

Have your say!

Regulatory Impact Statement

*Fair Trading (Unit Pricing)
Amendment Regulation 2008*

June 2008



Queensland Government
Department of Justice and Attorney-General

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Fair Trading (Unit Pricing) Amendment Regulation 2008

1. Introduction

Purpose of a Regulatory Impact Statement

Under the *Statutory Instruments Act 1992*, if a proposed regulation is likely to impose appreciable costs on the community or part of the community, a regulatory impact statement must be prepared, before the regulation is made.

The purpose of this document is therefore to explain the need for the proposed regulation and to present an evaluation undertaken of the likely costs and benefits that would flow from its adoption in comparison with other options explored.

All members of the community are invited to comment on the information presented in this Regulatory Impact Statement.

How to respond to this Regulatory Impact Statement

The closing date for providing comment on this Regulatory Impact Statement is 28 July 2008.

Written submissions should be sent to:

Mail:

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Fair Trading Policy Branch
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Public access to submissions

Submissions may be subject to Freedom of Information and other laws, which should be taken into consideration when making submissions.

Consideration of issues raised on the Regulatory Impact Statement

After the public consultation period closes, the Government will consider issues raised by members of the community. Further consultation may occur to address concerns raised by the community prior to the development of a final position by the Government.

2. Background

Background to the legislation

Food, together with non-alcoholic beverages, is the second largest component of household expenditure in Queensland, accounting for approximately 17.1% of total household expenditure on goods and services¹. Including non-food items typically bought in supermarkets and grocery stores, this would make it the largest household expenditure category. This relative expenditure level is higher for those households with the lowest incomes, those relying significantly on government pensions or allowances, and for families with dependent children.

The level of retail grocery prices affects the economic welfare of individual households and influences consumer spending generally, and ultimately impacts on the economy.

Grocery retailers include the major supermarket chains Coles and Woolworths; other supermarket/grocery chains such as Aldi, Pick 'n Pay, IGA, Foodworks, and Ritchies; convenience stores; and specialist retailers such as butchers, fruit and vegetable shops, health food stores and bakeries. Coles and Woolworths account for about 74²-79%³ of the market share⁴ nationally.

The supermarket and grocery sector is the largest area of retail turnover within Queensland, accounting for 31% of the market share⁵. Turnover by this sector within the state was \$13.4 billion in 2007. As of the end of financial year 2006-2007, there were 1848 businesses in the supermarket and grocery industry class in Queensland⁶. These businesses vary widely in size, both in terms of turnover and employee numbers, with 18% having a turnover less than \$200,000, while 20% have a turnover over \$2 million, and 57% with between one and nineteen employees, while 17% have between 20 and 199 employees. The sector is a significant employer within Queensland, employing 45,338 people, or 2.5% of all employees aged 15 years or over⁷.

With a rising cost of basic household living expenses and in particular, ongoing increases in grocery and fuel prices, consumers are looking to government for practical measures which drive competition and reduce the pressure on household expenditure. Food prices in Queensland rose by 5.2% over the past year⁸ (which is faster than the inflation rate) resulting in increased stress on household budgets.

Supermarkets stock a very large range of products and many variations in package sizes, brands and product forms (eg canned, frozen and fresh) for household consumption. This means it is very difficult for most consumers to make reliable price comparisons to make prudent purchasing decisions and minimise expenditure. Most consumers are not equipped or do not have the time to identify when there are significant variations in prices per unit measurement of product across the myriad of brands, package or sizes etc.

¹ ABS 6530.0 Household Expenditure Survey, 2004

² ACCC Grocery Prices Inquiry - submission 181 Metcash (sub[1].2) citing IBISWorld "Supermarkets and Other Grocery (except Convenience) Stores in Australia", 2008

³ NARGA citing PriceWaterhouseCoopers "The Economic Contribution of Small to Medium-sized Grocery Retailers to the Australian Economy", 2008.

⁴ Lower estimates of ~50% market share generally include liquor sales - e.g. Chamber of Commerce and Industry of Western Australia "Retail Trading Hours in Western Australia", 2007.

⁵ ABS 8501.0 - Retail Trade, Australia, Mar 2008

⁶ ABS 8165.0 - Counts of Australian Businesses, including Entries and Exits, Jun 2003 to Jun 2007

⁷ ABS 2068.0 - Census of Population and Housing, 2006

⁸ ABS 6401.0 - Consumer Price Index, Australia, Mar 2008

Unit Pricing

Consumer representatives and major grocery retailers have proposed unit pricing as a means of resolving this problem and contend it will empower individual households to make more informed choices. In particular, it has been demonstrated it can provide households with the capacity to derive substantial savings along with other benefits including enhanced competition potentially flowing on to the wider economy.

Unit pricing is a practical pricing scheme which provides consumers with the price per standard unit of measure. The standard unit may be \$ per kilogram, litre, meter, or per count depending on the measurement by which the particular item is normally sold. It is provided in addition to the total price to be paid. It is typically displayed on shelf labels by the retailer. Unit pricing does not involve manufacturers of pre-packaged products changing or adding any markings to the label on individual grocery items.

