

19 February 2025

Commerce Commission

Wellington

By email: grocery.regulation@comcom.govt.nz

SUBMISSION on draft Consumer Complaints Disclosure Standard and draft Reasons Paper

1. Introduction

Thank you for the opportunity to make a submission on the draft Consumer Complaints Disclosure Standard (Standard) and draft Reasons Paper (Paper). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General comments on the draft Standard and Paper

We agree that in a competitive market supermarkets would actively monitor complaints and act to resolve any issues they encounter, including pricing and quality issues.

Unfortunately, we do not believe this is happening and are particularly concerned about the high volume of pricing complaints we receive about supermarkets.

We have been highlighting these pricing issues for years, including in our [submissions](#) on the Market Study into the grocery sector, our “[end dodgy specials](#)” campaign and our 2023 [Commerce Commission complaint](#) about Foodstuffs’ and Woolworths’ pricing.

Despite highlighting these issues, little has changed. Therefore, we agree more needs to be done to ensure supermarkets are accurately pricing the products they sell and effectively monitoring and resolving complaints.

However, we are not confident the draft Standard will achieve this. For the Standard to be effective, the main regulated grocery retailers (RGRs) will need to comply with the Standard and the Commerce Commission (Commission) will need to invest considerable time and effort to monitor compliance and take enforcement action where necessary.

In our view, there is not enough of an incentive for RGRs to comply with the Standard. Also, given the scale of operations across the country, we think it would be very difficult for the Commission to detect non-compliance.

The quality of the data is also likely to vary significantly between stores which could make it difficult to aggregate and interpret. As a result, the data collected by the Commission may suffer from accuracy issues and therefore may be unreliable.

We also question what the implementation of the Standard will mean for consumers in practice. For example, if someone is overcharged 30 cents on a tin of baked beans in store, what will the customer be required to do to have this addressed? Will they be required to raise the issue with the checkout operator and fill in a form, holding up the queue of people behind them? Or will they be sent to a service desk where they’re expected to wait around to provide details of their complaint? If the process is too time-consuming or laborious and if there isn’t enough of an incentive for consumers to engage in the process, we think many consumers will not bother to complain.

Also, the supermarkets could intentionally make the process so difficult for consumers that very few people will be prepared to put in the time and effort to make a complaint.

An alternative option to address these pricing issues could be to issue a standard requiring the main RGRs:

- (a) display their refund policies on their websites and an accurate summary instore; and

- (b) publicly report the number of refunds and total amount of refunds that are processed each quarter.

We also think the RGRs should be required to offer full refunds for any items that are overcharged.

Although this wouldn't capture the same level of detail proposed by the Standard, we think it would go some way to solving the pricing issues faced by supermarket shoppers. It would incentivise supermarkets to get their pricing right and provide the Commission with some data on how often RGRs are getting their pricing wrong. Importantly, it would be worthwhile for consumers to complain about an incorrect price and could be done in a way that didn't create a bottleneck at the checkout.

We'd also like to see the Commission regularly mystery shop and take more enforcement action against the RGRs if it considers they are not complying with the law.

3. Specific comments on the draft Standard and Paper

Despite the fact we are not confident the Standard will be effective at improving the status quo, if it proceeds, we have the following drafting comments.

Defined terms (Section C) – complaint category

We think there are some issues with the complaint categories listed in section C. For example:

- We consider a "weights and measures issues" category should be added.
- We consider a "product availability" category should be added.
- If a customer has a complaint about incorrect unit pricing, it is unclear whether this would be a 'pricing integrity issue' or a 'unit pricing' issue. We presume it should be the latter and think this should be clarified.
- If a customer wishes to complain about loyalty scheme pricing, it is unclear whether this should be categorised as a 'loyalty scheme' issue, a 'pricing integrity issue' or a 'promotional error.' We consider this should be clarified.

Defined terms (Section C) – pricing integrity issue

The definition of ‘pricing integrity issue’ requires the advertised price to not match the price *charged*. As a result, complaints that are resolved before the price is charged (for example, by a price adjustment at the till) will be excluded. We query whether this is appropriate – particularly given the definition of ‘refund’ includes where price adjustments are made at the till (see below).

Defined terms (Section C) – promotional errors

The definition of ‘promotional error’ turns on the promotional price not constituting a genuine special. This is subjective and supermarkets will argue their promotional activities always offer value. Retaining this definition will create a loophole for the RGRs to avoid including genuine complaints in their records and reports.

Also, we are unsure why there is a distinction between ‘pricing integrity issues’ and ‘promotional errors’. In our view, promotional errors are one subcategory of pricing issues. If the Commission is interested in finding out more about promotional errors, it could categorise pricing issues as ‘promotional’ or ‘non-promotional’ or ask RGRs to record and report whether the pricing complaint was about an item that was on promotion.

Defined terms (Section C) – promotional mechanic

This term is defined but not used in the Standard. The term ‘promotion mechanic’ is used but we do not think this is plain English.

Defined terms (Section C) – refund

The definition of refund includes price adjustments made at the till prior to payment. Although we agree, in theory, that these issues should be recorded, we consider this definition could create confusion and be difficult to enforce in practice.

We think customers are unlikely to insist checkout staff record these issues while they’re standing at the checkout or report them to a service desk after checking out. We also think it is unlikely a checkout operator is going to stop and record these issues as they’re scanning groceries through the check out.

Refund policies (Section F1 and F2)

The Standard distinguishes between 'price integrity refund policies' and 'product quality refund policies' and requires RGR's pricing integrity refund policies are published on their online shopping websites and a one-page overview of this policy is prominently displayed in store.

However, we consider the Standard should not distinguish between the two types of policies and should only refer to 'refund policies'. We agree these should be published on websites and a summary displayed in store. However, if the Standard only requires the 'pricing integrity refund policy' is published and displayed, this could create the false impression for consumers that refunds are not available for quality issues.

Also, we agree with the Paper that consumers are more likely to bring pricing issues to the attention of an RGR if they are offered a full refund for the product, not just a refund of the price difference. As stated above, we'd like to see all RGRs update their policies accordingly and are disappointed this has not yet been done.

Reporting (Section E1 and F3)

We understand the rationale for requiring the RGRs to disclose the information listed in section E1 to the Commission. However, we see no reason why this information shouldn't be publicly available. Consumers, and their advocates, have the right to know if there are particularly problematic stores, or issues that are particularly prevalent at their local supermarket. This will enable consumers to be more vigilant and for their advocates to warn consumers about what to look out for.

Certification (Section I)

We consider the RGRs should have to certify that 'an *accurate* one-page overview' of the refund policy is being clearly displayed in all retail stores.

Thank you for the opportunity to provide comment.

ENDS