



Australian Government
The Treasury



Strengthening the Unit Pricing Code

Consultation paper

September 2025

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Consultation Process

Request for feedback and comments

This Consultation Paper invites feedback on potential improvements to strengthen the Unit Pricing Code, including whether to impose obligations on grocery retailers to address shrinkflation. Questions are included throughout the paper to guide comments and you are invited to answer some or all of the questions, or to comment on issues more broadly.

Submissions may be lodged electronically, linked below. For accessibility reasons, please submit responses via a Word, PDF or RTF format. Submissions may be shared with other Commonwealth agencies where necessary. All information (including name and address details) contained in submissions may be made publicly available on the Australian Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails are not sufficient for this purpose.

If you would like only part of your submission to remain confidential, please provide this information clearly marked as such in a separate attachment. Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

Closing date for submissions: 19 September 2025

Online	https://consult.treasury.gov.au/c2025-639227/consultation
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Enquiries	Enquiries can be directed to the Director of the Supermarkets Taskforce at supermarketstaskforce@treasury.gov.au
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Introduction

The Competition and Consumer (Industry Codes—Unit Pricing) Regulations 2021 (the Code) prescribes a mandatory industry code of conduct under Part IVB of the *Competition and Consumer Act 2010* (the Act).¹ The Code:

- requires certain grocery retailers to display unit pricing — based on price per weight, volume or unit — alongside the total sale price
- enables consumers to compare prices of different brands and sizes of grocery items more easily
- improves price transparency, simplifies purchasing decisions, and promotes competition among suppliers of products and retailers.

The original Code was made in 2009, and, following a sunset review by the Government that found it was operating efficiently and effectively, was remade without significant changes on 1 October 2021.

At the direction of the Treasurer, the Australian Competition and Consumer Commission (ACCC) conducted an inquiry into the supermarket sector in 2024 and 2025 (Supermarkets Inquiry). The ACCC noted in its Interim Report that unit pricing improves the pricing information available to consumers, making it easier to compare products. However, there were stakeholder and consumer concerns about the Unit Pricing Code, particularly with how supermarkets were applying the unit pricing requirements and that penalties were not available for breaches of the Code.

On 2 October 2024, the Government announced that it would consult on a range of improvements to strengthen the Code to ensure that supermarkets are providing Australians with the information they need to find the best deal, and introduce substantial penalties for breaches of the Code.²

In its Final Report of the Supermarkets Inquiry, released on 21 March 2025 (ACCC Final Report), the ACCC supported the Government undertaking reforms to improve legibility and prominence of unit pricing and addressing inconsistent units of measurement, both within stores and between competing retailers (recommendation 5). The ACCC also recommended that supermarkets be required to publish notifications when package size changes occur in a manner adverse to consumers, for a sufficient period of time to enable consumers to become aware of the unit price change (recommendation 6). On 21 March 2025, the Government agreed-in-principle with all the ACCC's recommendations from its Final Report.³

This paper seeks stakeholder views on how best to strengthen the Code to make it easier for consumers to make accurate and timely price comparisons, without levying a regulatory burden on retailers that does not have commensurate benefits to consumers. Questions have been framed to seek views on the effectiveness of the policy from all stakeholders (Policy Questions) and additional questions aimed at regulators and prescribed grocery retailers on the compliance and costs associated with adhering to the Code (Data Questions). A consolidated list of questions can be found in Appendix A.


The Government's supermarkets agenda

On 30 March 2025, the Government made an election commitment to introduce legislation to make supermarket price gouging illegal by the end of this year and to implement the ACCC's Final Report

¹ Competition and Consumer (Industry Codes—Unit Pricing) Regulations 2021, Schedule 1.

² Prime Minister of Australia, Assistant Treasurer and Assistant Minister for Competition, Charities and Treasury (2 October 2024) [Cracking down on shrinkflation to help Australians save time and money](#).

³ Treasurer, Minister for Agriculture and Small Business and Assistant Minister for Competition, Charities and Treasury (21 March 2025) [Cracking down on the supermarkets to get a better deal for Australians](#).



recommendations that will improve transparency about prices, price trends and promotions and loyalty programs.

This paper seeks feedback on how best to implement recommendations 5 and 6. The other ACCC recommendations relevant to price transparency are:

- recommendation 2 — that supermarkets should be required to publish pricing information
- recommendation 4 — that supermarkets should be subject to minimum information requirements for discount price promotions, supported by record keeping obligations
- recommendation 7 — that Coles and Woolworths should be required to provide members with periodic loyalty program information disclosure summaries.

Some of these recommendations overlap with the proposals in this paper, particularly recommendation 2, which recommends all supermarkets publish prices on their products in-store, and that large supermarket chains also publish their prices online.

This consultation on options to strengthen the Code is the first step to implementing the broader suite of the Government's commitments to address competition and consumer harms in the supermarkets sector, and consultation on the other recommendations will follow.

Treasury will examine the interaction with other ACCC price transparency recommendations when considering stakeholder feedback through this consultation paper.

