

Submission to the review into the Retail Grocery Industry (Unit Pricing) Code of Conduct

Kurt Bryant

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The current Retail Grocery Industry (Unit Pricing) Code¹ (“the Code”) is effective in assisting consumers into making informed buying decisions at applicable retailers. However, one area in which the Code fails to maintain its effectiveness is in relation to bundling/quantity discounts, commonly referred to as multibuy promotions.

The multibuy promotion exemption

Clause 6(3) of the Code exempts retailers from being required to display the unit price for an item where the corresponding selling price refers to multiple products. Clause 7(1)(b) of the Code exempts retailers from being required to display the unit price where the price applies to a bundle of different grocery items offered for sale for a single price. These clauses would seem to exempt the frequently used “Any 2 for \$1” (see Figure 1) or “Buy 1, Get 1 free” type specials (referred to hereon as multibuy promotions) where the “Any 2” could apply to a range of products of differing measurements, and therefore differing unit prices.



Figure 1. Currently, a retailer may not be required to display a unit price in relation to the multibuy promotion.

Should multibuy promotions be exempt from the Code?

It is submitted that the exemptions provided under these clauses should be narrowed to require retailers to display the discount unit price for an item where the selling price refers to a specific item, even if the multibuy promotion may apply to a number of additional items. A retailer should display the promotional unit price applicable to the specific item if the price label refers to that specific item. Given retailers are still required to display a unit price for the original individual price if that price is displayed alongside a multibuy price, it is not an inconvenience to also require the display of the promotional unit price applicable to that specific product.

Prices displayed in a way that refer to multiple products, such as a price label covering the range of products that a multibuy promotion applies to rather than referring to a specific product, should still be exempt from unit pricing under clause 6(3) given a unit price across a range of products is infeasible. Likewise, pricing for a preset bundle of items should remain exempt under clause 7(1)(b) for the reasons suggested in the Discussion Paper.² However,

¹ *Trade Practices (Industry Codes - Unit Pricing) Regulations 2009* (Cth) sch 1.

² 'Review of the Retail Grocery Industry (Unit Pricing) Code of Conduct' (Research Paper, Treasury, Commonwealth of Australia, November 2018) p 12.

price labels advertising a multibuy promotion while referring to a specific product should not be exempt.

Narrowing this exemption would benefit consumers

Narrowing this exemption would benefit consumers by providing greater clarity as to the unit prices for products to which multibuy promotional pricing applies. The exclusion of unit pricing relating to multibuy promotions is one of the few areas where the current Code is ineffective and could lead to poor outcomes for consumers. Not only would narrowing this exemption allow consumers to compare the promotional unit price to that of other products, it would also allow comparison of unit pricing to other products within that multibuy promotion itself or comparison of the multibuy price to the individual price.

Multibuy discounts are frequently used as a promotional tool by retailers to encourage consumers to purchase multiples of an item they may otherwise purchase less of. Any minor administrative cost incurred by retailers in being required to implement a narrowing of the exemptions applying to multibuy promotions is arguably outweighed by the benefits to consumers. Given multibuy promotions could confuse consumers into spending more than they need to, greater price transparency is desirable, and narrowing this exemption would greatly increase the effectiveness of the Code.