



8 October 2008

James Chisholm
Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: unitpricing@treasury.gov.au

Dear Mr Chisholm

Unit Pricing – Issues Paper

CHOICE is a not-for-profit, non-government, non-party-political organisation established in 1959. CHOICE works to improve the lives of consumers by taking on the issues that matter to them. We arm consumers with the information to make confident choices and campaign for change when markets or regulation fails consumers.

We are therefore very pleased to make this contribution to the design of a compulsory National Unit Pricing Scheme (the scheme) in Australia. Good quality unit pricing will facilitate better-informed consumer purchasing at the grocery aisle and drive competitive pricing between supermarkets.

The *Issues Paper* explains well the multitude of benefits that flow to individuals and the broader economy with the implementation of unit pricing. CHOICE was particularly pleased that the Australian Competition and Consumer Commission had no hesitation in recommending mandatory unit pricing be introduced across Australia. We are pleased to assist the Government in creating a system that achieves the greatest net benefits for the community.

The *Issues Paper* defines unit pricing as follows:

Unit pricing in supermarkets is a comparison tool of convenience for consumers, particularly when making comparisons between multiple product lines and stores

The scheme should make price comparisons as simple as possible. It should facilitate price comparisons between package sizes, brands, products, product forms, packaging and between retailers.

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We also recognise that in order to minimise the scheme cost, it is important to implement a system that provides a high degree of regulatory certainty into the future and so limits exemptions as far as possible.

To ensure uniformity across supermarkets CHOICE sees a need for a degree of prescription in the units of measures adopted by the scheme. A high degree of prescription will also ensure the presentation of the unit price is useful, simple and clear. Nutrition information panels on food labels are subject to prescriptive regulations for similar reasons and are well regarded by consumers who utilise that information. The Australia New Zealand Food Standards Code, for example, requires nutrients to be listed in a particular order and 'per 100g' to appear on the right of the 'per serve' column to allow for quicker comparisons.

In reviewing the requirements for a compulsory national unit pricing scheme, we have drawn on the Queensland Government's draft regulations for a state-based unit pricing scheme, which in many ways represents best practice.

In summary our recommendations for the new National Unit Pricing Scheme are as follows:

- Adopt the Queensland Government proposal for the unit of measure.
- Proscribe the minimum size and format of the presentation of the unit price
- Require all advertisements showing a selling price to also display the unit price (irrespective of whether the retailer is an excluded retailer for the purpose of the Unit Pricing scheme).
- Make the scheme compulsory for all grocery retailers, with the exception of small grocery retailers.
- Allow an implementation period of up to 12 months.
- Require any exempt retailers who voluntarily introduce unit pricing to do so in accordance with the scheme.
- Allow limited product exemptions in special circumstances
- Require the in-store provision of information material about unit pricing.

These points are explained in detail below.

1. Units of measure

The prescribed unit of measure should facilitate consumer comparison. The unit of measure is critical to providing a unit price which is easily and simply comparable. It is not particularly useful for consumers to see a unit price of \$1,218 per kg for a 5g bag of saffron that costs \$6.09. There needs to be some limits around the size of the unit price. Nor is it particularly useful to have low value price comparisons. The example presented in the *Issues Paper*, highlights the benefits of larger units of measure – a price differential of \$3.40 and \$3.90 is more easily perceived than a price differential of \$0.34 and \$0.39. Higher units of measure more clearly illustrate the comparative costs of products and should be used wherever possible.

The Queensland Government has recommended a novel approach to the unit of measure. It uses the higher unit of measure, up to a unit price of \$99 per unit, after which point it drops to the lower unit of measure. We believe this approach is an appropriate balance



between useful and simple comparisons. This approach also minimises compliance costs over time as there is no need to maintain a schedule of measurements for different categories of products.

We recommend adopting the following approach outlined by the Queensland Government in the draft *Fair Trading Amendment Regulation (No...)* 2008;

unit price means—

(a) for a grocery product supplied by number to consumers—

(i) if the product is supplied in lots of 1 to 9 units—the final price for 1 unit of the product; or

(ii) if the product is supplied in lots of 10 to 99 units—the final price for 10 units of the product; or

(iii) if the product is supplied in lots of 100 or more units—the final price for 100 units of the product;

(b) for a grocery product supplied by mass or volume to consumers—

(i) generally—the final price for each 1kg or 1L of the product; or

(ii) if the final price for each 1kg or 1L of the product is more than \$99—the final price for each 100g or 100ml of the product; or

(iii) if the final price for each 100g or 100ml of the product is more than \$99—the final price for each 10g or 10ml of the product; or

(iv) if the final price for each 10g or 10ml of the product is more than \$99—the final price for each 1g or 1ml of the grocery product; or

(c) for a grocery product supplied by linear or cubic measurement to consumers—the final price for 1m, 1m² or 1m³ of the product.

This approach may need to be accompanied by appropriate tolerances to account for products sitting on the cusp of two measurement units, for example as a result of seasonal changes. CHOICE would be pleased to discuss further the practicalities of this system.