Studies of mature unit pricing schemes in the U.S show that between 45% and 85% of shoppers (depending on store location) use unit pricing, with substantial proportions of shoppers using the information for both brand and size comparisons or switches^{9, 10}. Further sources estimate that between 50% and 70% of consumers use unit pricing information¹¹.

People with limited numeracy skills are among those who may benefit from access to unit pricing. Given the correlation between socioeconomic disadvantage and innumeracy, the potential to reduce household expenditure would be a significant benefit to some disadvantaged groups in the community.

If the householder's principal aim is to reduce expenditure, the scheme enables an easy identification of the best price per unit measure of product across package sizes within the same brand as well as across brands. However, unit pricing also enables an easier means for comparing price against perceived quality, and in particular, for comparing value for money across different types of product such as the cost of processed food against fresh food etc.

Unit Pricing in Australia

Unit pricing has been regulated in many other developed countries¹². In Australia, apart from some fresh foods, such as meat and cheese sold in random weight packages, grocery retailers are not required to provide the unit prices of most grocery products.

In the past, despite public interest in this issue, Australian grocery retailers have been reluctant to adopt unit pricing in their stores. However, in November 2007, following a revitalised consumer campaign, the Aldi supermarket chain introduced unit pricing in its stores. While applauding the initiative, peak consumer organisations have indicated that Aldi's scheme does not fully satisfy a best practice unit pricing scheme. For example, the unit price is not shown if it is the same as the selling price; and too many units of measurement are used (Aldi varies the base unit per 100g, or per 1kg etc, depending on the size of the product. This makes comparisons across package sizes more difficult).

Woolworths has since announced plans to trial unit pricing in some stores in 2008. It anticipates an Australia-wide roll-out may cost the company \$4 million, but stated that if

⁹ Asker (1983) "Unit pricing ten years later: a replication", *Journal of Marketing*, 47.

¹⁰ McElroy & Asker (1979) "Unit pricing six years after introduction", *Journal of Retailing*, 55(3).

¹¹ Jarratt (2007) "Unit pricing of pre-packaged grocery items In The European Union and the USA – lessons for Australia"

¹² *ibid*

it could be programmed as part of the normal in-store changes to shelf labels and product prices, for example over a period of 12 months, the costs may be minimised.

On 27 May 2008, Coles announced it will spend \$10 million introducing unit pricing in its stores across Australia. It expects a full roll-out will take about 12 months.

Aldi, Woolworths and Coles believe unit pricing will benefit consumers and have indicated support for its mandatory introduction with national guidelines for grocery retailers across Australia.

Peak national consumer advocacy bodies, Choice, the Consumers Federation of Australia and the peak Queensland consumer body, the Queensland Consumers Association are continuing to urge governments to adopt mandatory unit pricing requirements for the retail grocery sector. Also, there appears to be a broad level of community interest in the proposal including from health and community welfare sectors.

The National Association of Retail Grocers of Australia (NARGA), which represents about 4,500 independent retailers across Australia, does not support the mandatory introduction of unit pricing. NARGA has stated there is insufficient demand from the general public for unit pricing and price is only one of the variables affecting product choice as purchasing decisions are influenced by experience, brand loyalty, quality, preparedness to try new products and peer recommendations. NARGA indicated consumers who place a high priority on price can readily choose the cheapest product in the category of product¹³.

In January 2008, the Federal Government directed the Australian Competition and Consumer Commission (ACCC) to undertake a wide ranging inquiry into the nation's grocery prices. Submissions to-date show significant interest in unit pricing. At least 36 submissions specifically addressed unit pricing, the majority in support of its introduction. Information from submissions to the ACCC inquiry which is relevant to unit pricing has been included in this Regulatory Impact Statement. The ACCC will report its findings at the end of July 2008.

In May 2008, Senator Fielding introduced unit pricing legislation into the Australian Senate but it has not yet been progressed.

Proposed course of action with the Fair Trading (Unit Pricing) Amendment Regulation 2008

The proposed course of action with the *Fair Trading (Unit Pricing) Amendment Regulation 2008* is to prescribe a model for unit pricing which compels some grocery retailers to comply with laws that require them to:

- display unit prices prominently and clearly on all in-store price signs. On shelf labels the unit price font must be the greatest of either 10 mm or 50 per cent of the font of the selling price;
- indicate the unit price by measurement - either per kilogram, litre, metre, square metre, cubic metre, or (for products sold by count) per item. (However, the unit used for products sold by count, for example toilet and facial tissues, must be relative to the number of items in the package);
- use the same unit of measure for all sizes of the same product;
- show a unit price, even if the unit price and the selling price are identical;
- show a unit price for products sold on “special” or other “promotions” as well as at regular prices;

¹³ ACCC Grocery Prices Inquiry - submission - 129 - National Association of Retail Grocers of Australia (sub[1].2) (69 pages)

- show the unit price clearly on any printed advertisements or displays which show the price of a product sold by measurement; and
- provide unit prices for groceries ordered on the internet as well as those purchased in-store.

