

**S U B M I S S I O N**

**to the**

**Senate Economics References Committee**

**Inquiry into the GROCERYchoice Website**

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## **Introduction**

The National Association of Retail Grocers of Australia represents about 4500 independently owned and operated grocery stores in all States and Territories, accounting for about \$18 billion of sales annually or about 20 per cent of the national grocery market. Independent grocery stores account for about 57 per cent of employees in the grocery sector on a full-time equivalent basis.

### **The rationale and purpose for the website**

The present federal government announced while in opposition that it would establish a website to facilitate shoppers' comparison of grocery prices. After the 2007 election, the Australian Competition and Consumer Commission was given the task of establishing the website.

NARGA advised the government and the ACCC early in 2008 that it could see no way that the objective could be achieved and later suggested that a practical compromise would be to establish a website to which the major industry participants could up-load "specials" prices by banner and by State on a weekly basis.

The ACCC provided contrary advice to the government and apparently recommended the establishment of a website consistent with a model that involved monthly data collection of 500 prices for grocery items in ten stores in each of 61 "regions" across Australia. The government appears to have accepted the ACCC's advice.

### **Problems and issues with the ACCC's model**

In our view, the monitoring model established by the ACCC was seriously flawed and invalid; it had the hallmarks of a website designed by people who did not personally shop for groceries and who had no clue about how grocery customers actually shop.

#### *Methodology*

Immediately after publication of the first GROCERYchoice prices in August 2008, NARGA and numerous other organisations and individuals reviewed the site negatively, but the ACCC confirmed it would continue to use the same methodology.<sup>1</sup>

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<sup>1</sup> "GroceryChoice site dismissed as 'no help' to consumers", Nicola Berkovic, *The Australian*, 8 August 2008, <http://www.theaustralian.news.com.au/story/0,25197,24140117-2702,00.html>

### *The 61 “regions”*

The ACCC system divided Australia into 61 “regions” which bore no relationship to actual commercial markets. Some of these regions - for example, the western half of New South Wales and the northern half of Western Australia, or “Sydney surrounds”, an arc from Cronulla (a southern coastal suburb) west to the Blue Mountains and back to the coast north of Sydney at Gosford - bore no relationship whatsoever to how or where people shop, nor to the demographics of the regions. They compared prices in shops perhaps hundreds of kilometres apart.

Comparing averaged prices for a “mystery basket” of unidentified products across ten unidentified stores spread across a region gave no indication of whether the basket prices identified in the survey bore even a passing similarity to the price of a basket of groceries that customer might actually want to buy in his or her nearest store(s).

Even smaller regions within state capitals entailed the same problem: people do not drive even ten kilometres to buy groceries when roughly the same prices are available within a kilometre or two of home or work.

### *Inclusion of fresh produce*

In discussions with the ACCC before the development of the GROCERYchoice website (and later in discussions with Choice), NARGA drew attention to the **impossibility** of collecting accurate data which would allow comparison of prices for fresh foods.

When the issue was raised with them, both the ACCC and Choice separately said they would seek “expert” advice on the matter, although no such advice was ever made public and the ACCC’s data collection went ahead anyway. At the meeting with industry organised by Choice on 25 February 2009, other industry participants expressed identical concerns to ours about price comparisons for fresh foods. Choice’s initial response was to offer to exclude fresh produce prices from the data collection process. Industry representatives pointed out that fresh produce sales account for about 30 per cent of all sales and any basket of groceries would be unrepresentative if they were not included.

It is not clear to us which “experts” the ACCC and Choice intended to consult. We tend to consider that the most expert advice available had already been given to them by industry representatives.

The difficulties in collecting price data on fresh produce are numerous:

- There are numerous varieties of potatoes, tomatoes, apples, oranges, grapes, etc., not all available in all stores at the same time - on which would data be collected?
- Prices vary by the day, depending on availability, weather events, season, availability of and source of imports, etc.
- Prices vary from location to location, with different regions ripening fruit and vegetables at different times - even within some of the ACCC's "regions"
- Fruit and vegetables prices may vary by size of the produce
- Fruit and vegetable prices vary by quality of the produce
- Meat prices vary by both grade and cut - would the data collectors be competent to distinguish lamb from hogget or mutton, for example?

