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Foodstuffs South Island Limited Submission on Draft Consumer Information Standards (Unit Pricing for Grocery Products) Regulations 2023.

PUBLIC VERSION

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Introduction

Foodstuffs South Island Limited (FSSI) a 100% New Zealand owned Co-operative retailer with stores throughout the South Island. The Co-operative's retail brands include PAK'nSAVE, New World, Four Square, Raeward Fresh, and On-the-Spot.

FSSI welcomes the opportunity to provide feedback on MBIE's Draft Consumer Information Standards for unit pricing for grocery products.

FSSI supports the establishment of standardised unit pricing across grocery retailers.

Currently FSSI's PAK'nSAVE, New World and Four Square stores display Unit Pricing in-store in most product categories.

All PAK'nSAVE and New World stores and a small number of Four Squares use Electronic Shelf Labels (ESLs) to display the unit price. New World and Four Square stores without ESLs carry unit pricing on their paper tickets.

FSSI sees the key issues as:

- A transitional period of at least 18 months would be required to implement the changes required under the draft regulations.
- Unit Pricing regulations should apply to large retailers where they sell products in any category, but only in that category or categories.
- Where two prices are displayed, e.g. loyalty pricing and non-loyalty pricing, unit pricing should only be required for the loyalty price
- Unit Pricing is only of value where the customer can easily compare products i.e. on the shelf or if shopping online. FSSI sees little value in unit pricing on displays of single products or in digital or print advertising where there is no ability to compare prices on like for like products.
- A principled rather than prescriptive approach adopted in the regulations to allow retailers flexibility in executing unit prices.

We respond to the questions in the consultation paper below.

1	Do you consider 12 months to be an appropriate transitional period before compliance is mandatory?
	<p>Answer: No.</p>
2	Please explain why you think a 12-month transition period is sufficient or not?
	<p>Answer:</p> <p>It is difficult to provide an accurate estimate as to how long it will take to implement the changes required however we believe an 18 month transition period would be a reasonable estimate.</p> <p>Although FSSI already displays unit pricing, the process to ensure our products display the unit pricing required under the regulations will require a review of the data it holds for every grocery product stocked. This is approximately 185,000 products and will be a significant undertaking. FSSI will also be reliant on receiving compliant data from suppliers where the products they supply do not currently meet the unit of measurement requirements in regulation 7.</p> <p>FSSI's online shopping websites will also need to be reviewed and a process put in place to ensure unit pricing is accurately and consistently displayed as required by the regulations.</p> <p>As the draft regulations currently stand, work would also need to be undertaken to put processes in place for unit pricing in other areas where FSSI does not currently apply the same. For example, in mailers, digital advertising, some display end and aisle of value advertising where single or unrelated products are displayed. (We note in our Key Issues and at 7(a) below, we do not believe there is any value to the consumer in having unit prices in these instances).</p>
3	Do you have any comments on the key definitions in regulation 3?
	<p>Answer: No</p>
4	Do you have any comments on regulation 5?
	<p>Answer: Yes.</p> <p>(a) Currently regulation 5 only requires unit pricing where a retailer whose floor space is greater than 1000sqm has for sale products in <u>all</u> of the categories in regulation 5(2).</p> <p>FSSI would submit that unit pricing should apply to products sold by a retailer whose floor space is greater than 1000sqm, in <u>any</u> of the product categories in</p>

	<p>regulation 5(2) but only to products within those categories, for the following reasons:</p> <p>(i) Unit pricing provides consistency and is for the benefit of the consumer so they can determine value when it comes to choosing products within a category.</p> <p>(ii) Allowing a retailer to not display unit pricing at all because they do not stock all of the product categories, would therefore be to the detriment of the consumer who is looking to compare prices in a category and often online across a range of retailers.</p> <p>(iii) A floor space greater than 1000sqm will capture substantial retailers who should have the ability to comply with the requirements.</p> <p>(b) The product categories in 5(2) should also include “health & beauty” as they do not fit under any of the categories listed, but are commonly sold by grocery retailers.</p>
5	<p>Do you have any comments on the “exempt products” set out in regulation 5(3)?</p> <p>Is there anything that you think is missing, or anything that you think should not be exempt? Please provide your reasoning.</p>
	<p>Answer:</p> <p>No</p>
6	<p>Do you have any comments on the requirements for where unit pricing must be displayed, as set out in regulation 6?</p>
	<p>Answer:</p> <p>No</p>
7	<p>Do you have any comments on the advertising exemption set out in regulation 9?</p>
	<p>Answer:</p> <p>There should be three additional exemptions as follows:</p> <p>(a) In advertising where no product comparison can be made.</p> <p>The value of unit pricing is where a consumer can make a comparison between products. This is typically in store on a shelf, or via online shopping. Unit pricing does not add any value to the consumer at point of sale, in advertising for single products or for products that are unrelated. Similarly, unit pricing provides no value for store displays which do not have more than one product for comparison.</p> <p>(b) where the price displayed already complies with the unit of measurement requirements in Regulation 7.</p>