These requirements would be in addition to any labelling or statement of total price to be paid. They would not involve manufacturers of pre-packaged products changing or adding any markings to the label on individual grocery items.

In particular, the regulation would require retailers of grocery products to:

- display the unit price of each product contained in the definition of grocery product. *Grocery products* are products sold by any grocery store and online and include, but are not limited to, staple foods such as meats, fruit and vegetable produce, baked goods and dairy products, canned and packaged goods, snacks and confectionary, non-alcoholic beverages, household goods (tissues, paper towels, food wraps, bin liners, light bulbs, batteries, and similar products), pharmaceutical products, cosmetic products, make-up products, toiletries, baby supplies such as nappies, haberdashery, tobacco and tobacco products, household cleaning products, pet supplies and other household supplies - but exclude clothing, newspapers, magazines, greetings cards, compact discs, video and audio tapes, toys, plants, flowers, electrical appliances, kitchen hardware, gardening equipment and books.

However, retailers of grocery products will only be captured by the unit pricing scheme if they sell a range of the items identified above, but part of the range must include staple foods. It is not intended to extend the unit pricing scheme to specialty stores such as hardware, pharmacies and pet stores.

- display posters and pamphlets at their premises with information about unit pricing and how consumers can use it. Where groceries are sold online, retailers' web sites must include this information.
- display the selling price of a grocery product. This does not include advertisements or products *sold in bulk*, which is defined as where grocery products are not pre-packaged and are weighed or measured at the request and in the presence of the consumer.
- unit prices are to be expressed to the nearest 1 cent.

Exemption from unit pricing

It is proposed to provide an exemption to any grocery product sold (other than products sold in bulk as defined above) which is for sale in a *shop*. For the purpose of the exemption, a *shop* is defined as a shop with a floor area used for sale or display of grocery products, not exceeding 200 square metres; or by an itinerant retailer (for example, a retailer selling from a mobile sales unit or stall). Exempting shops with a floor space of 200 square metres or less, which is used for sale or display of grocery products, is designed to ensure small 'corner stores' or small grocery retailers are not captured, as these retailers usually do not stock a large range of sizes and brands for similar products. The demarcation also addresses the issue that most consumers do not do their main 'weekly shop' from such outlets.

However, shops falling within the exemption that offer products by printed advertisements, catalogues and the internet and that display a selling price, must also display a unit price.

What is the purpose of this Regulatory Impact Statement?

The Regulatory Impact Statement must demonstrate the proposed regulation is the most viable option which brings the greatest overall benefit to the public.

Timeframes for possible introduction

Once the *Fair Trading (Unit Pricing) Amendment Regulation 2008* is finalised it will be submitted to Cabinet and the Governor in Council to be made.

The proposed unit pricing model contained in this Regulatory Impact Statement is only a draft at this point of time. Stakeholders may consider the proposed model and make comments and suggestions. The proposed model may be amended to take into account comments and suggestions.

A communication campaign will be designed by the Department of Justice and Attorney-General which will entail media releases, mail-outs and other forms of communication to ensure impacted retailers know their rights and responsibilities and any changes from the present system.

3. Stakeholders

Stakeholders affected by the proposed *Fair Trading (Unit Pricing) Amendment Regulation 2008* are:

- grocery retailers in Queensland;
- the government in regulating industry; and
- Queensland consumers.

4. Authorising Law

The principal objective of the *Fair Trading Act 1989* is to provide for an equitable, competitive, informed and safe market place. Section 81 contains the power to make a regulation to prescribe an information standard for a specified kind of goods or services, including requirements for disclosure of information, among other things, about the price of the goods.

Australian retailers are currently required to provide consumers with the unit price of some fresh foods, such as meat and cheese sold in random weight packages. This is required by the *Queensland Trade Measurement (Prepacked Articles) Regulation 1991* (trade measurement law). Implementation of unit pricing requirements under the *Fair Trading Act 1989* would extend and complement the existing requirements but in much simpler form. If adopted, the provisions would be designed so that in event of any inconsistency of regulatory overlap, the unit pricing requirements would predominate.

5. Policy Objectives

The policy objectives of the *Fair Trading (Unit Pricing) Amendment Regulation 2008* are to:

- enable consumers to make informed purchasing decisions about grocery prices by providing for a simple comparison of price per unit measurement between packages

of various sizes, between brands, between products, between product forms (for example canned, frozen and fresh) and between retailers;

- assist consumers to better assess value for money (for example between canned, frozen and fresh) when purchasing groceries, including price against quantity and quality; and
- promote competition between grocery manufacturers and between grocery retailers to provide price restraint.

