

23 July 2012

By email: mark.frost@treasury.gov.au

Geoff Francis
General Manager
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The Treasury
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Dear Mr Francis

Unit Pricing Post-Implementation Review

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on Unit Pricing Post-Implementation Review.

In our view, unit pricing is, and will continue to be, an appropriate regulatory mechanism and appears to create a number of direct and indirect benefits to consumers and competition, at relatively little cost.

However, research undertaken by the Queensland Consumers Association and CHOICE indicates we are not achieving optimal benefits from the unit pricing regime, and changes to the unit pricing code are justified.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

We also operate MoneyHelp, a not-for-profit financial counselling service funded by the Victorian Government to provide free, confidential and independent financial advice to Victorians experiencing financial difficulty.

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The purpose of unit pricing

The purpose of unit pricing is simply to improve the ability of consumers to compare the price and value of different grocery items. This comparison may be made across different sized packages or different brands of the same product, products and their substitutes, or the same product across different stores.¹

In our view, unit pricing is, and will continue to be, an appropriate regulatory mechanism. As we argue below, helping consumers to compare the value of competing products more easily and quickly is a benefit in itself. It can also lead to further benefits such as allowing consumers to cut their grocery spend and applying competitive pressure on prices.

The benefits of unit pricing

Quantifying consumer benefits

Before considering unit pricing in particular, we would like to make some general comments about measuring costs and benefits of regulation.

The broad purpose of a Post-Implementation Review (**PIR**) is to assess whether regulation is an efficient and effective way of achieving a certain objective. One of the ways a PIR makes this assessment is to measure the benefits of the regulation and compare them to the costs to business, government and the community at large.

The difficulty with making this assessment through a PIR—and through the Regulatory Impact Assessment (**RIA**) process—is that the benefits of regulation are typically very difficult to quantify, while costs to business are quantified relatively easily. As we have argued regarding the RIA process,² in our experience this means that consumer benefits and costs are much less likely to be properly assessed and thereby carry less persuasive weight than costs. The outcome of this detriment focus is that the PIR and RIA processes may be less able to judge if proposed regulation will do what it is designed to do—that is, create a particular benefit.

At least part of the reason for this detriment focus is the apparent reliance on quantitative evidence. We agree that regulation should be based on robust evidence of a regulatory deficit and quantitative evidence will often be the best indicator of the extent of a problem. However, an unswerving demand for quantitative evidence can prevent a PIR or RIA properly assessing the extent of a problem, particularly if quantitative data is by nature more available to one side of the debate than the other.

Consumer advocates (and all not-for-profit service providers) will necessarily be focused on providing advice and support to consumers and frequently do not have the resources or opportunity to produce detailed quantitative data (which may require, for example, comprehensive consumer surveys). Conversely, it is relatively easy for businesses to assess and

¹ For example, see ACCC (2008) *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries*, pages xxiii-xxiv; ACCC *Frequently Asked Questions About the Unit Pricing Code*, <http://www.accc.gov.au/content/index.phtml/itemId/878549>

² We made these points in a submission to the Productivity Commission's RIA Benchmarking Study, available here: <http://www.consumeraction.org.au/downloads/CALCsubmission-PCRIALIssuesPaper-May2012.pdf>

monetise what additional paper burden or hours of labour will result from new regulation. Business associations will usually also have more resources available to conduct research if it does not already exist.

We acknowledge that costs and benefits that are not directly observable or cannot be expressed in dollar terms will still be considered by the PIR. However, we believe it is still the case that straightforward and easily monetised costs may naturally be given more weight than the benefits of unit pricing, which are likely to be less easily quantified.

Benefits to consumers

Despite the difficulties in measuring consumer benefit of this type, we believe the mandatory unit pricing regime creates benefits for consumers. This is supported by research undertaken by the Queensland Consumers Association (QCA) and CHOICE, which found that 80 per cent of people who shopped at either a Coles/Bilo or Woolworths/Safeway supermarket used unit prices. Of those people, 72 percent found unit prices 'very helpful', and all respondents found unit prices at least 'slightly helpful'.³

The availability of unit pricing is a benefit in itself if it allows consumers to easily compare the value of competing products without engaging in challenging mental calculations. For many, such mental calculations (although possible) require effort and thus are simply not undertaken meaning that choices are made without fully considering the price of a product. Moreover, there are many people who have trouble making this kind of mental calculation and may be unable to fully compare the price of supermarket items. This could be a very large group of people—the Australian Bureau of Statistics has found that 53 per cent of Australians (7.9 million people) have numeracy skills below what is considered to be the "minimum required for individuals to meet the complex demands of everyday life and work in the emerging knowledge-based economy".⁴

Simplifying this comparison also has flow on effects, most obviously that consumers who wish to buy their groceries at the lowest possible price will find it easier to reduce their medium-to-long term grocery spend. Of course, not all consumers necessarily choose the cheapest option when given a choice because they prefer and can afford a premium, branded product. Unit pricing will still be useful for these consumers to help them choose between competing premium options. Many consumers use price as proxy for quality and will tend to choose more expensive options on some products which otherwise appear identical. Again, unit pricing will still be useful because it makes the price comparison more transparent.

