

 <p>QUEENSLAND CONSUMERS ASSOCIATION</p>	<p>A non-profit, volunteer organisation, advocating to advance the interests of consumers in Queensland</p> <p><i>Secretary: Max Howard</i> PO Box 261 Corinda Q 4075</p>
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**SUBMISSION TO REVIEW OF RETAIL GROCERY
INDUSTRY (UNIT PRICING) CODE OF CONDUCT**

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EXECUTIVE SUMMARY

This review is required and long overdue for many reasons including:

- Many problems have arisen for consumers and require attention, since compliance with the Code became mandatory for specific grocery retailers in December 2009.
- Markets have changed significantly December 2009, for example: groceries are being sold by more types of stores including convenience stores and fuel outlets; the number of promotions has increased substantially; more products are being sold in multipacks/by count; the selling price is being displayed on more packaged products; and the internet is being used far more to advertise and sell grocery products.
- Most Australian households still spend a significant proportion of their disposable incomes on food and grocery products, downsizing of pack size but not reducing the price (“shrinkflation”) has become more common, and the unit prices of many products differ greatly between brands, pack sizes, retailers, etc..
- The great differences in the unit price of grocery (and other) products (packaged and unpackaged) mean that the provision of effective unit pricing can greatly assist consumers to make better informed choices, save time when shopping, and in many cases save considerable amounts of money or get more for the same cost.

Consumers make great use of the grocery unit pricing provided by retailers for products covered by the Code (a wide range of products sold by supermarkets, etc. in fixed measure packages, for example cartons of breakfast cereals), and many consumers benefit from it in numerous ways.

The many and varied uses of the unit pricing required by the Code include comparing the price/value of:

- package sizes
- brands
- packaged and non-packaged products
- different types of packaging
- products in different forms (for example fresh, chilled, frozen, canned)
- regular prices and special offers
- similar/substitute products.

The unit pricing of grocery products in fixed measure packages, in conjunction with that provided by trade measurement laws for products in variable measure packages and those sold loose from bulk, is now an extremely important shopping tool for many Australian consumers.

However, despite many grocery retailers stating that they are customer focused, provide value, convenience, etc., and despite the Code’s objectives, there are many major systemic problems with the unit pricing provided by grocery retailers under the Code that

are substantially adversely affecting millions of Australian consumers. It is essential that this review address and fix these problems.

The review should also recognise that the consumer detriment resulting from paying more than necessary due to the provision of inadequate unit pricing is exactly the same as if this was caused by other practices, for example misleading or deceptive conduct. Consequently, reducing the detriment should not be given lower priority just because it is caused by inadequate provision of information to protect and empower consumers.

The main problems with the unit pricing covered by the Code include: inadequate prominence and legibility, non/obscured provision, inconsistent units of measure, insufficient consumer education, and insufficient monitoring and enforcement of compliance.

In summary, the **main recommendations** are that:

- The Code should be continued and that it should also continue to require certain grocery retailers to provide unit pricing and that any who do voluntarily should continue to be required to comply with the Code.
- Code's scope should be extended to include more retailers that sell groceries.
- Non-grocery retailers, such as pharmacies and hardware stores should also be required to provide unit prices for products sold in fixed measure packages.
- The Code should be substantially amended to address the many and major problems for consumers and thus increase the extent to which all consumers, including those with sight, mobility and other disabilities, can easily notice, read, understand and use unit prices covered by the Code.
- There should be more effective and proactive monitoring and enforcement of retailer compliance with the Code.
- Greater liaison, cooperation and consultation is needed between the organisations responsible for the Code and those responsible for trade measurement legislation.
- There should be more consumer education and more research about unit pricing.
- Any new or continued unit pricing legislation should:
 - Have a built-in requirement to be reviewed after no more than 3 years.
 - Require the regulator to convene a meeting of industry and consumer representatives at least once a year to exchange information and ideas on implementation and other issues.
 - Require the regulator to undertake, and report publicly the results of, compliance monitoring and enforcement activities.

We also make **detailed recommendations** on specific aspects of the Code.

RECOMMENDATIONS

R1. The Code should be continued and amended to indicate that it only applies to grocery items sold in packages of fixed measure.

R2. The provision of unit prices should remain compulsory for grocery retailers and voluntary providers should continue to be required to comply with the same rules as compulsory providers.

R3. If retailer exemption based on business size is continued, the indicator should continue to be floor area but the minimum area should be much less than 1000 sq m.

R4. The requirement that the premises are primarily used for the sale of food-based grocery items should be removed from the definition of a “store-based grocery retailer”.

R5. The requirement that all of the 11 types of specified grocery items are sold should be removed, or reduced, in the definitions of store-based, online and participating grocery retailers.

R6. The number of exempt grocery categories should be reduced and specifically the following should be removed: stationery, items for garden or pool maintenance, or for garden or pool decoration, hardware items, and items for motor vehicle maintenance or repair.

R7. The requirement to display the unit price on advertisements for grocery products where a selling price is displayed should be expanded to include advertisements on television and in a video file on the internet.

R8. The Code should be changed to require that each time the selling price of a product is displayed the unit price should also be displayed.

R9. As a minimum, the Code should be modified to require that: the print size used to show any additional unit price should be smaller than that used for the unit price required by the Code; and the required unit price should also be provided wherever an additional unit price is provided. Consideration should also be given to whether the provision of additional unit prices should be prohibited.

R10. Review and make more precise in the Code exemption from unit price provision when a selling price applies to more than one item or to a bundle of different items.

R11. The Code should require that websites have functions that allow consumers to search only for defined products and to sort by unit price the results, or a sub set, of such a search.

R12. The Code's principles-based approach to prominence and legibility of unit prices should be replaced by one which includes minimum standards, especially for the print size, needed to achieve the required levels of prominence and legibility in various situations, and takes account of the needs of consumers with sight or mobility disabilities.

R13. The Code should be changed to require that the unit price is displayed below or adjacent to the selling price, where possible the unit price is the information closest to the selling price, and avoiding mixing the unit price with other text.

R14. The Code should be amended to include a specific requirement that displayed unit prices are accurate.

R15. Consideration should be given to changing the standard units of measure for weight and volume from per 100g and per 100mL to per kg and per litre and to providing a new table of alternative units of measurement for some products.

R16. If per 100ml and per 100g are retained as the standard units of measure for products sold by volume and by weight, the table of alternative units of measurement in the Code for certain products should be changed.

