



Master Grocers Australia Ltd

Trading as:

**MGA Independent Retailers & Timber Merchants
Australia**

Submission in Response to the Review of the Retail
Grocery Industry (Unit Pricing) Code of Conduct
Discussion Paper of November 2018

28 February 2019

Review of the Retail Grocery Industry (Unit Pricing) Code of Conduct Discussion Paper – November 2018

About Master Grocers Australia - trading as MGA Independent Retailers & Timber Merchants Australia

MGA is a National Employer Industry Association that is registered with the Fair Work Commission, representing family enterprises and private businesses which own and operate supermarkets, packaged liquor stores, hardware businesses and service providers in all States and Territories. MGA's 2,800 members trade under brand names such as; Farmer Jacks Foodland, FoodWorks, Friendly Grocers, IGA, SPAR, Supa IGA, Bottlemart, Cellarbrations, Ritchies Liquor, The Bottle O, Mitre 10, Home Timber and Hardware and other independents.

MGA's members are independent businesses of all sizes servicing local communities all over Australia.

Supermarkets provide their customers with a combination of groceries, fresh fruit and vegetables, meat, frozen and dairy products. Packaged liquor stores service their customers with beer, wine and spirits. The hardware businesses supply their customers – tradesmen and “do it yourself” consumers with a variety of home hardware items for building or repair purposes.

These independently owned businesses make their own decisions from whom they source their products. This decision is often based on localness, diversity and customer needs. By way of example, independent supermarket operators often source their products from local producers and artisan food manufacturers, as well as, a large range of national brands.

Independent supermarkets, to which the Unit Pricing Code is applicable, are traditionally the hubs of the communities in which they trade and are committed to supporting their employees, many of whom include working mothers, tertiary students, trainees and apprentices.

Introduction

MGA welcomes the invitation of Treasury of the Australian Government to provide its feedback, comments and views on the effectiveness of the Retail Grocery Industry (Unit Pricing) Code of Conduct (“the Code”) in light of the sunset clause stipulated in Part 4 of Chapter 3 of the *Legislation Act 2003* (Cth). We believe that the customers of our members rely on unit pricing as a comparison and convenient tool, which to date has aided consumers. Our members are of the view that the Code allowed and continues to allow shoppers to undertake educated decisions during their shopping experience, particularly since prices alone do not provide customers with adequate information about value for money. This document provides a platform for our members to demonstrate how the Code and its ability in assisting consumers compare different products, brands and sizes has benefited not only the customers but also the businesses.

We have surveyed members nationally to obtain verbatim feedback from them about the impact of unit pricing on their businesses. The commentary below indicates that our members did not see noteworthy impact on their business through the use of the Code, whilst others reported many advantages that stemmed from the Code’s application.

Through our research, we managed to obtain a harmonious view that the Code should continue to operate beyond the sunset clause.

However, MGA has caveats as to the renewal of the Code, which it seeks to highlight in detail below, just to ensure that the Code, if amended, remains fit-for-purpose and prescriptive, relevant to our members and necessary enough to protect them, without imposing overly burdensome obligations.

Issues for Discussion

Effectiveness of the Code

1. MGA submits that the Code to date has significantly benefited its members’ customers in making informed decisions regarding their food and grocery needs. We have learnt from our members that extremely “savvy” shoppers or those on strict budgets have utilised the Code to allow them to be effective and efficient, as it has saved them both money and time.

