



ACCC Supermarkets Inquiry

Issues Paper

29 February 2024

Acknowledgement of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

© Commonwealth of Australia 2024

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attribution 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Content and Digital Services, ACCC, GPO Box 3131, Canberra ACT 2601.

Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

Parties who wish to re-publish or otherwise use the information in this publication must check this information for currency and accuracy prior to publication. This should be done prior to each publication edition, as ACCC guidance and relevant transitional legislation frequently change. Any queries parties have should be addressed to the Director, Content and Digital Services, ACCC, GPO Box 3131, Canberra ACT 2601.

ACCC 02/24

www.accc.gov.au

Contents

| | |
|--|----|
| Supermarkets Inquiry | 1 |
| Terms of Reference..... | 1 |
| Timetable | 2 |
| Consultation..... | 2 |
| Treatment of confidential information | 3 |
| 1. Background to the Inquiry..... | 5 |
| 2. Grocery retailing | 8 |
| 2.1. Competition dynamics | 8 |
| 2.1.1. Market structure..... | 8 |
| 2.1.2. Price and non-price competition..... | 9 |
| 2.2. Barriers to entry and expansion..... | 12 |
| 2.3. Consumer experiences | 13 |
| 3. Grocery supply chains..... | 15 |
| 3.1. Competition in grocery supply chains..... | 15 |
| 3.2. Trading arrangements..... | 16 |
| 3.2.1. Trading terms and practices | 17 |
| 3.2.2. The impact of buyer power..... | 19 |
| 3.3. Margins and price transparency in grocery supply chains..... | 21 |
| 3.4. Other factors impeding or supporting efficient supply or pricing..... | 22 |

Supermarkets Inquiry

On 1 February 2024, the Treasurer, the Hon Jim Chalmers MP, directed the Australian Competition and Consumer Commission (ACCC) to hold an inquiry into pricing and competition in Australia's supermarket sector (the Inquiry).¹

The ACCC's Inquiry will examine competitive dynamics in the retail supply of groceries and in associated supply chains.² The ACCC will have particular regard to how prices are set at different levels of the supply chain, and the associated margins.

The Inquiry will involve broad consultation, including seeking feedback in response to this Issues Paper, and requesting information from a range of stakeholders and consumers. Information and feedback from stakeholders and consumers will be important in guiding the ACCC's areas of focus.

The ACCC will submit an interim report to the Treasurer by 31 August 2024, and submit a final report to the Treasurer by 28 February 2025.

Terms of Reference

The Treasurer's Direction sets out the terms of the Inquiry, including what the ACCC can and cannot consider (Terms of Reference).³

The Terms of Reference state that matters to be taken into consideration in the Inquiry must include:

- the structure of the markets for the supply of groceries by suppliers, wholesalers and retailers, including:
 - the level and nature of competition at each of these levels of the markets; and
 - relationships between the parties at different levels of each of the markets (for example, relationships between wholesalers and retailers); and
 - the competitiveness of small and independent retailers, including those in regional and remote areas; and
 - the impact of technological change on each of the markets, including the impact of the growth of online shopping; and
- the approach of suppliers, wholesalers and retailers to setting prices for groceries, including the use of data analytics in setting prices; and
- factors affecting the price of inputs along the supply chain for groceries, including:
 - any impediments to the efficient availability of inputs along the supply chain; and
 - any impediments to the efficient pricing of inputs along the supply chain; and

¹ For the purposes of the Inquiry, the term 'supermarkets' refers to 'supermarket business' within the meaning of [Competition and Consumer \(Industry Codes—Food and Grocery\) Regulation 2015 \(Food and Grocery Code of Conduct\)](#). The ACCC will use the term 'supermarkets' to refer to large supermarket chains (such as Woolworths, Coles and ALDI), as well as small and independent supermarkets (such as IGA, Harris Farms and Drakes).

² For the purposes of the Inquiry, the term 'groceries' refers to (i) groceries with the meaning of the [Food and Grocery Code of Conduct](#), and (ii) raw materials that are to be processed into, or used in the manufacture of, items covered by (i).

³ [Competition and Consumer \(Price Inquiry—Supermarkets\) Direction 2024](#).

- any difference between the prices paid, and prices charged, by suppliers, wholesalers and retailers for groceries; and
- non-price aspects of competition in the markets for groceries, including the impact of:
 - loyalty programs; and
 - discounts offered by retailers for future purchases of groceries or other goods or services.

The Terms of Reference indicate that the ACCC’s Inquiry will not extend to the following:

- the supply of a good or service by a State or Territory authority⁴; and
- reviewing the operation of any Australian law (other than the *Competition and Consumer Act 2010* (Cth)) relating to the supply of groceries, except as necessary to consider the matters set out elsewhere in the Terms of Reference; and
- reviewing the operation or scope of the Food and Grocery Code of Conduct, except as necessary to consider the matters set out elsewhere in the Terms of Reference.

Timetable

As the Inquiry progresses, the ACCC will publish further information with confirmed dates on its [website](#).

| Indicative date | Stage in inquiry process |
|-------------------------|---|
| 2 February 2024 | Commencement date |
| 29 February 2024 | Release of Issues Paper |
| 2 April 2024 | Closing date for submissions on this Issues Paper and consumer survey responses |
| 31 August 2024 | Interim report to be provided to the Treasurer |
| 28 February 2025 | Final report to be provided to the Treasurer |

Consultation

The ACCC is seeking engagement via submissions from stakeholders and survey responses from consumers.

- Stakeholder submissions should be made by 2 April 2024 via the [submissions portal](#) on the ACCC website. Parties wishing to submit confidential information should use the process set out below.
- Consumers should complete the survey by 2 April 2024. The survey is available on the ACCC’s [Consultation Hub](#).

