



Australian Government
The Treasury

TSY/AU

Review of the Retail Grocery Industry (Unit Pricing) Code of Conduct

DISCUSSION PAPER
November 2018

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Consultation Process

Request for feedback and comments

This consultation process is designed to allow interested parties to provide views on the effectiveness of the Retail Grocery Industry (Unit Pricing) Code of Conduct. The consultation process will run for a period of four weeks. If you would like to make a written submission, please provide it before the closing date.

The earlier that you provide a submission, the more time Treasury has to consider your views. Treasury is particularly interested in hearing from consumers and their advocates, businesses that currently display a unit price and businesses that may be required to display a unit price if the Code was expanded. Stakeholders can access details of the consultation process via the consultations page of the Australian Treasury website — <https://treasury.gov.au/consultation>.

Submissions

Throughout this paper there are questions for stakeholders to consider in their submission. There is no obligation to answer any or all of the questions, and there is no limit to the length of submissions.

Closing date for submissions: 18 December 2018

For accessibility reasons, please provide responses in a Word or RTF format. An additional PDF version may also be submitted. Please email or mail submissions using the following details:

Email	UnitPricingReview@TREASURY.GOV.AU
Mail	Unit Pricing Code Consultation Paper Consumer and Corporations Policy Division The Treasury Langton Crescent PARKES ACT 2600
Enquiries	UnitPricingReview@TREASURY.GOV.AU
Phone	02 6263 2111

All information (including name and address details) contained in submissions will be made available to the public on the Treasury website, unless it is indicated that you would like all or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submissions to remain confidential should provide this information marked as such in a separate document.

A request made under the Freedom of Information Act 1982 (Commonwealth) for a submission marked 'confidential' to be made available will be determined in accordance with that Act.

Brief feedback and informal comments

Brief feedback can be provided through the informal comment facility on Treasury's Consultation Hub, which can be accessed at <https://treasury.gov.au/consultation>.

Stakeholder Meetings

Treasury will conduct targeted meetings with key stakeholders to discuss the matters outlined in this paper. Key stakeholders will be contacted directly to arrange meeting times.

If you would like further information on stakeholders meetings, please contact Ian Lawrence on 02 6263 3759 or UnitPricingReview@TREASURY.GOV.AU.

Executive Summary

The *Retail Grocery Industry (Unit Pricing) Code of Conduct* (the Code) is a mandatory industry code of conduct prescribed under the *Competition and Consumer Act 2010* (CCA).

Unit pricing is a comparison tool of convenience for consumers, allowing shoppers to make accurate and timely price comparisons between different brands and sizes based on weight, volume or unit.

The Code requires certain grocery retailers to use unit pricing when selling particular grocery items to consumers.

The Code was introduced on 1 July 2009 and is scheduled to sunset on 1 October 2019, unless legislative action is taken to continue its operation.

The Australian Competition and Consumer Commission (ACCC), the regulator responsible for compliance and enforcement of the Unit Pricing Code, reports that there have been relatively few and decreasing complaints related to unit pricing. The small number of complaints the ACCC has received which allege non-compliance appear to be minor errors on the part of retailers, rather than a disregard for the law.

A Post-Implementation Review undertaken in 2012 found that the Code had been effective and efficient in meeting its objectives over the post-implementation period; it was likely to do so into the future; and that it continued to remain an appropriate response to achieve the objective of supporting Australian households to save time and money and increasing price competition in the grocery market.

The Government will assess the effectiveness of the Code through the consultation process and, if appropriate, remake the Code before its scheduled sunset date.

1. Purpose

The Code provides meaningful information for consumers to support their purchasing decisions, particularly given that purchase prices alone do not expressly convey to a consumer the value for money for any given product. The objective of this discussion paper is to obtain feedback from stakeholders on the proposal to continue the existing unit pricing Code contained with the *Competition and Consumer Act 2010* rather than allow it to sunset in 2019.