2. The Code offers a bench mark that provides reasonable value for customers when making decisions about products. It has been voiced by our members that unit pricing tends to be utilised most often for products that are on sale or promotion, which helps their consumers to become more cost effective to attain the best bargain.
3. Price competition has also become a forefront issue for consumers due to the Code's application. In instances where the Code is utilised by consumers, higher priced items are often neglected when there is a similar product available for purchase but is cheaper. This causes shoppers to veer away from certain brands and make their purchases mostly on the basis of the cheaper product.
4. Nonetheless, the contrary has also been reported by our members, where it was stated that even with unit pricing being available, some customers tended to be brand loyal due to previous positive experiences, whereby even higher unit pricing did not deter them away from the more expensive brands. In such instances, MGA was informed that consumers still utilise the Code to work out the best value in the different pack sizes of the same product. The Code has not been reported to be used to compare with opposition retailers.
5. Aside from the initial investment to comply with the Code 10 years ago, our members have indicated no significant compliance costs to maintain unit pricing but there are associated regular expenses. It was observed that members that form part of national brands such as Farmer Jacks, Foodland, FoodWorks, IGA and SPAR observed minimum costs for aisle lines since they would be undertaken by a host pricing system. Alternatively, individual stores tended to be solely responsible for updating their own aisle lines. Other costs incurred included point of sale system upgrades or enhancements.
6. It has been brought to our attention by our members that the Code, although quite effective, fails to take into account the varying degrees of support and services being provided by unit pricing suppliers. When a business is obligated to abide by the Code, they engage a host pricing system to undertake the set up and assist on a regular basis, when issues arise. Members that do not fall under the larger umbrella of large brand names such as Farmer Jacks, Foodland, FoodWorks, IGA and SPAR, are required to seek their own provider, which would be different in calibre and as a result also in the operation of their unit pricing software. If the Code is to take on board any changes that occur in the grocery industry, it should factor the different host pricing systems that may be engaged, which would cause irregular provision of unit pricing.

Structure of the Market

1. If the Code is not remade after its sunset later this year, it is likely that our members' consumers may be impacted. As discussed above, it is evident that there are myriads of positives that flow from its application, particularly in light of the 2012 post-implementation period, which proved to be the case.
2. The main implication that may take place if the Code is not reapplied, is uninformed shopping, which may have a determinantal effect on differently sized households. It has been further highlighted by our members that the manner in which the Code currently operates has not resulted in complications and compliance has been possible.
3. Treasury's request in seeking additional evidence to determine whether changes to the Code are required, to ensure that it is fit for purpose in the evolving market is viewed by MGA as being unessential given its numerous advantages seen today from the time of implementation.
4. Our members have specified that the Code presently works well, where more change could result in our members being certainly impacted in terms of material and wage costs as well as further customer confusion. The structure of the grocery market for store-based retailers in 2018 remains quite similar to the position back in 2012, with minor fluctuations between strongholds such as Woolworths, Coles and Aldi. There are no significant changes in the structure that warrants a variation in the Code.
5. Although the presence of online grocery shopping has increased, MGA believes that the scope of the Code's application under clause 4 is appropriate and relevant.

Display Requirements

1. Treasury stated that it is seeking alternative approaches to display requirements, which might include developing additional guidance or include more prescriptive standards in the Code. Our members have strongly indicated that the current principles-based approach is still appropriate for displaying unit pricing.
2. Treasury presented other approaches from different international models that they indicated may lead to greater consumer recognition of unit pricing. An example included the unit price to be displayed in a contrasting colour from the ticket, but our members are of the view that such variation would not lead to a realisation of the existence of unit pricing and will result in further overheads and red-tape costs for them.

3. As previously highlighted, our members are extremely content with the manner in which the Code operates. There are no express suggestions or changes from MGA's perspective regarding the Code as the current status quo is effective for our members. It is unnecessary to consider changes for a Code that has been working well, particularly as evidenced by the ACCC's survey on unit pricing practices, which demonstrated high compliance levels.

Alternative Units of Measurement

1. Alternative units of measurement do confuse consumers but cannot be eliminated due to diverse selection of products that a single consumer can purchase in a single shopping trip. However, that is not the case in instances where similar products use different units of measurements. Products of the same nature, regardless of how they are packaged and sold, e.g. individually or in a bag, should be capable of being compared together, to allow consumers determine what is the most cost-effective decision.
2. In relation to whether regular changes in industry practices and procedures are being implemented into the Code, our members stated that, that would require ongoing amendments and variations to take place. That could result in our members drowning under rules of compliance and regulation. Government departments are not aware of the full circumstances and financial obligations associated, since this Code is one of many that businesses are required to abide by to ensure compliance.