6. Legislative intent

The legislative intent of the *Fair Trading (Unit Pricing) Amendment Regulation 2008* is to establish a model for unit pricing to ensure consumers have access to meaningful and use-friendly information about grocery prices. The proposed unit pricing model will achieve the policy objectives.

7. Consistency with the authorising law

The proposed *Fair Trading (Unit Pricing) Amendment Regulation 2008* will be consistent with the *Fair Trading Act 1989*.

8. Consistency with other legislation

The proposed *Fair Trading (Unit Pricing) Amendment Regulation 2008* may overlap trade measurement law in respect to price marking of some fresh foods. To meet the policy objective, the introduction of legislative requirements for unit pricing would need to include a provision that the new requirements predominate to the extent of any inconsistency with Queensland trade measurement law.

9. Options / alternatives and cost-benefit assessment

This Regulatory Impact Statement examines three options / alternatives to determine if a regulatory response is the most appropriate and effective method to deliver the policy objective. These options are:

- Option 1** Maintain the status quo.
- Option 2** Rely on the industry to self regulate.
- Option 3** Government intervention by regulating for a mandatory unit pricing scheme through the *Fair Trading (Unit Pricing) Amendment Regulation 2008 (Preferred Option)*.

The following criteria are used to evaluate the three options.

- The extent to which each option supports the policy objectives of improving prices disclosure to enable consumers to easily compare the prices per unit measurement (of weight, volume, count, etc) of pre-packed and some other grocery products, irrespective of the brand or size or type of package.
- An impact analysis of each option, in terms of costs and benefits to consumers, industry and government.
- The extent to which each option contributes to a fair, transparent, competitive and efficient trading environment.

9.1 Option 1 - Maintain the status quo

As some large grocery retailers either currently provide their own unit pricing scheme, or have expressed a desire to implement a unit pricing scheme, the status quo option potentially includes a significant degree of voluntary unit pricing provision¹⁴. The status quo option differs from the self-regulation option in that under the status quo, individual retailers decide independently whether or not to provide unit pricing, as well as the scope and format of that unit pricing information.

Individual retailers adopting their own unit pricing schemes may do so to increase the ability to compete on price, or to enhance consumer goodwill and satisfaction. However, there will be severe limitations to the resulting benefits of unit pricing to either retailers or consumers under the status quo if:

- a significant proportion of grocery retailers choose not to introduce unit pricing;
- the scope of unit pricing differs across retailers, for example in terms of format (shelf display, advertising and internet) or grocery products included; or
- the unit metrics differ across retailers, retailers choose non-optimal formats or metrics, or retailers vary metric bases across otherwise comparable product types.

The potential for government to conduct effective consumer awareness and education initiatives to promote the use of unit pricing may be limited under the status quo. The adoption of differing unit pricing formats and non-adoption by individual retailers would prevent a simple, comprehensive education campaign.

The expected outcome of the status quo option is the spread of a variety of independently derived unit pricing schemes within the sector. Individual retailers would be free to introduce, modify and comply with their own unit pricing schemes.

9.1.1. *Impact of status quo on industry*

Costs

The partial, non-standardised provision of unit pricing within the sector will have an opportunity cost whereby the benefits of optimum conditions for competition between retailers or producers/manufacturers are reduced. This opportunity cost potentially applies to all retailers, regardless of whether they choose to adopt their own unit pricing scheme.

Partial, non-standardised provision of unit pricing will impede the effective or optimum use of the scheme by consumers, which may ultimately result in misspent resources by participating retailers.

While retailers implementing their own schemes may experience enhanced consumer goodwill, the sector as a whole may suffer from consumer perceptions that it failed to provide an adequate, coordinated response to consumer concerns. The major retailers which have expressed an interest in the introduction of unit pricing have indicated support for the development of consistent national guidelines.

Benefits

¹⁴ Aldi currently provides unit pricing information, both Woolworths and Coles (though Coles initially rejected the idea) have expressed desires for a mandatory unit pricing scheme, while smaller independents and NARGA oppose such a scheme. (ACCC Grocery Prices Inquiry: submission 157 Coles; Public Transcript of Proceedings Melbourne 19 May 2008 (Woolworths); submission 081 Aldi; submission 129 National Association of Retail Grocers of Australia; "Coles Pledges Clearer Pricing" - The Age (May 2008))

Grocery retailers are able to choose whether or not to adopt unit pricing, and can therefore choose to avoid start-up costs associated with implementing a unit pricing scheme.

Individual retailers choosing to institute their own unit pricing schemes will be free to determine their own unit pricing formats, metrics and scope, potentially reducing implementation costs. Those choosing to partially adopt unit pricing may temper the potential cost savings to consumers, which would continue to flow to the retailer in the absence of other competition factors.

9.1.2. *Impact of status quo on consumers*

Costs

With partial, non-standardised provision of unit pricing in the market, consumers will be faced with a retail mix, whereby most fresh foodstuffs will continue to be unit priced in a standardised manner, but unit pricing for other products will be provided in a variety of formats and units, as well as variations across price displays (including shelf pricing, specials signage, advertising, online).