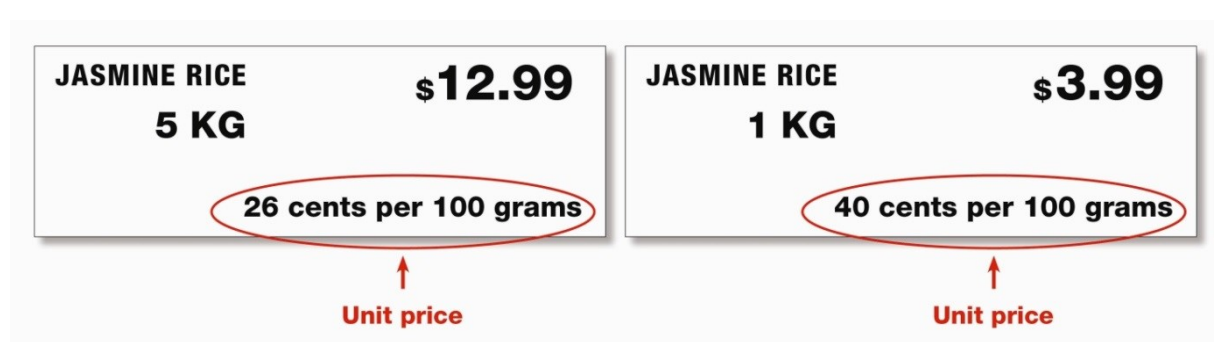
This discussion paper is also seeking views from stakeholders on whether, and how, the Code should be improved.

2. Background

2.1 Unit Pricing Code

The *Report of the Australian Competition and Consumer Commission (ACCC) inquiry into the competitiveness of retail prices for standard groceries 2008* recommended the introduction of a mandatory, nationally consistent unit pricing scheme.

Unit pricing involves displaying the price of grocery items using standard units of measurement, such as the example below showing prices for two different-sized packages of rice.



The Trade Practices (Industry Codes – Unit Pricing) Regulations 2009 came into effect on 1 July 2009 with the substantive provisions commencing on 1 December 2009. The mandatory, nationally consistent unit pricing scheme was introduced to support Australian households to save time and money and to increase price competition in the grocery market.

The Unit Pricing Code makes the display of a unit price mandatory for:

- Store-based grocery retailers who sell the minimum range of food-based grocery items, have floor space greater than 1000 square metres dedicated to the display of grocery items, and have retail premises used primarily for the sale of food-based grocery items.
- Online retailers who sell a minimum range of food-based grocery items online.
- Participating grocery retailers who sell the minimum range of food-based groceries and voluntarily “opt-in” to unit pricing by introducing in-store unit pricing for one or more grocery items that would be required to have unit-prices applied under the Code.

Grocery retailers covered by the Code must display unit prices for all non-exempt grocery items where selling prices are displayed on in-store labels, print advertising and websites. Unit prices must be displayed in dollars and whole cents. The unit price for a grocery item must also be:

- prominent;
- in close proximity to the selling price for the grocery item;
- legible; and
- unambiguous.

2.2 Post-Implementation Review

A Post-Implementation Review of the Code was completed by the Treasury in October 2012. A key element of this review was an analysis of the costs and benefits of the Code from 1 January 2010 to 1 July 2012 (the post-implementation period). Key stakeholders affected by the Code, including grocery retailers and consumers, were engaged in the review.

2.3 Sunsetting

The Unit Pricing Code was introduced on 1 July 2009 and is scheduled to sunset on 1 October 2019, unless legislative action is taken to continue its operation. The Unit Pricing Code needs to be reviewed to identify what policy changes, if any, are required before it is remade.

The sunsetting regime is set out in Part 4 of Chapter 3 of the *Legislation Act 2003*. This provides for an instrument to sunset 10 years after its registration.

The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed on or after the tenth anniversary of registration. Legislative instruments generally cease to have effect after a specific date unless further legislative action is taken to extend their operation, such as remaking the instrument.

