

Voluntary Report – Voluntary - Public Distribution

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Report Name: New Zealand Government Looks to Bring More Competition to Retail Grocery in New Zealand

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Report Highlights:

New Zealand is about to pass and implement legislation to address one of the most concentrated supermarket sectors in the world. The competitive landscape consists of two leading players and a small number of very minor players. In 2020, the government called upon the Commerce Commission to investigate the supermarket (grocery) sector. The commission concluded in mid-2022 and made several recommendations that will enter into force from 2023 and beyond.

1.0 Background to study and summary:

On 17 November 2020, the Government announced that it would conduct a market study into supermarkets.

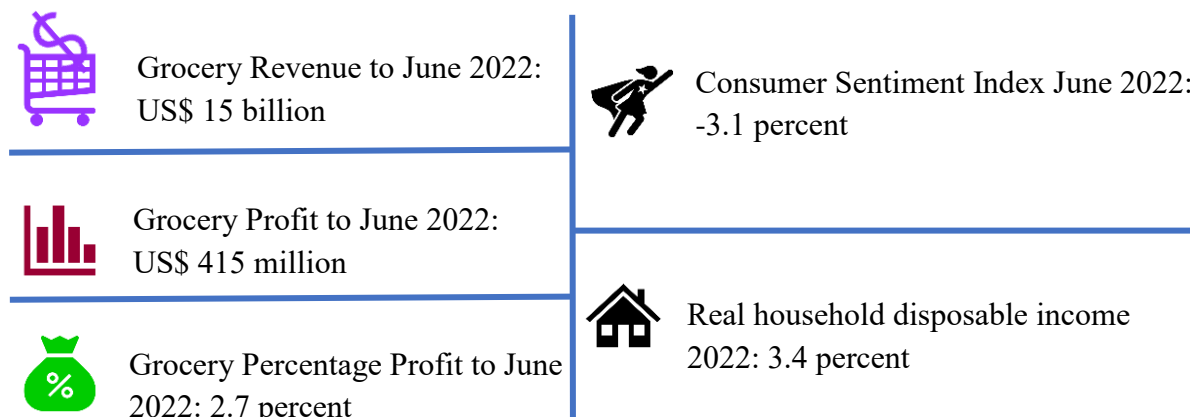
The study allowed the New Zealand Commerce Commission to investigate any factors that may affect competition for the supply or acquisition of groceries by retailers in New Zealand. Public concerns about a high level of concentration in the grocery market prompted the study. In addition, government research conducted by the Productivity Hub indicates that competition levels in the sector have weakened over time.

The Government had also heard that unequal bargaining power between supermarkets and suppliers pushes prices unreasonably low for suppliers, which could impede investment in innovation and quality. While low prices benefit consumers, it is unclear how much of this is being passed onto consumers, with the cost of food making up 17% of household weekly expenses.

The study also made inquiries into the supplier side of the grocery market. This means that if competition problems are found, small business suppliers may benefit from policy changes.

It's worth also adding some comments in terms of the current market situation - food prices are 14 percent higher than in 2021, and while there is still a strong level of disposable income, this is being eroded by a combination of inflation and interest rate hikes.

Diagram One: Grocery Retail Situational Outlook 2022

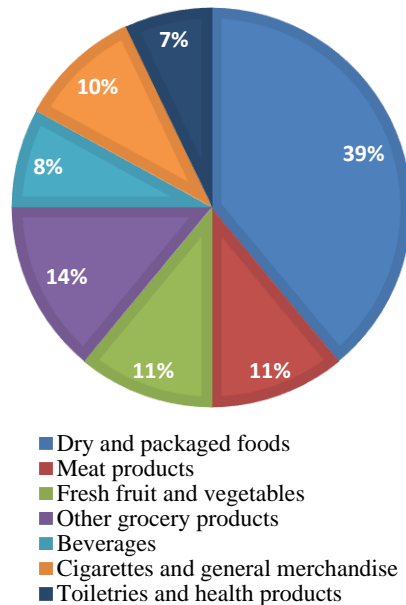


Source: IBIS World.Com Supermarkets, Grocery Stores and Convenience Stores Report

The statistics outlined in diagram one highlight the consolidated nature of the New Zealand grocery sector. Two companies dominate the market in New Zealand - Foodstuffs and Woolworths New Zealand. This situation has continued for at least 30 years in New Zealand

Graph One:

PRODUCTS AND SERVICES SUPPLIED TO NEW ZEALAND SUPERMARKETS BY TYPE 2022



Source: Source: IBIS World.Com Supermarkets, Grocery Stores and Convenience Stores Report

Graph one outlines the supply situation in New Zealand and the type of goods and services supplied to the supermarkets. It is dominated by dry and packaged but fresh products combined make up the next bulk of items supplied into supermarkets.

