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Dear Mr Chisholm

### **Unit Pricing – Issues Paper**

Consumer Action Law Centre (**Consumer Action**) thanks the Government for the opportunity to comment on the Unit Pricing Issues Paper (the **Paper**). We apologise for the delay in making this submission.

We strongly support the introduction of a national, uniform and mandatory unit pricing regime for grocery items covering both in-store and print advertising. As such, we commend the Government for consulting on the implementation of a unit pricing regime for Australia.

The details of the final unit pricing regime to be implemented will be critical to whether or not it is effective in reality in realising the benefits of unit pricing. For example, a low-quality regime that relied on each retailer to determine the manner in which it would display unit prices would inevitably be of little value to Australian consumers or the grocery market more generally. For this reason, we set out below our comments on the essential requirements for an effective unit pricing regime for Australia.

### **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.

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## Previous submissions on unit pricing

Consumer Action has made detailed submissions to other inquiries into unit pricing in the recent past. On 8 February 2008 Consumer Action made a submission to the National Trade Measurement System (NTMS) Discussion Paper. On 12 March 2008 Consumer Action made a submission to the ACCC's inquiry into grocery prices. In addition, on 7 July 2008 Consumer Action made a submission to the Senate Inquiry into the Unit Pricing (Easy comparison of grocery prices) Bill 2008 (**Senate Inquiry**).

We enclose copies of each of these submissions, as they set out in further detail many of the recommendations we make here.

## General

Introducing a national, uniform unit pricing regime for grocery items that mandates high-quality minimum standards would ensure the Government maximises the potential benefits of unit pricing.

Numerous studies, including a recent Australian analysis,<sup>1</sup> have shown that unit pricing in supermarkets can result in reduced shopping bills for consumers. Consumers enjoy savings because unit pricing makes price comparisons easier, thereby increasing price competition and facilitating some consumers to choose lower priced package sizes and brands, and also lower priced substitutable products or products packaged in a lower-cost manner. While the most immediate benefit of unit pricing is that it facilitates in-store consumer information at the time of shopping, it also allows for consumers to make better choices between different retailers.

In our submission to the NTMS Discussion Paper, we discussed research that shows that a unit pricing system that incorporates high standards promotes price competition and has an anti-inflationary effect. Conservative estimates suggest that unit pricing will reduce the amount consumers spend in supermarkets by 1% or \$810 million,<sup>2</sup> and will have an economy-wide deflationary effect of 0.14%.<sup>3</sup> Studies from the United States have shown savings of up to 8.7% from unit prices organised into a list.<sup>4</sup> Recent Australian research has shown that even bigger savings are possible, for example research by the Queensland Consumers Association showed that by switching to the lowest unit priced product, consumers can realise savings of 47%.<sup>5</sup>

However, the detailed standards required by the unit pricing regime will be key in realising, let alone maximising, its effectiveness. Research discussed in our previous submissions on unit pricing (enclosed) show that the specific standards implemented under a unit pricing

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<sup>1</sup> Woolford, Craig & Bowley, Andy, *Unit Pricing in Supermarkets*, Industry Focus, Citigroup Global Markets, 14 July 2008.

<sup>2</sup> As above, page 3.

<sup>3</sup> Kallir, Dr Alan, *Public Submission to ACCC Grocery Inquiry by Insight Partners*, 11 March 2008, page 2.

<sup>4</sup> Zeithaml, Valerie A., Consumer Response to In-Store Price Information Environments, *The Journal Consumer Research*, Volume 8 Number 4 (March 1982), page 367.

<sup>5</sup> Queensland Consumers Association, *Public Submission to ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries*, 5 March 2008, page 4.

system have a great impact on the effectiveness of the system. In particular, the studies make clear that mandatory standards need to be implemented. This is due to the fact that the savings that accrue to consumers as a result of unit pricing directly correspond to additional (super-competitive) profits which currently flow to retailers.<sup>6</sup> Thus it is only through mandatory requirements that supermarkets will adopt specific standards (such as standards setting out the units of measure and minimum font size for the unit price display) that maximise the ability of consumers to use unit price information. Likewise, unless the system is mandatory, it would not be possible to achieve uniformity, and failure to have a uniform system would undermine its effectiveness.