R17. More and better retailer education and monitoring and enforcement of retailer compliance with Code is required to reduce the use of inconsistent units of measurement for unit pricing items covered by the Code.

R18. To reduce unit of measure problems there should be greater liaison, cooperation and consultation between the organisations responsible for the Code and those responsible for trade measurement legislation.

R19. For certain products such as laundry detergents and similar products, the Code should allow/require the unit of measure for the unit price to be per unit of output. However, this should only be allowed/required if there is a national or international standard for the performance of a given quantity of the product.

R20. The Code should require that if the drained weight of a pre-packaged product is available it be used to indicate the unit price.

R21. Better and more proactive monitoring and enforcement of the Code is required and the results of these activities should be published.

R22. NMI staff should be used by the ACCC for Code compliance monitoring activities if the ACCC is unable to do this satisfactorily itself.

R23. The ACCC should be given the power to impose administrative penalties for retailer non-compliance with the Code.

R24. If the ACCC is unable to effectively monitor and enforce compliance with the Code, placing its requirements in national measurement legislation should be considered.

R25. Better, and more, publicly funded consumer education about unit pricing is required.

R26. The Australian government should proactively undertake or commission research on important public policy issues associated with unit pricing and the results should be made public.

R27. Mandatory provision of unit prices should be required by other types of retailers (e.g. pharmacies, hardware stores, pet product retailers, stationers) and for other types of products.

R28. Any new or continued unit pricing legislation should:

- have a built-in requirement to be reviewed after no more than 3 years.
- require the regulator to convene a meeting of industry and consumer representatives at least once a year to exchange information and ideas on implementation and other issues.
- require the regulator to undertake, and report publicly the results of, compliance monitoring and enforcement activities.

BACKGROUND

The Queensland Consumers' Association (QCA) is a non-profit organisation which exists to advance the interests of Queensland consumers. QCA 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.

QCA is a very strong supporter of grocery unit pricing and lead the national consumer campaign for a compulsory grocery unit pricing system.

Since the start of the Retail Grocery Industry (Unit Pricing) Code of Conduct (the Code) in 2009 QCA has:

- undertaken consumer education on unit pricing;
- monitored compliance with the Code;
- undertaken research on unit pricing; and encouraged and assisted academics and other consumer groups to undertake research on unit pricing;
- participated in the federal government's 2012 Post Implementation Review,
- participated in the development of unit pricing guidelines and standards overseas.

QCA welcomes the opportunity to participate in this review which provides a long overdue, and much needed, opportunity for consumers and other stakeholders to give their views on the current arrangements and regulations, and suggest changes to increase the many benefits achievable from effective unit pricing of grocery and other relevant products.

QCA has numerous photos of non-compliant/inadequate unit pricing which, if required, can be made available to the review in addition to this submission.

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INTRODUCTION

1. NEED FOR REVIEW

This review is required for many reasons including:

- Many problems have arisen for consumers and require attention, since compliance with the Code became mandatory for specific grocery retailers in December 2009.
- The 5 year independent comprehensive review proposed in the 2008 Regulatory Impact Statement, and referred to again in the 2012 Post Implementation Review, was never undertaken.
- Markets have changed significantly since December 2009, for example: groceries are being sold by more types of stores including convenience stores and fuel outlets; the number of promotions has increased substantially; more products are being sold in multipacks/by count; the selling price is being displayed on more packaged products; and the internet is being used far more to advertise and sell grocery products.
- The annual revenue¹ of Australian supermarkets is now around \$100 billion, most Australian households still spend a significant proportion of their disposable incomes on food and grocery products, downsizing of pack size but not reducing the price (“shrinkflation”) has become more common, and the unit prices of many products differ greatly between brands, pack sizes, retailers, etc..
- The great differences in the unit price of grocery (and other) products (packaged and unpackaged) mean that the provision of effective unit pricing can greatly assist consumers to make better informed choices, save time when shopping, and in many cases save considerable amounts of money or get more for the same cost.
- There has not been a formal mechanism to allow consumers, industry, regulators, etc. to regularly review the operation of the Code.
- There is much greater recognition of the roles behavioural economics can play in the design and operation of policies and practices to influence consumer choice and decision-making. For example, the federal government has established a Behavioural Economics Team of Australian Government (BETA) within the Department of Prime Minister and Cabinet.
- There is much greater recognition of the relevance of anti-discrimination legislation, for example on disability and age, to consumer protection and empowerment matters, including the provision of information like unit prices.
- In 2015, the Harper Review of Competition Policy² recognised the importance of informed consumer choice and in Recommendation 21 (which was accepted by the government) said that that to facilitate informed choice:

¹ <https://www.ibisworld.com.au/industry-trends/market-research-reports/retail-trade/food-retailing/supermarkets-grocery-stores.html>

² Available at <http://competitionpolicyreview.gov.au/final-report/>

“Governments should work with industry, consumer groups and privacy experts to allow consumers to access information in an efficient format to improve informed consumer choice.” and

“Further, governments, both in their own dealings with consumers and in any regulation of the information that businesses must provide to consumers, should draw on lessons from behavioural economics to present information and choices in ways that allow consumers to access, assess and act on them.”

- The role of effective provision of information to assist consumers to make informed choices is recognised in the 2016 United Nations Guidelines³ for Consumer Protection which includes the General Principle:
“Access by consumers to adequate information to enable them to make informed choices according to individual wishes and needs”.
- Significant, but still insufficient, research⁴ on several aspects of unit pricing has been undertaken by academics and consumer groups in recent years.
- Overseas reviews⁵ undertaken by/for regulators of unit pricing legislation, quality of provision, etc. have identified significant problems many of which are similar to or the same as those with Australian legislation and provision.
- Guidelines⁶ for the provision of unit prices in grocery stores for products in constant measure packages have been published in the USA by the National Institute of Standards and Technology in 2015 and a very comprehensive ISO standard⁷ for unit pricing was published in 2018.