2.0 Summary of Findings

In 2022, the government completed its inquiry and presented its report for public submission and debate. The Commerce Commission was thorough in its findings and its initial statement in the report was, “we have found that competition is not working well for consumers in the retail grocery sector. If competition was more effective, the major grocery retailers would face stronger pressures to deliver the right prices, quality, and range to satisfy a diverse range of consumer preferences.” (Source: Market Study into the Retail Grocery Sector).

The Commerce Commission noted several market observations, these are.

- 1) Grocery prices appear high by international standards.
- 2) Profitability of the major grocery retailers appears high.
- 3) The scale and pace of innovation in the sector appears lower than expected.

Below is the list of findings and some detail about each taken directly from the Commerce Commission's report.

2.1 Grocery Industry Competition Act 2023

The legislature passed the bill recently in its third reading and will become an act of parliament upon being signed by the Governor General of New Zealand, which will take place soon. This Act requires the development of a grocery industry commission and the appointment of seasoned food executive Pierre van Heerden as New Zealand's first grocery commissioner.

The primary aim of the new Act is twofold. The first is to create the infrastructure for an industry watchdog to exist, to give consumers a channel to complain about unfair practices, and to enhance to product offerings (both domestically made and internationally made products). The second aspect is to create a grocery code of conduct for the industry. This code of conduct will act as a set of market regulations that will inform best practices and aim to mitigate the market failures at play because of the dominating duopoly between Foodstuffs and Woolworths New Zealand.

While little infrastructure is in place at this time, it is hoped that in 12 months the market situation will have improved and the ability to range a greater and more flexible number of products will be in place.

You can find a copy of the act [here](#).

2.2 Issues Facing Competitors

There is an increasing diverse fringe of other retailers, they have a limited impact on competition as they are unable to compete effectively with the major grocery retailers on price, product range and store locations to offer consumers the convenience of one-stop-shopping.

The intensity of competition between the major grocery retailers is muted. Competitors wanting to enter or expand face significant challenges, and these include...

- A lack of suitable sites for store development.
- Difficulties in obtaining competitively priced contracts for supply of products.

2.3 Issues Facing Suppliers

Competition in the wholesale purchasing of groceries is not working well for many suppliers. Many suppliers are reliant on the two major grocery retailers. This allows the major grocery retailers to transfer costs, risks, and uncertainty onto suppliers, with fears of having their products removed from store shelves if they do not agree to the terms. This can reduce the ability and incentive for suppliers to invest and innovate, reducing choice for consumers.

2.4 Issues Facing Consumers

The complexity of the major grocery retailers' pricing strategies, promotions and loyalty programs can confuse consumers and make it difficult for consumers to make informed purchasing decisions and shop around.

Consumers are generally not aware of how much personal data they are giving away and how it is used when signing up to loyalty programs.

3.0 Recommendations

The Commerce Commission made four recommendations in their report, and they are.

1) Make more land available for new grocery stores

- Change planning laws to free up sites.
- Ban the use of restrictive covenants that prevent retail grocery stores from being developed.
- Monitor land banking by the major grocery retailers

2) Improve access to wholesale supply of groceries

- Regulate to require major grocery retailers to fairly consider requests to supply competitors.
- Require the criteria and terms and conditions of wholesale supply to be transparent.
- Monitor strategic conduct by the major grocery retailers

3) Improve relationships between grocery retailer and suppliers.

- Introduce a mandatory code of conduct for grocery supply relationships to improve transparency and ban unfair conduct.
- Strengthen protections against unfair terms in standard form contracts.
- Consider allowing collective bargaining by some suppliers.

4) Help consumers make more informed decisions.