The questions and prompts throughout this Issues Paper guide submissions to include the information most likely to assist the Inquiry. They are not exhaustive and you do not need to comment on all questions. We welcome views on whether there are relevant issues not covered, or to which you consider we should give more emphasis.

⁴ ‘State or Territory authority’ has the meaning given by subsection 95A(1) of the *Competition and Consumer Act 2010* (Cth).

While the ACCC has conducted past inquiries and investigations relevant to the sector, submissions in response to this Issues Paper will play an important role in updating and improving the ACCC's understanding of the industry, as well as identifying areas of investigation for this Inquiry.

The ACCC will also obtain documents and information from market participants using compulsory information gathering powers, as well as undertaking further consultation with key stakeholders.

The qualitative information gained through submissions in response to this Issues Paper will help contextualise and explain the information obtained by the ACCC throughout the Inquiry.

Further information on the progress of the Inquiry can be found on the [ACCC's website](#).

Treatment of confidential information

The Inquiry is a public process so submissions will generally be posted on the ACCC website. However, before submissions are published, the ACCC will consider any confidentiality claims over information in the submissions. This includes the opportunity for you to withdraw your submission should the ACCC reject your confidentiality claim. A claim of confidentiality may apply to all or part of your submission, your name or the name of your business.

The ACCC can accept a claim for confidentiality if the disclosure of information would damage a party's competitive position, the ACCC is satisfied the claim is justified, and it is not necessary in the public interest to disclose the information. If you wish to make a claim of confidentiality, please provide reasons why the information is confidential and why disclosure of the information would damage your competitive position.

As the Inquiry is a public process, please consider whether there are any parts of your submission that may be published without damaging your competitive position or whether you are able to summarise the confidential information in a way that can be published.

Contact us at supermarkets@acc.gov.au if you have any questions regarding making a submission containing confidential information.

Making a claim of confidentiality

Guided submissions portal

You may respond to all or any of the questions in this Issues Paper in the relevant text box in the submissions portal.

Should you wish to provide any confidential information in your answer to a question, please do so in the second text box marked 'Confidential'. You will need to also provide reasons why the information is confidential and why the disclosure of the information would damage your competitive position in a third text box.

Open written submissions

You can provide an open written submission by uploading your submission in either PDF or Word Doc format.

Any parties wishing to submit material that is regarded as confidential (including material regarded as commercial-in-confidence) should submit two versions of the submission:

1. A public submission that can be published on the ACCC's website, in which all confidential material has been removed and replaced with the word 'confidential'. Please ensure that redacted information is not searchable or otherwise able to be viewed.
2. A confidential version that clearly identifies the information over which confidentiality is claimed by marking the beginning and end of the relevant information as 'confidential'. Please also highlight for ease of reference the material over which confidentiality is claimed. Please include reasons for each claim at the end of the confidential version.

Please note: Claiming confidentiality over parts or all of a submission or the name of the submitter may limit the ACCC's ability to test that information which may, in turn, limit the weight the ACCC is able to give to the information in its Inquiry.

1. Background to the Inquiry

Supermarkets are essential to the everyday lives of Australians. Consumers rely on supermarkets to purchase groceries such as food, non-alcoholic drinks, toiletries and cleaning products. Suppliers of groceries, such as farmers, manufacturers and wholesalers, rely on supermarkets to sell their goods to consumers.

The Terms of Reference for this Inquiry respond to concerns from both consumers and suppliers about the competitiveness of the Australian supermarket sector.

Australians are facing cost of living pressures and new environmental challenges

Australian households' costs have risen faster than usual in recent years due to complex and related factors.

Higher-than-average inflation (and resulting falls in real wages), rising interest rates and mortgage repayments, and increasing prices of goods and services reduced Australian households' real disposable income in 2022–23.⁵

Grocery prices have also increased. Between December 2021 and December 2023, the food and non-alcoholic beverages consumer price index increased by 14.1%.⁶ A February 2024 Finder survey found 42% of surveyed Australian households (3.9 million households) cited grocery bills as a chief financial stressor.⁷

Since 2020, Australian consumers and businesses have also dealt with COVID-19 pandemic-related challenges including supply chain disruptions and effects on staffing and employment, with each of these potentially contributing to grocery price inflation.

Extreme weather events in Australia may have also increased Australian households' costs (including insurance costs) while further disrupting agricultural supply chains and affecting farmers and other grocery producers.

In this challenging economic climate, consumers and suppliers are raising concerns about whether the supermarket sector is sufficiently competitive to constrain prices and whether suppliers are getting their fair share of profits.

Consumers and suppliers have concerns about the supermarkets sector

The ACCC is aware of consumers' concerns about growing costs of living, in particular the price of groceries, and how this is affected by the extent of competition between supermarkets.

In particular, concerns have been raised regarding price gouging; that is, prices and profit margins that are considered unreasonably high (or higher than would be expected in a competitive market). We are also aware of consumer concerns relating to confusing and potentially misleading pricing practices, 'shrinkflation' (where smaller quantities of a good are retailed for the same price), and data and privacy concerns relating to supermarkets'

⁵ Australian Bureau of Statistics (2023), 'Table 20: Household Income Account and Per Capita, Australia: Current prices', [Australian National Accounts: State Accounts](#), ABS website, accessed 26 February 2024.

⁶ Australian Bureau of Statistics (Dec-quarter-2023), [Consumer Price Index, Australia, December Quarter 2023](#), accessed 26 February 2024.

⁷ D Evans, '[Finder survey shows 3.9m Aussie households face grocery bill financial stress](#)', *NewsWire*, 8 February 2024, accessed 26 February 2024.

increasing use of technology. The ACCC is aware these concerns are, at times, more severe in regional and remote areas.

Suppliers are also raising concerns about the commercial conduct of supermarkets, including supermarket price and margin-setting practices, fees, and other contractual arrangements. In particular, the ACCC is aware of concerns alleging there is a growing disparity between the price farmers receive for their products (the 'farmgate price') and the retail price paid by consumers for those products at the checkout.