Interactions with Australia's national measurement framework

The Code operates alongside Australia's national measurement framework, through the *National Measurement Act 1960* and the *National Trade Measurement Regulations 2009*.

The national measurement framework requires that packers, manufacturers, importers and retailers display accurate quantity labels on product packaging. These labels must reflect the actual contents of the product (excluding packaging) and must use prescribed metric units based on the type of product, such as mass, volume and area, or number where permitted.

The framework also includes specific unit pricing display requirements on the packaging of certain foods, including meat, cheese, fish and fruit and vegetables, where these products are packed individually. This does not apply where the information is already displayed next to the total price or available on a clearly visible adjacent label, or to products of the same kind, marked with the same measurement.

The national measurement framework labelling rules apply to all entities which manufacture, pack, import or sell pre-packaged measured goods. However, these rules generally do not extend to shelf or adjacent price tags in stores. Where stores are prescribed grocery retailers (defined below), the adjacent unit pricing tags are regulated by the Unit Pricing Code.

The Government is currently reforming Australia's national measurement framework following the Measurement Law Review. The reforms anticipate a less prescriptive approach to labelling requirements than is currently in place.⁴ Treasury will continue to engage with the National Measurement Institute in the Department of Industry, Science and Resources during the course of progressing reforms to the Code, to ensure consistency and minimise duplicative regulation where possible.

⁴ The Department of Industry, Science, Energy and Resources (2021), *Reforming Australia's Measurement Legislation – Regulation Impact Statement*, page 93, Australian Government.

Scope

Current requirements

Compliance with the Code is currently mandatory for prescribed grocery retailers. Prescribed grocery retailers are stores that sell a minimum range of food-based grocery items to consumers and are:

- Store-based grocery retailers in retail premises that have floor space greater than 1,000 square metres dedicated to the display of grocery items, and that are used primarily for the sale of food-based grocery items
- Online grocery retailers, or
- Participating grocery retailers that voluntarily 'opt-in' to unit pricing by introducing in-store unit pricing for one or more grocery items (other than grocery items that are exempt) and where display of that unit price is not required under another law.

The minimum range of food-based grocery items means items from all of the following 11 grocery categories:

- | | |
|--------------------------------|-------------------------------------|
| 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 |
| f) fresh fruit and vegetables; | mentioned in paragraphs (a) to (j). |

In its Interim Report, the ACCC outlined concerns raised by some stakeholders about the scope of the Code, including that currently not all retail premises that sell comparable products are required to comply with the Code. The ACCC also noted that there is scope for unit pricing to be better utilised for cross-retailer price comparisons. In its 2 October 2024 announcement, the Government committed to consulting on improvements to the Code, including whether to expand the scope of retailers covered by the Code.

Policy considerations


This paper seeks feedback on the minimum range of food-based grocery items and whether the scope of the Code should be expanded to capture additional types of retail businesses or premises.

Expanding the scope of store-based grocery retailers

One option would be to apply the Code to all stores owned by major supermarkets, regardless of the floor space. This could be achieved by subjecting the large grocery businesses currently covered by the Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024 (the Food and Grocery Code) to the Unit Pricing Code, irrespective of the floor size of individual premises.⁵

Under this approach, Unit Pricing Code obligations would extend to all premises operated by these entities, provided the premise offers the minimum range of food-based grocery items. Other prescribed retailers currently adhering to the Code, that are not owned by large grocery businesses, would still be required to adhere to the Code. This approach is to ensure consumers receive improved access to unit price information across the grocery retail sector, but only extend the requirement to additional stores that are operated by large grocery businesses.

⁵ Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024, Division 2.



Another option would be to reduce the floor space requirements to less than 1,000 square metres. This would mean that a larger number of smaller store-based grocery retailers, that sell the minimum range of food-based grocery items, would be required to display unit prices. However, given smaller retailers tend to stock fewer grocery items, and as a result, fewer substitute grocery products, there may not be as substantial a benefit for the consumer as in larger stores where unit pricing can be used when comparing a range of alternatives.

Revising the minimum range of food-based grocery items

When assessing what types of grocery retailers should be covered by the Code, there is opportunity to consider whether the current minimum range of food-based grocery items remains appropriate. The items listed on Page 4 indicate a broad range of grocery categories which distinguish larger grocery retailers from speciality or category-specific grocery retailers. Ensuring this list remains up to date with the types of products typically stocked by larger grocery retailers may help maintain the Code's relevance and ensure it continues to apply to those retailers.

Grocery products are also offered by non-traditional and specialty grocery retailers. Consideration could also be given as to whether retailers should need to sell all the 11 minimum range of products in order to be required to display unit pricing. A retailer may sell items from some but not all of the 11 food-based grocery categories, and as such, would not be required to display unit pricing. Consumers may benefit from more of the stores where they choose to shop for food-based grocery items displaying unit prices.