Considering the issue merely as a data collection problem, which variety of each fruit and vegetable would data collectors target? Would the mystery basket collected for the ACCC's GROCERYchoice website include prices for, say, eight varieties of potato? Which cut or cuts of meat would be priced? Would they collect data on only Australian grown produce? Which variety of grapes would be selected and in what way would that choice relate to shopper preferences and market conditions?

The ACCC ignored all of these concerns and purported to include price comparisons for fresh foods in its GROCERYchoice mystery baskets. Choice could not have done any better.

#### *Inclusion of Aldi*

It is important to note that the UK Competition Commission's 2007 inquiry into its grocery industry specifically excluded Aldi, Lidl and Netto stores from the scope of that inquiry on the basis that they were "limited assortment discount stores".<sup>2</sup> While Lidl and Netto do not operate in Australia, Aldi does, but with a similar "limited assortment" of product lines - about 500. Further, most of these lines are "private label" Aldi brands, many of them imported, and cannot be directly compared with locally-made branded product lines because they are made to different specifications to meet price points. In Aldi stores, even the small number of products which carry recognisable brands are not identical to Australian-produced brands. Aldi's *Nescafe*, for example, is made in Indonesia or Brazil and is different from the Australian manufactured product of the same name.

*The Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries*, published in July 2008, had made much of Aldi's position in the Australian market:

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<sup>2</sup> *The Supply of Groceries in the UK: market investigation - Provisional findings report, 31 October 2007, p. 94, paragraphs 4.82-4.83.*

*...ALDI has been a significant influence on Australian grocery retailing. ALDI has forced Coles and Woolworths to react by reducing prices - specifically in States and localities where ALDI is present. Even if a customer does not shop at ALDI, they obtain significant benefits from having an ALDI in their local area or state, as the Coles and Woolworths stores price more keenly. ALDI creates a strong competitive dynamic on the products it stocks and puts pressure on Coles and Woolworths to offer many of their private label products at prices not seen before ALDI's entry.<sup>3</sup>*

At that time, Aldi operated only 180 stores in New South Wales, Victoria and in and around Brisbane. In contrast to the UKCC's position, the ACCC failed to explain how such a limited number of sites and 500 product lines could bring about any sort of "competitive dynamic" in relation to much larger independent and chain supermarkets outside those locations across most of Australia, nor on product ranges of up to 25,000 lines. Do customers benefit from having an Aldi store in their state, as the ACCC claimed? Of course not. Prices in Cairns are not influenced by an Aldi store in Brisbane.

However, since such statements had been made by the ACCC, GROCERYchoice had to be constructed to include the only company allegedly providing a "competitive dynamic" to the Australian grocery industry. Aldi's exclusion from GROCERYchoice would have called into question one of the ACCC's major findings from the grocery price inquiry.

The problem remained, however, that Aldi did not have the product range, nor the sites, to allow them to be included in the general GROCERYchoice price survey across Australia. A special category, the "basic staples basket" was devised by the ACCC to allow Aldi to be included. Aldi has a legitimate place in the Australian grocery industry, but it is not a direct competitor with full-service supermarkets or grocery stores offering much larger product ranges.

The other remaining problem was in comparing Aldi products directly with branded products. To address this, the ACCC claimed to have hired an independent product testing laboratory to ensure that product quality was similar - that the comparison of prices was based on a comparison of "like for like". The independent product testing laboratory was never identified and no results of the alleged product comparison testing were ever published. However, a background paper published by the ACCC at the time GROCERYchoice was originally launched said:

*Independent testing of product quality **has been done** to allow 'like for like' comparisons between retailers. However, some differences in the quality of fresh*

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<sup>3</sup> Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, July 2008, pp. xvi-xvii.

