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Committee Secretariat  
Economic Development, Science  
and Innovation Committee  
Parliament Buildings  
Wellington  
By email: [eds@parliament.govt.nz](mailto:eds@parliament.govt.nz)

## **SUBMISSION on Grocery Industry Competition Bill**

### **1. Introduction**

Thank you for the opportunity to make a submission on the Grocery Industry Competition Bill. 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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We wish to speak to our submission.

### **2. General comments on the Bill**

Consumer NZ strongly supports the introduction of the Grocery Industry Competition Bill (the Bill).

For many years, we have had serious concerns about the high level of concentration in the grocery sector and the impacts this has on consumers.

Throughout the Commerce Commission's market study, we maintained the view that the market is failing consumers, and without significant intervention, it will continue to do so.

The Commerce Commission's final report confirmed competition isn't working well for consumers and made a variety of recommendations to bring about more competition in the sector. Although we welcomed the recommendations, we were concerned they didn't go far enough.

In particular, we were concerned that the report didn't recommend regulation of supermarket price displays, promotions and loyalty schemes. We were also concerned there would be nothing to require supermarkets to supply other retailers with groceries at competitive wholesale prices. Instead, the recommendations in the final report relied on the supermarkets voluntarily changing their pricing and loyalty scheme practices, and to only consider requests for wholesale supply from other retailers in good faith.

We remain concerned that nothing is being done to regulate price displays, promotions and loyalty schemes. At Consumer NZ, we continue to receive regular complaints about misleading pricing and promotions. Years of persistent non-compliance with the Fair Trading Act demonstrate that nothing will change without some form of intervention. In our view, the committee should consider including pricing regulations in the Bill. This is particularly important for consumers facing a cost-of-living crisis.

Intervention is also required to prevent stores from offering price discounts only to customers who are loyalty scheme members. In our view this practice is unfair and should not be allowed.

Even though the Bill doesn't address these issues, we are very pleased it introduces a wholesale supply regulatory regime imposing regulations on retailers to facilitate the commercial supply of groceries and establishing a regulatory backstop.

In our view, a regulatory backstop is critical to ensuring major retailers are incentivised to offer satisfactory commercial agreements with wholesale customers. These measures should increase competition over the longer term. Without this backstop, we do not consider the regime would be effective.

Consumers agree this is critical too. On 10 May 2022, we launched a petition calling for the government to go beyond the Commerce Commission's recommendations and regulate access to wholesale supply

or set up a state-owned wholesaler. Around 78,000 New Zealanders signed our petition.

We therefore support the two-part wholesale supply regulatory regime created by the Bill.

We also support the introduction of a mandatory code of conduct, the appointment of a supermarket commissioner and making changes to allow collective bargaining on behalf of suppliers. In our view, all these changes will help to improve competition in the sector and ensure consumers get a fairer deal.

We note that the appointment of the supermarket commissioner is a critical piece in the regulatory matrix. Without a competent commissioner, empowered to take effective action to monitor supermarket conduct and take enforcement action where necessary, the regime will not live up to its potential and consumers will continue to experience the detrimental features of a highly concentrated market.

### **3. Specific comments on the Bill**

We are pleased the government is dealing with these issues so swiftly. However, given the limited time for making submissions we have been unable to undertake a clause-by-clause analysis of the Bill so have no specific comments on the wording of the Bill at this stage.

Thank you for the opportunity to provide comment.

*ENDS*