If the minimum number of grocery items is revised so that more retailers are required to display unit prices, the number of store-based retailers will still be limited by the floor space requirement threshold. As there is no similar limitation for online grocery retailers, consideration should be given as to whether a threshold requirement should be included to limit the Code's application to only online stores that are of a certain size.

Scope — Policy Questions

1. What are the benefits and implications of making all stores (regardless of size) owned by major supermarkets under the Food and Grocery Code subject to the Unit Pricing Code? How many stores would this capture that are not already required to display unit prices or voluntarily displaying unit prices?
2. Should the current floor space threshold for store-based grocery retailers be reduced to capture more grocery retail premises? What is the appropriate square meterage for grocery retailers that should be required to display unit prices?
3. Does the current list of minimum range of food-based grocery items reflect the products which are stocked by a modern supermarket?
4. Should retailers which sell some – but not all – of the minimum range of food-based grocery items be captured by the Code (e.g. speciality retailers, warehouse stores)? What would the cost implications be for these retailers?
5. What is the appropriate threshold to limit application (e.g. annual turnover, revenue) for online grocery retailers that sell some – but not all – of the minimum items?

Scope – Data Questions

6. How many retailers are currently prescribed grocery retailers under the Code? How many of these are participating grocery retailers which voluntarily display unit prices?
7. What is the overall yearly cost of compliance with the existing Code? Have there been any technological or other developments (e.g. electronic store tags) that have materially affected the cost of compliance positively or negatively in recent years?

Display requirements

Current requirements

Division 1 of the Code prescribes the requirements for the display of unit prices. Clause 6 of the Code specifies that a prescribed grocery retailer must ensure that the unit price for a grocery item is displayed prominently and in close proximity to the selling price for the grocery item and is legible and unambiguous.

Submissions to the Supermarkets Inquiry raised concerns over the readability of unit pricing in some grocery retail premises. In its Final Report, the ACCC suggested consideration be given to whether a more prescriptive regime may be beneficial to ensure unit pricing is consistently readable across retailers, while balancing transparency with the risk of consumer cognitive overload.

Policy considerations

This paper seeks feedback on whether the display requirements of the Code should be improved using one or more of the following options.

Prescribe display characteristics to improve readability and prominence

Increasing prominence could be achieved by requiring the unit price to be presented in a particular way, for example specifying it to be in a bold font or setting a minimum font size – either by reference to an absolute minimum or as a minimum percentage of the purchase price font size. The unit price could also be required to be displayed in the same font type and formatting as the price.

These requirements could provide consumers with more prominent and consistent unit price displays, which may also be helpful in assisting visually impaired consumers. Further clarity for display requirements could also ensure unit pricing remains prominent as price display practices change. The ACCC in its Final Report noted that the shift to retailers using electronic shelf tags, for example, may reduce the overall visibility of unit prices.

A more prescriptive approach to unit pricing display requirements could improve readability for consumers. However, an overly rigid approach may increase compliance costs, could stifle innovation as price display practices continue to evolve and inadvertently add to the consumer cognitive overload if specific requirements are not well designed. Recent changes to unit pricing display requirements in other countries feature varying levels of specificity and are outlined in Appendix B.

Review exemption criteria

The purpose of the Code is to empower consumers to make informed price comparisons. However, certain products are exempt from displaying unit pricing, where the unit price would not be as useful for consumers.⁶ This includes:

- products which are bundled and the selling price applies to more than one grocery item (clause 7)
- grocery items that have been marked down from their usual selling price. This may be because the item or its packaging is damaged, it is perishable and may deteriorate if not used by a particular date, or because it is an item which the retailer does not intend to restock (clause 8)
- particular items which are exempted in all circumstances, such as books and toys (clause 9) (see Appendix C for the full list).

Given the evolving nature of how consumers shop, the products on offer, the presentation, packaging, grouping of products and the type of information available, it is worth considering whether the current list of exemptions from the requirements of the Code is still appropriate.

Display — Policy Questions

8. What changes will increase consumer attention on, and use of, unit pricing? Are there particular changes that could assist visually impaired consumers?
9. Are the current exemptions still appropriate? Does the list need to be modified to add or remove certain items?

Display — Data Questions

10. What are the costs to prescribed grocery retailers of updating their display practices if the unit prices had to be displayed in a certain prescriptive way (e.g. a specific size, font) which is different to their current practices?


Consistency

Current requirements

Division 2 of the Code prescribes how retailers display unit prices. Clause 10 states the standard units of measurement a grocery retailer must use to display unit price depends on the unit of measurement by which the grocery item is supplied. For example, for a grocery item supplied by weight, the unit of measurement to be used in the price will be per 100 grams.

Clause 11 prescribes a list of alternative units of measurement for particular grocery categories, some of which provide the prescribed grocery retailers options to choose between. Alternative units are designed to improve comparability and recognise that different forms of the same good exist within a category. For example, fruit and vegetables are to be unit priced per kilogram rather than per 100 grams if supplied by weight, or the unit price can be listed as per item included. The other alternative measurements provided on the list were intended to improve ease of comparability for products where the default measure would result in an excessively large or small unit prices. For

⁶ Department of Treasury (2008) *Regulation Impact Statement – Unit Pricing*, Australian Government, page 16.



example, herbs and spices are to be unit priced per 10 grams, and items sold in packages of 41 or more are to be unit priced per 100 items.