Both the *Legislation Act 2003* and the Government's best practice regulation requirements seek to ensure that suitable review mechanisms exist so that legislative instruments remain fit-for-purpose, necessary and relevant.

3. Issues for discussion

3.1 Effectiveness of the code

The 2012 Post-Implementation Review indicated that consumers have benefited significantly from the introduction of the Code as it had been effective and efficient in assisting consumers in making informed choices regarding their grocery needs.

In particular, the 2012 review highlighted that the Code had assisted consumers in saving time and money by creating an environment where they were able to compare prices across brands, sizes and between grocery retailers. Additionally, it noted that the total costs of implementation reported by the major retailers (i.e. Coles, Woolworths, ALDI and Metcash) amounted to no more than \$27 million while ongoing costs had been smaller in comparison.¹

Analysis undertaken for the Post-Implementation Review using conservative estimates of the number of households benefiting from unit pricing and the annual costs of the Code, suggested that households that actively use unit prices would only need to benefit by 32 cents per week, on an average weekly grocery bill of \$176, for the benefits to outweigh its costs. The 2012 review did note, however, that benefits are difficult to quantify and different households are likely to benefit differently and in ways that cannot be easily monetised.

The review concluded that, given that the majority of costs associated with the Code related to its implementation, ongoing compliance costs were expected to be low.

The 2012 review noted that while it may be possible to enhance the Code's ability to achieve the objective of supporting consumers and increasing price competition in the grocery market, it would not necessarily be possible to do so efficiently. For example, limiting the scope of the Code had assisted in reducing the compliance costs associated with its introduction.

Drawing upon the conclusions of the Post-Implementation Review in addition to the relatively low levels of complaints received by the ACCC, there is reasonable evidence to suggest that the Code is assisting consumers in informing their purchasing choices. This paper seeks views on whether the regime is continuing to be effective and benefiting consumers and the potential for alternative consumer impacts if the Code was not re-made after it sunsets in October 2019.

- 1. Has the Code helped consumers make informed decisions when purchasing grocery items and improved price competition? How so?**
- 2. If the Code is not remade, what implications would this have on the application of unit pricing in Australia?**
- 3. What are the typical ongoing compliance costs for retailers to maintain unit pricing?**

¹ While there were some costs for some businesses in order to implement the unit pricing requirements, some grocery retailers had already implemented, or were in the process of implementing unit pricing schemes prior to its formal introduction. The mandatory scheme ensured that unit pricing had been implemented consistently and created a mechanism for that consistency to be enforced.

3.2 Contemporary issues

Structure of the market

In 2012, the Australian retail market was highly competitive, however, Coles and Woolworths maintained a fairly substantial share of the market with the chains each accounting for approximately 31 and 40 per cent of the grocery market.

Several of these retailers had already implemented a unit pricing scheme or had planned to implement such a scheme when the Code was introduced.² For example:

- In November 2007 ALDI introduced unit pricing into its Australian stores. ALDI's unit pricing model provided prices for units of 100mL or 100g, however there was flexibility to use a different unit of measure when appropriate;
- Woolworths and Coles indicated in their evidence to the ACCC's 2008 inquiry that they intended to introduce unit pricing and that both would prefer a mandatory Government scheme; and
- On 3 November 2008, Woolworths announced it would apply unit pricing across all of its stores. Woolworths stores in New Zealand had displayed unit pricing for several years prior to this.

Table 1 shows that the structure of the grocery market remains similar to that which existed at the time of the 2012 Post-Implementation Review. Aldi has become increasingly prominent and the recent *Independent Review of the Food and Grocery Code* notes increasing price competition in the industry and cites Aldi as a major source of competitive pressure.³

Table 1 – Grocery retailers by market share

Major Company	2012 Estimated Market share	2018 Estimated Market Share
Coles	31 per cent	30 per cent
Woolworths	40 per cent	38 per cent
Independent Grocers of Australia (Metcash Trading Limited)	7 per cent	7 per cent
Aldi	4 per cent	10 per cent
Total	82 per cent	85 per cent

Sources: IBISWorld Industry Report G5111, June 2012; IBISWorld Industry Report G4111, October 2018.