The supermarket industry is changing, as is the way Australians do their shopping

The ACCC last conducted a comprehensive review of the sector in the [Grocery inquiry 2008](#). While the ACCC has since considered specific issues relating to supermarkets and grocery supply chains, such as in the [Dairy inquiry 2016–18](#) and the [Perishable agricultural goods inquiry 2020](#), as well as through its enforcement and compliance monitoring activities, it has not since undertaken a broad review of the sector.

The Australian retail grocery sector is today worth \$135 billion with three main vertically integrated chains (Woolworths, Coles and ALDI), and what are commonly referred to as the independent supermarkets (such as Drakes, Harris Farms and IGA-branded independent retailers), most of which utilise Metcash for a significant portion of their wholesale supply.⁸ Since 2008, market dynamics have changed with the continued growth of Coles, Woolworths, Metcash and ALDI's expansions in Australia.

Technological changes have likely also influenced competition and prices. Online shopping, which accelerated during the COVID-19 pandemic, has enabled more consumers to shop around and compare prices while also introducing new costs such as delivery fees for consumers and packing costs for supermarkets. Supermarkets' increasing use of technology such as self-checkout systems may have also affected running costs and margins. Similarly, advances in data analytics such as customer profiling, pricing and discount optimisation, store layout optimisation and predictive analytics (for example, in relation to demand forecasting) may all have implications for consumers and competition among retailers.

This Inquiry will revisit the competition dynamics of the changing Australian grocery sector to ensure markets are working as they should be for the benefit of consumers.

Competition between supermarkets matters for Australian consumers and businesses

Effective competition – including in the context of supermarkets – leads to lower prices, better quality products and services and increased retail choice for consumers. It also typically leads to more innovation by businesses.

Groceries are essential goods, with the price of groceries affecting all Australians. Grocery price inflation weighs more heavily on households with low incomes, who spend a higher proportion of their incomes on groceries compared with other households.

Competition between supermarkets also impacts farmers, manufacturers and wholesalers that supply supermarkets. Where suppliers have more choice about which retailers they provide goods to, this will typically improve their bargaining power and their long-run profitability.

⁸ Hunt Export Advice, '[Australia Market Overview 2024: Grocery Retail Market](#)', Hunt Export Advice website, n.d., accessed 26 February 2024.

In this Inquiry, the ACCC will look at both competition between supermarkets at the retail level and competition at different levels up through the grocery supply chain.

Tell us about yourself

When making a submission, it would assist the ACCC if you could provide some background information relevant to your views on the supply of groceries, including:

- your name and organisation, including its role in the sector (if applicable)
- where you are located
- reasons for your interest in this Inquiry
- any other information which provides context for your submission.

If you operate a business, you may choose to specifically identify and describe the business you operate or provide a general description of the type of business you operate that does not specifically identify you.

This information will help us target our recommendations appropriately.

You may request that the ACCC treat your identity as confidential. The ACCC's approach to confidentiality claims is explained in the introductory section of this Issues Paper (above on pages 3 and 4).

2. Grocery retailing

The ACCC has been directed to consider the state of competition between retailers of groceries (and particularly supermarkets) and how this is affecting Australian consumers; in particular, whether a lack of effective competition may be contributing to higher prices and, consequently, contributing to rising costs of living.

In Australia, retailers include:

- supermarkets (such as Coles, Woolworths, ALDI, IGA-branded independent retailers, Drakes and Costco)
- specialty retailers (such as butchers, fishmongers, bakeries and greengrocers)
- convenience stores and petrol stations.

While there are a large number of retailers in Australia, the ACCC has previously found that the majority of groceries are purchased in supermarkets, with Coles and Woolworths attracting the largest share of sales. This Inquiry will focus on supermarkets.

To examine the current state of competition, the ACCC is seeking information on:

- how the structure of the market for the supply of retail groceries by supermarkets has changed and how this has impacted the vigour of competition both in terms of price and non-price effects
- any barriers which would prevent or hinder effective new entry or expansion in the market
- consumer shopping experiences.

The ACCC is particularly interested in how the state of competition differs across Australia, and particularly in regional and remote areas.

The Terms of Reference also specifically require the ACCC to consider matters such as supermarkets' approaches to setting prices (including discounting), the role of small and independent retailers (including those in regional and remote areas), and the impact of increased data collection and technological developments.

2.1. Competition dynamics

2.1.1. Market structure

The structure of the retail market and how it has changed over time provides insight into the state of competition. This Inquiry will examine the number and size of market participants (that is, the degree of market concentration), as well as the degree of vertical integration and the nature of relationships across the supply chain (discussed further in section 3).

The ACCC will be seeking to understand the extent to which market participants have entered and expanded in, or have left, the Australian market. For example, Costco entered the Australian market in 2009 and now has 15 stores, ALDI has increased the number of stores from approximately 170 in 2008 to 593 in 2024,⁹ Drakes established its own

⁹ ACCC, [Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries](#), ACCC, 2008, accessed 28 February 2024, p 43; ALDI, [593 ALDI Locations in Australia](#), ALDI website, n.d., accessed 28 February 2024.

wholesale distribution arrangements in 2019, whereas Franklins (which had 80 stores at the time of the Grocery inquiry 2008) no longer exists as a separate, vertically integrated chain.¹⁰

In addition to identifying the number of supermarkets across Australia and how this has changed in recent years, the ACCC will also consider their relative size and importance. This may be done by reference to factors such as annual turnover, number and size (m²) of stores, and total number of store visits over a period.

The ACCC will also be considering the impact of mergers and acquisitions, including small acquisitions over time (serial acquisitions), and the extent to which this has led to increased levels of market concentration.