We support a national unit pricing regime given the national nature of the major supermarket chains and the absence of any reason to allow the benefits of unit pricing to flow to consumers in different measure simply based on where they live. However, this support for a national regime is contingent on the regime being of sufficient quality to be effective for consumers. For example, the Queensland Government has already released draft legislation for the implementation of a unit pricing regime in that state. The proposed provisions would largely result in a high quality, effective unit pricing scheme for consumers and if any proposed national regime were not of a comparable quality it would be difficult to justify supporting the national scheme simply for the sake of uniformity, at least so far as the interests of Queensland consumers are concerned.

### **Educating and informing consumers**

We commend the Paper for recognising that any unit pricing regime must be supported by information and education to consumers. As unit pricing works as an informational aid, it is necessary for an education campaign to coincide with the implementation of unit pricing.

The consumer education campaign should seek to inform as many consumers as possible about how unit pricing works. The message that needs to be communicated to consumers is a relatively simple one – that the label will now contain a price per standard unit in addition to the sale price, and that this allows for easy comparisons between products. The campaign should explain that comparisons can be made between sizes, brands and products to maximise consumer understanding and use of unit price information.

The simplicity of any education campaign could be substantially reduced if multiple units of measure are allowed under the regime. To maximise consumer benefit, it is logical to have single standard units of measure. The greater the extent to which multiple standards of measure are permitted for different products (for example, per 10g, per 100g or per kg), the increasingly difficult it will be for an education campaign to be successful. Conversely, the ability to use simple messages in an education campaign could be enhanced by certain features of the unit pricing display. For example, requiring a colour background for the display of unit price information, as is the case in the US state of Massachusetts,<sup>7</sup> would enable a simple and effective message such as “look for the orange” to be used in an education campaign.

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<sup>6</sup> See, eg, Woolford & Bowley, above n1.

<sup>7</sup> 202 Code of Massachusetts Regulations 5.00: Unit Pricing and Automated Retail Checkout Systems, s.5.03.

It is logical that the in-store environment would be one of the better ways to reach supermarket shoppers, and any education campaign would have to include in-store initiatives. Again, uniform and mandatory requirements in this regard would be necessary to ensure that all consumers received sufficient information to enable them to make use of the new unit price information.

### **Mechanism of implementation and Enforcement**

At this stage Consumer Action considers that specific legislation is the preferred mechanism to implement a unit pricing regime, for the reasons set out below.

We agree that regardless of whether specific legislation or a code of conduct under Part IVB of the *Trade Practices Act 1974* (Cth) (**TPA**) is used to implement a unit pricing regime, the Australian Competition and Consumer Commission (**ACCC**) is the most appropriate regulator to administer and enforce any unit pricing regime. Of course, the ACCC will require additional resources to administer and enforce new responsibilities with regard to the new unit pricing regime, although these will be less than if a new body were established to monitor unit pricing or if regulatory responsibility were assigned to a body that has less experience in enforcing consumer protection regulation, for example the National Measurement Institute.

However, we note that industry codes under Part IVB of the TPA may be *either* mandatory or voluntary.<sup>8</sup> The Paper incorrectly states that breaches of a prescribed code are breaches of the TPA and subject to the same civil remedies. In fact, only breaches of a prescribed industry code that is *also* an 'applicable industry code' will constitute breaches of the TPA.<sup>9</sup>

Only mandatory industry codes are guaranteed to equate to an applicable industry code.<sup>10</sup> Breaches of a voluntary industry code are only breaches of the TPA if a corporation agrees to be bound by the code and then contravenes it. The implementation of a unit pricing regime through a voluntary industry code under Part IVB of the TPA would therefore lead to a non-mandatory, non-uniform scheme and inevitably a lower level of benefits for consumers. As such, Consumer Action could not support such a mechanism for implementation of the regime.

