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Committee Secretary
Senate Standing Committee on Economics
Economics References Committee
PO Box 6100
Parliament House
Canberra ACT 2600
By email

**SUBMISSION TO INQUIRY INTO THE ESTABLISHMENT,
MANAGEMENT, OPERATION AND CLOSURE OF THE
GROCERYCHOICE WEBSITE.**

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CONCLUSIONS

1. The benefits for consumers and the economy obtainable from grocery unit pricing would have been increased significantly if GROCERYchoice could have provided consumers online with information about the unit price of products in individual supermarkets.

2. A world class grocery unit pricing system which provides unit prices which are easy for consumers to NOTICE, READ and USE can achieve some of the broader benefits which GROCERYchoice may have provided and the demise of GROCERYchoice increases the need for very effective unit pricing. However, as detailed in this submission we are concerned that the mandatory code for grocery unit pricing to be provided by the federal government via the Trade Practices (Industry Codes – Unit Pricing) Regulations 2009 tabled on 11 August 2009, is seriously flawed. Consequently, the system will not be world class and thus produce much fewer benefits than are required and possible.

3. The Regulations should be amended as follows:

Clause 6(2) – In addition to continuing to require that unit prices are prominent and legible, the clause should also set a minimum standard or standards for the size of the print used to display unit prices by prescribed grocery retailers in retail premises. It should also give the regulator the power to approve the use of print sizes other than the minimum standards, where appropriate but without compromising the prominence and legibility requirements.

Clause 8(1) - The standard units of measurement for weight and volume should be kg and litre respectively not 100g and 100m and the table in clause 11 of alternative units of measure for certain grocery categories should be adjusted accordingly.

Clause 11 – If clause 8(1) is amended as indicated above a new list of alternative units of measurement for certain grocery categories should be prepared for the table in clause 11.

If 100g and 100mL are retained in clause 8(1) as the standard units of measure for products sold by weight and volume, the table in clause 11 should be amended as follows:

- Per kg should also be the standard unit of measure for sugar, rice, pasta, cake and bread mixes, breakfast cereals, butter, margarine and other spreads, cream, yoghurt, powdered milk, and baby formula food.
- Per litre should also be the standard unit of measure for cooking oils, vinegar, liquid stock, and ice cream.

BACKGROUND

The Queensland Consumers' Association (the Association) is the peak body for consumer groups in Queensland. The Association's members work in a voluntary capacity. The Association is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups.

The Association has a long-standing interest in, and is a strong supporter of, providing consumers with the unit price (price per unit of measure, eg \$ per kg) of packaged grocery items¹. For many years, we and other consumer organisation around Australia have campaigned for the introduction of a compulsory world class national grocery unit pricing system to apply to supermarkets.

Our campaigning has included numerous submissions on the matter to the ACCC's 2008 grocery inquiry, to the Senate Economics Committee's 2008 inquiry into Senator Fielding's private senator's grocery unit pricing bill, and to the federal government's consultations which preceded the recent introduction into the federal Parliament of regulations, Trade Practices (Industry Codes – Unit Pricing) Regulations 2009, establishing a national compulsory industry code of conduct for unit pricing under the Trade Practices Act.

¹ This would be in addition and complementary to the compulsory unit pricing in \$ per kg of random weight packages of meat, chase, fruit and vegetables, etc currently required by state and territory trade measurement legislation and which is widely understood and used by consumers and the requirements that unpackaged goods sold by measure must be unit priced per kg, litre, etc.

The benefits² for consumers and the economy obtainable from grocery unit pricing would have been increased significantly if GROCERYchoice could have provided consumers online with information about the unit price of products in individual supermarkets.

Also, a world class grocery unit pricing system which provides unit prices which are easy for consumers to NOTICE, READ and USE can achieve some of the broader benefits which GROCERYchoice may have provided and the demise of GROCERYchoice increases the need for very effective unit pricing. However, as detailed in this submission we are concerned that several aspects of the code provided for by the regulations are seriously flawed. Consequently, the system will not be world class and thus produce much fewer benefits than are required and possible.

Accordingly, the Association welcomes the opportunity to make this submission and does so in relation *to term of reference (l) - any others matter incidental thereto*.

COMMENTS

1. Benefits from providing unit prices on the GROCERYchoice website

As noted above, the benefits for consumers and the economy obtainable from grocery unit pricing would have been increased significantly if GROCERYchoice could have provided consumers online with information about the unit price of products in individual supermarkets.

This would have allowed interested consumers in the leisure of their own homes to compare the unit prices of grocery products within individual stores and between stores.