The ACCC Final Report raised concerns that inconsistent units of measurement make it difficult for some consumers to compare the same, similar, or substitute products in-store. Submissions to the Supermarkets Inquiry suggested that some items within the same category will use different units of measurement, which can cause difficulties for consumers in gauging what product is the best value for money.

The ACCC Final Report also noted that the utility of unit pricing for online cross-retailer price comparison is currently limited by the ability of different online retailers to use different units of measurement. This can make it difficult for consumers to compare products between competing online retailers or between online and in-store retailers, where there is inconsistency between unit pricing displays.

Policy considerations

This paper seeks feedback on whether the Code should be amended to provide increased consistency of units of measurement for in-store and cross-retailer comparisons using one or more of the following options.

Ensure a consistent unit of measurement for grocery categories

This paper seeks feedback on the option to introduce a new requirement under clause 10 and clause 11 of the Code, to require prescribed grocery retailers to use the same unit of measurement within grocery categories, unless impractical to do so.

Clause 10 sets out that the most relevant unit of measurement for grocery items is either the measurement displayed on the packaging, or the unit by which the grocery category is most often supplied. This unit is used to calculate the unit price, but there is no overarching requirement for prescribed grocery retailers to use the same unit of measurement across a grocery category. Clause 11 also does not provide that prescribed grocery retailers must display a consistent unit of measurement within certain grocery categories where multiple units of measure can be used, such as meat, fruit and vegetables, and laundry supplies.

Requiring prescribed grocery retailers to use a single unit of measurement within a grocery category may promote greater consistency in unit price displays between grocery items. For example, a prescribed grocery retailer may have previously sold bagged lemons using a per kilogram unit price, while selling loose lemons with a per item unit price. By introducing a new consistency requirement to the Code, a prescribed grocery retailer would be required to use the same unit of measurement for both products, unless impractical to do so.

However, the ability for prescribed grocery retailers to display a single unit of measure across a grocery category may be limited by the types of measurement information included by manufacturers on the packaging of products or disclosed to the prescribed grocery retailer when supplying the products. The *National Trade Measurement Regulations 2009* also allow for certain types of products to be sold by a range of different measurements, reflecting accepted commercial practices.⁷

There have been recent changes to overseas unit pricing laws to require consistent units of measurement for the same categories of grocery items in the UK and Quebec, Canada. Further information on the unit price display requirements of these jurisdictions is outlined in Appendix B.

⁷ National Measurement Institute (2019) [Approval by Secretary for the sale of products](#), Australian Government.

Expand the list of grocery categories with alternative units of measurement

This paper also invites comment on whether to expand the list of grocery categories listed in clause 11. New grocery items are added by grocers and existing grocery items continue to be offered in new and different ways. The list should remain up to date in order to provide prescribed grocery retailers with certainty on ways to display unit pricing and give consumers the ability to make informed purchases. However, including more grocery categories risks reducing the simplicity of the Code and potentially increases regulatory costs, which may be passed down to the consumer.

Consistency — Policy Questions

11. To what extent do prescribed grocery retailers display inconsistent units of measurement within product categories (e.g. packaged fruits and loose fruits)? What is the extent of inconsistency between different retailers?
12. Do current requirements provide sufficient consistency to enable consumers to compare grocery items within a grocery category within a store? Do they also enable consumers to compare products between different retailers, including online?
13. Are there grocery categories that should be added or removed from the list of alternative units of measurement in clause 11 to provide greater consistency to consumers for in-store and cross-retailer comparisons?
14. Are there other ways to improve the consistency of unit price displays across grocery retailers? (e.g. a tiered list of preferred alternative units).

Shrinkflation

The ACCC Final Report noted that shrinkflation was a key concern for stakeholders, defined as where the size of a product is reduced while the price remains the same or increases. The practice generally occurs in relation to pre-packaged groceries. The ACCC considered that unit pricing alone is not sufficient to bring changes in the size of grocery products to consumers' attention, as this would require consumers to be able to recall the previous unit price of grocery products on subsequent visits to the supermarket to identify that a change has occurred.

There are a range of reasons why grocery manufacturers, including supermarkets for own brand products, may choose to reduce the size of grocery products. These can include responding to changing consumer preferences or in order to retain an existing price for price-sensitive consumers where input costs have increased.

While grocery manufacturers are free to change the size of grocery items they supply, and there are circumstances where reducing the size of grocery items can be beneficial to consumers, there may be concerns if consumers are unaware of the size change and reduction in value when making purchasing decisions. There may also be concerns where the packaging of a pre-packaged product does not change in a manner which is consistent with the change in size of product within the packaging, which could lead to consumers mistakenly believing they are purchasing the same quantity of product they had on previous occasions.