*meat, fruit and vegetables may still exist and consumers should consider this when making price comparisons.*

Our emphasis. Clearly, the ACCC is admitting that fresh foods price comparisons are not valid, yet GROCERYchoice went ahead and pretended to compare prices for such items, as well as for packaged private label products. It is not clear how consumers were to consider quality differences when the ACCC kept secret the composition of the baskets. The only valid response would be to ignore the ACCC's GROCERYchoice price comparisons entirely.

The ACCC background paper continued with other helpful advice which underlined the failure of the GROCERYchoice project to deliver any useful information whatsoever, considering that store locations and basket compositions were kept secret and price data was averaged, not actual retail prices:

*GROCERYchoice collects information about grocery prices alone. You might consider a range of other factors when determining where to shop including location and accessibility of supermarkets, product and produce range and the quality of service.*

In other words, "GROCERYchoice is irrelevant."

The ACCC's report of *Consultancy contracts let during the 2007-08 financial year to the value of \$10,00 [sic] or more*,<sup>4</sup> lists The Bailey Group Pty Ltd as having conducted a "Research Survey on Grocery Prices" for \$5,135,650 (by far the largest consultancy for the year). See Attachment A. This consultancy was described as a "restricted source" (as opposed to "open source" and "sole source", although none of these terms is defined in the listing). It is possible that the "like for like" testing, if any testing was in fact carried out, was paid for via this channel, since no other likely contract is listed.

In the absence of any evidence that comprehensive "like for like" testing and comparison was completed by the unnamed "independent testing laboratory", it would seem likely that the ACCC's comparison of prices between Aldi private label products and products in other supermarkets and grocery stores was not valid.

#### *Data collection*

One of the fundamental issues with the ACCC's GROCERYchoice data collection was the inclusion of very small independent stores, despite the survey parameter restricting the



Contract.pdf

survey to stores in excess of 1000 square metres. We are aware that in some cases, independent stores as small as 270 square metres were included, while similarly-sized petrol station convenience stores operated by Woolworths, Coles or the large petrol companies - charging convenience store prices - were excluded.

These smaller stores are not, to use the words of the UK Competition Commission, “close substitutes for other grocery retailers” and operate on a different business model. Yet the ACCC lumped the basket prices of these stores in with those of large independents which compete head to head with Woolworths or Coles in local markets, skewing upwards the basket price averages listed for the “independents” category, at the same time excluding the supermarket chains’ petrol station convenience stores of similar size to small independent grocers.

In any case, without publication of the list of stores which were actually sampled, the suspicion remains that independent stores were over-sampled, given the market domination of Woolworths and Coles with close to 80 per cent of the market.

In our view, since GROCERYchoice no longer exists and no “gaming” or commercial-in-confidence issues can now possibly arise, the following information should be made public:

- The list of stores sampled in each monthly data collection
- Details of the products for which data was collected in each survey, for both the general data surveys and the “basic staples” baskets
- The name of the independent testing laboratory appointed by the ACCC to compare products on a “like for like” basis
- The list of products compared on a “like for like” basis by the independent testing laboratory appointed by the ACCC, a description of the testing methods used and the assay results for each test conducted
- Any advice given to the ACCC by The Bailey Group in relation to GROCERYchoice.

### **Rationale for ACCC ceasing to manage and operate the website**

Late in 2008, NARGA representatives met with Choice representatives following newspaper reports that Choice had entered negotiations with the government to take over the GROCERYchoice website. Monthly “hits” on the website had already fallen to about 100,000 from the four million hits in August 2008. Choice confirmed they had had such discussions with the government.

We explained our critique of the website and listed its failings. The Choice representatives agreed with our assessment, but claimed to be confident they could overcome such issues.

NARGA strongly advised against taking on the website on the basis that the task set was impossible to achieve. This was reiterated when Choice representatives attended a meeting of NARGA directors in early December 2008.

Without further consultation with industry, the government and Choice announced on 22 December 2008 that Choice was to take responsibility for the website from 2 February 2009. By early 2009 “hits” on the GROCEYchoice website had fallen even further to about 60,000 a month. This compares with 15,000,000 customer transactions a month in independent stores alone.