As a result, such consumers would have been able to make much better informed decisions about which products to consider buying and where to buy them. Without this information available on a single website consumers have to make such decisions in store or by comparing the unit prices which retailers must provide in printed advertisements, or in the case of on line retailers, by visiting each on line retailer's website which must display unit prices.

These uses of unit pricing by consumers will undoubtedly deliver major benefits to consumers and the requirements to provide unit prices in printed advertisements and on online retailing web sites are very desirable features of the code. But, if consumers could have had access to unit prices via GROCERYchoice it would have been much easier for them to compare unit prices between stores and on line retailers.

The reasons are that printed advertisements usually only cover a small proportion of the products on sale in a store and to compare online unit prices consumers must look at and compare information on more than one website.

The benefits from being able to compare via one website, all the unit prices of products of several store based retailers would have been very large. Interested consumers would

² We have detailed in many submissions the numerous and very large benefits relative to costs possible from providing consumers with effective unit pricing. Our last submission to the federal Government on the draft regulations is available at www.treasury.gov.au under consumer policy (unit pricing - draft industry code).

have been able to easily take account of unit price information making decisions about what products to buy in which store. And, even if some consumers did not want to compare prices between stores they could and would have used the unit price information to make better informed choices between the products in the store of their choice. Thus, they could have gone to the store already knowing which products they wished to purchase on that shopping trip. This would have resulted in better informed decisions and a considerable saving in time spent in the store.

The code does not require store based supermarkets to provide on a web site the unit prices of ALL the products on sale in their store, and they are unlikely to do this voluntarily. So, generally in store consumers have no option other than to find and compare most unit prices while in the store. This is mainly because normally the websites for store based retailers which also sell on line will not include ALL the products in the stores and the unit prices on the website will not be the same as those in the stores. Thus, retailers' websites these are not perfect substitutes for GROCERYchoice to provide consumers with access to the unit prices of all in store products, plus there is the disincentive that consumers must to look at and assess information from more than one website to make inter retailer comparisons.

Conclusion

The benefits for consumers and the economy from the mandatory grocery unit pricing system would have be increased significantly if GROCERYchoice could have provided consumers online with the unit price of products in individual supermarkets.

2. Benefits from ensuring that the national compulsory grocery unit pricing system is world class

We noted above, that in the absence of a GROCERYchoice website, to make comparisons of unit prices of products between in store retailers, consumers will mainly need to use the provisions of the new national unit pricing code that require retailers to show unit prices in printed and internet adverts which contain selling prices. So, in a sense these provision in the unit pricing code help somewhat to compensate for what GROCERYchoice will not provide. But, these tools are vastly inferior to what GROCERYchoice could have provided.

We noted also that the GROCERYchoice website would have greatly assisted consumers to compare unit prices between products in individual stores prior to going to the store. But, in the absence of GROCERYchoice, consumers will mainly have to make these comparisons in store.

This highlights the need to ensure that the in store unit pricing systems resulting from the code are world class so that consumers can easily NOTICE, READ and USE the unit prices provided.

Such a system allows consumers to easily assess value for money between products eg package sizes, brands, different forms of the products (eg fresh versus frozen) and substitute products, WITHIN STORE.

It can also assist consumers to remember prices between stores because unit prices may be easier for consumers to remember than selling prices since they are very familiar now with using unit prices to compare the prices of products sold unpackaged or in random

weight packages, (eg \$ per kg for meats). So, a world class unit pricing system can help consumers to make better BETWEEN STORE value comparisons.

But, unfortunately based on our assessment of overseas unit pricing systems, we and other consumer organisations consider that compulsory unit pricing code due to commence in 1 December 2009 will not provide a world class system mainly because

- minimum standards of presentation are not specified in the code (only that they must be prominent and legible), and
- the standard units of measure are per 100g and per 100mL not per kg and per litre

We discuss each of these matters below.

Standard of presentation

The Regulation Impact Statement (RIS) which accompanied the regulations states on page 18 “...the marginal consumer benefits of requiring a 5mm or 10mm high unit price over a 3mm high unit price, which might be a likely result of not prescribing the size, are likely to be incredibly small.”. This statement ignores the results of a published US study³ of consumers referred to in consumer submissions etc. which conclusively shows that presentation has major effects on consumer awareness and use of grocery unit pricing information. Better presentation increased unit price awareness by low price conscious consumers and resulted in a 16% lower level of total expenditure by all types of consumers. It is also counter intuitive and fails to recognise that minimum font sizes (or other specific prescriptions) are specified in much other legislation (for example, trade measurement, workplace health and safety, building codes, price clarity) to help ensure that important information is provided to consumers prominently and legibly.