2. GENERAL COMMENTS

Consumers make great use of the grocery unit pricing provided by retailers for products covered by the Code i.e. for a wide range of products sold by supermarkets, etc. in fixed measure packages (for example cartons of breakfast cereals, packets of biscuits and bottles of sauce) and many consumers benefit from it in numerous ways. For example, in

³ https://unctad.org/en/PublicationsLibrary/ditccplpmisc2016d1_en.pdf

⁴ Much of this and other research is reviewed in Bogomolova S., & Jarratt I. Unit pricing in supermarkets: Review of past evidence from academic and industry studies. Social Sciences Research Network, 2016. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2853977#

⁵ For example in the UK the Competition and Markets Authority’s 2015 report available at https://assets.publishing.service.gov.uk/media/55a6c83540f0b61562000005/Groceries_Pricing_Super-Complaint_response.pdf and in the EU the consumer laws 2017 report available at: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=59332

⁶ National Institute of Standards and Technology. NIST Special Publication 1181: Unit Pricing Guide, A Best Practice Approach to Unit Pricing. US Department of Commerce, 2015. Available free at: <https://www.nist.gov/sites/default/files/documents/2017/04/28/SP1181-Unit-Pricing-Guide.pdf>

⁷ ISO 21041 “Guidance on unit pricing”. Available for sale at <https://www.iso.org/obp/ui/#iso:std:iso:21041:ed-1:v1:en>

a national 2011 national survey⁸ 80% of respondents said they were using unit prices and 72% of them found unit pricing very helpful. Similar results were obtained in a 2018 national survey⁹ undertaken for Choice.

However, despite the relatively small number of complaints¹⁰ to the ACCC about unit pricing mentioned in the Discussion Paper, there are many problems with the current arrangements that significantly reduce usage and the benefits obtained.

For example in the 2011 survey, 67% of respondents said unit prices on shelf labels would be more helpful if either print was bigger or the unit price stood out more. And, in the 2018 Choice survey, 64% of people who use unit prices had encountered problems caused by a variety of matters including inadequate legibility, non/obscured provision, and use of inconsistent units of measure.

And, in 2014, the Association assessed the quality of the unit pricing provided at 25 independent supermarkets in Queensland, NSW, Victoria, and South Australia and found¹¹ that all had unit prices insufficiently legible or prominent, in 76% unit prices were not provided for some items, and in 68% an incorrect unit of measure was used for some or all items of a product type. There were also several types of problem with the unit pricing at the big national chains assessed, the most common one being many unit prices insufficiently prominent or legible.

Clearly, therefore, despite many grocery retailers stating that they are customer focused, provide value, convenience, etc., and despite the Code's objectives, there are many major systemic problems with the unit pricing provided by grocery retailers under the Code that are substantially adversely affecting millions of Australian consumers. It is essential that this review address and fix these problems.

It is also clear that there is considerable need and scope to expand the provision of unit pricing to non-grocery packaged products and non-grocery retailers. For example, in the Choice survey 66% of participants said unit pricing should be extended to pharmacies.

⁸ <http://consumersfederation.org.au/wp-content/uploads/2011/12/UP-Survey-Report-FINAL.pdf>

⁹ <https://www.dropbox.com/sh/9twvo3ouqdas7d4/AACbkdWyt5o54EtovmPE3ux9a?dl=0+&preview=Unit+Pricing+Survey+Embargoed+19022019+930AM.pdf>

¹⁰ A situation also found, and discussed, in the EU consumer laws review (op.cit.) re the problems with and formal complaints about the provision of unit pricing via the 1998 Price Indication Directive. Also, reflecting the lack of improvements resulting from complaints to the ACCC.

¹¹ <http://consumersfederation.org.au/inadequate-supermarket-unit-pricing-increases-cost-of-living-pressures/>

Mandatory provision via federal legislation is required to ensure that any unit pricing provided meets minimum standards of provision, display and use of units of measure that are in line with consumer expectations and needs, including those of consumers with sight and mobility disabilities. And, voluntary providers of unit pricing should be required to meet the same standards as compulsory providers.

To obtain the maximum benefits from the concept of unit pricing (pricing per unit of measure) the unit pricing required for products sold in fixed measure packages (by the specific legislation like the Code for grocery products) must take account of, and be highly compatible with the requirements of other legislation for example on the quantity information provided on packaged products and other unit pricing legislation such as that in the national measurement legislation for:

- products sold loose from bulk, for example fresh meats and fish, fresh fruit and vegetables, cheese, nuts, dried fruit, flour, etc.
- products sold in variable measure packages, for example chilled meats and fish, cheese, fresh fruit and vegetables, etc..

If this is not done there will be considerable detriment caused by consumers being unable to use unit prices to easily make the many possible types of comparisons and choices, including those involving:

- package sizes
- brands
- packaged and non-packaged products
- different types of packaging
- products in different forms (for example fresh, chilled, frozen, canned)
- regular prices and special offers
- similar/substitute products.

In this regard, the Discussion Paper and the online survey associated with this consultation refer only to the use of unit prices to compare different brands and package sizes. It is important therefore that:

- the review recognises that these are only some of the many ways that consumers can, and do, use unit prices provided under the Code
- all uses are considered when considering future legislation.

Consumers also use unit price information in conjunction with many other types and sources of information including quality, reputation, experience, quantity required, country of origin, ingredients, packaging, etc.

Therefore, the review should take account not only of the many ways that consumers can, and do, use unit prices but not also that the end result is not always a decision to buy the

product with the lowest unit price¹². This is extremely important when assessing actual and possible impacts of the provision of unit pricing.

The review also needs to recognise that as a result of the provision for nearly 10 years of the unit prices required by the Code, many consumers now use, and know about, the unit prices of many of the fixed measure packaged grocery products they buy regularly.

As a result, and as has always been the case with products sold from bulk on the basis of a unit price, for example loose apples sold per kg, the unit price of products in fixed measure packages is now an extremely important shopping tool for many Australian consumers. Therefore, the review must ensure that the future legislation, and its implementation and administration, facilitates, not hinders, better and greater consumer use of this simple but powerful consumer tool.

The online survey associated with this review asks consumers how often they have used unit pricing in the last 4 weeks. However, there may not be a high level of positive correlation between frequency of use and benefits obtained. This is because frequency of use will be influenced by many factors including how long the respondent has been using unit pricing. A new user is likely to use it often while assessing its usefulness and changing choices. Frequency of use is then likely to decline after buying patterns become more stable and with unit prices likely then being used mainly when: products only bought occasionally have to be assessed; if a new product, brand or pack size becomes available, there is a special offer to be considered; etc. Therefore, frequency of use will not reliably indicate the likely levels of benefit to the consumer provided by unit pricing.

The review also needs to recognise that unit prices can significantly reduce the amount of time many shoppers need to spend comparing the value of different items. This is a major benefit for time poor consumers.

The review should also recognise that the consumer detriment resulting from paying more than necessary due to the provision of inadequate unit pricing is exactly the same as if this was caused by other practices, for example misleading or deceptive conduct. Consequently, reducing the detriment should not be given lower priority just because it is caused by inadequate provision of information to protect and empower consumers.