Outside of these major grocery retailers are brands such as Costco (Costco Wholesale Australia Limited) and Foodworks (the largest Australian United Retailers Limited brand) whose stores may be subject to the Code if they are over 1000 square meters. Non-supermarket food retailers such as butchers, fruit shops, and convenience stores do not typically meet the Code's criteria for having to display unit prices.

² *Unit Pricing – Regulation Impact Statement*, OBPR Reference number: 9806, p. 5

³ *Independent Review of the Food and Grocery Code, Final Report*, September 2018, pp. 10-11.

Changes in the structure of the market may need to be addressed through adjustments to the Code. An example would be if new online grocery retailers entered the market, but were not subject to the Code because they did not sell all of the items in the minimum range of food-based grocery items list.

Treasury is not aware of evidence that online grocery retailing is affecting the scope of the Code's application. The market shares of major grocery retailers remain comparable with prior years and all of those retailers have increased their number of physical stores since the 2008 Regulation Impact Statement (RIS) for the Code was prepared: Woolworths (RIS: 780 stores - now 955 stores⁴); Coles (RIS: 750 stores – now 801 stores⁵); IGA (1335 stores – now 1,400 stores⁶); and Aldi (RIS: 170 stores – now over 500 stores⁷). Where stores have a physical presence but also sell through their website (such as Woolworths and Coles) they are also required to display unit prices online.

As this data suggests that the market structure is similar to that which existed in 2012, Treasury is seeking any additional evidence to indicate that changes to the Code are required to ensure that it is fit for purpose in the evolving market and operating as intended.

Online sales

As noted above, the Code was intended to apply primarily to store-based retailers, however, it also applies to online retailers who sell the minimum range of grocery items. The 2008 Unit Pricing RIS highlighted that online sales were included in the regime as it was considered that compliance costs for online retailers would not be significant in comparison to store-based retailers.

For example, online retailers do not face the costs of physical changes associated with the display of unit pricing; any change would be limited to the costs of altering existing webpages.

Recent IBISWorld data suggests the major grocery retailers have, over the past five years, invested heavily in online grocery platforms, which has boosted demand for their products.⁸ While the structure of the physical retail grocery market has remained largely the same since 2008, the online grocery industry has grown at an annual rate of 12.3 per cent since 2014 and this trend is expected to continue at similar levels into the future. The market is also seeing the expansion of innovative services and delivery options, including the introduction of new providers offering pre-prepared meal kits.⁹

Given the significant growth of the online grocery market, this discussion paper seeks feedback as to whether the current application of the Code to online sales is still appropriate.

(The following questions apply to both physical and online-based grocery retailers)

- 4. Have there been any changes in the structure of the market influencing the effectiveness of the Code?**
- 5. Are there any refinements that could be made to ensure ongoing efficiency and effectiveness of the Code, while also improving outcomes for consumers?**

⁴ <https://www.woolworthsgroup.com.au/page/about-us/our-brands/supermarkets/Woolworths>

⁵ <https://www.wesfarmers.com.au/our-businesses/coles>

⁶ <https://www.metcash.com/our-businesses/food/>

⁷ <https://www.aldicareers.com.au/About-ALDI>

⁸ IBISWorld Industry Report OD552, October 2018, p. 4, 19.

⁹ IBISWorld Industry Report OD552, October 2018, p. 8.

Display requirements

The display of unit prices for grocery items must be:

- prominent;
- in close proximity to the selling price for the grocery item;
- legible; and
- unambiguous.