The RIS also suggest that large fonts for unit prices might result in consumers mistaking the unit price for the selling price. Yet, no evidence is provided that this is a problem in any jurisdictions overseas where the unit price is presented very prominently, e.g. in the USA or Sweden. It also ignores that fact that existing trade measurement legislation specifies a minimum print height for the unit price on random weight pre packed foods such as meat and fruit and vegetables and that this can be a substantial percentage of the size of the selling price print. Consumers know of no evidence that consumers have problems distinguishing between these unit and selling prices.

The principle argument given against the prescription of a minimum font size for the unit prices is the likely initial cost impact on retailers. Yet no precise information is provided about the likely costs. And, because neither of the two major retailers, Coles and Woolworths, provided publicly available submissions, there is virtually no publicly available information on this issue. Furthermore, consumers are unaware of any evidence of unreasonable costs relative to benefits being incurred by retailers to meet the minimum specifications set in US and Sweden.

Consumers are not convinced that the costs for Australian retailers would, or need, be excessively high and emphasise that any extra costs would be one off and small relative to the initial and on going benefits. Consumers view any extra costs as a highly cost effective long term investment critical to achieving optimal levels of consumer use of unit

³ Miyazaki A., Sprott D. and Manning K. (2000). “Unit Prices on Retail Shelf Labels: An Assessment of Information Prominence,” *Journal of Retailing*, Vol 76 (1) 93-112.

pricing. Consumers are also concerned that cost estimates may be unrealistically high, assume that no other changes are possible to labels etc to minimise costs, and do not take account of other possible benefits to retailers from changing labelling arrangements.

The RIS, also lists as a benefit of not prescribing minimum font sizes for unit prices that it “*Caters for changes in technology and industry practice with respect to in-store price displays*”. But, there is no evidence that this has been in problem in the USA and Sweden where minimum fonts are prescribed and new technologies such a electronic shelf labels have been adopted there, and unit prices are still displayed well. Flexibility can be provided by including in the legislation that a retailer may seek approval for presentations which might not comply fully with the legislated specifications but which would still ensure that consumers can easily notice and read the unit prices. This is a common provision in US states with mandatory unit pricing.

Reduced consumer use due to differences in presentation between retailers occurring with a principle based presentation requirement is included in the RIS summary table but not discussed. Potentially this could have very significant impacts on consumer use, especially if there is great variation in the size (and other features such as density, spacing, colour contrast, etc) of the print used by retailers. This is an important issue and in some US states the legislation specifies not only minimum font sizes but also background colours and the placing the words “unit price” on labels etc. However, Australian consumers consider that ensuring that all unit prices displayed in supermarkets are at least a minimum size font is the most immediate need to minimise major differences in unit pricing presentation and assist consumers to easily notice and read the information.

Finally, consumers are concerned that currently most of the unit prices provided voluntarily by retailers are not easy to notice i.e. are not sufficiently PROMINENT and many are not easy for consumers to read i.e. they are not sufficiently LEGIBLE. Preliminary survey work we have undertaken shows that up to 47 percent of the unit prices shown on the shelf labels in some aisle bays in some supermarkets are difficult or impossible for normal sighted consumers to read. The situation would be even worse if the needs of sight deficient consumers were considered.

Consumers are further concerned that the ACCC may be unable to ensure that when compliance with the code becomes compulsory ALL unit prices are sufficiently prominent and legible to encourage high levels of consumer awareness and use.

We also note that Australian retailers have no difficulty ensuring that all information about selling prices, amounts saved, etc is presented very prominently and legibly to consumers, even when located on the bottom and top shelves and on small shelf labels. They can, and should be required to, provide unit price information similarly well presented.

Accordingly, we consider that the Regulations tabled in the House and the Senate on 11 August 2009 should be amended as follows:

Clause 6(2) – In addition to continuing to require that unit prices are prominent and legible, the clause should also set a minimum standard or standards for the size of the print used to display unit prices by prescribed grocery retailers in retail premises. It

should also give the regulator the power to approve the use of print sizes other than the minimum standards, where appropriate but without compromising the prominence and legibility requirements.