True price transparency for many supermarket and grocery items will remain limited. Consumers will continue to experience confusion and uncertainty in efforts to make informed product comparisons and choices involving price.

The overseas experience with unit pricing shows that the uptake, quality and utility of voluntary schemes varies greatly both within and between countries. Where unit pricing schemes can differ, are non-optimal, or only partially cover the sector, consumers will continue to rely heavily on fallible “guesstimates” when:

- making relative price comparisons within product types based on size or brand;
- comparing standardised unit priced fresh foods against per-pack priced processed or frozen food;
- comparing standardised unit priced fresh foods against unit priced processed or frozen food using different unit measures or metrics; and
- balancing true price considerations with quality, brand or convenience attributes.

Time poor consumers and consumers with limited numeracy skills are particularly disadvantaged by the complexity of product price comparisons. Consumers wishing to minimise expenditure will bear opportunity costs, such as forgone savings and the ability to maximize value for money from an optimal scheme with standardised unit pricing across all retailers. The opportunity costs may be particularly significant to people on low incomes.

Retailers that independently institute unit pricing may transfer some costs of implementation to consumers and those consumers will not experience the full benefits of an optimal scheme.

Benefits

Market forces are unlikely to result in the uniform adoption of a unit pricing scheme across the grocery market. The partial or non-standardised adoption of unit pricing by some retailers is unlikely to generate the maximum potential benefit to consumers overall.

To the extent that supermarket and grocery retailers do not implement self-determined unit pricing schemes, consumers will avoid transfer costs from retailers related to scheme implementation.

9.1.3. *Impact of status quo on government*

Costs

Partial, non-standardised provision of unit pricing in the market may subject the Queensland Government to criticism that it has failed to respond to the call for a workable means by which all consumers can improve their capacity to make informed choices when purchasing groceries.

Unit pricing may also assist in addressing the misconception that some healthy foods are more expensive than other food groups. In the absence of unit pricing, the allocation of government resources to encouraging healthy choices and managing household budgets may be less effective.

Benefits

Government resources dedicated to compliance and enforcement would be minimal, compared to the regulatory option.

9.2 Option 2 – Industry self-regulation through guidelines or a code

This option would rely on members of the grocery retail industry taking responsibility for regulation through the development of industry guidelines or a code of practice. This could be implemented through processes similar to the establishment of the Produce and Grocery Industry Code Administration Committee, which administers the Produce and Grocery Industry Code nationally. Effective establishment of guidelines or a code applicable to the Queensland market may be impracticable unless industry establishes a new layer of state-based industry representation or coordinated activity.

Under this option, the Queensland Government would do little more than request industry to develop its own guidelines or code of practice. In order for self-regulation to meet the policy objective outlined in this Regulatory Impact Statement, the response by the supermarket and grocery industry may need to:

- acknowledge that unit pricing enhances price transparency and therefore increases the potential for consumers to make informed comparisons between grocery items;
- acknowledge that unit pricing will enhance competition in the supermarket and grocery sector;
- cooperatively develop appropriate guidelines or a code of practice; and
- comply with the guidelines or code of practice.

The guidelines or code would optimally require grocery retailers to:

- provide unit prices for grocery products on shelf labels, specials signs and advertising, as well as for grocery products sold online;
- use specified standard units (kilogram, litre, metre, square metre, unit) for unit pricing;
- provide unit prices in a consistent and accessible manner in terms of information location, size and presentation; and
- engage in consumer education and awareness initiatives to explain and promote the use of unit pricing information for consumers.

There are various problems and risks associated with adopting this option which have the potential to undermine the achievement of the policy objective. These include the risk that the supermarket and grocery industry in Queensland:

- would choose not to develop guidelines or a code;
- would develop guidelines or a code that are inappropriate; and
- would not comply with the guidelines or code developed¹⁵.

9.2.1. Impact of self-regulation on industry

Costs

Industry representatives would incur costs related to the development, implementation and administration of guidelines or a code of practice. Individual major retailer chains choosing to adopt unit pricing guidelines or a code may mostly incur one-off implementation costs, including the modification of computer systems, which may potentially range from four to ten million dollars nationally¹⁶. A major retailer has indicated such costs may be significantly reduced if implementation were phased in as part of the normal in-store changes to shelf labels and product prices¹⁷.

These costs may be passed on to consumers in higher product prices. However, the extent to which this may happen would depend on factors such as competition in the market and the responsiveness of supply and demand to changes in price.

There are a large number of smaller independent supermarkets with relatively lower turnover than major or integrated retail grocery chains. If this section of the industry chooses to adopt unit pricing guidelines or a code, the overall implementation costs may be higher than for the major or integrated retail chains, due to the greater number and differing computer and pricing systems in use. The higher costs may be passed on to consumers and result in a further disadvantage when competing against larger or integrated retail chains.

Benefits

The benefits that flow to grocery retailers from a self-regulatory approach would be dependent on the extent to which the industry developed appropriate guidelines or a code of practice, and the extent to which those guidelines or code were complied with.