These display requirements reflect a conclusion reached in the 2008 Unit Pricing RIS that a principles-based approach was preferable to prescriptive font size requirements. Factors considered in the RIS included that:

- a larger-sized unit price may be more obvious to consumers, but should not be so large that it can be mistaken for the selling price (e.g. where a unit price is per litre and the item was 950ml)
- the marginal consumer benefits of requiring a 5mm or 10mm font size unit price are likely to be small if retailers chose a smaller font size (e.g. 3mm) unit price;
- prescribing a minimum size requirement for shelf price displays may necessitate changes to shelf labels or the edges of shelves. This was identified by retailers as a major driver of compliance costs that may be passed on to consumers in higher prices;
- it is most likely that retailers will provide clear unit prices, if for no other reason than to ensure consumers are not annoyed by that retailer's system; and
- if experience indicates that unit prices are displayed in an unusable manner, the regulation could be amended in future.

One of the key requirements is that unit prices should be displayed 'prominently'. The term prominent is not defined, so takes its ordinary meaning – for example, *standing out so as to be easily seen*.¹⁰ Alternative approaches might include developing additional guidance or including more prescriptive standards in the Code. The latter approach would also need to consider how those requirements would apply to the different circumstance in which consumers access unit prices (e.g. both in-store and via screen-based technologies such as mobile phones and tablets).

In 2010, the ACCC conducted a survey of unit pricing practices. There was a high level of compliance for the 4 display requirements of the Code. The ACCC has also advised that there have been few complaints or reports about non-compliance with the Code.

6. Is the current principles-based approach still appropriate for displaying unit prices?

(In responding to this question you might wish to:

- highlight any evidence that another approach or different factors would lead to greater consumer recognition of unit prices;
- comment on whether businesses have sufficient information, either in the law or guidance from the regulator, to clarify existing requirements going to prominence.)

¹⁰ <https://www.macquariedictionary.com.au>.

Alternate units of measurement

The Code currently also provides a list of alternative units of measurement which must be used for certain grocery items. The alternative units apply in situations where existing (state and territory) trade measurement legislation at the time of implementation already required a different unit of measurement. For example, packaged meat, fruit and vegetables would continue to be unit priced 'per kilogram'. These requirements were subsequently incorporated into the *National Trade Measurement Regulations 2009* (see Appendix B).

The Code also specifies alternative units of measurement where the unit price resulting from the standard measurements would be very small or very large. For example, herbs and spices are to be unit priced 'per 10g', and items sold by count in numbers over 40 are to be unit priced 'per 100 items'. The list of alternative units also clarifies situations where the relevant unit of measurement may be uncertain. For example, eggs will be unit priced 'per 100g' rather than 'per egg'.

However, this may create situations where similar products use different units of measurement. For example, CHOICE has cited that there have been circumstances where the cost of loose lemons and a five-pack of lemons were not possible to compare because one was priced per kilogram whereas the other was priced per item.

7. Should there be any changes to alternative units of measurement? Why or why not?

(In responding to this question you may wish to consider:

- any changes in industry practices and procedures that should now be included in the Code;
- whether alternative units create consumer confusion in particular instances.

If possible, please include relevant examples.)

Application of the Code to smaller grocery retailers (under 1000 square metres)

The 2008 Unit Pricing RIS concluded that unit pricing should be limited to larger supermarkets rather than specialist retailers or small supermarkets.

In forming this conclusion, the RIS suggested that compliance costs for smaller businesses of implementing unit pricing were likely to be higher than larger businesses. Small business costs were identified to include new systems to replace older, more inflexible software that did not allow for unit pricing or hand-labelling practices (i.e. attaching price stickers to products).

In addition, the RIS commented that the overall benefits to consumers from unit pricing in smaller businesses were less as these businesses were likely to specialise in a small range of items (e.g. health food, meat or fruit and vegetables) and consumers purchased a small range of items or spent a smaller proportion of their household budgets at these stores.

It should also be noted that smaller grocery suppliers are subject to the Code's requirements if they choose to (voluntarily) display unit prices for grocery items in their stores.

