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Consumer and Competition Policy
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
New Zealand

Sent by email to: consumer@mbie.govt.nz

SUBMISSION on “Mandatory Unit Pricing for Grocery Products” Discussion Paper

1. Introduction

Thank you for the opportunity to make a submission on the Ministry of Business, Innovation and Employment’s discussion paper on mandatory unit pricing for grocery products (**Discussion Paper**). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to advocating on behalf of New Zealand consumers. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General comments

We strongly support the introduction of mandatory unit pricing for grocery products. We have been calling for mandatory unit pricing for over a decade so are pleased the Government is addressing this issue.

The introduction of mandatory unit pricing will help consumers compare prices, search for better deals, make informed purchasing decisions and potentially save money.

However, there will need to be adequate monitoring and enforcement to ensure the system is working well and that retailers are being held to account.

The system will also need to be comprehensive. That is, it should cover grocery products sold loose in bulk, as well as those sold in packages with both constant (for example, cheese sold in 500g packages) and variable measures (for example, cheese sold in packages varying from 200 to 250g).

Finally, to ensure the mandatory unit pricing rules are achieving the desired effect, we recommend a review of the system is scheduled within 2 to 3 years of the regime being implemented.

3. Our responses

Our responses to the questions in the Discussion Paper are set out below.

Question 1: Are there any other benefits or costs associated with mandatory unit pricing that are not mentioned above?

We agree with the comments set out in the Discussion Paper regarding the benefits and costs associated with mandatory unit pricing.

Question 2: Should grocery retailers be required to educate consumers about unit pricing by providing in-store and online pamphlets, posters and/ or other guidance?

Yes, it is important that grocery retailers are required to educate consumers about unit pricing by providing a variety of in-store and online pamphlets, posters and other guidance. Retailers could also use information they already hold, for example contact details for loyalty scheme members, to distribute resources on unit pricing (provided they comply with the Privacy Act 2020).

Education plays a key role in making sure all consumers understand unit pricing. Also, new consumers, such as children, travellers, and migrants, frequently enter the market and would benefit from ongoing education about unit pricing.

Requiring retailers to educate consumers will help ensure all types of consumers can understand unit pricing and make informed choices.

Additionally, researchers have highlighted the importance of unit pricing education. For example, in one Australian study, researchers found that shoppers educated about unit pricing purchased lower unit priced products (regardless of whether education was low intensity or high intensity).¹

Consumer education has also been incorporated into the International Standard ISO 21041:2018, Guidance on unit pricing.

In Australia, retailers committed to educating consumers on unit pricing. However, we understand the education programmes were very limited and short-lived. Almost all the education there has been undertaken by state and federal governments and consumer organisations.

Given consumers often rely on Consumer NZ as a trusted and reliable source of independent information, we would be happy to discuss how we could assist with producing resources about unit pricing, if required. We could, for example, help produce materials and/or run education campaigns.

Question 3: How much do you estimate it will cost to implement unit pricing in grocery stores? Please explain how you have arrived at this estimate.

Consumer NZ does not have an estimate of how much it will cost to implement unit pricing in grocery stores. However, we consider there should be an independent evaluation to verify industry estimates of the costs to avoid over-estimation.

Question 4: Which grocery retailers should a mandatory unit pricing standard apply to?

We consider a mandatory unit pricing standard should apply to larger stores that stock a wider range of products such as supermarkets, convenience stores (e.g. Four Squares) and speciality stores (e.g. those specialising in Asian food products). These are the stores that consumers buy most of their groceries from.

¹ Mortimer, Gary and Clinton S. Weeks. "How unit price awareness and usage encourages grocery brand switching and expenditure". *Journal of Retailing and Consumer Services*, vol. 49, pages 346–356, 2019.

However, we do not think the standard should apply to smaller stores such as dairies, corner stores and petrol stations. These stores only supply a limited range of products and are not usually a primary source of grocery products for consumers.

Consumers who shop at smaller stores, such as dairies, generally only purchase a few items and don't expect to be able to choose from a wide range of products at these stores. Consumers also often choose to shop at these stores for convenience, not to get the best price.