We agree that a mandatory, as opposed to voluntary, code would provide some basis for appropriate enforcement of unit pricing provisions under the TPA. However, at present *not* all civil remedies available under the TPA apply to breaches of Part IVB as is implied by the Paper. Rather, civil pecuniary penalties and orders banning persons from managing a corporation are only available in civil actions for contraventions of the Part IV restrictive trade practices provisions of the TPA and are not available for breaches of Part IVB (nor Part IVA or Part V).<sup>11</sup> Further, the ACCC cannot apply for an adverse publicity order in relation to breaches of industry codes under Part IVB,<sup>12</sup> although this remedy is available where a civil

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<sup>8</sup> *Trade Practices Act 1974* (Cth) s.51AE.

<sup>9</sup> S.51AD.

<sup>10</sup> S.51ACA

<sup>11</sup> Ss.76 and 86E. Part IVA includes the prohibition on unconscionable conduct and Part V contains the consumer protection provisions of the TPA including the prohibition on misleading and deceptive conduct.

<sup>12</sup> S.86D

pecuniary penalty has been ordered or a Part VC consumer protection offence has been made out.<sup>13</sup>

The Government has recently confirmed that it will implement a single national consumer law based on the TPA, drawing on the recommendations of the Productivity Commission and best practice in State and Territory consumer laws.<sup>14</sup> The relevant Productivity Commission recommendations include a recommendation that the new national generic consumer law should give consumer regulators the capacity to seek the imposition of civil pecuniary penalties, including the recovery of profits from illegal conduct, for all relevant provisions and to apply to a court to ban an individual from engaging in specific activities after the court has found that a breach of consumer law has occurred.<sup>15</sup>

It follows that such remedies should also be available for serious breaches of any unit pricing requirements, but this will not be the case if unit pricing is implemented via Part IVB of the TPA (at least until the implementation of the new national generic consumer law, for which no timeframes have been publicly announced). Specific legislation would better ensure that the full range of appropriate remedies is available to the regulator to enforce the unit pricing regime from its commencement. It seems illogical that recognised deficiencies in the current general consumer protection law that are intended to be rectified would be knowingly replicated in the introduction of any unit pricing regime.

In addition, the power to issue infringement notices for minor breaches is not currently available at all under the TPA. Again, the Productivity Commission has recommended that the new national generic consumer law should give consumer regulators the capacity to issue infringement notices for minor contraventions of consumer law, subject to guidelines informed by the current Treasury review of infringement notice powers under corporations law.<sup>16</sup>

Infringement notices are likely to be a particularly important tool in relation to unit pricing enforcement, given the large capacity for minor breaches of unit pricing requirements. A minor breach, for example one supermarket displaying incorrect unit prices on some shelves due to a computer glitch or inaccurate data entry, probably would not justify large public expenditure to address through a large regulator investigation and/or court action, but may nevertheless have caused minor consumer detriment justifying a proportionate response to encourage better systems and maintenance in future. Infringement notices constitute this sort of response, with the Productivity Commission noting that 'the inclusion of such powers in the new national generic law would be desirable to continue to provide scope for consumer regulators to deal with minor offences in a cost-effective manner'.<sup>17</sup> At this stage, only specific unit pricing legislation would enable infringement notice provisions to be incorporated into the unit pricing regime.

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<sup>13</sup> Part VC offences replicate the general unfair trading provisions of Part V Division 1 of the TPA apart from the section 52 prohibition on misleading and deceptive conduct, and also include offences regarding pyramid selling and the supplying of goods subject to a ban or that do not meet safety or information standards declared by the Minister, which correspond to provisions in Part V Divisions 1AAA and 1A respectively.

<sup>14</sup> Council of Australian Governments, *Communique*, Perth, 2 October 2008, page 2.