- Introduce mandatory unit pricing.
- Major grocery retailers should ensure their promotional and pricing practices are easy to understand.
- Major grocery retailers should ensure consumers can easily access and understand their loyalty programs' terms and conditions.

5) Support the implementation of regulatory measures and monitor the sector.

- Establish a dedicated grocery regulator to provide monitoring and oversight.
- Establish a dispute resolution mechanism to resolve wholesale and supplier disputes.
- Review industry competitiveness three years after recommendations have been implemented

For more information about the study and its findings please [click here to find more](#).

4.0 Grocery Supply Code of Conduct

The Commerce Commission identified an imbalance in negotiating power between the major grocery retailers and their suppliers. This may impact suppliers' ability to innovate and invest in new grocery products which may contribute to higher prices and more limited grocery offerings for consumers.

The Grocery Code of Conduct is intended to address this imbalance by constraining the ability of the major retailers to push costs and risks onto suppliers and by improving the transparency of the trading relationship.

The Grocery Supply Code of Conduct lays out the minimum conduct which major grocery retailers must adhere to when dealing with their suppliers.

The draft supply code can be found [here](#), the New Zealand government is still in the process of completing the drafting of the document.

Appendix One:

Retail Grocery Market Study Summary of findings

Competition in the retail grocery sector is not working well for consumers. If competition was more effective, retailers would face stronger pressure to deliver the right prices, quality and range to satisfy a diverse range of consumer preferences.



Competition issues

Competition is dominated by two major retailers:

FOODSTUFFS



WOOLWORTHS NZ



While there is an increasingly **diverse fringe of other retailers**, they have a limited impact on competition as they are **unable to compete effectively** with the major grocery retailers on **price, product range, and store locations** to offer consumers the convenience of one-stop shopping.

The intensity of competition between the major grocery retailers is muted. Competitors wanting to enter or expand face **significant challenges** including:

- A lack of suitable sites for store development
- Difficulties in obtaining competitively priced wholesale supply of a wide range of groceries.

Market observations

NZ grocery prices appear **high** by international standards.

Profitability of the major grocery retailers appears **high**.

The scale and pace of **innovation** in the sector appears **lower than expected**.



Issues facing suppliers

Competition in the wholesale purchasing of groceries is **not working well** for many suppliers.

Many suppliers are reliant on the two major grocery retailers.

This allows the major grocery retailers to transfer costs, risks and uncertainty onto suppliers, with fears of having their products removed from store shelves if they do not agree to the terms.

This can reduce the ability and incentive for suppliers to invest and innovate, reducing choice for consumers.



Issues facing consumers

The complexity of the major grocery retailers' **pricing strategies, promotions and loyalty programmes** can **confuse consumers** and make it difficult for consumers to make informed purchasing decisions and shop around.

Consumers are generally not aware of how much personal data they are giving away and how it is used when signing up to loyalty programmes.



Retail Grocery Market Study Recommendations

We recommend a suite of changes to increase competition and help improve the price, quality and range of groceries available to New Zealanders.



Make it easier for independent grocery retailers to set up and expand

- Make more land available for new grocery stores
 - Change planning laws to free up sites
 - Ban the use of restrictive covenants that prevent retail grocery stores from being developed
 - Monitor land banking by the major grocery retailers.



- Improve access to wholesale supply of groceries
 - Regulate to require major grocery retailers to fairly consider requests to supply competitors
 - Require the criteria and terms and conditions of wholesale supply to be transparent.



- Monitor strategic conduct by the major grocery retailers.

Improve relationships between grocery retailers and suppliers

- Introduce a mandatory code of conduct for grocery supply relationships to improve transparency and ban unfair conduct.
- Strengthen protections against unfair terms in standard form contracts.
- Consider allowing collective bargaining by some suppliers.



Help consumers make more informed decisions

- Introduce mandatory unit pricing.
- Major grocery retailers should ensure their promotional and pricing practices are easy to understand.
- Major grocery retailers should ensure consumers can easily access and understand their loyalty programmes' terms and conditions.

Support the implementation of regulatory measures and monitor the sector

- Establish a dedicated grocery regulator to provide monitoring and oversight.
- Establish a dispute resolution mechanism to resolve wholesale and supplier disputes.
- Review industry competitiveness three years after recommendations have been implemented.



Attachments:

No Attachments.