8. Should smaller retailers (under 1,000 square metres) be required to comply with the code?

(In responding to this question you may wish to consider:

- any upfront and ongoing costs small businesses might reasonably be expected to incur;
- whether another floor size threshold would be more appropriate;
- whether any small grocery suppliers already display unit prices and why).

3.3 Exemptions to the Code

In its current form, the Code only applies if a retailer meets the minimum floor space requirements of 1,000 square metres and if it sells a minimum range of grocery items (see Appendix C), or sell their products online.

The minimum range of grocery items and the items exemptions

In addition to the minimum floor size requirement, the Code only applies to a retailer that sells a minimum range of grocery items.¹¹ These products are:

- | | |
|---------------------------------|--|
| (a) bread; | g) fresh milk; |
| (b) breakfast cereal; | (h) meat; |
| (c) butter; | (i) rice; |
| (d) eggs; | (j) sugar; and |
| (e) flour; | (k) packaged food, other than food mentioned in paragraphs (a) to (j). |
| (f) fresh fruit and vegetables; | |

The Code specifies this minimum range of goods because they are items typically sold at a retail grocery site. This also conforms with the Grocery Inquiry which describes grocery items to be those that are typically non-durable, purchased frequently and are not consumed at a retail site (for example, bread and meat). The RIS considered that including this minimum range of goods would ensure maximum benefits to consumers for grocery items where unit pricing would be practical and useful to consumers.

There are also a number of categories which are excluded from the Code on the basis that requiring them to display unit pricing would not be practical and would not provide any additional or relevant information to consumers.¹² Additionally, many supermarkets now sell many non-traditional items, in competition with non-grocery retailers.¹³ As a result, it was considered unfair to require supermarkets to adhere to the Code when their competitors for these non-traditional items would not have been required to.

This paper seeks feedback on whether the current minimum range of grocery items required for the Code to apply and the existing exemptions are still appropriate.

¹¹ *Retail Grocery Industry (Unit Pricing) Code of Conduct*, schedule 1 item 3(2); while the Code does not explicitly define a grocery retailer, the retailers caught by the Code are all defined by reference to a 'minimum range of food based grocery items'. In effect, a retailer that sells that minimum range is a grocery retailer.

¹² See Appendix C; For example, these are goods that are not generally sold by measure or number, such as books, CDs or clothing.

¹³ For example, alcohol and tobacco are excluded from the Code as they have a fundamentally different competitive dynamic than standard grocery goods (these goods were also excluded from the Code in line with the Government's health policy objectives).

9. Is the minimum range of goods that must be sold in order for the Code to apply still fit for purpose?

10. Is the list of items currently exempt from the Code still appropriate?

(In responding to this question you may wish to:

- identify any exempt grocery items that would benefit from the application of unit pricing or any likely adverse consequences from applying the Code to items that are currently exempt;
- provide examples of circumstances where grocery retailers voluntarily display unit prices for exempt items;
- provide advice about potential compliance costs for businesses if the Code was amended to remove or add to the list of exemptions.)

Grocery items exempt in certain circumstances

In addition to the list exempt of grocery items, retailers are not required to displaying a unit price for certain grocery items that have been marked down in price or bundled.

Certain 'specials'

A unit price does not need to be displayed for a grocery item that has been marked down from its usual selling price if:

- the item or its packaging is damaged;
- it is a perishable item that may deteriorate if not used by a particular date; or
- it is an item which the retailer does not intend to restock (i.e. a 'discontinued item').

These circumstances are differentiated from instances where items are simply on special.

The 2018 Unit Pricing RIS noted that, unlike regular 'specials', such marked down goods are not directly comparable to goods of the same type in their normal form (e.g. undamaged or not near its use-by date). As such, the unit price was noted to be less relevant to consumers. The RIS also noted that there may also be significant compliance costs of providing a unit price as most products sold in these circumstances would be of a small quantity and may often be hand-marked with the new price, over a short period of time.