<sup>15</sup> Productivity Commission, *Review of Australia's Consumer Policy Framework: Productivity Commission Inquiry Report*, Volume 2 – Chapters and Appendixes, No. 45, 30 April 2008, page 251.

<sup>16</sup> As above.

<sup>17</sup> As above at page 248.

## Display of unit pricing information

Consumer Action strongly believes that most of the benefits of unit pricing will be unlocked only if a unit pricing regime with high standards is introduced. This means that specific mandatory standards will need to be enforced, and that if this does not occur most of the benefits, in terms of reduced prices due to price competition, will be foregone. Two of the most critical standards in terms of the likely success of the regime are the unit of measure used and the size of the unit price display (principally the size of the font displaying the unit price on the shelf label).

### *Units of measure*

We agree with the Paper that a unit pricing scheme must be based on standard units of measure, at least for like items. The Paper notes that in choosing which units of measure to use as standards, higher units may more clearly illustrate price differences but may lead to very large prices for goods sold in very small quantities.

As a general rule, higher units should be used as the standard units of measure because they better facilitate the intention behind any unit pricing regime, which is to maximise consumers' use of relevant information in making shopping choices. Higher units, especially the weight and volume measures of per kilogram and per litre, maximise the effectiveness of unit pricing as smaller units of measure de-emphasise the price difference between products.<sup>18</sup>

The fact that higher units may lead to very large unit prices for goods sold in small quantities is largely irrelevant except where such unit prices may confuse rather than assist consumers. For example, unit pricing is already in use for meat, fruit and vegetables pre-packed in random-weight packages. The unit price must be marked per kilogram despite the pre-packed articles in these instances generally weighing much less than one kilogram. There are no reports of any confusion for shoppers in the use of the larger unit of measure for the unit price indication alongside the actual sale price marking.

To the extent that unit prices may become excessively large, the draft Queensland legislation sets out an effective way to determine the appropriate standard unit of measure. It proposes that, in general, standard units of per kilogram and per litre be used. However, it allows for smaller standard units of per 100g or 100ml, per 10g or 10ml, or per 1g or 1ml, to be used if the final price (including GST and other taxes) of a product per the higher level of standard unit exceeds \$99.<sup>19</sup> Consumer Action supports this system as it ensures that unit price amounts remain reasonable but the information displayed still emphasises material price differences.

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<sup>18</sup> This can be seen by looking at the example of tinned peaches on the first page of the Paper. A consumer would clearly consider more seriously a difference between \$3.40 and \$3.90 (where the difference is 50c) than the difference between \$0.34 and \$0.39 (where the difference is 5c).

<sup>19</sup> Draft Fair Trading Amendment Regulation (No. ...) 2008 section 6.

Consumer Action supports unit pricing for products sold other than by weight or volume, for example by count, by length or by area, as the rationale for displaying unit price information applies equally to all grocery products. We note that it is relatively simple to incorporate such products into a unit pricing regime, for example the draft Queensland legislation proposes to require unit pricing for grocery products supplied by number or by linear, square or cubic measurement and provides for standard units of measure in each of these cases.

#### *Size of unit price information*

Greater consumer benefit is achieved if the unit price display is more prominent.<sup>20</sup> To some degree this is common sense, as busy shoppers are unlikely to gain an information benefit from unit price displays that are unclear, small and difficult or impossible to read.

The Paper recognises that unit pricing information must be displayed clearly for consumers if it is to be useful. However, the Paper is concerned that a minimum size requirement may create cost-benefit trade-offs if the minimum size requires new shelf strip systems.