2.1.2. Price and non-price competition

The degree and extent of price and non-price competition between supermarkets, and the broader competitive dynamics, are key considerations for assessing the effectiveness of competition in the sector.

The ACCC will be examining how supermarkets compete against each other for consumers. This includes analysis of any practices they may use to attract and retain consumers and how consumers respond to those practices. The Inquiry will also examine the role that small and independent supermarkets play in imposing constraints on the major supermarkets.

As required under the Terms of Reference, this Inquiry will look at the approach of supermarkets to setting prices (including discounts and promotional pricing) and how their decisions are impacted by the presence or behaviour of competitors. For example, supermarkets may offer discount pricing on certain products which drive consumer perceptions of price and value (known as 'Key Value Items') such as milk or eggs, in order to gain the consumers' 'whole of basket' (that is, the whole value of the consumers' grocery purchases for that period).

The ACCC will also consider the differences between the prices paid to suppliers by supermarkets and the prices paid by consumers at the checkout (including consideration of supermarkets' broader costs and their profit margins). The ACCC is particularly interested in discounting practices such as the use of half price or 'buy-1-get-1-free' offers on certain non-perishable grocery products and how these impact what consumers pay at checkout. This analysis will help inform views on whether there is sufficient competitive constraint on supermarket pricing and will likely also involve consideration of trends in supermarket profits over the past 5 to 10 years.

Consideration of concerns regarding the differences between farmgate and supermarket prices is discussed further in section 3.3.

The ACCC will also explore the extent to which supermarkets are relying on data and data analytics to make strategic decisions regarding price and product range. This may also include consideration of whether (and the extent to which) supermarkets may be able to coordinate pricing, particularly given data and technology developments and the use of pricing algorithms. Such developments may not only allow for greater price transparency but also allow supermarkets to respond more quickly and easily to price changes by competitors.

¹⁰ Metcash acquired Franklins' supermarket business (which included 77 corporate stores, and 8 franchised stores in NSW) in 2010: Sydney Morning Herald, '[Metcash snaps up Franklins](#)', *Sydney Morning Herald*, 1 July 2010, accessed 26 February 2024.

In recent years, concerns have also been raised about the use of supermarket loyalty and rewards programs, and related data, to reduce consumers' willingness to get their groceries from competitors and to increase their overall spend with the relevant supermarket. The ACCC is interested to understand whether these programs have affected rivals' ability to attract consumers away from the major supermarkets.

There have also been key developments in how supermarkets compete on convenience. More supermarkets are now offering online ordering with delivery and click-and-collect options, making it faster and easier for consumers to complete their grocery shopping. This has coincided with the rise of 'dark stores' (online-only stores), rapid-delivery services (for example, Woolworths' MILKRUN same day delivery service) and meal kit services (such as HelloFresh).

The ACCC welcomes stakeholder views on the structure of the market(s) for the retail supply of groceries by supermarkets, the types and level of price and non-price competition (and broader competition dynamics), and how this differs across Australia.

Market structure and impact on level of competition

Please provide feedback on:

1. Whether there is effective competition in the supply of groceries in Australia, and particularly between supermarkets.
2. Market structures for the retail supply of groceries in Australia.

When providing feedback, you may wish to comment on:

- factors impacting the level of competition between supermarkets at present
- the extent to which the level of competition differs between metropolitan and regional and remote areas, including details of local areas where the choice of supermarket is particularly limited
- the structure of markets for the supply of groceries by supermarkets, including:
 - the number and size of market participants (if possible, please provide retail market share estimates, detailing the data sources and any assumptions made in estimating the shares)
 - the extent of vertical integration
 - the impact of recent supermarket entry and expansion, including by small and independent supermarkets
 - the role of mergers and acquisitions, including serial acquisitions
- the impact of these structural factors at a national, state and local level
- the ability for small and independent supermarkets to impose a competitive constraint on the major supermarkets, including their ability to attract consumers (for example, through product or in-store experience differentiation).

Price and non-price competition

Please provide feedback on:

3. The key areas of competition or differentiation between supermarkets in Australia.
4. The practices supermarkets use to attract and retain consumers, and any changes observed over recent years (up to 10 years), including, for example:

- price and discounting practices or promotional cycles
- stocking particular products or brands.

5. How consumers respond to the supermarket market practices identified in your response to question 4.

When providing feedback, you may wish to comment on:

- the relative importance of the following factors for consumers (and why):
 - price
 - product range (such as the types of products offered by the supermarket, including different brands)
 - quality
 - product availability (such as whether the product is currently available in-store or online)
 - convenience (including location, delivery options, opening hours)
 - loyalty and rewards programs
 - in-store experience (for example, store amenities and speed of check-out)
 - any other factors
- whether these factors have changed in recent years (please indicate the time period your response covers)
- whether these factors differ between metropolitan and regional and remote areas.

Pricing and margins

Please provide feedback on:

6. The factors determining pricing for groceries, including policies and strategies for setting discounts and promotions.
7. Whether supermarket prices, profits and margins have increased or are in excess of those likely in a competitive market.

When providing feedback, you may wish to comment on:

- supermarket pricing policies and strategies, including for Key Value Items
- the factors taken into account when deciding which products will be the subject of discounts or promotions
- the extent to which pricing decisions are made at a national level, or whether pricing policies and strategies vary, such as between states or for metropolitan, regional or remote areas
- how supermarket margins and profits have changed over the past 5 to 10 years and the factors driving these changes.

Industry trends

Please provide feedback on:

8. The role of supermarket loyalty and rewards programs and how they affect competition.
9. The role of data and data analytics in how supermarkets compete.

10. How online retailing has impacted competition between supermarkets.

11. The role of home brands in how supermarkets compete.

When providing feedback, you may wish to comment on:

- how these trends have impacted the grocery sector over the past 5 years
- whether there are differences between metropolitan, regional and remote areas in how these trends impact the sector.