The ACCC has recommended that supermarkets should be required to publish notifications when package size changes occur in a manner adverse to consumers. The ACCC noted in its Final Report that imposing a shrinkflation notification requirement on the retailer, rather than the supplier or manufacturer, would be most practicable. This is because it is retailers who are ultimately responsible

for pricing and communicating unit price changes to consumers. It would provide greater consistency within stores in terms of the form and appearance of the notifications.

The ACCC considered this information should, at a minimum, be required to be published in proximity to the pricing ticket on shelves and on website product pages for a set period of time to enable consumers to become aware of the unit price change. This notification regime could be developed in consideration of recent overseas developments in relation to shrinkflation, such as in France (see Box 1 below).

Box 1: Shrinkflation notification example – France

In July 2024, France introduced new requirements for medium and large grocery retailers, which are required to include signage on or near prepackaged products when the product's size has decreased resulting in an increased unit price. The signage must include a legible statement in the same character size as the unit price, confirming the percentage and euro change in the unit price of the prepackaged product. This obligation applies for a period of two months from the date of putting the product on sale in its reduced quantity.

Source: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000049502248>,
<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000049832006>.

The US Government Accountability Office was also asked to review issues related to product downsizing. It considered various ways to give consumers more information when product downsizing takes place, including more consistent unit pricing, educating consumers about shrinkflation, and prohibiting certain unfair or deceptive shrinkflation practices.⁸

Consider shrinkflation notification requirement

A product size change notification regime could be introduced to the Code to require prescribed grocery retailers to notify consumers when shrinkflation occurs in relation to pre-packaged products. For example, prescribed grocery retailers could be required to display a shrinkflation notification that is prominent, clear and in close proximity to the packaged product. This notification could include a statement confirming the reduction in size of the product, the increase in unit price and be required to be displayed for a minimum of four weeks. An equivalent notification requirement could be required for online grocery retailers.

This paper seeks views on the extent to which manufacturers are engaging in the practice of shrinkflation, how this conduct may disadvantage consumers and the potential impact on consumers and businesses of introducing a new product size notification.

Shrinkflation — Policy Questions

15. How common is the practice of shrinkflation in relation to packaged products?
16. What characteristics should a shrinkflation notification have (e.g. size of font, previous and current unit price, rationale as to why the price has changed)?

⁸ Government Accountability Office, *Consumer Prices, Trends and Policy Options Related to Shrinking Product Sizes*, July 2025, United States Government.

17. How long should the notification be visible to consumers for and where (e.g. four weeks, next to the product, on website pages)?
18. What products should the notification apply to and for what circumstance?
19. Should there be situations where the prescribed grocery retailer is not required to display the shrinkflation notification (e.g. where information about the reduction in quantity of the product is already on the packaging)?
20. How could a shrinkflation requirement be implemented in such a way to ensure it cannot be easily circumvented (e.g. where a product is replaced with a new product)?

Shrinkflation — Data Questions

21. Do any prescribed grocery retailers currently display shrinkflation notifications? What would be the compliance costs of mandating notifications?

Penalties

Introduce civil penalties

Unlike some other mandatory industry codes made under Part IVB of the Act, the Code does not currently contain any civil penalty provisions. This means the ACCC can take matters of non-compliance to court to seek remedies such as injunctions or orders for corrective advertising, but it cannot issue infringement notices or ask the court to impose a civil penalty. To strengthen the Code, the Government announced on 2 October 2024, and re-iterated as part of its election commitment on 30 March 2025, that it would introduce substantial penalties for supermarkets who do the wrong thing and breach the Code.

Amendments to Part IVB of the Act through the *Treasury Laws Amendment (Fairer for Families and Farmers and Other Measures) Act 2024* came into effect on 1 April 2025. These amendments permit an industry code relating to the industry of food and groceries to prescribe a higher maximum penalty for a contravention of a civil penalty provision, compared to other industry codes. The recently remade Food and Grocery Code of Conduct, which came into force on 1 April 2025, has a two-tiered maximum penalty regime, with higher penalties applying to more harmful breaches and lower penalties applied to other less egregious non-compliance.⁹ That is, for corporations, maximum penalties of the greater of \$10 million, 3 times the benefit obtained or 10 per cent of turnover in the preceding 12 months for the more harmful breaches (higher penalty); and maximum penalties for other breaches being 3,200 penalty units (currently \$1,056,000) where the Code does not prescribe the higher penalty. The Unit Pricing Code could take a similar approach, with higher maximum penalties available for more egregious breaches.

Given the number of items that require the display of a unit price by a prescribed grocery retailer in the Code, consideration must be given to how penalties should apply. If there is a breach in relation to multiple grocery products, or in multiple retail premises, the number of contraventions of the Code could be significant, leading to significant maximum penalty amounts.

Some of the design considerations for a suitable penalty regime are:

- Whether to apply the highest available or lower maximum penalties to specific contraventions of each of clause 6 – Display of unit prices; clause 10 – Unit of measurement and form of unit price;

⁹ Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024, s14.

clause 11 – Alternative units of measurement; and clause 12 – Display of unit prices in advertising.