The review should also recognise that the provision of effective unit pricing can result in benefits for retailers, for example from increased consumer trust and confidence in the retailer.

¹² For example a Spanish study of the effect on consumer choice for several packaged non-food products found that after provision of unit price information 12% of all participants changed to a more expensive offer (27% of the participants whose choice changed.) José Luis Méndez García de Paredes Ronald Sebastián Angola Cárdenas Dayana Lisseth Sánchez Garcés , (2013), "Unit price information on the reference price formation", *Journal of Product & Brand Management*, Vol. 22 Iss 5/6 pp. 413 - 425

3. KEY CONSUMER ISSUES

Given the above comments, we consider that for consumers the key issues for this review are:

- How provision by retailers covered by the Code can be improved to increase consumer awareness and use of unit pricing not only for products covered by the Code but also in conjunction with the unit pricing required by the measurement legislation?
- Whether more, especially smaller and specialised retailers of grocery products should be required to provide unit pricing for products sold in packages of fixed measure?
- Whether non-grocery retailers selling relevant products in fixed measure packages should be required to provide unit pricing?
- How to increase consumer awareness and use of unit pricing as a valuable tool to assist informed choice and obtain value for money both now and in the future?
- How to better monitor and enforce compliance with any unit pricing legislation?
- How to ensure that unit pricing regulation remains relevant and fit for purpose?

Our comments and recommendations addressing these key issues and the questions in the Discussion Paper are in the next sections of the submission which deal separately with grocery unit pricing (and thus mainly the Code) and non-grocery unit pricing

GROCERY UNIT PRICING

1. GENERAL

The Discussion Paper asks whether the Code has helped consumers to make informed decisions and whether it should be remade.

As indicated earlier, despite our concerns about the many and major problems for consumers caused by how it has been implemented and by its provisions, the Code has been very beneficial for consumers and the economy.

Therefore, Australia should continue to have unit pricing legislation (currently provided by the Code) that regulates the provision of unit prices for grocery products sold in fixed measure packages, in addition to the measurement laws which regulate the provision of unit prices for products sold in variable measure packages and loose from bulk.

However, the Code does not clearly indicate that it only applies only to grocery items sold in packages of fixed measure. To facilitate understanding of the Code, it should be amended to indicate clearly that it only applies to grocery items sold in packages of fixed measure.

R1. The Code should be continued and amended to indicate that it only applies to grocery items sold in packages of fixed measure.

2. PROVISION REQUIREMENTS

Compulsory and voluntary provision

The history of grocery unit pricing overseas, for example in the USA, shows clearly that compulsory provision and associated standards of display, units of measure, etc. are essential to ensure the widespread and highly consistent provision of effective unit pricing by grocery retailers. And, experience before and after the introduction of the Code indicates that, without a compulsory provision requirement, many retailers would not provide unit pricing voluntarily and much/most voluntary provision would be erratic and inconsistent. Therefore, the Code should continue to require compulsory provision by prescribed grocery retailers

The Code also requires voluntary providers (participating retailers) to comply with the standards for mandatory provision to ensure the scope and quality of voluntary provision achieves the same minimum levels as mandatory provision. This is a very desirable feature that should be retained.

Allowing lower standards for voluntary providers would give them an unfair commercial advantage, be confusing for consumers, and reduce consumer confidence in, and use of, unit pricing.

R2. The provision of unit prices should remain compulsory for grocery retailers and voluntary providers should continue to be required to comply with the same rules as compulsory providers.

Minimum business size

The current minimum floor area of more than 1000 sq m required before a bricks and mortar grocery retailer has to provide unit prices is far too large too large and much larger than exists in many other countries. For example, in the UK the minimum area is 280 sq. m and in some other countries it is much lower.

The current minimum area results in many grocery retailers not being required to provide unit pricing. This reduces the availability of unit pricing to many consumers. The increasing number and popularity of small stores selling groceries, is exacerbating this problem.

If the cost of provision by small stores is an issue we suggest that, as in Ireland, exemption be provided for stores that do not have equipment for the printing of shelf labels, etc.

If a minimum business size is considered to be a necessary eligibility criterion, we support the current use of floor area as an indicator rather than alternative approaches such as annual financial turnover or number of employees.

In such circumstances, we favour a much lower minimum floor area than 1000 sq m.

R3. If retailer exemption based on business size is continued, the indicator should continue to be floor area but the minimum area should be much less than 1000 sq m.

Use of retail premises

The Code's definition of a store-based grocery retailer includes that the retail premises are used "primarily for the sale of food-based grocery items".

This means that a retailer selling the minimum range of food-based grocery items and with more than 1000 sq. m of floor area used for grocery items, but the premises are not used primarily for the sale of food-based products, does not have to provide unit pricing.

We consider that this part of the definition should be removed. This would remove the possibility that a large store selling many types of products, but not primarily food-based products (for example a discount departmental store), or a small store (for example a fuel outlet) would not have to provide unit pricing for grocery products sold.

The need for this change will increase if the minimum floor area requirement is removed or greatly reduced.

R4. The requirement that the premises are primarily used for the sale of food-based grocery items should be removed from the definition of a “store-based grocery retailer”.

Products sold

Currently only grocery retailers who sell all of the 11 types of specified grocery items are required to comply with the Code.

This reduces the number of retailers of all sizes that are required to provide unit prices. For example, even a very large retailer that sells every listed item except fresh fruit and vegetables is exempt. It also means that any voluntary provider who sells less than all the 11 types is not required to comply with the Code.

Also, particularly if the scope of the legislation is expanded to cover other products and types of retailer (as is the situation in many European countries), a list of a minimum range of products may not be required.

However, if selling a specific range of grocery products is retained as an eligibility criterion, the Code should apply to retailers who sell less than the 11 product types specified in the Code.

R5. The requirement that all of the 11 types of specified grocery items are sold should be removed, or reduced, in the definitions of store-based, online and participating grocery retailers.

Exempt grocery categories

Many grocery retailers sell a very wide, and expanding, range of packaged non-food products that are sold by measure or number.

Therefore, to increase the availability and use of unit prices when consumers shop with these retailers, the number of exempt grocery categories should be reduced.

For example the following should be definitely removed¹³ from the list in the Code: stationery, items for garden or pool maintenance, or for garden or pool decoration, hardware items, and items for motor vehicle maintenance or repair.