In the event that appropriate guidelines or a code of practice were developed, and the level of compliance was high, grocery retailers embracing the code may benefit from enhanced goodwill and increased consumer confidence. Such retailers (and product manufacturers) would also be better placed to engage in competition strategies based on true price. Otherwise, for example in the absence of unit pricing, it may be difficult for a retailer to compete with a popular 'home brand' product stocked by another store, if the opposition maintained a competitive price but marginally reduced the size or weight of the product.

The risk that consistent guidelines or code would not be developed, or that sufficient compliance would not be achieved, is high. Grocery retailers would also benefit from a

¹⁵ The industry is currently split on whether unit pricing should be introduced, whether it would benefit consumers, and there are further differences in preferences for information presentation, units and coverage. (ACCC Grocery Prices Inquiry: Public Transcript of Proceedings Melbourne 19 May 2008 (Woolworths); submission 081 Aldi; submission 129 National Association of Retail Grocers of Australia, "Coles Pledges Clearer Pricing" - The Age (May 2008))

¹⁶ ACCC Grocery Prices Inquiry Public Transcript of Proceedings Melbourne 19 May 2008 (Woolworths), "Coles Pledges Clearer Pricing" - The Age (May 2008)

¹⁷ ACCC Grocery Prices Inquiry Public Transcript of Proceedings Melbourne 19 May 2008 (Woolworths)

self-regulatory model insofar as they would be able to limit the costs of regulation and choose whether or not to comply.

9.2.2. *Impact of self-regulation on consumers*

Costs

The largely one-off implementation costs borne by grocery retailers may be passed on to consumers. However, the extent to which this may happen would depend on factors such as competition in the market and the responsiveness of supply and demand to changes in price.

A unit pricing scheme will not be effective unless it is a best practice model adopted consistently across the grocery market. Under a voluntary scheme, those retailers choosing to participate may decide to adopt varying methods of unit pricing, as has been the case internationally¹⁸.

Differing formats for displaying unit pricing are likely to confuse consumers, hinder public awareness programs and become a disincentive for use by consumers. Potential variations in the scope of application of unit pricing are wide ranging, including shelf labels, central store lists, in-store advertising, online, radio, print and television advertising. Similarly, formats for presenting unit pricing information could vary widely. For example, if the unit price for a particular product which is quoted per kilogram is switched to per 100 grams, the price will be construed as being cheaper.

An ineffective scheme would result in little or no benefit to consumers due to a continued lack of price transparency, and the inability to easily compare products. This may be compounded by any cost transfer from retailers to consumers to cover the costs of implementing unit pricing.

Similarly, individual retailers that choose not to comply, may reduce the benefits of unit pricing by limiting transparent price comparisons for consumers to certain competitors, and impair the ability of retail adopters and manufacturers to effectively compete in the wider market on true price per quantity.

Benefits

To the extent that grocery retailers developed appropriate guidelines or a code of practice, and the level of compliance with those guidelines or code was high, consumers would benefit from improved ability to make prudent choices between competing product offerings as well as between types of product.

Savings could be made directly through greater capacity to make value for money purchasing decisions, or indirectly by using savings from substituted products to purchase additional products, or through reassessed comparisons combining value and quality perceptions.

Unit pricing may also assist in addressing the misconception that some healthy foods are more expensive than other food groups, which may in turn influence the consumption of these foods.

As noted above, the risk that these benefits would not be sufficiently realised through industry self-regulation is high.

9.2.3. *Impact of self-regulation on government*

Costs

¹⁸ Jarratt (2007) "Unit Pricing Of Pre-Packaged Grocery Items In The European Union And The USA – Lessons For Australia".

Ongoing government involvement in the form, evolution and maintenance of the scheme would be limited. However, as indicated earlier, the risk that consistent guidelines or code would not be developed, or that sufficient compliance would not be achieved, is high.

If self-regulation was unsuccessful, the Queensland Government could be subject to criticism that it failed to provide a practical means by which consumers can improve their capacity to make informed choices, reduce household grocery bills, or achieve a better value outcome for their grocery budget. Criticism may also be directed at a failure to respond to the continuing inflation of food prices and failure to take the opportunity to improve competition between retailers and manufacturers. These are opportunity costs to the community and the wider economy.

The opportunity costs of an unsuccessful scheme would most likely be compounded by cost transfers from participating retailers to consumers to recover costs of scheme implementation.

Benefits

If this option was successful, enhanced competition in the market may lead to restraint on grocery prices and counter inflation of the economy¹⁹. Unit pricing may assist government programs which seek to help low income and disadvantaged consumers, such as those with low numeracy skills.

Industry self-regulation would significantly reduce the need for government enforcement programs compared to the regulatory option.

9.3 Option 3 – Government intervention by regulating for a mandatory unit pricing

This option would involve the Queensland Government making a regulation under the *Fair Trading Act 1989* to require larger supermarkets and grocery retailers to provide consumers with the unit price (by weight, volume, count, etc) of grocery products sold by measurement.