2. Presentation of Unit Price

It is critically important that the unit price information be displayed prominently so that consumers can see it easily. There are many ways to achieve this including mandating a minimum font size, designating specific colours or requiring the words “unit price” alongside the unit price.

The unit price should be presented in a consistent way across different supermarket stores. This will ensure the unit price is easily employed and meets its goal of facilitating simple price comparison between multiple product lines and stores. Consistent unit prices will also enhance any education campaigns that are undertaken in accordance with the scheme implementation.

The unit price should also be displayed in any advertising material. The scheme should require all online and printed advertisements showing a selling price to also display the unit price (irrespective of whether the retailer is an exempt retailer for the purpose of the scheme).



Again we draw on the Queensland Government's draft regulations for guidance on how to facilitate the effective presentation of the Unit Price. That regulation states as follows:

9AK Displaying unit prices

- 'A unit price for a grocery product must be displayed—*
- (a) in a form in which the price is preceded by a dollar sign; and*
 - (b) if the unit price has a decimal sub-multiple—in a form in which the price is preceded by a zero or other numeral; and*
 - (c) in a form in which any unit of measurement is preceded by the word 'per'; and*
 - (d) in characters of a height that is—*
 - (i) for a unit price for a grocery product displayed on a price sign—the greater of 10mm or 50% of the height of the characters of any selling price displayed for the grocery product on the price sign; or*
 - (ii) for a unit price for a grocery product displayed on an on-line shop or in a printed advertisement—at least 50% of the height of the characters of any selling price displayed for the grocery product on the on-line shop or in the printed advertisement; and*
 - (e) in close proximity to any display of the selling price for the grocery product.*

In reviewing the requirement set out in clause 9AK(d)(i) above, we note that the country of origin labelling requirements for unpackaged foods in Subclause 2(3b) in Standard 1.2.11 of the Australia New Zealand Food Standards Code, which are a good example of prescriptive shelf labelling regulation, require that the size of type on the label must be at least 9 mm or where the food is in a refrigerated assisted service display cabinet, the size of type on the label must be at least 5 mm.

The Queensland legislation is a good starting point, although as mentioned above there are other ways to ensure the prominence of the unit price. We note for example, that several US states also specify the colour of the background on which the UP must be printed. In Massachusetts it must be yellow and in the initial education campaign consumers were told to "look for the yellow".

Ideally, the Government would undertake consumer testing of various font sizes, coloured backgrounds and use of the words "unit price" to determine the most appropriate shelf labelling system. We recommend adopting the Queensland model with this amendment.

3. Exempt Retailers

The scheme will be compulsory for all grocery retailers however, it will be appropriate to grant exemptions to small grocery retailers. We recommend that where exempt retailers voluntarily elect to implement unit pricing, the regulations require they do so in accordance with the scheme. This will ensure a consistent approach among all retailers.



4. Code or Specific Legislation

The *Issues Paper* seeks views on whether to implement mandatory unit pricing through a Trade Practices Act (TPA) Code or separate legislation. We note that the Code provisions of the TPA have not previously been used for an exercise such as this. Existing codes have focussed on business-to-business arrangements rather than the mandatory provision of consumer information. Currently, limited unit pricing arrangements for fruit, meat and vegetables exist in separate legislation.

While we have no fixed view as to whether to implement mandatory unit pricing through a TPA Code or separate legislation, it is imperative that the right range of enforcement options must be available to the scheme regulator. The ACCC is well placed to enforce such a scheme. It will have available the existing body of investigators and access to the full range of penalties, including those recently recommended by the Productivity Commission.

We recognise that an implementation period will be required to facilitate the new obligations. We do not wish to impose excessive initial implementation costs for a scheme which will deliver benefits for decades to come. An implementation period of up to 12 months is therefore recommended.

5. Product Exemptions

We note that the Queensland Government draft regulations allow for specific exemptions, including:

- damaged products
- last-minute markdowns
- mixed packs

In addition, the regulations include a schedule of exempted products. CHOICE believes that as far as possible product exemptions should be limited. We believe that with the right scheme, discrete product exemptions should not be required. We recommend adopting the above exemptions and only allowing other exemptions for those products which fall outside the regulatory approach adopted by the Government. It is important that these exemptions are not used as loopholes to avoid the legitimate presentation of a unit price.

6. Education and Information

The introduction of a new unit pricing scheme should be accompanied by a public awareness campaign that teaches consumers how to interpret unit prices and how they can use unit pricing to make informed and cost-effective choices in the supermarket. Both the Government and the grocery retailers will have rolls to play in a consumer education campaign. For example, as part of the public awareness campaign, consumer information should also be available in supermarkets. Without an effective public awareness campaign, the full consumer benefit of a unit pricing scheme will not be realised.



CHOICE is pleased to provide these comments and we look forward to further discussion about the implementation of the national mandatory unit pricing scheme. For any further information please feel free to contact me on (02) 9577 3349 or by email at efreeman@choice.com.au.

Kind regards

A handwritten signature in black ink, appearing to read "Elissa Freeman", written in a cursive style.

Elissa Freeman
Senior Policy Officer