Other flow on benefits may also be achieved for consumers, such as:

- Time savings: Unit pricing allows value comparisons to be made more quickly so consumers may be able to finish their shopping more quickly, and time poor consumers may be able to make value comparisons on more products than they could if they had to engage in (lengthier) mental calculations. As our colleagues at the Queensland

³ Queensland Consumers Association and Choice (2011) *Report of Survey of Consumers on Grocery Unit Pricing at Coles/Bilo and Woolworths/Safeway Supermarkets*, page 2.

⁴ Australian Bureau of Statistics (2008) *Adult Literacy and Life Skills Survey, Summary Results*, page 5.

Accessed from

[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/B22A471C221C7BADCA2573CA00207F10/\\$File/42280_2006%20\(reissue\).pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/B22A471C221C7BADCA2573CA00207F10/$File/42280_2006%20(reissue).pdf)

Consumers Association have said in their submission, time poor consumers may also have more time to compare other aspects of products such as ingredients, nutritional information or country of origin.

- Improved price competition between brands: While we recognise that the impact on price competition will be small compared to other economic factors, we believe that unit pricing will still have some effect. For example, unit pricing would limit the ability of manufacturers and/or retailers to give a false impression of value through 'economy size' packs. It will also limit the ability of manufacturers to obscure price increases by changing package sizes for those consumers who pay close attention to unit prices (such as those who choose between different brands of a particular product week-to-week based on value).

Costs to business

We do not claim to hold any data on the costs incurred by business, but we recommend that Treasury consider the following points when assessing costs:

- Unit pricing is only mandatory for large grocery retailers and we would suggest that cost of complying with unit pricing requirements would be small relative to income and other (regulatory and non-regulatory) costs faced by these businesses;
- Costs incurred would be passed on to consumers without affecting the competitiveness of businesses affected. All relevant businesses will have faced similar costs in rolling out unit pricing (though we note that compliance would be less expensive for the two major supermarkets than others). Further, compliance costs, when spread over a large customer base, would be either insignificant or completely unnoticeable to individual consumers and so would not weigh upon a consumer's decision over where to do their shopping.
- Many of the costs incurred would have been front-end spending to do with software and systems upgrades. If that is so, the majority of costs have already been spent (and paid for by consumers) so are not relevant to a calculation of future costs and benefits.

Costs to consumers

Unit pricing does not appear to us to create any significant costs for consumers. As discussed above, compliance costs will be passed onto consumers but they are likely to be unnoticeable to individuals. Once-off costs will already have been passed on.

Maximising benefits to consumers and competition

While the research by QCA and CHOICE found that unit prices were widely used and helpful, it also suggested that the unit pricing regime was not creating the level of benefit that it could. In particular, the QCA/CHOICE survey found that 60 per cent of respondents either agreed or strongly agreed that unit prices would be more helpful if the print size was bigger. A significantly higher proportion of respondents aged over 55 years, and respondents receiving an annual income less than \$52,000 strongly agreed with this statement compared to the average

Similar results were returned when respondents were asked if unit prices would be more helpful if the prices stood out more. Sixty-one per cent agreed or strongly agreed, with significantly

higher proportions of those aged over 55 years and those earning under \$52,000 strongly agreeing compared to the average.

This means that changes to how unit prices are displayed could increase consumer benefits, particularly for older consumers and those on lower incomes. Improvements be achieved by enhancing the current prominence and legibility requirements in the *Trade Practices (Industry Codes -- Unit Pricing) Regulations 2009* (**the unit pricing code**).

At present, subregulation 6(2) of the unit pricing code requires that retailers displaying unit prices must ensure that they are:

- displayed prominently and in close proximity to the selling price for the grocery item; and
- legible and unambiguous.

We welcome these requirements but believe that they are largely unenforceable in the absence of an objective standard on what 'prominent' and 'legible' means. We recommend that the unit pricing code be amended to require that the text of unit prices be at least a certain height (expressed in millimetres).

Please contact David Leermakers on 03 9670 5088 or at david@consumeraction.org.au if you have any questions about this submission.

Yours sincerely

CONSUMER ACTION LAW CENTRE



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