Question 5: Which of the approaches to threshold requirements (store size, product range, annual revenue) should be used to set the threshold for mandatory unit pricing in New Zealand?

We do not consider an annual revenue threshold is an appropriate measure to determine which retailers should be subject to mandatory unit pricing as it would be difficult to measure. Also, as the Discussion Paper notes, the information required to monitor and enforce an annual revenue threshold is difficult to collect. Annual revenue is also variable so a store could potentially be captured by the threshold one year, but not the next.

Therefore, we support either a product range threshold or a floor size threshold. However, we note there are potential issues with both these options.

If a floor size threshold is used, this could mean large dairies are captured but small convenience stores are not. In our view, this is problematic.

Also, if a product range threshold is used, this could mean speciality grocery retailers that sell most - but not all - of the items listed in a product range are (wrongfully) excluded. In Australia, retailers must sell all products on the list of items for the mandatory unit pricing requirement to apply. We do not support this approach as it has led to large stores being excluded from the unit pricing rules in Australia.

We therefore recommend further consideration be given to how to capture larger stores such as supermarkets and convenience stores, but exclude smaller stores, such as petrol stations and dairies.

One suggestion put forward in Australia was to impose mandatory unit pricing requirements on stores with electronic pricing systems. However, we are aware of large independent supermarkets in New Zealand that do not use electronic pricing systems (such as Moore Wilsons) so do not consider this is appropriate either.

Another option could be to use a hybrid approach that requires stores to display unit pricing if they are above a minimum floor size and are used by consumers for the purchase of the majority of their weekly shop.

Question 6: If New Zealand adopts:

a) a floor size threshold, what should be the appropriate floor size (in square metres) for this threshold?

We consider that a floor size of around 75 – 100 square metres or more is a good starting point to assess whether grocery retailers should be subject to the requirements of mandatory unit pricing. Our suggested floor size of 75 – 100 square metres aims to capture the mid to larger grocery retailers but exclude smaller stores, such as dairies and petrol stations.

However, as stated above, using this threshold could mean large dairies are included but smaller convenience stores are not. We therefore suggest this threshold should not be used as the sole determinant for whether the unit pricing rules should apply.

b) a product range threshold, what products should be included?

In our view, if a product range threshold is used, the Australian approach should not be adopted. That is, we should not require a store to sell all products in a product range. Instead, if the store sells more than a set percentage of the product range, the threshold should be met.

c) an annual revenue threshold, what is the appropriate dollar amount for this threshold, and should the threshold be set at group level or store level?

For the reasons stated above in question 5, we do not support an annual revenue threshold.

Question 7: Where should retailers be required to display unit pricing, and why?

Unit pricing should be displayed prominently beside the price to ensure consumers have access to information and are able to use it to make informed purchasing choices.

Question 8: Where the selling price is displayed on a product itself, should the unit price also be displayed on the product?

Yes, if the price is provided more than once, it should be a requirement that the unit price is displayed alongside every price.

Question 9: Should grocery retailers be required to have a “sort and/ or filter by unit price” option on their website?

Yes – this is a useful way for consumers to work out what items are cheaper. However, for this requirement to be effective and useful, all the products displayed in a search must use the same units. For example, individually wrapped ice creams should all be priced per 100g, rather than having some products priced per 100g and some priced by number/count (i.e. per ice cream).

Question 10: In which forms of advertising should retailers be required to display unit pricing?

Unit pricing should be included and displayed in all forms of advertising. Restricting the requirements to display unit pricing to only select forms of advertising means that some consumers, such as those with disabilities, may not have the same information about unit pricing. Consumers navigate the world and make informed consumer choices in a variety of ways. Information should not be available for only a proportion of consumers.

Question 11: What are the potential costs and benefits of including unit pricing in audio and video advertising formats?

No comment.

Question 12:

a) What should be the standard and non-standard measurements for unit pricing in New Zealand?