Developments during this period were set out in a *Backgrounder* prepared by NARGA on 27 April 2009, when it became clear that Choice could not deliver a viable GROCERYchoice website service.<sup>5</sup>

### **The specific concerns of the major chains and independent retailers**

As is clear from the *Backgrounder* referenced above, the grocery industry at large was united in the view that Choice could not deliver a GROCERYchoice website that published timely, accurate, secure data on a weekly basis (or more frequently) within the budget available to Choice and without substantial industry costs. Choice could not satisfy industry concerns on a number of crucial issues, such as data validation, data security and fresh food price comparisons.

Choice clearly intended that all additional work necessary to achieve the publication of grocery price data on a weekly basis would be done by the grocery industry companies at their own cost, while Choice would be the only direct commercial beneficiary of the government’s budget outlay.

Choice was incorrect in claiming that the large supermarket chains were responsible for putting pressure on the government to abandon the site. With the possible exception of Aldi, every supermarket chain and the independent sector were united in the view that the task set could not be achieved without significant cost to the industry and would have no identifiable benefit to customers. For Aldi, compliance would have been simple: the company operates national pricing on a range of about 500 grocery products and emailing the entire price list each week would be a relatively simple matter: comparability of those prices with prices of branded products was the issue.

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<sup>5</sup> *Backgrounder: Choice and GroceryChoice*, 27 April 2009, National Association of Retail Grocers of Australia, see Attachment B.



In the case of the independent grocery sector, a very large burden would have fallen upon independent family businesses. These businesses source about half of their product range from the major wholesaler, but set their own prices, apart from “specials”. The other half of the independents’ ranges is sourced directly from thousands of other suppliers, large and small.

The average independent grocery business handles about 3000 price changes a week and notification of prices changes on a weekly basis would represent a significant additional workload and cost across 4500 independent stores as a group. These stores are not networked and would have to report price changes store by store. And in any case, the computerised price files used in the independent sector could not isolate shelf prices from other commercial-in-confidence data. The data are not available in the form Choice requested and would not be likely to become available in that form.

### **The problems and issues faced by Choice in relation to the website**

At its meetings with Choice representatives late in 2008, NARGA pointed out the problems which were intrinsic to the ACCC’s GROCERYchoice model, particularly issues relating to price data for fresh foods. These issues were raised again with Choice at the meeting with industry representatives in February 2009. While Choice undertook to consider the issues and find ways to satisfy industry concerns, nothing of the sort had been achieved prior to the proposed relaunch of GROCERYchoice.

Indeed, some industry representatives at the February 2009 meeting expressed concern that the very discussion of pricing issues as a group was unwise, that there was potential for unintentional breaches of the *Trade Practices Act*.

NARGA was also concerned that the proposed Choice version of GROCERYchoice might tend to be anti-competitive, that having all prices for all products in all stores available on-line might result over time in price-matching *upwards* - what incentive did a retailer have to keep prices low if nearby competitors were selling the same product at higher prices? This might amount over time to a form of retail price maintenance.

Choice also appeared to have a conflict of interest. Choice is a commercial entity which derives its income from publishing activities. Consumers do not elect its board members and have no say in the operations of Choice. Although Choice, as the self-appointed representative of consumers, purports to represent their interests, its consumer advocacy activities might also be seen as a public relations program to promote sale of its products.

In seeking to acquire control of the GROCERYchoice website, Choice could be seen as providing a commercial service to government for a fee, potentially being in conflict with its

purported role as an independent consumer advocacy organisation. During its negotiations with the government to take over GROCERYchoice there were newspaper reports of conflict within the Choice board, culminating in the resignation of a director, Mr Robin Brown.<sup>6</sup>

Mr Brown described Choice's decision to take over GROCERYchoice as *"momentous...[in that it involved] a large amount of government money and a matter that was really quite political...I thought that there was a significant risk to Choice's reputation as an independent commentator on public policy on the way markets work...and a risk to its bipartisan approach to politics."*

In any case, as a commercial entity, Choice was free to build and operate any legal website it chose. If Choice was convinced, as chairwoman Jenni Mack claimed in the same newspaper report, that there was "a huge un-met demand for something like this [GROCERYchoice website]" then the Choice directors were at liberty to commit Choice's own money to the project and recoup costs (or profit) from subscriptions to the site.