As a basic starting point, there is no point in implementing any unit pricing regime if consumers cannot make use of the unit price information being displayed, regardless of whether it fits on existing shelf strip systems or not. Thus, the first step is to determine the minimum size required for effective unit pricing. It is only after that initial step that questions of minimising implementation costs by using existing shelf strip systems come into play. It is not of benefit to consumers to create unnecessary implementation costs as retailers will pass these costs onto consumers. However, the benefits that will flow from unit pricing are potentially very large and overshadow implementation costs.<sup>21</sup> Fundamentally, annual recurrent savings to consumers of \$810 million from a unit pricing system with high standards greatly outweigh the once-off costs of implementing unit pricing (which may be several million, or tens of millions if minimum standards are imposed around the size of the font of the unit price). Unlocking the ongoing benefits of unit pricing should be the first priority, with ensuring minimum implementation costs a lower-order concern.

Consumer Action supports the prescription of minimum font sizes for the unit price. The unit price should be displayed in a size of at least 10mm or 50% of the size of the displayed sale price (the actual price for the product), whichever is greater.<sup>22</sup> This is the minimum effective display size recognised in the draft Queensland legislation.

Prescription of display size is necessary to ensure both uniformity and an effective regime. The size of the unit price display in voluntary unit pricing systems that have been used by Australian supermarkets to date are absurdly small and very difficult to read. Clearly, an

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<sup>20</sup> Miyazaki, Anthony D. et al, Unit Prices on Retail Shelf Labels: An Assessment of Information Prominence, *Journal of Retailing*, Vol.76 No.1 2000.

<sup>21</sup> For example, recent Australian research noted that submissions to the ACCC grocery inquiry by the large retailers Coles and Woolworths suggest that the estimated implementation and running costs of unit pricing for Woolworths is \$4 million or 2bp of the impacted sales base and for Coles is \$10 million or 7bp of impacted sales, a low cost overall and ultimately borne by the beneficiaries of unit pricing, consumers: Woolford & Bowley, above n1, page 7.

<sup>22</sup> We note that in under Victoria's Trade Measurement laws, for items that currently require a unit price label (eg. fresh meat) the unit price must be displayed in font at least 10mm high. See *Trade Measurement Regulations 2007* (Vic), section 78.

information aid like unit pricing is not going to work if the information it conveys cannot be read without undue effort. The unit price displays in, for example, Aldi supermarkets and (particularly) the recent Woolworths unit price trial in NSW, are examples of how a small unit price font can undermine the whole purpose of unit pricing. The unit price displayed in the Woolworths trial was so small (2.5mm or less) that it was functionally unreadable – a consumer would have to bend down close and eye-ball the label to read it.

Despite the fact that implementation cost is a relatively minor issue in relation to the enactment of a unit pricing regime, it is understandable that retailers would argue in favour of no (or a small) minimum font size requirement by arguing that requiring a larger font will increase implementation costs. In fact, from the perspective of the major chains, the cost of implementing unit pricing is trivial compared with the cost in terms of the profit they will lose if a high standard unit pricing system is implemented. The savings consumers will enjoy because of unit pricing (as noted above, \$810 million per year according to a recent estimate<sup>23</sup>) will materially reduce the profit margins of the major supermarket chains. The most concrete estimate to date suggests that for packaged grocery items, Woolworths would experience a 3.7% reduction in profit and Coles would experience a 6.3% reduction in profit if unit pricing is implemented.<sup>24</sup>

In our view, it would be logical for this significant loss of profit to be of far more concern to the major supermarket chains than the extremely small implementation costs of a unit pricing system that has high standards such as mandating a large unit price font size. If there are no (or inadequate) mandatory requirements around the unit price display (such as the font size and unit of measure), most of the benefits of unit pricing will not be realised (and likewise, most of the loss of profits for the supermarket chains would not be realised).

Other aspects of unit price displays should also be prescribed to maximise the effectiveness of the regime. In particular, the location of unit price information needs to be prescribed to ensure it is in a readable position. The information must be displayed together with the sale price information if it is to be used by consumers. In the in-store situation, this requires unit prices to be displayed on shelf labels.