R6. The number of exempt grocery categories should be reduced .and specifically the following should be removed: stationery, items for garden or pool maintenance,

¹³ The list should also be revised if, as we recommend later, non-grocery retailers are also required to provide unit prices for relevant products sold in fixed measure packages.

or for garden or pool decoration, hardware items, and items for motor vehicle maintenance or repair.

Advertising

Currently, if a grocery item is advertised with a selling price, a prescribed or participating grocery retailer is only required to display the unit price if the advertisement is in print (e.g. catalogues and newspapers) or on a website. The unit price does not have to be provided, and in practice is not, if the advertisement is on television or in a video file on the internet.

Since the Code was written it has become very common for grocery retailers to advertise grocery items on television and to display the selling price.

Requiring the unit price to be displayed on television and internet video advertisements where the selling price is displayed will ensure consistency between advertisements and will increase consumer awareness and use of unit prices.

R7. The requirement to display the unit price on advertisements for grocery products where a selling price is displayed should be expanded to include advertisements on television and in a video file on the internet.

Provision each time a selling price is provided

The Code requires the “display of a unit price for all grocery items sold by the retailer for which a selling price is displayed.” It does **not** appear to require the display of a unit price each time a selling price is displayed.

As a result, often when the selling price of an item is displayed on more than one place/label the unit price is only provided on one, and usually the least prominent. This greatly reduces consumer awareness and use of the unit price of these products.

This is a rapidly increasing problem, especially with pre-packaged fresh fruit and vegetables and chilled products, that needs to be addressed. The Code should be changed to require that each time the selling price of a product is displayed the unit price should also be displayed.

R8. The Code should be changed to require that each time the selling price of a product is displayed the unit price should also be displayed.

Provision of non-standard unit prices

For some products, for example rolls of toilet paper and cans of soft drink, a unit price other than that required by the Code is sometimes also displayed, and usually very prominently and in large print, on the product, on shelf labels, in adverts, etc. These alternative units of measure for unit pricing, such as per roll for toilet paper and per can for soft drinks, compete for consumer attention, cause confusion, and reduce consumer usage of the unit price required by the Code.

It is also open to question whether the provision of such unit prices complies with the current requirement that the unit price be “unambiguous”.

There is also the possibility that retailers may want to provide an additional unit price using a different denomination of the unit of measure required by the Code. For example, to also provide the unit price per 100g for products that have to be unit priced per kg, such as prepackaged cheese.

Therefore, as a minimum, the Code should be modified to require that:

- the print size used to show any additional unit price should be smaller than that used for the unit price required by the Code; and
- the required unit price also be provided wherever an additional unit price is provided.

Consideration should also be given to whether the provision of additional unit prices should be prohibited.

R9. As a minimum, the Code should be modified to require that: the print size used to show any additional unit price should be smaller than that used for the unit price required by the Code; and the required unit price also be provided wherever an additional unit price is provided. Consideration should also be given to whether the provision of additional unit prices should be prohibited.

Exemptions for bundles of different items, etc.

Clause 6(3) of the Code provides an exemption from unit price provision if a selling price is displayed in such way that it applies to more than 1 grocery item.

And, Clause 7(1)(b) provide exemption from provision for a bundle of different grocery items offered for sale at a single price.

These exclusions should be reviewed and made more precise in the Code to take account of the many ways in which retailers now offer a single price for one of several products or for more than one of several products. Particular attention is needed to clarify what is meant by differences between products and what is a bundle rather than a multibuy offer.

Some retailers voluntarily provide the maximum and minimum unit price for multibuy offers involving the same or very similar products but in different package sizes. This should be encouraged and facilitated.

R10. Review and make more precise in the Code exemption from unit price provision when a selling price applies to more than one item or to a bundle of different items.

Provision on websites

Online grocery retailers that sell the minimum range of prescribed of food-based grocery items are required to provide unit prices. This is desirable and should be continued since consumer use of websites to purchase grocery products is increasing rapidly.

However, the ability of consumers to use unit pricing effectively to compare products on websites is often reduced by how the unit prices are provided and what consumers can do with them

For example, unit prices may not be provided for special offers in initial advertisements on the website and it can be very difficult to get a list of similar products to compare. Also, a search by size of unit price facility is needed for consumers to be able to make quick and effective use of unit prices on websites.

Much more consideration is needed of how best to assist consumers to use unit prices on websites, including more consumer education and monitoring of current practices. In terms of provision and legislation, the Code should require that websites have functions that allow consumers to search only for defined products and to sort by unit price the results, or a sub set, of such a search.

R11. The Code should require that websites have functions that allow consumers to search only for defined products and to sort by unit price the results, or a sub set, of such a search.

3. DISPLAY OF UNIT PRICES

Prominence and legibility

The Code requires only that unit prices be displayed prominently and be legible. It provides no guidance as to how these objectives might be achieved or any minimum standards/requirements. The ACCC's publication Unit Pricing: A Guide for Retailers interprets prominent to mean —it must stand out so that it is easily seen, and legible to mean —it must not be difficult to read. It also does not suggest any minimum standards or requirements.

However, on the example shelf labels in the Guide the size of print used for the unit price is almost as large as that for the selling price. Yet, unlike that for the selling price, the font is not bold which would increase prominence. No examples are provided there of unit pricing in printed adverts or on the internet.

Unfortunately, the legislation, and its implementation, have resulted in far too many unit prices provided by retailers that are not easy enough for shoppers to notice and read even for people with normal sight and mobility, and particularly so for those with sight and mobility disabilities.

The problems are usually greatest with unit prices on labels used for special offers and on labels on bottom and upper shelves and when labels are not appropriately angled to increase legibility. There are also major problems with the prominence and legibility of unit prices displayed in printed adverts and on internet selling sites.

In this regard, we note that the Discussion Paper refers to the 2010 ACCC survey of unit pricing practices that concluded that there was a “high level of compliance with the 4 display requirements of the Code”. As indicated in the past, we have major concerns about many aspects of this survey and the usefulness of the results obtained.

Also, there have been many changes in how retailers display unit prices since 2010. For example, one national retailer is currently greatly reducing the size and density of the print used to show unit prices on many shelf labels¹⁴, and another is changing from bold to non-bold print for the unit price on many shelf labels.