2.2. Barriers to entry and expansion

The entry (or potential entry) of new supermarkets, and growth of competitors to the major supermarkets, are important sources of competition. It is therefore important to assess whether there are any barriers that may be preventing or hindering effective new entry or expansion.

Some of the barriers previously identified by the ACCC include:

- lack of access to suitable retail sites, or wholesale supply or inputs
- the presence of economies of scale and scope, sunk costs, and strong brand loyalty and reputation
- links to other industries (such as petrol and liquor)
- strategic behaviours of competitors.

The availability of retail sites may be impacted by strategic practices (such as land banking, restrictive leases and other contractual restrictions or arrangements with developers) and regulatory hurdles (such as planning and zoning). Other barriers may also include the presence of exclusivity arrangements between supermarkets and suppliers, or 'most favoured nation' clauses.

With the rise of online retailing in recent years, the ACCC is also interested to understand if access to distribution and logistics networks has impacted entry or expansion.

Supermarkets collect and use large amounts of consumer data to inform their product, pricing and other strategic decisions. In addition to loyalty and rewards programs, this data may be obtained through the supermarkets' various businesses in addition to grocery retailing. For example, the major supermarkets now offer services across a wide range of industries including banking, retail, telecommunications and insurance. In this context, a lack of access to comparable data sets or sources may increasingly be considered a barrier to entry or expansion.

The ACCC welcomes stakeholder views on barriers to entry and expansion of supermarkets.

Please provide feedback on:

12. The factors relevant to decisions on whether to enter or expand in Australia, including any barriers.

13. Examples of supermarket entry, exit or expansion (particularly in the last 10 years), including the reasons for the success or otherwise of new entry or expansion and the reasons for exit.

14. Whether you foresee any new supermarket entry or expansion in the next 5 years.

When providing feedback, you may wish to comment on:

- the extent to which the following are factors in the entry or expansion decision (and their relative strength), and any other relevant factors:
 - the opportunity to earn a return on investment relative to other investment options
 - the level of risk involved in entering the industry, including the amount of upfront investment and sunk costs
 - the availability of, or ability to gain access to, retail sites
 - the ability to secure wholesale supply at competitive prices
 - the contestability of the market and the ease and speed with which sales can be gained, particularly relative to economies of scale, scope and density
 - loyalty and rewards programs and the impact they might have on customers switching to a rival supermarket
 - brand loyalty and the impact it may have on customers switching to a rival supermarket
 - the importance of reputation and its impact on sales and gaining market share
 - connections to other industries and the impact it may have on accessing data when implementing competitive sales offers, and the ability to offer cross-market sales promotions
 - access to data more generally, including whether important data may not be available due to exclusivity arrangements
 - access to technologies, including whether important technology may not be available due to exclusivity arrangements
 - access to distribution facilities for online orders
 - any other strategic behaviours
- whether these barriers or decision factors have changed over the past 5 to 10 years (please indicate the time period your response covers)
- whether these barriers or decision factors differ between metropolitan, regional and remote areas
- if you expect new entry, the likelihood of such entry and whether such entry would be of sufficient scale and within a sufficient timeframe to impose a competitive constraint on the incumbents.

2.3. Consumer experiences

The Inquiry will examine consumer experiences with supermarkets and how this has changed in recent years.

A key development following the Grocery inquiry 2008 was the introduction of unit pricing, which requires certain grocery retailers to list prices for most grocery products using a standard unit of measurement (for example, per 100 grams). Unit pricing has made it easier for consumers to compare products and find the best value for money when shopping. However, in addition to consumer concerns regarding rising supermarket prices and reduced value-for-money (for example, due to 'shrinkflation'), consumers have raised concerns regarding confusing and potentially misleading pricing practices. For example, misleading

'was/now' prices and other discounts that are not true discounts, bulk-buy offers that don't offer additional value for money and unit pricing which is intentionally confusing. Recently, Coles announced refunds for thousands of customers after it raised the price on 20 products that it had promised would remain 'locked' for a certain period of time.¹¹ The ACCC is interested to understand the nature and extent of such practices, and the impact on consumer purchasing behaviour.

The supermarket shopping experience has also changed for many consumers over the past 20 years, spurred on by technological developments.

Consumers are increasingly shopping online (through desktop websites and mobile apps) and getting their groceries delivered (including through third parties such as UberEats).

In-store experiences are also changing, for example through self-checkout. These changes have privacy and job impacts. The ACCC will not be focussing on these issues directly, but they are relevant in the context of understanding competition in grocery retailing. For example, some independent supermarkets have removed self-checkouts as a means of competitively differentiating their offer from the major supermarket chains. Sustainability has also recently come into focus, with some supermarkets (such as The Source Bulk Foods) seeking to differentiate themselves on the basis of reduced packaging.

Supermarkets have also further developed their loyalty and rewards programs (for example, Coles' Flybuys program and Woolworths' Rewards program) which provide consumers with both price and non-price benefits. However, consumers may also face increased data collection and targeted advertising as well as costs to switch to alternative supermarkets.

The ACCC welcomes feedback on consumers' supermarket shopping experiences and how recent developments have affected consumer purchasing behaviour. The ACCC encourages consumers to complete the survey on our [Consultations Hub](#).

Please provide feedback on:

15. The experiences of consumers in their dealings with supermarkets.

When providing feedback, you may wish to comment on:

- the extent of any pricing or other supermarket practices which may be considered confusing, misleading or deceptive and their impact on consumer purchasing behaviour
- the growth of online shopping and how this has impacted consumer purchasing behaviour and experiences, including, for example, total spend and types of products purchased
- the extent to which in-store experiences have changed over the past 5 to 10 years and how this has impacted consumer purchasing behaviour and experiences (please indicate the time period your response covers)
- the impact of increased data collection and use, particularly through loyalty and rewards programs, including whether this has led to an increase in targeted advertising
- the impact of technological developments
- the impact of unit pricing on consumer behaviour.