The fact that Choice has not done so suggests that the entire project was dependent on funding from the government (and industry) and that it was not, indeed, commercially viable - that is, there was little interest from the public to justify its existence.

Throughout the process of Choice's negotiations with the government and industry, Choice alleged "lack of transparency" on the part of industry in relation to prices. Nothing could be further from the truth.

The Australian grocery industry spends millions of dollars a month advertising its prices - particularly "specials" prices, but others as well - in press, radio and television advertisements, in home-delivered catalogues, in-store and with every product on every shelf. Lack of transparency is not an accusation that stands up to a moment's scrutiny.

Till dockets nowadays display the normal shelf price as well as any discount when the product is on special, the brand, weight, size or volume of the item, the date and time of purchase, the store address and contact details - at least equivalent to the data which either the ACCC or Choice proposed to make available through the GROCERYchoice website.

There remains a question of how ready Choice was to relaunch GROCERYchoice. Since industry had not agreed to supply the data or spend substantially more money to support the project and the government had not increased the budget, what price data would have

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<sup>6</sup> "Director stands down over GroceryWatch takeover", Kelly Burke, *The Sydney Morning Herald*, 28 November 2008, <http://www.smh.com.au/news/national/director-stands-down-over-grocerywatch-takeover/2008/11/27/1227491737074.html>

been available to Choice? Presumably no more than they had offered while the website “hits” were in serious decline under its management in the early months of 2009.

## Attachment A

### Consultancy contracts let during the 2007-08 financial year to the value of \$10,00 or more.

Company Name Total Amount Procurement

Method

ACIL Tasman Pty Ltd Expert Regulatory Advice 26,187 RS  
ACIL Tasman Pty Ltd Expert Regulatory Advice 16,500 SS  
ACIL Tasman Pty Ltd Expert Regulatory Advice 16,500 OS  
AM Actuaries Pty Ltd Expert Actuarial Advice 165,000 OS  
Armstrong Rowena Expert Policy Drafting Advice 30,000 SS  
Boucher Dale, Solicitor & Consultant Expert Management Advice 26,400 SS  
Buchan Consulting Expert Survey Advice 35,360 SS  
CBS Consultancy Coordination Unit Expert Emission Advice 49,500 SS  
Children's Services Support Unit WA Inc Expert Industry Advice 38,500 SS  
Commander Integrated Networks Expert IT Advice 64,310 OS  
Cordelta Pty Ltd Expert IT Advice 140,580 OS  
Core Research Expert Merger Advice 20,000 SS  
EcoAssist Pty Ltd Expert Economic Advice 50,000 SS  
EcoAssist Pty Ltd Expert Economic Advice 39,000 SS  
EcoAssist Pty Ltd Expert Economic Advice 39,000 SS  
EcoAssist Pty Ltd Expert Economic Advice 35,000 SS  
EcoAssist Pty Ltd Expert Economic Advice 20,000 SS  
Economists Incorporated Expert Merger Advice 60,000 SS  
EconTech Pty Ltd Expert Economic Advice 60,000 SS  
Energy & Management Services Pty Ltd Expert Regulatory Advice 64,900 OS  
Energy & Management Services Pty Ltd Expert Regulatory Advice 15,840 SS  
Energy & Management Services Pty Ltd Expert Regulatory Advice 11,616 SS  
Flagstaff Consulting Expert Enforcement Advice 62,040 OS  
Frontier Economics Pty Ltd Expert Merger Advice 50,000 SS  
Frontier Economics Pty Ltd Expert Economic Advice 50,000 OS  
Frontier Economics Pty Ltd Expert Economic Advice 44,000 SS  
Frontier Economics Pty Ltd Expert Economic Advice 22,275 OS  
Frontier Economics Pty Ltd Expert Economic Advice 11,000 RS  
Gavin Anderson & Company (Australia) Ltd Expert Communications  
Advice  
80,000 SS