We also note that the Discussion Paper refers to some of the comments on display of unit prices in the 2018 RIS. However, we question the validity of several of these comments including that:

- There would only be marginal benefits for consumers from a 3mm font size versus a 5mm or 10mm print size. (Experience and research shows clearly that this is not correct, especially when unit prices have to be viewed at more than arm’s length and at an angle – for example on shelf labels close to the ground. Print size has a huge effect on legibility.)
- Retailers will provide clear unit prices to ensure that consumers are not annoyed. (This has not been the case in practice.)
- A large print size for the unit price might cause confusion with the selling price. (We know of no evidence support this view. Also, to reduce its possible occurrence several states in the USA that mandate large print sizes for unit prices also require display of the words unit price and retail price (or similar) and the use of a prescribed background colour for the unit price.)

We also note that the RIS said that if unit prices are not displayed in a usable manner the regulation could be amended in future. We consider this is definitely required.

As indicated earlier in this submission, consumers have indicated very clearly that there are major problems with the prominence and legibility of much of the unit pricing provided by retailers in stores. For example, in the QCA and Choice 2011 national consumer survey¹⁵, 67% said that unit price would be more helpful if the print size on shelf labels was bigger or the information was more prominent.

¹⁴ See https://action.choice.com.au/page/33448/action/1?utm_source=enta&utm_medium=email&utm_campaign=unit_pricing_aldi

¹⁵ Op.cit.

We are unaware of any data on consumer views about the prominence and legibility of unit prices provided by grocery retailers in printed advisements or on the internet. However, we consider that these too are very often insufficiently prominent and legible.

If required, we can provide the review with many examples of unit prices which are insufficiently prominent and/or legible.

Unit prices which are difficult for shoppers to notice and read greatly reduce consumer awareness and use of unit pricing and discriminate against consumers with disabilities. Therefore, the many current prominence and legibility problems with grocery unit pricing in Australia need to be solved. This review provides the opportunity to do so.

The inadequate prominence and legibility of unit prices is also a major problem in many other countries. For example, improvements to the quality of display of unit pricing were recommended in a 2015 report¹⁶ by the UK's Competition and Markets Authority.

And, the need for unit prices to be easy to notice and read is emphasised in the voluntary guidelines¹⁷ released in the USA in 2015. They recommend the minimum print size for the unit price on labels/signs be the greater of 6mm or 50% of the height of the print used for the selling price.

The ISO standard on unit pricing also highlights the need for unit prices to be sufficiently prominent and legible, and to take account the needs of consumers with disabilities. It also recognises that the print size needed for adequate legibility will also be determined by viewing distance and viewing angle.

During the development of the ISO standard a considerable amount of work was done on prominence and legality issues, especially the latter which is much easier to measure objectively than the former.

A 2018 paper¹⁸ prepared by the Association contains a review unit pricing legibility issues and possible approaches/solutions. It also contains the results of the Association's research on influence of print size and angle of viewing on the legibility and prominence of unit prices on shelf labels 20cm from the ground (a major issue for many consumers), and of German research on the influence of viewing distance and viewing angle on legibility.

The Association's research showed that 4 mm print did not perform well compared to 6, 8 and 10 mm even when the label was angled out. 2 and 3 mm print size performed very badly in terms of being either very easy or very easy/easy to notice and read. Most participants were unable to read or read inaccurately the 2 mm and 3 mm print when the

¹⁶ Op.cit.

¹⁷ Op.cit.

¹⁸ <http://consumersfederation.org.au/wp-content/uploads/2018/06/MAKING-UNIT-PRICES-EASIER-TO-NOTICE-AND-READ-QCA.pdf>

label was vertical, and even when the 2 mm print was angled out over 40% had that experience.

This is highly relevant since most Australian grocery retailers providing unit prices have shelf labels located around 20 cm from the ground and the print height is often small (sometimes only 2 or 3 mm). In addition, these shelf labels are frequently placed vertically on the shelf edge, not angled out.

In this regard the Discussion Paper asks whether the current principles-based approach to the display of unit prices is still appropriate.

We consider that it is **not** appropriate, especially for legibility which has such a great influence on consumer awareness and use of unit prices, the adequacy of which can be easily and objectively measured, and which is so greatly influenced by print size.

We also consider that lack of prescribed minimum standards for key display elements makes assessment of compliance much more difficult for the regulator. It also creates uncertainty for retailers and increases inconsistency of display between retailers.

As with other recent Australian legislation on the provision of written consumer information, for example country of origin, and required by the unit pricing legislation in several US state, specific minimum display standards, especially for print height, need to be prescribed.

Minimum print size standards are required for the print size for the several locations where unit prices are displayed i.e. in bricks and mortar stores, online, and in advertisements. And, especially for labels and signs in bricks and mortar stores any standards must also take account of the influence of factors like viewing distance and, viewing angle on the minimum print size needed to achieve a required level of legibility.

An example of this approach for instore shelf labels is a table of minimum print sizes for unit prices at various viewing distances with and without angled labels which is part of Appendix 3 of the Association's paper: The table is based on a German standard DIN 1450 'Typefaces, Legibility' and reflects the needs of people with normal vision viewing the unit prices in very good lighting conditions. A key recommendation is that when the unit price is on a label 10cm for the ground and the label is angled out to reduce the viewing angle, the minimum print size should be 6.7mm. If the label is vertical, the minimum print size needed is 15.2mm

We favour a research results based approach to print size and legibility for shelf labels. However, we consider that for large price signs, which are not usually located on shelves, the best approach could be to specify, as occurs in some US states, that the print size for the unit price should be the greater of a minimum size or a % of the size of print used for the selling price. This approach helps to address prominence as well as legibility.

R12. The Code's principles-based approach to prominence and legibility of unit prices should be replaced by one which includes minimum standards, especially for the print size, needed to achieve the required levels of prominence and legibility in

various situations, and takes account of the needs of consumers with sight or mobility disabilities.

Location relative to selling price

The Code requires that the unit price be located “in close proximity to the selling price” and the example label in the ACCC’s Guide for Retailers has the unit price immediately below the selling price.

However, it is common for the unit price to **not** be located immediately below the selling price. Examples of this include:

- the unit price being among information on another part of the label about the product and for use by the retailer,
- especially for special offers, the unit price being a long way from the selling price and with much other information between it and the selling price.

These forms of presentation and inconsistency of display between and within retailers reduce consumer awareness and use of unit pricing.

This problem is recognised and addressed in the ISO standard which recommends: displaying the unit price below or adjacent to the selling price; where possible the unit price being the information closest to the selling price; and avoiding mixing the unit price with other text.

R13. The Code should be changed to require that the unit price is displayed below or adjacent to the selling price, where possible the unit price is the information closest to the selling price, and avoiding mixing the unit price with other text.