¹¹ CHOICE, [Coles caught red-handed raising 'locked' prices](#), CHOICE website, 10 December 2023, accessed 26 February 2024.

3. Grocery supply chains

Efficient supply chains are crucial to ensuring markets for the supply of groceries are working well for consumers, suppliers and the Australian economy.

In addition to examining competition and practices at the retail level, the ACCC has been directed to consider the state of competition for the supply of groceries by suppliers (that is, those carrying on a business of supplying groceries for sale by a retailer).

In particular, the ACCC will examine:

- the level and nature of competition at each level of various grocery supply chains
- relationships between the parties at different levels of various grocery supply chains
- factors affecting the price of inputs along grocery supply chains.

We are seeking information and views from participants across all levels of the various grocery supply chains about the factors influencing prices along the supply chain, including the difference between farmgate and supermarket prices and any impediments to competitive pricing along the supply chain.

To assist the ACCC in understanding the context in which your feedback is provided, please provide details about:

16. The structure of the grocery supply chain(s) and market(s) you operate in, including:

- (a) an overview of each step in the supply chain(s)
- (b) your role in the supply chain(s) or industry.

You can choose to specifically identify and describe the business you operate or provide a general description of the type of business you operate that does not specifically identify you.

In providing feedback, you may wish to comment on:

- the products or product categories supplied through the supply chain(s) in which you operate
- the activity or value added in each step of the supply chain(s)
- whether the products or product categories are supplied nationally, state-wide or locally
- any trends and changes in the operation of the supply chain(s) over the past 5 to 10 years or longer if relevant to the supply chain(s) you operate in (please indicate the time period your response covers)
- the extent of vertical integration of major supermarkets within the supply chain(s) in which you operate.

3.1. Competition in grocery supply chains

Grocery supply chains from the farmgate or manufacturer, potentially through wholesalers and distributors, to the end retailer are numerous and varied, depending on the product or category of products.

Broadly, groceries on supermarket shelves typically either come:

- directly from suppliers, such as farmers, growers and dry goods manufacturers
- via processors, manufacturers and wholesalers (often passing through multiple of these).

A lack of competition at any level of a supply chain can have flow on effects throughout the supply chain. For example, it can result in lower prices for farmers at the farmgate, higher prices for consumers at the retail level, or both.

The ACCC welcomes views from stakeholders on the level of competition between both buyers and suppliers of products or inputs across all levels of the various grocery supply chains.

Please provide feedback on:

17. The nature and extent of competition at each level of the grocery supply chain(s) in which you operate (other than at the retail level, which is discussed in section 2 above).
18. How vertical integration across retail and wholesale levels of the supply chain(s) by the major supermarkets affects competition.
19. How these market dynamics have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the major competitors at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s)
- market share estimates at the level of the supply chain(s) in which you operate and, where relevant, at other levels of the supply chain(s) (to the extent possible). Please detail the data sources and any assumptions made in estimating the shares.
- who you supply inputs or products to and why you choose to supply (or not supply) certain buyers
- who you buy inputs or products from and why you choose to buy (or not buy from) certain suppliers
- recent entry, exit or expansion, including the reasons for the success or otherwise of new entry or expansion and the reasons for exit
- the factors relevant to decisions on whether to enter or expand in Australia, including any barriers
- the impact of imports and exports
- the impact of vertical integration in the supply chain(s) in which you operate
- the extent to which retailers bypass wholesalers and deal directly with suppliers, the extent to which this differs depending on the product or category range, and the impacts of this.

3.2. Trading arrangements

The ACCC is aware of concerns raised regarding trading arrangements, particularly as a result of the buyer power of the major supermarkets and wholesalers.

The ACCC is seeking to understand the experience of market participants, in particular with respect to how buyer power may impact pricing and other trading terms, and any impacts of this on their ability to efficiently operate their business. The ACCC is also interested to understand the nature and intricacies of the relationships and trading arrangements across each level of the various grocery supply chains.

3.2.1. Trading terms and practices

Grocery supply chains are numerous and varied and can differ significantly based on the product or product category and the characteristics of the relevant supply chain. Accordingly, the types of trading arrangements also vary significantly.

Broadly, trading arrangements are either formalised contracts or, particularly in relation to some types of fresh produce, less-formal trading arrangements that may not lock in price or volume. For the purposes of this Issues Paper, the ACCC groups these into 'contracting practices' and 'other trading arrangements'.

In some circumstances, trading terms are subject to voluntary or mandatory codes of conduct, such as:

- The **Food and Grocery Code of Conduct**: a voluntary code that prohibits specific types of unfair conduct by retailers and wholesalers in their dealings with suppliers and imposes an obligation to deal in good faith. ALDI, Coles, Woolworths and Metcash have signed up to and are bound by the code.
- The **Horticulture Code of Conduct**: a mandatory code enforced by the ACCC that applies to unprocessed fruit, vegetables, including mushrooms and other edible fungi, nuts, herbs and other edible plants. The code includes requirements that horticulture produce must be sold under a compliant horticulture produce agreement, and that traders must publish their terms of trade and provide growers with statements for the sale of their produce.
- The **Dairy Code**: a mandatory code regulating the conduct of dairy farmers and processors by establishing rules for the use of standard form milk supply agreements in the dairy industry.

While the ACCC is not specifically reviewing the operation or scope of these codes, the impacts they have on trading arrangements in grocery supply chains are relevant to this Inquiry. A separate review assessing the effectiveness of the Food and Grocery Code of Conduct is being undertaken by Dr Craig Emerson.¹²

The ACCC welcomes views from stakeholders on the nature and dynamics of contracting practices and other trading arrangements across all levels of the various grocery supply chains.