Hitherto, we have sought that the minimum print height for unit prices should be the greater of 10mm or 50% of the height of the selling price. This is the standard set in a US state with very effective unit price presentation on shelf labels. We still consider that such a standard for shelf labels is desirable. However, to assist implementation by retailers, we now recommend that the minimum print height should only be the greater of 8mm or 25% of the height of the selling price. This would apply only to shelf and all other in store price signage, including end of and mid-aisle bins and displays. It would not apply to unit prices in printed advertisements or on the internet. It is the standard used in some other US states for shelf labels and would also ensure that when very large print sizes are used to show the selling price on off-shelf price signs that unit price information would also be shown in an appropriately large print height. Thus, it would ensure that all unit prices in supermarkets were easy for consumers to notice and read and would increase the consistency of presentation between retailers. It would also provide retailers with some flexibility in the relationship between the presentation of the selling and the unit price on price labels and signs and make it easier for retailers to know whether they comply with the code, and for regulators to assess compliance.

This is the legislative approach adopted and operated successfully in several states in the US. In these states unit prices are very easy for consumers to notice and read.

Units of measurement

Consumers agree with the RIS's conclusion that standardised units of measure are beneficial but disagree with the decision that 100g and 100mL be the standard units for weight and volume, with exceptions for some products, for example herbs and spices.

The RIS justifies this mainly on the grounds more grocery products are sold at below than above 1kg and 1L the standard units should be 100g and 100mL. It also notes that large units of measure can result in very high prices for some products sold in small quantities e.g. herbs and spices. (Subsequently, the Government has also argued that consumers would be confused if the unit price was higher than the selling price as result of using kg and litre as the standard units.)

Consumers reject the confusion argument, because: there is no evidence to indicate that consumers are confused by the current use (mandatory) of per kg to unit price other products commonly bought in quantities of less than 1kg, for example meat, fish and cheese when sold loose from bulk or in random weight prepacks. (For example, currently consumers have no difficulty making well informed decisions between a 365g package of one type of cheese unit priced at \$11.99 per kg and costing \$4.38 and a 415g package of another type of cheese unit prices at \$16.99 per kg and costing \$7.05) Consumers are already very familiar with per kg as the basic unit of measure for unit pricing and would easily use and prefer kg (or litre) as the units for many other products, for example 350g and 500g packets of cornflakes.

Consumers also consider that expressing unit prices per 100g and 100mL will result in too many unit price levels and differences being only a few cents. Consequently, it will be difficult for many consumers to make price comparisons and erroneously many will

regard small differences in unit prices as unimportant yet often they will represent significant percentage differences. The standard units should be kg and litre and other units should be specified for some products as needed in clause 11, for example herbs and spices should be unit priced per 10g.

We are concerned that 100g and 100mL as standard units of measurement for prices are not familiar to consumers who are used to kg and litre as the way to express product prices. (Indeed, trade measurement legislation requires that when products are sold by measurement, and in random weight prepacks, that these units be used to express price).

Consumers note and welcome the fact that in the regulation tabled in Parliament per kg is the prescribed measurement unit for any meat (including poultry, seafood and smallgoods) and fruit and vegetables. Thus, all forms of these products (frozen, dried, canned etc), not just fresh, must be unit priced per kg. This, together with per kg being the prescribed unit for cheese, will increase greatly the number of products which are unit priced per kg and will greatly facilitate unit price comparison within and between many more products categories.

But., given that many prepackaged products will be unit priced per kg, and the other arguments made above, it is logical and desirable make per kg the standard unit for weight, with exceptions for appropriate products, and per litre the standard unit for volume (with exceptions as appropriate).

Accordingly, we consider that the Regulations tabled in the House and the Senate on 11 August 2009 should be amended as follows:

Clause 8(1) - The standard units of measurement for weight and volume should be kg and litre respectively not 100g and 100m and the table in clause 11 of alternative units of measure for certain grocery categories should be adjusted accordingly.

Clause 11 – If clause 8(1) is amended as indicated above a new list of alternative units of measurement for certain grocery categories should be prepared for the table in clause 11.

Even if 100g and 100mL are retained in clause 8(1) as the standard units of measure, the table in clause 11 should be amended as follows:

- Per kg should also be the standard unit of measure for sugar, rice, pasta, cake and bread mixes, breakfast cereals, butter, margarine and other spreads, cream, yoghurt, powdered milk, and baby formula food.
- Per litre should also be the standard unit of measure for cooking oils, vinegar, liquid stock, and ice cream.

Conclusion

To obtain some of the unit pricing benefits which would have been provided by GROCERYchoice and to ensure that Australian consumers can obtain the major benefits possible from a world class grocery unit pricing system, the changes detailed above should be made to the Trade Practices (Industry Codes – Unit Pricing) Regulations 2009 tabled in the federal Parliament on 11 August 2009 to:

- include a minimum height of print for the display of unit prices in retail premises, and
- require that kg and litre be the standard units of measurement for unit prices related to weight and volume.