We also note that some US states prescribe the use of a coloured background for the unit price information on in-store price labels and tags. For example, Massachusetts unit pricing laws require unit price labels, stamps or tags to consist of two dominant segments, the left-hand segment being orange and showing the unit price information and the other part of the label being primarily white.<sup>25</sup> New York requires the colour of the unit price information to contrast conspicuously with the background colour of the stamp, tag or label, and the background colour of the stamp, tag or label upon which the unit price information is placed to contrast conspicuously with the background colour upon which the total selling price of the item is placed.<sup>26</sup>

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<sup>23</sup> As above, page 3.

<sup>24</sup> As above, page 1.

<sup>25</sup> 202 Code of Massachusetts Regulations 5.00: Unit Pricing and Automated Retail Checkout Systems, s.5.03.

<sup>26</sup> New York State Weights and Measures Regulations 1 NYCRR §345.3(c)(8)-(9).

The use of a coloured background is an excellent means to ensure the unit price information is easily visible to consumers, particularly when it is first introduced and is new to consumers. As discussed above, it also allows for educational campaigns that coincide with the introduction of unit pricing to use simple and effective messages such as “look for the orange”. One expert has commented specifically on the reason for prescribing the use of a coloured background in Massachusetts:

The Massachusetts unit pricing label was designed to maximize clarity and readability; the size of the type, and the placement of the information and the color of the label were selected with a mind toward distinguishing the unit price labels from the deluge of self-serving information found in the supermarket. Studies had been conducted in a number of areas where several chains had voluntarily implemented unit pricing (Friedman, 1971, 1972; Consumer Research Institute, 1971). A distillation of the findings revealed several bits of information. First, usage of unit pricing hovered at around twenty percent. For the most part, those who used unit pricing were disproportionately white, better educated and middle class. [See especially M. Friedman, 1971.] In many instances, unit price labels were difficult to read, confusing, illegible or simply wrong. And these latter factors took their toll of potential users. To be sure, within a supermarket, there is nothing more discouraging than to try and make use of a poorly displayed label.<sup>27</sup>

For these reasons, Consumer Action recommends that minimum size and location or placement requirements in particular, and also the use of colour backgrounds, be prescribed in the unit pricing regime.

### **Retailer exemptions**

Consumer Action agrees that it may be necessary for there to be appropriate exemptions for some retailers in a national unit pricing regime, so that small businesses are not disproportionately affected by changes. One basis for an exemption is floor size, with stores whose floor size is below a particular limit excused from the requirement to unit price. A key challenge in setting a floor size exemption is to set the size large enough to exempt the small corner store, but small enough to ensure that all supermarkets are required to implement unit pricing.

An appropriate provision would be to exempt smaller stores and businesses, but to require such exemptions to be reviewed five years post-implementation (and if necessary, every five years after that), perhaps by subjecting the exemptions to a sunset clause. It is likely that continued advances of technology and electronic labelling and logistics will make it increasingly easy for all stores to unit price over time. Arranging for exemptions to expire after five years if they are not renewed allows for their continued review so that exemptions can be removed when technological advances make unit pricing more achievable for smaller businesses.

We note that the EU Directive on unit pricing also takes a similar approach, requiring the European Commission to review the application of the Directive within three years of its

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<sup>27</sup> Wax, Saul Barry (1975), *Social Science Inputs to Public Policy Formation: Massachusetts and the Unit Pricing Regulations*, *Advances in Consumer Research*, Vol. 2, eds. Mary Jane Schlinger, Association for Consumer Research, pages 915-924.

implementation, in particular any exemptions for small retail businesses implemented by member states.<sup>28</sup>

It is possible that some retailers may choose to implement a unit pricing system voluntarily even if they are covered by any exemption for smaller retailers. While we would welcome any such initiatives, they may cause more harm than good if they are implemented in a low quality and non-uniform manner. Consumer Action therefore recommends that the unit pricing regime specify that any exempt retailers who do voluntarily introduce unit pricing must do so in accordance with the requirements of the regime.

