



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

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Financial Counselling Australia (FCA) is the peak
body for financial counsellors in Australia.

info@financialcounsellingaustralia.org.au | www.financialcounsellingaustralia.org.au

Level 6, 179 Queen Street
Melbourne Vic 3000

PO Box 3482
South Brisbane BC
Q 4101

p: 03 8554 6979
tw: @FCAupdate

submission contact



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About this Submission

Our submission responds to the Review of Retail Grocery Industry (Unit Pricing) Code of Conduct (the Code).

We also support the submission to the Review, including all recommendations, by the Queensland Consumers Association (QCA).

About Financial Counselling Australia (FCA)

FCA is the peak body for financial counsellors in Australia. We support financial counsellors and provide a voice on national issues. We advocate on behalf of the clients of financial counsellors for a fairer marketplace that will prevent financial problems in the first place.

What Financial Counsellors Do

Financial counsellors assist low-income and vulnerable Australians who have financial problems. These problems are often related to unemployment, illness or relationship breakdown or difficulty in making ends meet due to factors such as mental health issues or living on a low Centrelink income.

A number of financial counsellors also work predominantly with Aboriginal and Torres Strait Islander communities, including in remote and regional areas.

Community-based financial counselling is a free, independent and confidential service. Financial counsellors have knowledge of a range of areas of law and policy, including consumer credit law, debt enforcement practices, the bankruptcy regime, industry hardship policies and government concession frameworks. Financial counsellors are required to hold (or to obtain) a Diploma in Financial Counselling.

Financial counsellors also document their experiences and highlight issues that have a negative impact on their clients. Either individually, or through FCA, they consult with industry, government and other stakeholders and encourage practices that prevent financial and consumer problems.

Overview

FCA welcomes the opportunity to respond to this review of the Code. In the nearly 10 years since the Code was introduced, unit pricing has been a great asset for many people, particularly those on low incomes, including families and pensioners.

The implementation of compulsory unit pricing in larger grocery stores has created a shopping environment in which people are better able to compare prices and make informed product choices. Unit pricing means people are less susceptible to conduct that results in them paying more than necessary for particular grocery items.

Research by Choice shows that consumers that use unit pricing to guide their spending can save up to \$1,600 annually¹.

¹ See <https://www.choice.com.au/about-us/media-releases/2018/march/unit-pricing>

FCA supports the continuation of compulsory unit pricing. At the same time, we recognise inherent flaws in the existing Code, which should be substantially reformed in its next incarnation. The main recommendations are outlined in the following sections.

Recommendations

1. **The Code should continue to apply to those grocery retailers currently mandated by the Code as well as being made compulsory for those who comply voluntarily.**

Unit pricing offers the means to compare product prices and, in doing so, enhances competition. It also means people are less likely to be misled or deceived by pricing designed to encourage higher spending. Retailers that offer adequate unit pricing empower people to exercise greater control over their spending. The ability to make informed decisions around expenditure permits greater savings through reduced expenditure on grocery items. A study by Choice shows that consumers who use unit pricing as their main determinant for purchases save, on average, 20% per shop². For individuals and families on low incomes or those who struggle with extra expenses (medication and school expenses, for example), \$20 saved from an otherwise \$100 shop is substantial – particularly over extended periods of time. This is one reason why this review is important to our work – the people that financial counsellors assist are often experiencing significant financial hardship and any money they can save when shopping in a supermarket will add up.

Reports on unit pricing also emphasise that it helps people reduce time spent shopping³. This is a key benefit for those who are time poor.

Owing to these benefits, unit pricing is widely used by people nationwide. A national survey⁴ conducted by Choice and QCA revealed that 80% of respondents (of a random sample of 1044) said they used unit pricing and 72% of respondents found it to be 'very helpful'.

Case studies from other countries where unit pricing has been introduced indicate that retailers are reluctant to provide unit pricing where implementation is voluntary. Mandatory unit pricing is therefore necessary to ensure widespread use.

2. **The Code's mandate should be extended to include more retailers that sell groceries as well as some non-grocery retailers that sell products in fixed measure packages, such as hardware stores and chemists.**

In its current form, the Code makes unit pricing compulsory for retailers that stock 11 types of specified grocery items and have a minimum floor area of more than 1,000 square metres (the exception being online stores). It is therefore rare that retailers that do not meet these requirements provide unit pricing. This is problematic as there are large numbers of grocery and non-grocery stores where consumers are unable to make effective value comparisons of fixed measure package products e.g. beauty products and many packaged products at stationery stores, hardware stores and pharmacies.

The current requirements of the Code are also problematic in that the floor area of retailers in many rural and remote communities is considerably smaller than 1,000 square metres. By this measure, access to unit pricing is limited as the application is largely voluntary. This disadvantages consumers in these locations, including Aboriginal and Torres Strait Islander communities.