- If penalties should apply for each contravention of the Code (by clause or by grocery item), or cumulatively for all instances of non-compliance by a retailer. For example, if there are contraventions of clause 6 and of clause 10 in relation to a particular grocery item, there could be two separate penalties or one penalty in total. Similarly, if unit prices are not displayed correctly for multiple grocery items the retailer could be liable to penalties on a per item basis or to a cumulative penalty.
- Penalties could also be limited to a prescribed grocery retailer at a particular location over a specified time period. For example, limiting a grocery retailer's liability to penalties for multiple breaches of the same clause at one retail premises to one penalty over a particular period of time, such as one week.

In considering a penalty regime, the maximum penalty available to the court is not automatically imposed for any given contravention. The amount of the penalty is a decision made by the courts, taking into account the specific circumstances of any particular case, up to the per contravention maximum. The courts may utilise the 'course of conduct' tool of analysis and/or apply the totality principle when considering multiple contraventions.

Under the course of conduct tool, the court may impose a single penalty for multiple contraventions, reflecting what the court considers is necessary to deter the conduct in its entirety. Where separate penalties are to be imposed for multiple separate contraventions, the court may apply the totality principle. In doing so, it will consider the cumulative total of the penalties to be imposed, assess whether the total is just and appropriate having regard to the overall contravening conduct, and make any adjustments it considers necessary.¹⁰

Infringement notices and other enforcement tools

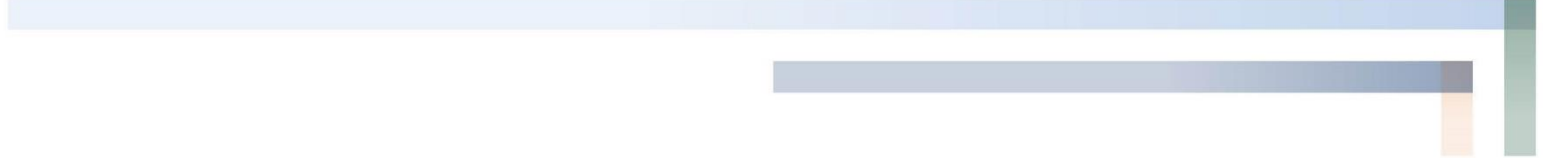
The introduction of civil penalties into the Code would also allow the ACCC to issue infringement notices where it has reasonable grounds to believe there has been a contravention of the Code within the last 12 months. Infringement notices can provide an efficient, low-cost enforcement outcome for relatively minor contraventions. Once paid, infringement notices are recorded on the ACCC's public register. They have been used regularly by the ACCC in enforcing aspects of other industry codes. The *Treasury Laws Amendment (Fairer for Families and Farmers and Other Measures) Act 2024* increased infringement notice penalties to 600 penalty units for industry codes that relate to the industry of food and groceries and provide for this higher penalty unit rate.

The full range of existing compliance and enforcement tools should be available to address potential contraventions, including court action, infringement notices, court enforceable undertakings, administrative resolutions, guidance and education, cautions to businesses to change their conduct and public warnings or other public statements.

The effect of introducing penalties on voluntary adherence with the Code

In addition to prescribed grocery retailers for whom the Code is compulsory, the Code applies to retailers who opt into the regime that sell the minimum range of food-based grocery items to consumers and voluntarily display a unit price for one or more of the prescribed minimum grocery

¹⁰ Australian Competition and Consumer Commission (2023), *Guideline on ACCC approach to penalties in competition and consumer law matters*, Australian Government.



items. One concern with introducing penalties is that voluntary participation in the Code may become less frequent and that consumers may lose the benefit of unit pricing in these stores.

Penalties — Policy Questions

- 22. Which requirements of the Code should attract civil penalties for non-compliance?
- 23. How should the penalty regime be designed to ensure compliance with the Code while not unreasonably penalising prescribed grocery retailers? For example, should penalties be applied per contravention, per grocery item, a general prohibition on contraventions of specific provisions in the Code or contraventions over a specified time period?
- 24. Should there be a tiered approach to penalties, such as in the Food and Grocery Code? What breaches should attract higher penalties and which should attract lower?
- 25. What is the most appropriate penalty rate for infringement notices?
- 26. Are there circumstances where a prescribed grocery retailer should not be penalised for a breach of the Code?

Penalties — Data Questions

- 27. How many prescribed grocery retailers that presently opt-in to the Code are likely to cease doing so if they are subject to penalties for its breach?

