

Competition Policy Unit
Treasury
Langton Cres
Parkes ACT 2600

4 October 2024

RE: Industry codes (penalties and other amendments): exposure draft legislation

Dear Competition Policy Unit,

The Australian Food and Grocery Council (AFGC) registers its support for the Treasury Laws Amendment (Fairer for Families and Farmers) Bill 2024: Industry Codes (Penalties and Other Amendments) exposure draft.

The AFGC is the peak body representing food and grocery manufacturers and suppliers in Australia. With an annual turnover of \$163 billion, it represents over 32 per cent of total manufacturing turnover in Australia. The industry is made up of over 17,000 businesses ranging from some of the largest globally significant multinational companies to small and medium enterprises and makes a large contribution to rural and regional Australia economies. Almost 40 per cent of its 271,000 employees are based in rural and regional Australia.

As one of the key architects of the Food and Grocery Code of Conduct (the Code), the AFGC supports the overall intent of the amendments to introduce penalties under the Code. Penalties are likely to act as a weighty deterrent against large grocery businesses breaching their Code obligations.

However, we hold two particular concerns about the specific form of penalties within the exposure draft, both of which the AFGC has highlighted in our previous submission.

First, from a practical perspective, the penalty regime when considered against the minimum threshold for inclusion under the mandatory Code being \$5 billion will result in likely penalties of either 10 per cent of turnover or three times the benefit gained from the breach. It is not possible for \$10 million to be the greater value.

Second, the AFGC is concerned that the scale of the penalties is so large – more than three times those available in New Zealand, which currently has the harshest penalty regime globally – that Australia will become an outlier among those nations with food and grocery codes of conduct. Introducing the highest penalties in the world could have the unanticipated consequence of deterring any prospective new entrants into the Australian supermarket retail market.

Having noted these concerns, the AFGC considers that an imperfect penalty regime is preferable to the status quo. We are thereby supportive of the amendments.

Yours sincerely,



Tanya Barden
Chief Executive Officer
Australian Food and Grocery Council