry Final Report at section 4.5.2, some suppliers may already be required to notify retailers of such changes (or retailers may already have first-hand knowledge in the case of package size changes for private label products). However, retailers do not generally communicate these changes to consumers.

The ACCC considers that retailers could require suppliers to inform them of all product size changes, noting suppliers may initiate reductions in product size. However, it would not be practicable to place the onus solely on suppliers to notify consumers about adverse changes as retailers are ultimately responsible for product pricing and advertising. As such, the ultimate responsibility should be on retailers to publish notifications when price and package size changes occur in a manner adverse to consumers.

The ACCC considers shrinkflation notifications are more likely to be effective if they are consistent in appearance within a store and consumers are aware of what to look for, particularly given the busy nature of the supermarket environment where consumers are already exposed to considerable product and pricing information.

As noted above in relation to the proposed display and consistency obligations, there is a risk that additional ticketing or shelf labelling materials may increase the amount of information required to be absorbed by consumers (particularly in-store). This would need to be carefully considered in the design of any notification, particularly in relation to requirements around the prominence and salience of information. The ACCC considers behavioural economic expertise and consumer testing is critical, to ensure the notifications are useful to consumers, rather than providing additional information to the purchasing decision that may overwhelm or confuse.

The ACCC's Supermarkets Inquiry Final Report noted the approach adopted in France may be instructive. Since 1 July 2024, medium to large grocery retailers in France have been required to display information about changes in quantity when a product becomes smaller but the price remains the same or increases.¹⁰ The signage must be visible on store shelves for 2 months, and include information about the price per unit. The requirement applies to a range of goods, including food and household items but excludes unpackaged food items and bulk goods.

The ACCC recognises that there needs to be safeguards in place to ensure that retailers cannot circumvent the rules by claiming that certain product or packaging changes result in the creation of an entirely new product (rather than an instance of shrinkflation). Any proposed safeguards considered must not stifle product development or create barriers to consumer preferences.

Penalties

The consultation paper notes that there are currently no penalties for non-compliance with the unit pricing code, and that the Government has announced that it will introduce substantial penalties for retailers who breach the code. The paper seeks feedback on several questions relating to penalties.

¹⁰ Le Monde with AP, ['France asks retailers to alert customers to cases of 'shrinkflation''](#), Le Monde, 19 April 2024, accessed 18 February 2025.

The ACCC receives a relatively small number of complaints about unit pricing and has primarily taken an educative approach to address non-compliance. Notwithstanding this, some stakeholders have expressed concern that there is not sufficient compliance with the code, particularly in relation to display requirements.

The ACCC considers that the availability of penalties for non-compliance is proportionate and necessary to ensure that consumers have consistent and clear price information and would incentivise businesses to comply with the code.

The lack of any sanction for breaching certain parts of a code undermines the ACCC's ability to ensure compliance. The ACCC considers that all substantive clauses of a prescribed code, including the unit pricing code, should carry the potential for civil pecuniary penalties. The availability of civil pecuniary penalties enables the ACCC to promote compliance not only through taking enforcement action but through signalling to others covered by the code that the cost of non-compliance is potentially significant. To be effective, the consequences of breaching a code must be sufficiently serious to drive compliance and penalties available should reflect this objective.

Infringement notices and other enforcement tools

The ACCC uses a range of tools to encourage compliance and prevent breaches of the CCA, including business and consumer education, and working closely with stakeholders and other agencies. The ACCC's [Compliance and Enforcement Policy](#) sets out the principles we adopt to achieve compliance with the Act, and outlines our compliance and enforcement functions, strategies and tools.

The availability of the full range of compliance and enforcement tools enables the ACCC to address potential contraventions and ensure responses are proportionate and tailored to the circumstances. These tools may include court action, infringement notices, court enforceable undertakings, administrative resolutions, guidance and education, cautions to businesses to change their conduct and public warnings or other public statements.

The ability to issue infringement notices is a fundamental part of the ACCC's enforcement toolkit. Infringement notices can provide a timely and efficient way of achieving an enforcement outcome without costly and protracted legal proceedings. However, this efficiency must be balanced against the need to ensure in appropriate matters that the consequences of breaching a code are sufficiently serious to ensure general and specific deterrence. Infringement notice penalties are substantially lower than the maximum civil penalties that can be ordered by the court.

We consider that the infringement notice penalties should be set at the higher amount available for food and grocery related industry codes, in line with those available for alleged contraventions of the ACL.

Application of penalties

The consultation paper seeks feedback on how penalties should apply given the large number of items that require the display of unit pricing by a grocery retailer, and the potential for multiple contraventions attracting significant maximum penalties. We consider it is appropriate for significant maximum penalties to be available per contravention. We do not consider that a tiered approach to penalties is necessary but could provide further consideration of this proposal depending on the scope of the code.

The decision to order a penalty is made by the courts, taking into account a number of factors relevant to ensuring the penalty is of an appropriate deterrent value in all the circumstances.¹¹ These factors include the nature, timing and circumstances of the conduct, financial gain, loss or damage caused, deliberateness and any prior conduct by the contravener. This will ensure the penalty ordered by the court is appropriate for the nature of the contravention. As identified in the consultation paper, a 'course of conduct' analysis can be applied where there are multiple contraventions arising from acts that are interrelated. We consider that this addresses any concerns regarding a potentially very high penalty applying for multiple contraventions.

Participating grocery retailers

Grocery retailers not currently covered by the code, that voluntarily choose to display unit pricing are defined as 'participating grocery retailers' and must comply with the code requirements. If this requirement continued, retailers that presently opt-in to the code but are not captured by the amended scope of the code may cease doing so voluntarily if they are subject to penalties for any breach of the code.

The ACCC is of the view that the benefit to consumers of consistent and clear price information generally outweighs the risk of a small number of participating grocery retailers withdrawing from the code.

¹¹ [Guidelines on ACCC approach to penalties in competition and consumer law matters.](#)