Gibson Quai - AAS Pty Ltd Expert Regulatory Advice 21,538 OS

Gibson Quai - AAS Pty Ltd Expert Regulatory Advice 16,500 OS

Gilbert and Tobin Expert Advice on Water

Market

60,000 SS

Kapish Pty Ltd Expert IT Advice 13,500 SS

KPMG Consulting Expert Economic Advice 20,425 SS

Layer 10 Expert Advice 29,700 SS

LECG Consulting Cambridge Expert Economic Advice 100,000 SS

LECG LLC Expert Economic Advice 80,000 SS

LECG Ltd Expert Economic Advice 100,000 SS

LECG Ltd Expert Economic Advice 50,000 SS

LECG Ltd Expert Economic Advice 12,000 SS

The following table lists only those consultancies for \$10,00 or more.

In this table, unless otherwise indicated, the reason for engaging the consultancy services was a requirement for specialist expertise not available within the ACCC.

In column four, the letters RS, OS and SS stand for restricted source, open source and sole source.

McGrath Nicol Expert Economic Advice 79,016 SS

McGrath Nicol Expert Economic Advice 59,496 SS

McGrath Nicol Expert Economic Advice 25,025 SS  
McGrath Nicol Expert Economic Advice 12,000 SS  
McLennan Magasanik Associates Pty Ltd Expert Regulatory Advice 155,000 OS  
McLennan Magasanik Associates Pty Ltd Expert Regulatory Advice 107,800 OS  
McLennan Magasanik Associates Pty Ltd Expert Regulatory Advice 50,000 OS  
McLennan Magasanik Associates Pty Ltd Expert Regulatory Advice 20,000 OS  
National Field Services Millward Brown Research Survey on Groceries  
43,890 OS  
NERA Australia Pty Ltd Expert Economic Advice 74,199 OS  
NERA Australia Pty Ltd Expert Economic Advice 47,000 OS  
NERA Australia Pty Ltd Expert Regulatory Advice 13,833 OS  
Nuttall Consulting Expert Regulatory Advice 69,300 OS  
Nuttall Consulting Expert Regulatory Advice 55,000 OS  
Nuttall Consulting Expert Regulatory Advice 34,650 OS  
Ovum Pty Ltd Expert Regulatory Advice 243,950 OS  
Ovum Pty Ltd Expert Regulatory Advice 79,706 RS  
Ovum Pty Ltd Expert Regulatory Advice 52,800 OS  
Parsons Brinckerhoff Aust Expert Regulatory Advice 88,250 OS  
Parsons Brinckerhoff Aust Expert Regulatory Advice 46,002 OS  
PB Associates Expert Economic Advice 532,800 OS  
PIRAC Economics Expert Regulatory Advice 32,700 SS  
PIRAC Economics Expert Regulatory Advice 11,440 SS  
Portland Group Pty Ltd Expert Economic Advice 60,500 SS  
PriceWaterhouseCoopers Expert Regulatory Advice 55,000 RS  
PriceWaterhouseCoopers Expert Regulatory Advice 55,000 OS  
Regulatory Economics Ltd Expert Economic Advice 50,000 SS  
Sinclair Knight Merz Expert Regulatory Advice 181,830 OS  
Sinclair Knight Merz Expert Regulatory Advice 50,000 OS  
Sinclair Knight Merz Expert Regulatory Advice 40,194 OS  
Sinclair Knight Merz Expert Regulatory Advice 38,135 OS  
Symbio Alliance Expert Advice IT 16,500 RS