The nature and scope of products and of retail stores included in this proposal is outlined under Section 2 of this Regulatory Impact Statement under the heading - *Proposed course of action with the Fair Trading (Unit Pricing) Amendment Regulation 2008*

In particular, shops with a floor space of 200 square metres or less, which is used for sale or display of grocery products, would be exempted from the scheme. This is intended to avoid capturing small ‘corner stores’ or small grocery retailers and addresses concerns that most consumers do not do their main ‘weekly shop’ from such outlets.

Impact of regulation on industry

Costs

Most supermarkets and larger grocery stores have electronic scanning and computerised labelling systems in place for all products. However, mandatory unit pricing requirements would incur some establishment and implementation costs for grocery retailers. These costs, which may be mostly one-off expenditures such as for modifying computer systems and re-designing and replacing labels, may potentially range from four to ten million dollars nationally for individual major retail chains operating.

¹⁹ ACCC Grocery Prices Inquiry submission 122 Insight Partners

Costs may be significantly reduced if implementation were phased in as part of the normal in-store changes to shelf labels and product prices. Woolworths estimates a rapid implementation would cost \$4 million nationally, while gradual implementation across a 12 month period could be done at no additional cost. Woolworths has stated it would incur additional costs of up to \$7 million nationally if it was required to replace shelf strips to accommodate larger shelf price labels.

Also, as noted earlier, unit pricing is already required to a lesser extent under trade measurement law for some fresh foods, for example pre-packaged meat and cheese sold in random sized packages.

The national supermarket chain Aldi has already introduced unit pricing across all its stores. As a new entrant to the market competing against the larger supermarket chains, Aldi has indicated the cost of establishing unit pricing has been outweighed by the benefits to the store and its customers. Aldi has not represented the cost of establishing unit pricing as significant, and has stated that it did not result in any additional costs for consumers.

Costs to industry may be passed on to consumers. However, the extent to which this may happen would depend on factors such as competition in the market and the responsiveness of supply and demand to changes in price.

Up to 73% of supermarket and grocery retailers are smaller independent supermarkets. However, the larger integrated chains account for up to 80% of total turnover²⁰. Smaller independent supermarkets may incur a higher ratio of implementation costs per turnover across a greater number of differing computer and pricing systems in use. The higher relative costs of implementation may be passed on to consumers and result in a further disadvantage when competing against larger or integrated retail chains.

Metcash is the primary wholesaler/supplier for approximately 48% of supermarket and grocery stores other than the majors²¹. It estimates the cost of introducing unit pricing in independent supermarket and grocery stores nationally would be at least \$9.9 million. It should be noted that the relationship between Metcash and its supplied stores is in many ways similar to a vertically integrated business model²². Metcash offers a retail and back-office system support role to supplied stores, implying potential synergies of scale for unit pricing implementation for a large portion of independent retailers.

The majority of 'corner stores' are expected to fall outside the scope of the proposed regulation, i.e. those with a floor space of 200 square metres or less, which is used for sale or display of grocery products.

The quantum of the largely one-off costs of unit pricing to supermarket and grocery retailers may also be considered in the context of yearly outlays on competition on price. Supermarket and grocery retailers spent more than \$150 million dollars on advertising in 2007²³.

Benefits

A mandatory and best practice scheme providing a high level of compliance and consistency of application of unit pricing would better place grocery retailers (and product manufacturers) to engage in true competition strategies based on price.

²⁰ ACCC Grocery Prices Inquiry submission 014 National Association of Retail Grocers of Australia

²¹ ACCC Grocery Prices Inquiry submission 181 Metcash

²² *ibid*

²³ *ibid*

It is likely the introduction of unit pricing would lead generally to more positive consumer perceptions of the supermarket and grocery sector. For example, enhanced price transparency may address consumer concerns about prices such as when package sizes or weights are altered.

9.3.1. Impact of regulation on consumers

Costs

The largely one-off implementation cost for industry may be passed on to consumers in higher product prices. However, the extent to which this may happen would depend on factors such as competition in the market and the responsiveness of supply and demand to changes in price. Also, the enhanced price transparency across the market imposed by a mandatory scheme may be a disincentive for significant increases.

Benefits

Benefits to consumers resulting from legislation facilitating greater transparency and informed choice through a simple scheme for comparing the prices of products would be significant including:

- improved ability to make prudent choices between competing products as well as between types of product, including the ability to make more frugal purchasing decisions, better manage household budgets and significantly reduce the overall shopping bill;
- increased capacity to assess price against perceived quality as well as quantity of products;
- increased capacity to make affordable healthy product choices;
- reduced consumer confusion and increased confidence in the grocery market;
- monetary savings may be redirected to the purchase of additional products or other uses; and
- time saved by householders in comparing prices may be redirected to more productive uses.