### **Product exemptions**

There is no reason for large-scale exclusions from the unit pricing regime for certain grocery products. For example, packaged and unpackaged goods can both be unit priced in the same manner. However, Consumer Action agrees that there are some appropriate cases for exemptions.

For example, it is not the intention of any unit pricing regime to prohibit genuine last-minute hand-written mark-downs in the prices of products (usually because the product is perishable and close to its use-by date), which are of benefit to consumers. It is also difficult to unit price mixed packs of products, that is, packs that contain different product types but are sold with a single price.

We therefore support exemptions from unit pricing requirements for mixed packs and genuine last-minute markdowns. However, note that any provisions for such exemptions will need to be drafted carefully, as it is also common for retailers to use planned discounting or sales (even of perishable goods close to their use-by date), in which case there would be no justification to avoid unit pricing. Similar concerns relate to any exemption for damaged goods – if, for example, a stock of dented baked beans cans were displayed for sale at a lower than usual price, this would not necessarily make it any more difficult for the retailer to unit price those cans.

Consumer Action strongly opposes any exemption for multi-buy offers. A multi-buy offer occurs when two or more products of the same kind are supplied with one selling price, where the products are not packed together so that they can be bought either separately or together but, if bought together, the price per one item is less than if one item alone was bought. Multi-buy discount offers are becoming more common in Australian supermarkets but can be very confusing for shoppers. They require consumers to make a calculation about whether it is better value to buy an item in multiple in order to obtain the multi-buy discount, as compared with buying, for example, a different brand or size of the product. Ultimately, the consumer needs to know the unit price under the multi-buy offer to be able to

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<sup>28</sup> 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, article 12. As all member states did not finish implementing the directive until March 2003, the EC did not make any recommendations regarding retailer exemptions in its 2006 report on the directive, but these are now subject to consultation: EC, *Communication from the Commission to the Council and the European Parliament on the implementation of Directive 1998/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of prices of products offered to consumers*, June 2006, page 4.

compare it with other options. Further, in terms of pricing, most retailer effort is expended in determining the actual pricing of these offers. Once that is completed, in a unit pricing system it would be just as simple to obtain the unit price under the total multi-buy price as it would be to calculate unit prices generally.

### **Compliance costs and Transitional arrangements**

We discussed some of the issues around implementation costs above. As noted, there is a risk of losing perspective when considering implementation costs, as the minimal cost of implementation of unit pricing must not be emphasised at the expense of the substantial benefits that will flow from a high standard unit pricing regime.

To achieve the highest net benefit, the focus should be on ensuring that the standards of the system are optimal. The quality of the standards is more important than the costs of implementing them on a net-benefit basis because the savings from a high standard unit pricing system overwhelmingly outweigh the costs of implementation and, if unit pricing is not implemented to a high standard, these substantial benefits will be largely foregone.

Given the financial pressure on Australian families (and low income families in particular), unit pricing should be implemented as a matter of urgency. The process for implementing a national, uniform and mandatory unit pricing system should begin immediately. However, we consider that a transitional period of six to 12 months is not unreasonable. Unit pricing may require some changes to information technology systems and shelf labelling. That said, many products (such as fresh meat) sold by the major supermarket chains are currently unit priced, and while there may need to be some technological modifications it is certainly not the case that retailers will be starting from scratch.

Consumer Action does have some concerns that retailers may request extensions to any transition time at a later date, pushing out the time-frame for implementation. The Government may therefore need to impose a strict time-limit on retailers in terms of implementation.

Should you have any questions regarding this submission, please contact Neil Ashton on (03) 9670 5088.

Yours sincerely

**CONSUMER ACTION LAW CENTRE**



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Director – Policy & Campaigns



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Encl.

1. Consumer Action Law Centre submission to the National Trade and Measurement System Discussion Paper, 8 February 2008.
2. Consumer Action Law Centre submission to the Senate Inquiry into the Unit Pricing, 7 July 2008.
3. Consumer Action Law Centre submission to the ACCC Grocery Inquiry, 12 March 2008.