Appendix A: Consultation Questions

Scope

- 1) What are the benefits and implications of making all stores (regardless of size) owned by major supermarkets under the Food and Grocery Code subject to the Unit Pricing Code? How many stores would this capture that are not already required to display unit prices or voluntarily displaying unit prices?
- 2) Should the current floor space threshold for store-based grocery retailers be reduced to capture more grocery retail premises? What is the appropriate square meterage for grocery retailers that should be required to display unit prices?
- 3) Does the current list of minimum range of food-based grocery items reflect the products which are stocked by a modern supermarket?
- 4) Should retailers which sell some – but not all – of the minimum range of food-based grocery items be captured by the Code (e.g. speciality retailers, warehouse stores)? What would the cost implications be for these retailers?
- 5) What is the appropriate threshold to limit application (e.g. annual turnover, revenue) for online grocery retailers that sell some – but not all – of the minimum items?
- 6) How many retailers are currently prescribed grocery retailers under the Code? How many of these are participating grocery retailers which voluntarily display unit prices?
- 7) What is the overall yearly cost of compliance with the existing Code? Have there been any technological or other developments (e.g. electronic store tags) that have materially affected the cost of compliance positively or negatively in recent years?

Display


- 8) What changes will increase consumer attention on, and use of, unit pricing? Are there particular changes that could assist visually impaired consumers?
- 9) Are the current exemptions still appropriate? Does the list need to be modified to add or remove certain items?
- 10) What are the costs to prescribed grocery retailers of updating their display practices if the unit prices had to be displayed in a certain prescriptive way (e.g. a specific size, font) which is different to their current practices?

Consistency

- 11) To what extent do prescribed grocery retailers display inconsistent units of measurement within product categories (e.g. packaged fruits and loose fruits)? What is the extent of inconsistency between different retailers?
- 12) Do current requirements provide sufficient consistency to enable consumers to compare grocery items within a grocery category within a store? Do they also enable consumers to compare products between different retailers, including online?
- 13) Are there grocery categories that should be added or removed from the list of alternative units of measurement in clause 11 to provide greater consistency to consumers for in-store and cross-retailer comparisons?
- 14) Are there other ways to improve the consistency of unit price displays across grocery retailers? (e.g. a tiered list of preferred alternative units).

Shrinkflation

- 15) How common is the practice of shrinkflation in relation to packaged products?
- 16) What characteristics should a shrinkflation notification have (e.g. size of font, previous and current unit price, rationale as to why the price has changed)?

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- 17) How long should the notification be visible to consumers for and where (e.g. four weeks, next to the product, on website pages)?
 - 18) What products should the notification apply to and for what circumstance?
 - 19) Should there be situations where the prescribed grocery retailer is not required to display the shrinkflation notification (e.g. where information about the reduction in quantity of the product is already on the packaging)?
 - 20) How could a shrinkflation requirement be implemented in such a way to ensure it cannot be easily circumvented (e.g. where a product is replaced with a new product)?
 - 21) Do any prescribed grocery retailers currently display shrinkflation notifications? What would be the compliance costs of mandating notifications?

Penalties

- 22) Which requirements of the Code should attract civil penalties for non-compliance?
- 23) How should the penalty regime be designed to ensure compliance with the Code while not unreasonably penalising prescribed grocery retailers? For example, should penalties be applied per contravention, per grocery item, a general prohibition on contraventions of specific provisions in the Code or contraventions over a specified time period?
- 24) Should there be a tiered approach to penalties, such as in the Food and Grocery Code? What breaches should attract higher penalties and which should attract lower?
- 25) What is the most appropriate penalty rate for infringement notices?
- 26) Are there circumstances where a prescribed grocery retailer should not be penalised for a breach of the Code?
- 27) How many prescribed grocery retailers that presently opt-in to the Code are likely to cease doing so if they are subject to penalties for its breach?

Appendix B: International Approaches

United Kingdom

In the United Kingdom (UK), the Price Marking Order 2004 (the Order) mandates pricing and unit pricing requirements. Unit pricing is required in all stores with a floorspace larger than 280 square metres. The Order currently requires the unit price to be unambiguous, easily identifiable and clearly legible.¹¹ Amendments were made to the Order in 2024, which come into effect 1 October 2025, after the Consumer and Markets Authority (CMA) recommended reforms to unit pricing legislation.¹² The Order will also require the unit price to be:

- displayed using a font which is clear and of reasonable size
- a consistent unit of measurement based on the form of the product.¹³

The CMA and the Trading Standards Authorities enforce the Order, including investigating complaints and through the CMA's greater enforcement powers through the passage of the *Digital Markets, Competition and Consumers Act 2024*.

European Union

The European Union Price Indication Directive (PID) requires that the selling price and the unit price are presented for all products offered by traders to consumers.¹⁴ It states that unit price needs to be displayed in an 'unambiguous, easily identifiable and clearly legible' manner. The units of measurement when presenting the unit price include one kilogram, one litre, one metre, one square metre or one cubic metre of the product or a different single unit that is widely used in the State concerned.¹⁵ Member States are required to consider an appropriate system of penalties for non-compliance.