A trial by the Queensland Consumers Association showed that the cost of 25 typical products of well-known national brands was \$93.51. But by choosing the lowest unit priced packages, the cost of the same amount of total product for 25 items was only \$49.28 (a 47% saving). Recognising that consumers may, to some degree, be adverse to switching brands, an additional trial was undertaken choosing 19 items at the lowest unit price within the available range of package sizes, without switching the brand. This produced a reduction in the cost of the same total amount of product by almost 20%.

Overseas studies, where unit pricing has been introduced, have shown an average of 1% to 3% savings may be achieved by consumers across the market. In Queensland, this equates to between \$96 and \$289 per household each year, a total of \$134 million and \$402 million per year for all Queensland households²⁴.

Monetary savings are particularly significant for low income and other disadvantaged consumers. In cases where unit pricing does not result in consumers paying less, it enables better assessment of quality against price. For example, where the unit price shows similar pricing of two different product brands, the consumer may choose to

²⁴ Based on Queensland summaries from ABS 8501.0 Retail Trade, Australia, March 2008, and ABS Census of Population and Housing 2006

purchase the slightly more expensive option if the perceived quality is considered to be significantly higher.

Unit pricing may assist in addressing the misconception that some healthy foods are always more expensive than other food groups, which may in turn influence the consumption. For example, some consumers may be prompted to switch to a different type of product which is a healthier option, if they are aware of the true (unit) cost.

Any improvements in competition and downward pressure on grocery prices may further reduce the pressure on household expenditure.

Impact of regulation on Government

Costs

Costs for government include administering regulation, undertaking future reviews, implementation of the regulation, including stakeholder education, monitoring compliance with the laws and enforcement.

Benefits

The Queensland Government would benefit from meeting community expectations regarding the protection of consumers, including low income and disadvantaged consumers such as those with low numeracy skills.

Unit pricing is expected to significantly enhance competition in the grocery market, between retailers and between manufacturers, and may provide leverage for price restraint which would benefit the community and the wider economy. As noted earlier, food prices in Queensland rose by 5.2%²⁵ over the past year and unit pricing may save Queensland households a total of between \$134 million to \$402 million per year. These savings may be redirected to other productive uses.

Unit pricing may also assist government programs which seek to help low income and disadvantaged consumers, such as those with low numeracy skills.

Conclusion

The purpose of the analysis is to assess the cost/benefit impacts on the community of introducing a mandatory unit pricing scheme for grocery products in Queensland. Three options have been considered: status quo; industry self-regulation; and government regulation. The preferred option is for government to regulate unit pricing.

Under the proposed course of action, the Queensland Government would introduce the *Fair Trading (Unit Pricing) Amendment Regulation 2008* (as outlined under Section 2), which would introduce a mandatory unit pricing scheme for grocery products in Queensland.

The preferred option is likely to impose some appreciable costs to retailers. However, these costs appear to be outweighed by the benefits to the wider community. It is noted that the major retailers, Aldi, Woolworths and Coles believe unit pricing will benefit the community and they have all indicated support for the mandatory introduction of national unit pricing requirements for grocery retailers across Australia. The proposal would exclude smaller grocery stores or 'corner stores' as they would suffer unreasonably high

²⁵ ABS 6401.0 - Consumer Price Index, Australia, Mar 2008

implementation costs and most consumers do not use these stores for their main ‘weekly shop’

The benefits from a mandatory unit pricing scheme include the consistent application of best practice requirements across the market, which will simplify price comparisons by consumers across brands, package sizes, product forms and retailers. The proposal would enable many consumers to achieve significant savings in money and time, assist consumers to better assess value for money and quality and lead to improved competition between retailers and between manufacturers.

The most significant impact of the proposed scheme is its simplicity of use and the potential for consumers to pay significantly less for the same quantity of groceries in a basket. This will be a major benefit to low income and other disadvantaged groups.

The other options considered are not conducive to providing consistent or industry-wide application of unit pricing and will provide limited benefits. The preferred option is the most efficient and effective means of achieving the policy objectives and provides the greatest net benefit to the community.

9.4 Preferred Option

Option 3 – making the proposed *Fair Trading (Unit Pricing) Amendment Regulation 2008*:

- meets the policy objectives;
- provides significant benefits to consumers and the general public; and
- incurs a low to medium level cost to the industry and government.

Option 3 provides the greatest net benefit and is the Preferred Option.

Summary of Overall Assessment of the Options

Options	Benefit	Cost	Incentive for best practice	Protection of consumers	Overall efficiency
1. Status quo	Low	Low	Low	Low	Low
2. Industry self regulation	Low	Low to medium	Low	Low to medium	Low
3. Government regulation	High	Low to medium	High	High	High

10. Consistency with fundamental legislative principles

The proposed legislation is consistent with fundamental legislative principles.

11. Conclusion

The proposed *Fair Trading (Unit Pricing) Amendment Regulation 2008* is considered reasonable and appropriate because it meets the policy objectives without imposing unreasonable costs on industry.