**The Bailey Group Pty Ltd Research Survey on Grocery Prices**

**5,135,650 RS**

Total Decision Support Pty Ltd Expert Accounting Advice 17,248 SS  
Total Decision Support Pty Ltd Expert Accounting Advice 12,320 SS  
Transcomp Consulting Expert Merger Advice 100,000 SS  
Transport Economic Solutions Pty Ltd Expert Economic Advice 80,000 RS  
Twaddle Family Investments Expert Regulatory Advice 10,000 SS  
Twaddle Family Investments Expert Regulatory Advice 10,000 SS  
University of Melbourne Expert Economic Advice 13,200 SS  
Waccdorc Pty Ltd Expert Economic Advice 100,000 RS  
Walker Dr Greg Expert Merger Advice 15,600 SS  
WIK Consult GmbH Expert Economic Advice 80,000 SS  
WIK Consult GmbH Expert Economic Advice 76,000 SS  
WIK Consult GmbH Expert Economic Advice 28,500 SS  
WIK Consult GmbH Expert Economic Advice 25,800 SS  
Wilson Cook & Co Limited Expert Regulatory Advice 532,307 OS  
Wilson Cook & Co Limited Expert Regulatory Advice 40,000 OS  
Worley Parsons Services Pty Ltd Expert Regulatory Advice 327,800 OS

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## **B A C K G R O U N D E R**

### **CHOICE and GroceryChoice**

Representatives of the National Association of Retail Grocers of Australia (John Cummings, Chairman, Ken Henrick, CEO) met CHOICE representatives (Bill Davidson, Acting CEO, Christopher Zinn, spokesman) late in 2008 for a general discussion of issues of mutual interest.

During that meeting Mr Davidson confirmed that CHOICE had had discussions with the federal government with a view to taking responsibility for the GroceryChoice website.

The CHOICE representatives agreed with NARGA's widely publicised critique of the GroceryChoice website as it then was:

- The data was out of date even before it was released on the website
- The 61 "regions" into which Australia had been divided for the purposes of the survey were too large and had no relationship to consumers' shopping behaviour
- The "mystery basket" approach - rightly intended to prevent "gaming" to achieve a perception of cheapest chain or cheapest store - meant also that no consumer was in a position to judge from the information on the website that a basket they might wish to purchase actually coincided with any of the items in the supposedly cheapest basket publicised
- Although the ACCC's parameters for data collection supposedly excluded independent grocery businesses under 1000 square metres, a number of such businesses as small as 270 square metres in country towns and outer suburbs had been included and unfairly compared with much larger metropolitan supermarkets
- Hits on the GroceryChoice website had fallen to 108,000 per month before the end of 2008, suggesting that grocery shoppers had found the site of little value. [In contrast, the independent sector alone serves 15 million customers each month].

Mr Davidson said that while CHOICE had not yet made a final decision to take on management of GroceryChoice, he believed that any such issues could be overcome. He also outlined plans for CHOICE to roll out a series of such websites to provide consumers with product and price information on a range of other retailing categories, such as whitegoods, computers, etc.

Having been through this process when the GroceryChoice website was set up by the ACCC, NARGA advised against taking on responsibility for the site, for the following reasons:

- The GroceryChoice budget was said to be \$13 million over four years and that had been based on one data collection a month - to make the data timely, data collection would have to be done more frequently and the cost of doing so was not covered by such a budget.
- There was no evidence that a “global” weekly (or continuous) data collection would deliver any useful information to customers - Woolworths, Coles, Aldi, Franklins and the thousands of independent grocery retailers already spend many millions of dollars a year through print, radio and television advertisements to tell customers which items on “special” represented the best value directly in the customer’s local area; comparison of prices in distant locations were of no use to consumers; comparison of prices for fresh produce - fruit and vegetables, meat, dairy products - were pointless because of differences in quality from day to day and place to place.

Mr Davidson and Mr Norm Crothers subsequently attended a meeting of NARGA Directors in Sydney on 2 December 2008 to discuss the issues and were again advised against taking on an impossible task.

CHOICE announced on 22 December 2008 that CHOICE would take over management of GroceryChoice and the revamped website would post prices for 2000-4000 grocery items in about 4000 supermarkets Australia-wide. CHOICE took responsibility for GroceryChoice on 2 February 2009, with a relaunch of GroceryChoice planned for July 2009.