Accuracy

Sometimes the displayed unit prices are not accurate. There may be several possible causes such as an arithmetic error, or using one unit of measure to calculate the unit price but using another unit of measure to display of the unit price.

Surprisingly, the Code does not specifically require that unit prices be accurate. However, the ACCC’s Guide for Retailers interprets the unambiguous requirement to mean that “the information must be accurate and its meaning must be clear”.

This is not satisfactory since the accepted definition of unambiguous is only that the meaning of something is completely clear. It does not include accuracy. Therefore, the Code should be amended to include a specific requirement that displayed unit prices are accurate.

R14. The Code should be amended to include a specific requirement that displayed unit prices are accurate.

4. UNITS OF MEASUREMENT FOR UNIT PRICES

Specified units of measurement

Clause 8 of the Code requires (unless other requirements apply) that per 100mL used to unit price items sold by volume and per 100g for those sold by weight. However, for some products sold by weight or volume, the Code requires the use of litre, kilogram, 10mL and 10g. These other mandated units of measurement are largely to facilitate comparisons with products covered by the Code and those covered by trade measurement laws, and for products normally sold in small quantities.

The use of per 100mL and per 100g as the standard units of measurement for unit prices is unusual. (For example, in the EU the standard unit of measure for volume is litre and for weight kilogram.) These small denominations of the measurements can result in some unit prices that are very small and thus regarded by some consumers as insignificant and not worth using.

To reduce this problem, the standard units of measure for weight and volume could be changed to per kg and per litre from per 100g and per 100mL and a new table of alternative units of measurement for some products should be provided. This could reduce the number of different units of measure used for products, make the system much easier for consumers to use, and reduce retailer compliance costs,

R15. Consideration should be given to changing the standard units of measure for weight and volume from per 100g and per 100mL to per kg and per litre and to providing a new table of alternative units of measurement for some products.

If the standard units of measure are not changed, the table of alternative units of measurement in the Code for certain products should be changed, for example in addition to flour, cake and bread mixes should have to be unit priced per kg, and as also should products commonly sold in packages of more than 1kg, for example sugar and rice.

The current alternative unit of measurement for herbs and spices is per 10g. This works well for most packaged dried herbs and spices (except for salt which we consider should be unit priced per kg). However, it can cause problems with packaged fresh herbs and spices. This is because the latter are often also sold loose from bulk and thus must be unit priced per kg. To facilitate unit price comparisons between fresh herbs and spices sold loose from bulk and in packages, the Code should state that per 10g is the unit of measure only for dried herbs and spices. This will make it clear that packaged fresh herbs and spices are to be unit priced per kg.

R16. If per 100ml and per 100g are retained as the standard units of measure for products sold by volume and by weight, the table of alternative units of measurement in the Code for certain products should be changed.

Inconsistent use of units of measure:

We strongly support the Code's objective of only one unit of measure being used to unit price all packages of a particular product. However, this is often not achieved, especially in bricks and mortar stores.

For some products the main reason is the use of both weight and count (for example per 100g and per each for teabags). For products sold only by count the problem is often the use of per each and per 100.

Other examples of inconsistency in the unit of measure used for items of the same or similar products include, for product sold by weight the use of per 100g for some package sizes and per kg for others and for those sold by volume per 100mL and per litre for others.

If required, we can provide the review with many examples of the use of inconsistent units of measure for unit pricing.

Inconsistency in the units of measure used for unit pricing can substantially reduce consumer confidence in, and use of, unit pricing. Therefore, the problems need to be addressed. Many of the problems are due to retailers not complying with the Code and can be addressed through more and better retailer education and monitoring and enforcement of compliance.

R17. More and better retailer education and monitoring and enforcement of retailer compliance with the Code is required to reduce the use of inconsistent units of measurement for unit pricing items covered by the Code.

However, there are also problems caused by the trade measurement legislation's package measurement marking requirements (for example packages marked by either weight/volume and weight/count, and packages for which no measurement marking is required) and the requirements for the type and denomination of measurement allowed when products sold loose are priced per unit of measurement (for example products which can be priced per kg or per each).

To reduce these problems, greater liaison, cooperation and consultation is required between the organisations responsible for the Code and those responsible for trade measurement legislation.

R18. To reduce unit of measure problems, greater liaison, cooperation and consultation is required between the organisations responsible for the Code and those responsible for trade measurement legislation.

Approval of other units of measure

The use of the quantity of the product on offer as the unit of measure for unit pricing works well in most situations, recognising of course that to effectively compare the unit

prices of different varieties/types of products and/or different brands, consumers need to, and do, take into account quality and other factors..

However there are situations when these units of measure may be much less useful for consumers than other measures. For example, if there are major differences in the concentration or amount of an important ingredient, or when there are several products that differ in form and performance. A good example of this is laundry products which are sold as powders, liquids, tablets, capsules, etc. and which can vary greatly in the result that can be achieved from using specific quantities.

Therefore, for certain products such as laundry detergents and similar products, the Code should allow/require the unit of measure for the unit price to be per unit of output. However, this should only be allowed/required if there is a national or international standard for the performance of a given quantity of the product, for example the number of defined washes per quantity offered

R19. For certain products such as laundry detergents and similar products, the Code should allow/require the unit of measure for the unit price to be per unit of output. However, this should only be allowed/required if there is a national or international standard for the performance of a given quantity of the product.

Similarly, the Code should require that if the drained weight of a pre-packaged product is available it be used to indicate the unit price. This would facilitate and increase the accuracy of unit price comparisons for several products, for example olives in jars (which contain large amounts of water) and olives sold drained loose from bulk.

R20. The Code should require that if the drained weight of a pre-packaged product is available it be used to indicate the unit price.

5. MONITORING AND ENFORCEMENT OF CODE COMPLIANCE

Many of the current major problems with grocery unit pricing arise from insufficient monitoring and enforcement of compliance with the Code. This is particularly the case with compliance with the requirements for the display of unit prices and the units of measure used.

Better and more proactive monitoring and enforcement of the Code would greatly increase the quality of unit pricing provided and consumer confidence in, and use of, unit pricing.

It would also be very beneficial if the results of compliance monitoring and enforcement activities were published.

R21. Better and more proactive monitoring and enforcement of the Code is required and the results of these activities should be published.

The National Measurement Institute (NMI) currently undertakes, and publishes the results of, extensive and regular monitoring and enforcement of compliance by all types

of retailers (including grocery) with trade measurement regulations that include unit pricing of products sold loose from bulk and in variable measure packages. Therefore, it is very well placed to efficiently and effectively monitor and enforce compliance with unit pricing regulations for products in fixed measure packages covered by the Code.