We support 100 millilitres and 100 grams as the standard measurements. Consumers generally buy goods in smaller quantities for themselves (although some do purchase items in bulk), so we think smaller measurements for unit pricing are likely to be more helpful and relevant to average retail consumers. Also, many consumers are already used to seeing unit prices displayed per 100 millilitres and per 100 grams.

For non-standard items we support measurements of 10 millilitres, 10 grams, and per item. For some items, a unit pricing measurement of millilitres and grams will not be helpful, for example, batteries, or a single cosmetic product such as mascara, or sponges. These sorts of goods are more suited to per item unit pricing.

For some products, such as meats, fish, cheese and fruit and vegetables sold loose in bulk, in variable measure packages, and in constant weight packages, we support the unit price being displayed per kg.

b) Should one litre or 100 millilitres be used as the standard measurement for volume?

We support 100 millilitres as the standard measurement for volume for the reasons set out above.

c) Should one kilogram or 100 grams be used as the standard measurement for weight?

We support 100 grams as the standard measurement for weight for the reasons set out above.

Question 13: Should the same unit of measurement be used for all products within the same product category?

Yes, it is critical that the same unit of measurement is used for all products within a product category. If there is no uniformity in the unit of measurement within a product category, this defeats the purpose of having mandatory unit pricing.

Question 14: Is the Australian approach to product exemptions appropriate for New Zealand?

We acknowledge that unit prices will not be helpful for consumers for some items sold in grocery stores. For example, unit prices for flowers, clothing and electrical goods are likely to be of no use. On this basis, we agree it is appropriate to exempt some products. However, we consider there should be as few exemptions as possible.

We also support consideration being given to extending mandatory unit pricing to a wider range of products. In the EU, the European Directive 98/6/EC on unit pricing applies to “products offered by traders to consumers”.

In our view, consumers would benefit from mandatory unit pricing applying to other retail stores such as pharmacies, pet stores, hardware stores, and stationery stores. This is something we suggest is considered during a post-implementation review of the mandatory unit pricing system.

Question 15: Should mandatory unit pricing apply to tobacco products in New Zealand?

No – we do not support mandatory unit pricing for tobacco products. Encouraging the purchase of tobacco products based on weight is not in the interest of consumers' wellbeing. Also, in New Zealand, tobacco products are not on display so there is little benefit to including unit prices.

Question 16: Should mandatory unit pricing apply to alcohol products in New Zealand?

No – we do not support mandatory unit pricing for alcohol products. It is not appropriate to provide information that could encourage consumers to make purchasing decisions based on volume.

Question 17: Are there any other products for which unit pricing may not be workable or appropriate? What are these products?

We are not aware of any other products for which unit pricing may not be workable or appropriate. As stated above, we support the mandatory unit pricing standards applying to as many products as possible.

Question 18: Should New Zealand adopt a principle-based approach to the display of unit pricing, or should there be more prescriptive requirements around font size, font, contrast, and location?

We support more prescriptive requirements for font size, font, contrast, and location, and recommend that there are minimum standards applicable to these matters.

Question 19: In your view, what are the most important principles or requirements for the display of unit pricing?

The display of unit pricing should be prominent, in an easily visible font size, and in colours that consumers with colour blindness, visual impairments, or low vision can read.

Unit prices should also be visible from lower and higher eyelines so that consumers with limited mobility can easily access information about unit pricing.

Question 20: What should officials keep in mind when considering a more prescriptive option that specifies minimum requirements for the display of unit pricing?

Consumers have different lived experiences and engage with the world in a diverse number of ways. It is important that officials keep in mind that the minimum requirements for the display of unit pricing will cater for as many consumers as possible.

Question 21: Do you have any views on whether mandatory unit pricing should be implemented through a consumer information standard under the Fair Trading Act 1986, or through amendment of the Weights and Measures Act 1987?

We favour implementing the mandatory unit pricing regime by way of a Consumer Information Standard (CIS) under the Fair Trading Act 1987. Introducing a new CIS for mandatory unit pricing will be much quicker than a legislative amendment process.

Thank you for the opportunity to provide comment.

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