Information on contracting practices

Please provide feedback on:

20. Contracting practices and dynamics, including:

- (a) the contracting process including the nature and extent of negotiations

¹² Department of Treasury, [Food and Grocery Code of Conduct Review 2023–24](https://www.treasury.gov.au), treasury.gov.au, 2023, accessed 26 February 2024.

- (b) the general terms and formats of your contracts (for example, contract length, how quality thresholds or other requirements are assessed, and the terms of supply including flexibility of supply)
 - (c) pricing terms and practices including whether prices are fixed or variable, the methodology for determining prices including cost pass-through or other adjustments, allowances, incentives or deductions, and the timing of payments
 - (d) the extent to which you are able to effectively exercise rights and options under contracts in practice
 - (e) how risk and reward are allocated between the contracting parties
 - (f) the transparency and certainty over the terms of supply
 - (g) renewal practices (for example, notice periods and timing).
21. How these contracting dynamics and terms vary between the different buyers and sellers you contract with. Where relevant, please explain how your costs vary between different buyers and sellers (for example, transport or distribution costs).
22. For suppliers who have direct contractual relationships with retailers, or wholesalers representing retailers:
- (a) The nature and types of rebate arrangements, either reflected in the written terms of contracts or otherwise negotiated, and the process for negotiating and agreeing on rebates
 - (b) any provision, whether written in a contract or negotiated outside of the written contract, in relation to self-placement or promotional activity (including in-store activity, product advertising and retail price discounts, whether ad hoc or regular discounting cycles).
23. How these contracting practices have changed over the past 5 to 10 years (please indicate the time period your response covers).

Information on other trading arrangements

Please provide feedback on:

24. Trading arrangements, practices and dynamics, including:
- (a) the supply process, including the nature and extent of negotiations
 - (b) the general terms and formats of your trading arrangements (for example, how quality thresholds or other requirements are assessed, and how and when outcomes are communicated)
 - (c) whether any agency or trader relationships are involved
 - (d) pricing terms and practices including the methodology for determining prices, allowances, charges or deductions, the timing and communication of actual prices to be received, and the timing of payments
 - (e) how easy it is to compare prices and conditions offered by different participants (sellers and buyers)
 - (f) how risk and reward is allocated between parties to the arrangements
 - (g) the transparency and certainty over the terms of supply, including final volumes and prices.

25. How these dynamics and practices vary between the different buyers and sellers you deal with. Where relevant, please explain how your costs vary between different buyers and sellers (for example, transport or distribution costs).
26. Whether formalised supply contracts or some other form of supply arrangement would be preferable and why.
27. How these trading arrangements have changed over the past 5 to 10 years (please indicate the time period your response covers).

3.2.2. The impact of buyer power

At a high level, buyer power refers to the ability of a person to exercise market power in a market in which they are a buyer. Buyer power is typically demonstrated through the ability of a buyer to demand lower prices for goods and services or otherwise influence the terms of supply in its favour.

The ACCC is aware that concerns have been raised by suppliers regarding the buyer power of larger supermarkets and wholesalers. A common concern is that larger supermarkets and wholesalers are able to use their buyer power to extract more favourable terms and conditions from suppliers than would otherwise be the case, potentially impacting the sustainability of their operations.

The ACCC is interested to understand the extent to which any party in the supply chain has buyer power and, if so, whether they are exercising it in a way that may damage the long-term efficiency and sustainability of the supply chain. In particular, the ACCC is interested to understand in the circumstances where, as a result of buyer power, the price paid to suppliers is decreased so low (or other terms of trade so unfavourable) that it stifles supplier innovation and investment, reduces the viability of suppliers' businesses, or causes existing suppliers to exit the market.

The ACCC welcomes stakeholder feedback on the impact of buyer power across all levels of the various grocery supply chains. The ACCC is also interested to understand the extent to which, and the circumstances where, suppliers may have countervailing bargaining power in negotiation with supermarkets or wholesalers, which may limit or negate buyer power.

Please provide feedback on:

28. How any buyer power is or might be exercised and the consequences (for example, lower prices received, transfer of risk or costs, decreased incentive for investment and innovation along the grocery supply chain).
29. Any evidence or examples of buyer power (please specify which market participants and grocery products or product categories your answers relate to).
30. The extent to which larger supermarkets and wholesalers are able to acquire grocery products from suppliers for lower prices or on better terms than smaller grocery retailers and wholesalers, and how this has changed over the past 5 to 10 years (please indicate the time period and products or product categories your response covers).
31. Any evidence or examples of buyer power being exercised in a manner which impedes or may impede the efficient supply of grocery products and how this has changed over the past 5 to 10 years. In particular, whether (and, if so, how) lower prices or unfavourable terms have:

- (a) reduced the viability of suppliers' businesses
 - (b) prevented suppliers from undertaking investment necessary to support their business (for example, capital expenditure to support the improvement or expansion of the business)
 - (c) resulted in exit by suppliers or other reductions in the extent or quality of supplier output.
32. The extent and impact of any countervailing negotiating power, including:
- (a) at the retail level, the value consumers place on your specific brand and how they might react if their desired brand were not available
 - (b) the effectiveness of collective bargaining arrangements in negotiating trading arrangements with major processors, wholesalers or retailers
 - (c) how this has changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the impact that pressure from one buyer has on your dealings with other buyers (for example, by reducing your ability or incentive to offer favourable terms to other buyers)
- the impact and importance of trading terms such as:
 - slotting fees (fees paid by manufacturers or producers to have their products placed on supermarket shelves)
 - rebates, loyalty or other bonuses
 - promotional activities (including who bears the cost of these activities)
 - exclusive supply terms in contracts
 - specific sourcing or packaging requirements
- the impact of any other promotional or discounting practices by retailers, whether ad hoc specials or through regular promotional cycles (such as periodically heavily discounting the retail price of particular products)
- whether any retailers can credibly threaten to 'delist' a product or brand, substitute or give preference to a private label or general brand, or import products in preference to local brands
- the impact of private label products including:
 - whether, and if so how, opportunities or pressure to win private label supply contracts impact the negotiation of trading terms for the supply of branded products
 - any instances of retailers requiring a supplier to provide a private label version of a product in order to have their branded product stocked
- the effectiveness of industry codes of conduct (such as the Food and Grocery Code or Horticulture Code) or other regulations in limiting buyer power
- whether you are or have been encouraged or pressured to use services (for example, logistics or advertising services) owned or controlled by supermarkets or suppliers in order to secure a supply arrangement with them
- any other examples of behaviour or conduct by participants in your dealings with them that may suggest they have buyer power or which may be potentially anti-competitive