This is recognised by the fact that currently NMI monitors for the ACCC compliance with country of origin legislation. If the ACCC is unable to undertake satisfactory monitoring of compliance with the Code it should use NMI to do this.

R22. NMI staff should be used by the ACCC for Code compliance monitoring activities if the ACCC is unable to do this satisfactorily itself.

In contrast with the Code, the trade measurement legislation allows administrative penalties for non-compliance.

The lack of this power limits the ACCC's ability to effectively ensure compliance with the Code.

R23. The ACCC should be given the power to impose administrative penalties for retailer non-compliance with the Code.

If the ACCC is unable to effectively monitor and enforce compliance with the Code, placing its requirements in national measurement legislation should be considered. (This was not an option when the Code was established because there was not then a national trade measurement organisation.)

This would also facilitate greater consistency and complementarity between the Code's requirements and those of the measurement legislation for unit pricing of products in variable measure packages, marking of quantity on packages, and rules for selling of products sold loose from bulk by reference to a measurement. It would also allow administrative penalties for non-compliance and the publication of the results of monitoring and compliance activities..

R24. If the ACCC is unable to effectively monitor and enforce compliance with the Code, placing its requirements in national measurement legislation should be considered.

6. CONSUMER EDUCATION

Since the start of mandatory unit pricing in late 2009, the regulator has undertaken very little and the retailers virtually no consumer education. Most consumer education has been undertaken by consumer organisations and, due to lack of resources this has been primarily via stories in the media.

As a result, even though many consumers are aware of unit pricing and use it to some extent, there is great need and scope for ongoing publicly funded consumer education about unit pricing. This is because: unit pricing can be used in many and diverse ways (not just to compare brands and pack sizes); consumers vary greatly in their need for education; many new consumers have become grocery shoppers since unit pricing started in 2009 (many being migrants from countries without grocery unit pricing); and the number of new consumers will continue to grow. Providing on-going consumer education will also keep usage levels high among current users.

A specific example of the need for consumer education is the likely unawareness of many consumers of the sort by unit price function provided by some online grocery retailers.

R25. Better, and more, publicly funded consumer education about unit pricing is required.

7. RESEARCH

The consumer movement has undertaken some research on aspects of unit pricing relevant to this review. The consumer movement has also encouraged and assisted some academic researchers in Australia and overseas to undertake relevant research. And some overseas regulators e.g. in the UK and the EU, have undertaken or commissioned unit pricing research.

However, we are unaware of any research undertaken by the Australian government other than the ACCC's 2010 Code Compliance Audit and the online survey being conducted by Treasury as part of this review.

This is very unsatisfactory because: there are many important aspects of unit pricing relevant to public policy decisions that have not been researched; the consumer movement has a very limited ability to commission or undertake research; the rapidity of important changes (for example increased use of the internet to purchase grocery products), and the diversity and complexity of important the issues (for example how to display unit prices effectively , and how and when consumers use unit prices.)

Therefore, the Australian government should be proactively undertaking or commissioning research on unit pricing, not just for a specific regulatory review. This is essential for many reasons, including to ensure that any regulation remains fit for purpose and inform education programs aimed at consumers and retailers,

R26. The Australian government should proactively undertake or commission research on important public policy issues associated with unit pricing and the results should be made public.

NON-GROCERY UNIT PRICING

The Code does not apply to non-grocery retailers. This is in contrast to many European countries where all types of retailers are required to provide unit prices.

The case for requiring non-grocery retailers in Australia to provide unit pricing is very powerful, especially give the popularity of grocery unit pricing with Australian consumers, because.

Many fixed measure packaged products sold by grocery retailers who must or do provide unit prices are also sold by non-grocery retailers. For example medicinal and beauty products are also sold by pharmacies, and pet foods are also sold by specialty pet supplies retailers. Also, hardware stores and stationers sell many packaged products of different brands and in different pack sizes.

It is extremely rare for non-grocery retailers to voluntarily provide unit prices for packaged products.

As at grocery retailers, there are large differences¹⁹ in the unit price of many packaged products sold by non-grocery retailers

As result, shoppers are now unable to use unit pricing to easily make effective value comparisons within non-grocery stores (bricks and mortar and online) and between similar stores, as well as between grocery and non-grocery stores.

However, consumers spend large amounts each year with relevant non-grocery retailers. For example the annual revenue of pharmacies is estimated²⁰ to be \$18 billion and that of hardware stores \$22 billion.

And, although not all of the revenue of these retailers would be from sales of products which would be subject to unit pricing requirements, their annual revenue from the sale of such products is still likely to be high.

Also, the Choice recent national consumer survey Choice indicated that 66% of participants wanted pharmacies to provide unit pricing and 44% wanted hardware stores to do so.

R27. Mandatory provision of unit prices should be required by other types of retailers (e.g. pharmacies, hardware stores, pet product retailers, stationers) and for other types of products.

¹⁹ For example, QCA has found that the savings, in terms of unit price, from buying a large rather than a small pack averaged 23% (range 65% to 0%) for 18 different non-prescription branded items at pharmacies. There are also likely to be large differences in unit prices between brands.

²⁰ <https://www.ibisworld.com.au/industry-trends/market-research-reports>

UNIT PRICING LEGISLATION

As noted earlier, although not included in the Code, when the Code was being developed there was verbal and written recognition that it needed to be comprehensively reviewed no more than 5 years after implementation.

However, that did not happen and as a result Australian consumers have had sub optimal grocery unit pricing for nearly 10 years.

It is important to now recognise that any unit pricing regulation, which affects so many consumers, influences so much consumer spending, and needs to quickly take account of rapidly changing industry and consumer circumstances, should be reviewed regularly not just after 10 years.

Therefore, any new or continuing unit pricing legislation should have a built in requirement to be reviewed after no more than 3 years. It should also require the regulator to convene a meeting of industry and consumer representatives at least once a year to examine implementation and other issues. And, the regulator should be required by the legislation, and to undertake and report publicly the results of compliance monitoring and enforcement activities.

R28. Any new or continued unit pricing legislation should:

- **have a built-in requirement to be reviewed after no more than 3 years.**
- **require the regulator to convene a meeting of industry and consumer representatives at least once a year to exchange information and ideas on implementation and other issues.**
- **require the regulator to undertake, and report publicly the results of, compliance monitoring and enforcement activities.**