Mixed bundles

Bundles of grocery items are also exempt from having to display a unit price if the bundle consists of different grocery items collectively offered for sale at a single price. An example of such a bundle is a soup kit consisting of carrots, potatoes, onions, split peas and stock.

The rationale for this exemption in the 2018 Unit Pricing RIS was that the unit price for mixed bundles would not be easily comparable to the unit prices of the individual products that make up that bundle.

The RIS also noted that unit pricing can only be applied easily to products for which the price can be divided into a single unit of measure. For this reason, the exemption for bundled grocery items does not extend to bundles of the same grocery item (e.g. six 500ml water bottles packaged together). Retailers are required to display a unit price for these items.

4. Enforcement and Compliance

In the case of a breach of the Code, a number of sanctions and orders are available including injunctive relief, orders for corrective advertising and notices, community service orders and declarations made by the Federal Court that a trader had engaged in conduct in contravention of the *Competition and Consumer Act 2010* (CCA).

The ACCC has responsibilities for enforcing the CCA and may also accept administrative undertakings from retailers to address conduct that has raised concern about their compliance with the Code.

The ACCC has advised that it receives a relatively small number of contacts about unit pricing and the number of unit pricing contacts has been declining over time, from 50 contacts in 2013–14 to 11 contacts in 2017–18. Contacts included complaints about how unit pricing is displayed, concerns about retailers not displaying unit prices and general inquiries about the Code.

To date the ACCC has not taken any unit pricing related matters to the Federal Court and is not aware of any private litigation. The ACCC advised that it has addressed claims of potential non-compliance by grocery retailers administratively rather than through court proceedings. When contacted by the ACCC, retailers, when appropriate, have made adjustments to their practices to address potential concerns.

The following is a breakdown of the unit pricing contacts received in the last five years.

Period	Unit pricing contacts
1 July 2013 – 30 June 2014	50
1 July 2014 – 30 June 2015	35
1 July 2015 – 30 June 2016	30
1 July 2016 – 30 June 2017	21
1 July 2017– 30 June 2018	11
1 July 2018 – 31 October 2018	2

In 2010, the ACCC conducted a survey of 383 supermarkets and 17 online grocery retailers and found a 98 per cent level of compliance with the Unit pricing Code by major supermarkets and a 35 per cent compliance level by online traders. The findings of this survey were raised directly with traders.

- 11. Do you have any evidence of non-compliance with the Code that has not been raised with or addressed by the ACCC?**
- 12. What sort of complaints, if any, do retailers receive from consumers about unit pricing?**
- 13. What changes to the regulatory regime, if any, may be required to ensure compliance with the Code?**

Appendix A: Definitions in the current Code

Floor space	In relation to retail premises, means the continuous internal floor area of the premises, but does not include any floor space provided for the consumption of food-based grocery items at the premises.
Food-based grocery item	An item that: <ul style="list-style-type: none"> (a) is intended for human consumption by the manufacturer or producer of the item; and (b) is sold for human consumption by a prescribed grocery retailer to a consumer; and (c) is not meant for consumption at the retail premises at which it is sold to the consumer.
Grocery category	A category of product to which grocery items belong. Examples <ol style="list-style-type: none"> 1 Meat is a grocery category, but a packet of sausages is a grocery item. 2 Fresh fruit and vegetables are a grocery category, but a pre-packaged bag of potatoes is a grocery item.
Grocery item	Any item sold by a prescribed grocery retailer, including a food-based grocery item.
Online grocery retailer	A person that sells, on a website, the minimum range of food-based grocery items to consumers.
Participating grocery retailer	A person (other than a stored-based grocery retailer or an online grocery retailer) that: <ul style="list-style-type: none"> (a) sells the minimum range of food-based grocery items to consumers; and (b) voluntarily displays a unit price (other than in an advertisement of a kind mentioned in clause 9) for 1 or more grocery items sold by the person (other than exempt grocery items under clause 7); and (c) is not required to display the unit price for the grocery item under a law of the Commonwealth, or a law of a State or Territory.
Retail premises	Premises in which grocery items are displayed for retail sale to consumers.
Sell	Includes offer for sale.
Selling price	In relation to a grocery item, means the final price (including GST) at which the grocery item is sold by a prescribed grocery retailer to a consumer.