New Zealand

New Zealand introduced the *Consumer Information Standards (Unit Pricing for Grocery Products) Regulations* in August 2023. The regime applies to regulated grocery products sold by any online seller that sells certain product categories or an in-store seller that sells certain product categories and that has an internal floor space of over 1,000 square metres. Under the mandatory regulations, the unit price must be displayed:

- clearly and legibly
- in a font size no less than 25% of the font size in which the product's purchase price is displayed
- prominently, and in close proximity to the purchase price displayed for the product, so that its connection to the product is clear.¹⁶

The regulations also provide for standardised units of measurement, for example, only allowing meat and seafood, if supplied by weight, to display a per kilogram unit price. If, following an investigation,

¹¹The Price Marking Order 2004, article 7(a) (United Kingdom).

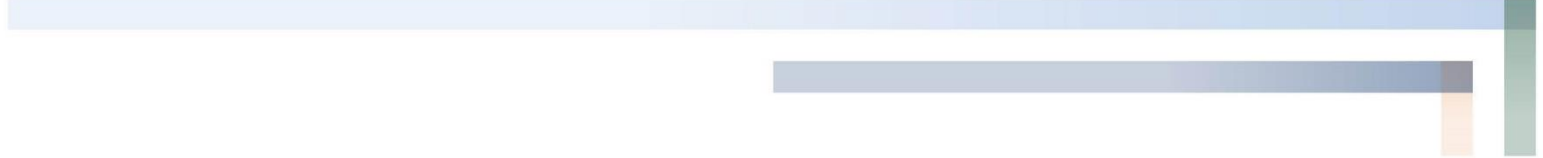
¹² United Kingdom Competition and Market Authority (2024), [Unit pricing](#), United Kingdom Government.

¹³ The Price Marking (Amendment) Order 2024, article 2 (United Kingdom).

¹⁴ European Commission, [Price indication directive](#), European Union.

¹⁵ Price Indication Directive: Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.

¹⁶ *Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023* (New Zealand).



the New Zealand Commerce Commission believes an offence has been committed, the Commission may use powers under the *Fair Trading Act 1986* (NZ) to:

- issue an infringement notice to a business requiring the payment of an infringement fee of up to NZ \$1,000 per offence; or
- for serious non-compliance, choose to prosecute, where companies may be fined up to NZ \$30,000 for each offence, and individuals may be fined up to NZ \$10,000 for each offence.¹⁷

Quebec, Canada

In November 2024, Quebec passed a bill which amended a part of their Consumer Protection Act. The amended regulation requires all merchants to:

- indicate the metric unit best adapted to the nature of the goods
- indicate the same unit of measurement for all goods of the same nature.

The bill also requires that any information on the label which is not the price should be displayed in at least 16-point size and bold type print, which is an increase on the previous requirement for this information to be displayed in 10-point type print.¹⁸

United States

There are no federally mandated regulations on unit pricing in the United States (US). In 2015, the US National Institute of Standards and Technology released the Unit Pricing Guide – a best practice approach to unit pricing.¹⁹ The guidance suggests the unit price be no less than 50 per cent of the height of the retail price and no less than 6mm. It also states the unit pricing should appear in bold font, with the unit price highlighted to have a different background colour from the rest of the selling ticket.

¹⁷ New Zealand Commerce Commission (2024), [Unit Pricing Regulations, a guide for grocery retailers](#), New Zealand Government.

¹⁸ *Bill 72: An Act to protect consumers against abusive commercial practices and to offer better transparency with respect to prices and credit 2024*, clause 66 and 58 (National Assembly of Quebec).

¹⁹ United States National Institute of Standards and Technology (2015), [Unit Pricing Guide, A Best Practice Approach to Unit Pricing](#), page 18, United States Government.

Appendix C: Definitions in the current Unit Pricing Code

Element	Definition
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: (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. Example 1: Meat is a grocery category, but a packet of sausages is a grocery item. Example 2: Fresh fruit and vegetables are a grocery category, but a prepackaged bag of potatoes is a grocery item.
Grocery item	Any item sold by a prescribed grocery retailer, including a food-based grocery item.
Minimum range of food-based grocery items	Means food-based grocery items from all of the following grocery categories: a) bread; b) breakfast cereal; c) butter; d) eggs; e) flour; f) fresh fruit and vegetables; g) fresh milk; h) meat; i) rice; j) sugar; and k) packaged food, other than food mentioned in paragraphs (a) to (j)
Online grocery retailer	A person that sells, using the internet, the minimum range of food-based grocery items to consumers.
Participating grocery retailer	A person (other than a store-based grocery retailer or an online grocery retailer) that: 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 12) for one or more grocery items sold by the person (other than grocery items that are exempt under clause 8); 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.
Prescribed grocery retailer	Means any of the following: a) a store-based grocery retailer; b) an online grocery retailer; c) a participating grocery retailer.
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	A person that sells the minimum range of food-based grocery items to consumers in retail premises: (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	The price (including GST) for a grocery item per unit of measurement.
Grocery categories exempt from Code requirements	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 for garden or pool decoration; f) flowers, including fresh, dried and imitation flowers; g) furniture; h) hardware items;

Element	Definition
	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.