² See <https://www.choice.com.au/grocery-unit-prices>

³ See <http://consumersfederation.org.au/wp-content/uploads/2011/12/UP-Survey-Report-FINAL.pdf>

⁴ See <http://consumersfederation.org.au/wp-content/uploads/2011/12/UP-Survey-Report-FINAL.pdf>

The Code should be extended to include fixed measure packaged products at all retailers and revision of the stipulation that the Code only be compulsory for stores with a floor area of 1,000 sqm. These changes are necessary to ensure the benefits of unit pricing are spread fairly and more evenly.

3. The requirements around prominence and legibility entailed in the Code should be clearly defined to promote greater understanding and access, including for persons with a disability.

Although the Code requires unit pricing information to be prominent and legible, neither term is defined. This means that retailers have interpreted the requirements in inconsistent and inadequate ways so that the full benefits of unit pricing are not being realised.

According to research by Choice, among the chief criticisms of unit pricing in grocery retailers concern that of legibility, with 67% of respondents surveyed highlighting problems around font size and 64% emphasising issues including obscured provision and inconsistent units of measure. A further study, conducted in 2014 by QCA, assessed the quality of unit pricing in 25 independent supermarkets in Queensland, NSW, Victoria, and South Australia. Examples of insufficiently legible or prominent unit prices were present in each store⁵.

The prevalence of such cases means that even where present, unit prices are often too difficult for the average person to read or understand. This issue is even more pronounced for consumers with sight, mobility or intellectual disabilities.

Clear guidelines need to be established and defined to ensure that all unit prices displayed are prominent and legible.

4. The Code should be regularly and proactively monitored and enforced by an external regulator that regularly consults with consumer organisations and industry to ensure unit pricing legislation remains current and effective.

The lack of an effective monitoring and enforcement apparatus around the Code has proven a major impediment to its success. Proactive monitoring and enforcement is vital to ensure that the Code is properly applied where it is compulsory to do so.

For the reasons outlined in the QCA submission, the National Measurement Institute is well positioned to take on that role, under the auspices of the ACCC. FCA also recommends that the ACCC should be authorised to impose administrative penalties for breaches of the Code to deter non-compliance.

As a further measure of accountability, the results of monitoring and enforcement activities should be publicly reported and readily accessible to all consumers, including persons who are vision impaired and those for whom English is not their first language.

The regulator should also be required to convene regular meetings (annually, at least) with consumer representatives (organisations and individuals) and industry. These meetings should provide a forum to review the impact and operation of the Code to ameliorate issues as they arise.

5. Public funding should be dedicated toward better educating consumers about unit pricing and changes to unit pricing legislation.

Proper understanding of unit pricing remains limited among consumers. This can be attributed, at least in part, to the fact that there has been little consumer education around unit pricing since the Code was introduced in 2009.

⁵ See <http://consumersfederation.org.au/inadequate-supermarket-unit-pricing-increases-cost-of-living-pressures/>

In order to take full advantage of unit pricing, people must be equipped with a proper understanding of how unit pricing works, its benefits and the changes to the Code as they arise. Their ability to do so requires a government-funded education framework dedicated to providing that information.

To ensure that all people have equal access to this information, it is imperative that resources are designed so that they may be accessed by the vision impaired and those for whom English is not their first language.

6. A new or continued version of the Code should be reviewed every three years at least.

The consumer landscape has altered considerably during these past 10 years. Many of these changes happened quickly and in ways that could not be predicted – particularly in light of the growing number of internet sales. Such rapid change will continue into the future.

If unit pricing legislation is to accommodate these shifts it must be reflexive. This requires regular periods of review, at a minimum, every three years. This review is further necessary to take into account recommendations by the regulator as they arise.

Final Comments

FCA reaffirms the need for an updated version of the Code, one that accommodates the recommendations above.

There has been speculation that widespread implementation of compulsory unit pricing may negatively affect some businesses by deterring people from buying certain products. This submission has highlighted that unit pricing is an important tool for people on low incomes. It is not, however, the sole metric used by people when weighing up what they should buy. Other sources of information — such as quality, reputation, quantity required, country of origin, ingredients and environmental impact — are also known determinants, so the lower unit price item is not always the one preferred.

Owing to these considerations, it is unlikely that the reforms suggested in this submission would affect industry in the ways flagged by critics. The effective provision of unit pricing has, in some instances, even benefited retailers by promoting trust in their services.

Most importantly though, proper implementation of reforms would yield substantial benefits for people on low incomes, families and disadvantaged groups including pensioners, people with a disability and those living in regional and remote communities. If the Code is discontinued these same people would be disproportionately harmed.

For these reasons, a refined version of the Code should be regarded a necessary asset for all consumers – but foremost, those from vulnerable groups.