Store-based grocery retailer	<p>A person that sells the minimum range of food-based grocery items to consumers in retail premises:</p> <ul style="list-style-type: none">(a) that have more than 1,000 square metres of floor space dedicated to the display of grocery items; and(b) that are used primarily for the sale of food-based grocery items.
Unit price	<p>The price (including GST) for a grocery item per unit of measurement.</p>

Appendix B - National Trade Measurement Regulations 2009

In addition to the Code, the *National Trade Measurement Regulations 2009* require that unit prices (price per kilogram) should be displayed for certain packaged products.

4.26 Unit price marking—retail sales of particular foods by mass

(1) This regulation applies to the following packaged products:

- (a) fruit, including fruit pieces but not including whole fruit that is priced according to number;
- (b) dried or dehydrated fruit;
- (c) dried or dehydrated mixed fruit;
- (d) vegetables, including vegetable pieces but not including whole vegetables that are priced according to number;
- (e) mushrooms;
- (f) cheese or cheese products;
- (g) dressed poultry that is not marked in terms of minimum mass in accordance with regulation 4.16;
- (h) fish, including crustaceans;
- (i) meat;
- (j) smallgoods, including bacon, corned beef and ham.

(2) If the product is sold, the package containing the product must, in addition to being marked with the measurement of the product, be marked with its total price and price per kilogram.

(3) However, subregulation (2) does not apply if, for the sale:

- (a) the package is exposed in or on a receptacle on which or immediately adjacent to which the total price and price per kilogram of the product is displayed:
 - (i) in characters at least 10 mm high; and
 - (ii) where that price can be readily seen and easily read; or
- (b) the package is exposed in a display of packages each of which marked:
 - (i) as containing the same product; and
 - (ii) with the same measurement of the product.

Example of display of packages mentioned in paragraph (b): A display of packages each marked as containing a particular kind of cheese and marked with a measurement of 250 g.

(4) The marking on a package required by this regulation must be made as if it were a measurement marking.

(5) This regulation does not apply to a prepackaged product if:

- (a) it is sold for resale; or
- (b) the package containing the product is a rigid container.

Appendix C: Exemptions from the Unit Pricing Code

Item 10 of Schedule 1 to the *Trade Practices (Industry Codes—Unit Pricing) Regulations 2009* lists grocery categories for which retailers are not required to display unit prices.

The following grocery items are exempt from the requirements of the Code:

- a) books, magazines and stationery;
- b) optical discs and magnetic storage devices used for computing, sound reproduction or video, whether or not they are pre-loaded with content;
- c) photography items and equipment;
- d) electrical items (other than batteries and light bulbs);
- e) garden tools, and items for garden or pool maintenance or decoration;
- f) flowers, including fresh, dried and imitation flowers;
- g) Furniture;
- h) hardware items;
- i) manchester;
- j) computer equipment;
- k) audio-visual equipment;
- l) telecommunications items or equipment;
- m) items for motor vehicle maintenance or repair;
- n) sports and camping equipment;
- o) toys;
- p) household appliances and kitchen and bathroom utensils;
- q) clothing, jewellery and other fashion items (other than make-up);
- r) services, and goods supplied as part of providing a service, including mobile phone recharges;
- s) goods for hire;
- t) cigarettes and other tobacco products, including nicotine replacement products;
- u) alcoholic beverages;
- v) Haberdashery;
- w) items sold from vending machines; and
- x) meals prepared at the retail premises for immediate consumption.