CHOICE convened a meeting of interested parties on 25 February 2009 at their Marrickville, NSW, headquarters. Representatives of Woolworths, Franklins, Aldi, the Australian Retailers Association and NARGA were present. CHOICE convened a second meeting in Melbourne on 27 February 2009, attended by Coles, Ritchies and FoodWorks.

A CHOICE presentation to the Sydney meeting claimed that, “at zero cost to retailers”, CHOICE would set up a system which would publish on the GroceryChoice website the prices for as many items as possible in as many stores as possible throughout Australia on a continuous or at least weekly basis.

Issues then raised by the industry representatives included:

- The industry had agreed to allow data collectors to enter stores to collect price information and had never agreed to any other obligation; the announced budget for GroceryChoice would not pay for more frequent data collection

- The supermarket industry could NOT provide data weekly or continuously “at zero cost” - indeed, the costs would be very substantial and would necessarily be passed on to customers
- The independent grocery businesses represented mainly by NARGA entailed special problems - most were family businesses individually owned and operated and each would have to allocate resources to providing the data; since the data did not exist in the form CHOICE had sought it, software would need to be written at an estimated cost of about \$6000 per store; current electronic price files included much additional information which was commercially sensitive and which would not be supplied to any other person or company
- In any case, most independents sourced about 50 per cent of their products through the major wholesaler, but would have to allocate further time and resources to uploading price data on the rest of their product ranges; in the independent sector, many stores have unique product ranges, with many items sourced from small local suppliers
- If even the top 1000 independent supermarket operators agreed to supply data electronically, CHOICE would require a very large number of modems and very substantial computer processing power to handle millions of product and price records
- CHOICE then suggested these stores could fax price changes once a week; however, NARGA pointed out that an average independent supermarket has about 3000 price changes a week, meaning CHOICE would have to key in about three million price changes every week for the top 1000 independent stores.
- CHOICE could not explain how it would handle comparison of prices for fresh produce (fruit and vegetables, meat, dairy) and suggested omitting such prices - which account for about one third of all supermarket sales
- CHOICE could not explain how it would maintain security on price data if such data were to be forwarded to them - the data is, after all, commercially sensitive until price changes are on store shelves
- CHOICE had no plan or methodology to validate independently any data which might be given to it, running the risk that any incorrect data might unfairly create the impression that one store or group of stores was cheaper than a competitor/competitors, beyond a vague idea that its sympathisers would report if they noticed price discrepancies between shelf and website.

Mr Davidson undertook to consider the issues raised at the meeting and to convene a further meeting to discuss the solutions CHOICE would develop in the meantime.

He emailed NARGA on 26 March 2009 to say that because of the difficulties raised in relation to independent [that is, a large number of generally family owned and operated] grocery businesses, CHOICE had decided to proceed without them.

When asked specifically whether that decision meant Woolworths, Coles, Aldi and Franklins had agreed to provide pricing data, Mr Davidson said only that CHOICE had received “adequate commitment from enough sources to proceed”.

Woolworths, Coles and Franklins later denied any such commitment. As far as NARGA is aware, if CHOICE has any support for its plans it is only from Aldi.

NARGA met the Assistant Treasurer, Mr Chris Bowen, in Sydney on 22 April 2009 and made clear to him that while we had no problem in principle with providing price data and did so continuously through shelf prices, advertisements and catalogues, but the prohibitive cost of complying with CHOICE’s requests and the methodological issues raised with them made resolution unlikely.

Mr Bowen acknowledged that the independent sector had special issues because of the large number of individually owned small and medium sized family businesses in the sector, but expressed the view that industry representatives should try to reach some form of agreement with CHOICE to allow the new website to build up over time. NARGA has indicated to Mr Bowen that we remain ready for further discussions.

Further information: John Cummings 0418 953 845

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NARGA is a federation of State-based small business organizations representing about 4500 independently owned and operated supermarkets and grocery stores.