- the availability and viability of trading with alternative suppliers or buyers (including import or export markets)
- how easily and quickly you can switch between buyers or suppliers and any impediments to switching.

3.3. Margins and price transparency in grocery supply chains

One of the key concerns that has been raised, and which has prompted this Inquiry, is the difference between farmgate prices and the prices paid by consumers at the checkout. In this context, the Terms of Reference directs the ACCC to consider the approaches of suppliers and wholesalers to setting grocery prices and factors affecting pricing of inputs along the supply chain.

As discussed in section 2.1.2, the ACCC will examine margins generally for groceries at a retail level. However, the ACCC will also examine how suppliers and wholesalers set prices along the supply chain, price transparency, and how these contribute to the difference in price received at the farmgate and the price paid by consumers for groceries. Specifically, this will involve the ACCC taking a closer look at the end-to-end costs of production and distribution, prices and related margins including through obtaining documents and information from market participants using compulsory information gathering powers.

The ACCC welcomes views from stakeholders on factors impacting costs, margins and pricing across the supply chain. The ACCC is also interested to understand the extent to which suppliers can access and are using data and data analytics.

Please provide feedback on:

33. How cost changes along grocery supply chains are reflected in retail prices, and how this has changed over the past 5 to 10 years (please indicate the time period your response covers).
34. The key factors influencing profitability and margins at each level of the supply chain and how these have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the pricing structure in each step of the supply chain (for example, price per unit or price mark-up)
- how and when pricing is determined (for example, fixed-price or variable, margin-based)
- the use of data analytics in setting prices
- the transparency of the data used, including prices and demand information, and the impact of any lack of transparency about data used
- the proportion of the final retail price accounted for by your level of the supply chain and, if known, other levels of the supply chain
- the volatility of input prices and how this is managed

- your ability to respond to variations in input costs by adjusting prices charged and any impediments to increases in input costs being passed through the supply chain
- any other factors relevant to your pricing strategy, such as strategic goals
- how changes in the prices you pay your suppliers affect the prices you charge buyers
- the speed and extent to which retail prices rise and fall in response to price increases and decreases in the supply chain (including how quickly increases in the price wholesalers and supermarkets pay for grocery products are reflected in retail prices compared to how quickly reductions in the price paid by retailer and wholesalers are reflected in the retail price)
- the extent to which cost savings in the supply chain are passed through to retail prices for consumers
- to what extent your contract terms and conditions or trading arrangements allow for, require or limit passing on cost savings or increases.

3.4. Other factors impeding or supporting efficient supply or pricing

As noted above, efficient markets that work well for both suppliers and consumers are essential and competition is a key tool for ensuring that markets remain efficient.

In addition to bargaining power imbalances or the exercise of buyer power (as discussed above in section 3.2.2), other factors may impede the efficiency of supply or pricing in markets, such as:

- market characteristics (including legal barriers)
- lack of transparency over supply or demand
- supply or demand shocks
- behaviours that impact the ability or incentive of market participants to invest in increasing supply or demand or efficiency-enhancing innovations
- insufficient access to inputs such as produce, food processing services or equipment or other grocery product inputs.

In recent years, events such as the COVID-19 pandemic, extreme weather and geopolitical tensions have created significant supply and demand shocks which substantially disrupted supply chains across the globe, including those relating to groceries.

In contrast, the increasing digitisation of businesses may have contributed to increased efficiency throughout the supply chain, particularly in combination with increased data collection and analytics tools.

The ACCC is interested to understand the extent of any inefficient supply and pricing of inputs and the factors which may be contributing to or offsetting such inefficiencies, such as the impact of these technological and analytical developments.

The ACCC welcomes stakeholder views on any impediments to the efficient supply of inputs and products along the grocery supply chain and factors that may have improved the efficacy of the operation of grocery supply chains.

Please provide feedback on:

35. Your ability to respond to shocks or changes in the operating environment.
36. Any impediments to undertaking investment necessary to support your business, for example capital expenditure to support the improvement or expansion of your business.
37. Any other impediments to the efficient operation of your business.
38. Any factors that have improved the efficiency of your business operations.
39. How the extent, and types, of impediments to efficient supply or improvise to the efficacy of business operations have changed over the past 5 to 10 years (please indicate the time period your response covers).

In providing feedback, you may wish to comment on:

- the availability and quality of inputs
- the importance of economies of scale and scope
- the impact of shocks and how you respond to them (for example, the COVID-19 Pandemic, extreme weather events, and geopolitical tensions)
- the impact of demographic changes to demand such as potential shifts in population to larger metropolitan areas, an ageing population and immigration to certain areas
- the impact of private label products (either supplied by your business or other businesses) in competition with branded products
- the impact of vertical integration or other vertical relationships (such as toll processing) in the supply chain
- impacts of technology and data analytics (for example, through facilitating buyers to move towards just-in-time operations)
- hold ups or blockages in the supply chain
- any other practices such as predatory pricing or bundling.