	<p>For example, FSSI often advertises meat for sale as a price per kilogram which is the unit of measurement for meat in Regulation 7(2). Accordingly, there is no value to the consumer in stating the unit price on the display as it will be exactly the same as the price which can be used as the basis for comparison.</p> <p>Below in Appendix 1 is a visual example (figure 1) of a meat advertisement with both price and unit price displayed which shows this duplication.</p> <p>(c) Loyalty scheme pricing where two prices are displayed and the consumer could pay either one.</p> <p>FSSI operates the New World Clubcard loyalty scheme whereby shoppers can obtain discounts on regulated grocery products (as well as rewards) for using their Clubcard while shopping.</p> <p>When a regulated grocery product is placed on a Clubcard promotion, FSSI displays the Clubcard Price and the non-Clubcard price. Unlike a “was/now” type promotion where a consumer will always pay the “now” price, consumers using their Clubcard will pay the discounted Clubcard price and consumers not using a Clubcard will pay the non-Clubcard price.</p> <p>FSSI submits that in this case the unit price should only need to be displayed for the Clubcard price and there should be an exemption from displaying the unit price for the non-Clubcard price for the following reasons:</p> <p>(i) In the case of our smaller electronic shelf labels (ESLs), having to display two unit prices will mean having to make the size of the other information on the ESL smaller thereby making it hard to read. Examples are set out in figures 2 and 3 in Appendix 1 below, of one small label with two unit prices and one small label with one unit price.</p> <p>(ii) In general, Clubcard promotions make up approximately [] of products instore. In most cases approximately [] of transactions for a Clubcard promotion are at the Clubcard price.</p> <p>Accordingly, FSSI believes there is little prejudice to the consumer as the vast majority of purchases are not Clubcard promotions and where they are, the consumer will likely be paying the Clubcard price.</p>
8	Do you have any comments on regulation 7?
	<p>Answer:</p> <p>(a) Regulation 7(1) provides that a product sold by item and which has 40 or less items should be measured per item, and products with items greater than that should be measured per 100 items.</p> <p>FSSI sees no logical reason for this distinction and will only serve to confuse consumers where the same product is sold with a wide variation of items.</p>

	<p>For example, tea bags can be sold in boxes with 30 tea bags and 50 tea bags (amongst other volumes). The 40 item limit will not let the consumer make a meaningful comparison between the two.</p> <p>Typically grocery retailers do not sell items in bulk, so FSSI sees little requirement for comparisons between items which come in sizes greater than 40 items.</p> <p>FSSI would accordingly submit the unit of measurement should simply be per item to avoid confusion.</p>
9	Do you have any comments on the display requirements provided in regulation 8?
	<p>Answer:</p> <p>(a) The requirement for the unit price to be 25% the size of the purchase price needs a flexible or principled approach. In particular:</p> <p>(i) For large displays the unit price would not need to be 25% to be readable for the consumer. A retailer should therefore have the ability to make the unit price a smaller size to fit with the style of the advertisement as long as it is clearly readable. An example of a 25% sized unit price on a large advertisement is set out in figure 1 below.</p> <p>(ii) For small labels 25% may not be strictly realistic having regard to the size of the label and when a smaller size maybe appropriate and perfectly readable. FSSI would submit 20% would be reasonable.</p> <p>(b) Regulation 7 sets out the units of measurement for each category. We expect that in applying units of measure to displays, abbreviations of the units would be acceptable. To avoid doubt FSSI thinks the regulations should clarify this and set out the abbreviations that are acceptable. FSSI would propose the addition of a sub paragraph (4) to regulation 8 to say:</p> <p>(4) To avoid doubt Units of measurement may be abbreviated on a regulated grocery product as follows:</p> <p>(a) Per 100 millilitres – per 100ml (b) Per 100 grams – per 100g (c) Per metre – per m (d) Per Square Metre – per sqm (e) Per kilogram - per kg (f) Per 10 grams – per 10g (g) Per millilitre – per ml (h) Per litre – per l</p>
10	Do you have any general comments regarding the regulations?
	<p>It appears the regulations have been drafted to take a strict prescriptive approach. FSSI believes a principled approach should be taken to give retailers some flexibility in expressing unit prices, to take into account limitations in technology and the type and size of advertisement being used. In the worse case it may increase costs to retailers.</p>

Appendix 1

EXTRA LOW

Fresh Quality Mark Lamb
Shoulder Chops

15.69
kg



\$15.69 per kilogram

Promotion valid 23/01/23-29/01/23

Product of New Zealand

Figure 1



Figure 2

Small label with club deal and non-club deal and two unit prices



Figure 3

Small label with club deal and non-club deal and one unit price