The 1000 Sqm Requirement

1. In light of the responses received from its members, MGA is of the belief that the 1000 Sqm requirement is a fair and reasonable cut-off, which will ensure that businesses of that size and larger, should have the Code applied to them to guarantee consistent application.
2. Even though there are costs associated with complying, our larger members that operate under national brands, such as Farmer Jacks, Foodland, FoodWorks, IGA and SPAR for example, faced minimal costs due to being part of their group. The 2008 change was carried out across all retailers of the same brand and size.
3. Smaller retailers on the other hand are not in the same position. Requiring small businesses to comply with the Code by law, rather than by choice, would place them at a significant disadvantage. A blanket approach would not be justified in these circumstances, as smaller businesses would not be able to easily withstand the

costs such as implementation of the required system – initial capital needed, regular updates, and investment of employee time and effort.

4. Some of our smaller members decided to opt in to utilise the Code even though it was not applicable to them due to multiple reasons. The first is a consideration or weighing of the branded element of the store versus the social element from a consumer’s perspective. The second consideration is the obvious fact that they believe it equips their customers with the required information to meet their needs. That in turn encourages repetition of purchasing. The benefits for these members outweighed the financial burdens and resulted in a positive outcome for them. That does not suggest that it should apply generically to all retailers, as that is not always the case for smaller businesses. As such, changing the threshold to a lesser amount would be extremely detrimental to the smaller retailers. It is unreasonable to categorise them in the same manner as the larger constituents in the retail industry and accordingly, the use of the Code for smaller business must remain voluntary.

Exemptions to the Code

Minimum Range of Grocery Items and Exemptions

1. Our members are of the view that the current minimum range of goods that must be sold to have the Code apply remains relevant and appropriate. Although grocery retailers have taken on further products that fall outside the presently 11 items, that has been a shift majorly by the larger retailers. The core basics that makes a retailer a “grocer” are these essential 11 products and should remain as is. In relation to the list of items currently exempt from the Code, our members believe that too remains relevant and appropriate. The exempted items are not essential grocer products and therefore our members should not be required to display unit pricing for them. It appears unjustified to request our members to have unit pricing on items that are not of significant importance to every single one of them. Although these products may assist the average consumer in doing a “one-stop shop” it will not significantly add to their experience if these items are unit priced.
2. For our hardware members, the treasurer’s proposal to expand the scope of the regulation to include further items such as hardware is needless. Consumers when shopping for such products are more concerned with the quality of the item, rather than the cost per price unit. Additionally, unit pricing for such products does not compliment their nature or the industry itself since it is not a regularly incurred expense by households

such as groceries, where unit pricing remains the most relevant. There is no need for the Code to be widened to include hardware.

3. The main issue here for our members is functionality over unit pricing. For many of our members, the exempt items should remain exempt since the notion of unit pricing for them seems counterproductive. We submit that exempted items for our grocer members such as tobacco and liquor must remain exempt. That is because the use of unit pricing for such products, could encourage customers to over-consume and purchase products that are contrary to public health.
4. Unrealistic expectation in implementing unit pricing. For our retailers, tobacco and liquor are stored behind counters, which is attended to by a staff member. Unit pricing would not be visible from where consumers request the product, given the distance. Additionally, when it comes to these types of items, consumers are heavily guided by brand loyalty and reputation, rather than what is the most cost-effective option for them. As such, implementing unit pricing to such items is superfluous.

Enforcement and Compliance

ACCC Investigation into Non-compliance

1. MGA's members have not received evidence of non-compliance with the Code and they have not presented us with complaints from customers about unit pricing. It is clear that no changes to the regulatory regime are required to ensure compliance with the Code, particularly in light of the declining unit pricing enquiries received by the ACCC from 2013 (50 complaints) to 2018 (2 complaints).

Conclusion

It is strongly evident that majority of our members and their customers are currently enjoying the benefits of the Code as is. Treasury is considering to further expand the scope of the Code; however, MGA submits that an expansion would overly complicate the Code's application and would result in many difficulties arising, which include: increase of non-compliance, overuse of the ACCC to deal with consumers issues, upsurge in complaints, overheads and financial costs on businesses and confusion to shoppers. MGA is confident that the present Code is fit for its purpose as it has achieved its objective. The Code has operated well since it was implemented back in 2012, which is evidenced by the minimal issues that surfaced from its application. As such, change is unwarranted to something that is operating perfectly well, and the Code should be extended to operate.

MGA sincerely appreciates the opportunity for being able to present this feedback and looks forward to working alongside Treasury to further educate its members as to the Code and its associated benefits.

Jos de Bruin



CEO MGA

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