



7 July 2008

By email: economics.sen@aph.gov.au

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Inquiry into the Unit Pricing (Easy comparison of grocery prices) Bill 2008

Consumer Action Law Centre (**Consumer Action**) welcomes opportunity to provide this submission to the Senate Economics Committee's Inquiry into the Unit Pricing (Easy comparison of grocery prices) Bill 2008 (the **Bill**).

In summary, our recommendations are as following:

1. A system of national, uniform, mandatory unit pricing of products sold in supermarkets should be introduced.
2. Given inflationary pressures, there is a pressing need to implement a unit pricing system. Unit pricing should be implemented as soon as reasonably possible having regard to minimising implementation costs.
3. Unit pricing can be implemented in a number of ways: as a statutory amendment to the *National Measurement Act 1960* (Cth) or the *Trade Practices Act 1974* (Cth), or through subordinate statutes such as Regulations or a Mandatory Code. So long as recommendations 1 and 2 above are adhered to, Consumer Action does not have a strong preference for one means of implementation vis-à-vis another, and notes that different approaches each have advantages and disadvantages.
4. To ensure consumers can easily read unit prices, precise standards of minimum size and format are required for shelf labels, advertising and other signage. Independent research should be undertaken to support these standards.
5. The units of measure to indicate unit price should be 1 kilogram if sold by weight and 1 litre if sold by volume. A unit price should also be provided for goods sold by number.

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6. The implementation of unit pricing should be accompanied with an education program that informs consumers about unit pricing. As part of this campaign, supermarkets should be required to display posters and stock pamphlets informing consumers about unit pricing.

Introduction

In February this year Consumer Action Law Centre (**Consumer Action**) made a submission to the National Trade and Measurement System Discussion Paper (**NTMS paper**) of December 2007. In our submission we argued strongly for the introduction of a national, uniform, mandatory unit pricing system, and we discussed the history and some of the benefits of unit pricing. We attach a copy of our submission to the NTMS paper with this submission.

A well implemented unit pricing system can be anti-inflationary and provide real benefits to (in particular low income) consumers at little cost to retailers. This is because the information unit pricing displays adds to consumers' capacity to make choices based on price, and because industry can generate unit prices, with little modification, in an automated way using existing equipment. Thus, in our view, the real question is whether we implement a low cost effective unit pricing system or a low cost ineffective unit pricing system.

We discuss what we consider to be the minimum requirements for an effective unit pricing system in this submission.

Timing of the introduction of a unit pricing system

The time that supermarkets are given to implement unit pricing depends on both the cost to supermarkets at implementing at shorter vis-à-vis longer notice, and the urgency of the need for unit pricing.

Woolworths has indicated that if it were given 12 months to implement unit pricing, it could do so at zero cost.¹ This is because according to Woolworth director Michael Luscombe, given 12 months Woolworths would be able to make the implementation of a unit price system coincide with periodic changes to shelving.²

Consumer Action recommends that the legal framework for a unit pricing system be implemented immediately. The legal framework should allow affected industry members a maximum of 12 months to implement unit pricing in their supermarkets.

Characteristics of an effective unit pricing system

Consumer Action supports a unit pricing system that is national, uniform and mandatory. The requirements for the system to be national and mandatory are conditions precedent for the

¹ Woolworths Position on Unit Pricing, ACCC Grocery Price Inquiry – Hearing, 19 May 2008, Melbourne (Michael Luscombe – Woolworths Director).

² Woolworths Position on Unit Pricing, ACCC Grocery Price Inquiry – Hearing, 19 May 2008, Melbourne (Michael Luscombe – Woolworths Director).

system to be uniform. Experience with consumer regulation (eg. the *Uniform Consumer Credit Code*) shows that a completely nationally uniform system is not possible if law is State-based rather than national. Likewise, unless the system is mandatory it will not be uniform (some supermarkets will have unit pricing while others will not, and – importantly – the format of the unit price display will vary between supermarket chains).

Uniformity is key to an effective unit pricing system. For a unit pricing system to be effective, it has to empower consumers to easily locate unit price information and understand it. If the unit price is consistently displayed in a uniform way between different stores (and, indeed, different chains) consumers will more easily locate the information. If the unit by which the unit price is displayed is consistent (eg. per kilogram and per litre) then consumers will more easily understand the information.

The Queensland Consumer Association makes 10 detailed recommendations regarding minimum standards for a unit pricing system. We fully support these recommendations, and attach a copy of them to this report.

Amongst other things, the recommendations propose a minimum unit price display of the larger of 10mm or 50% of the size of the print showing the selling price. These requirements are also in the Bill. However, size of print is only one of several presentational issues of critical importance to consumers. Therefore, we support the commissioning by the federal government independent practical research with consumers to inform the basis of the minimum standards of information presentation for a national unit pricing system.

The recommendations also propose that the units of measure used to indicate unit prices should be kilogram for products sold by weight and litre for products sold by volume and that a unit price should also be provided for goods sold by number. These requirements also in the Bill and we support them.

Legal architecture for the implementation of unit pricing

Consumer Action supports a national, uniform and mandatory unit pricing system that incorporates the 10 recommendations of the Queensland Consumers Association. However, we are not convinced at this point that there is necessarily one ‘right’ way of implementing such a system.

One option that is now obvious is implementation through an amendment of the *National Measurement Act 1960* (Cth), as proposed by the Bill. Other options include amendments of the *Trade Practices Act 1974* (Cth) (**TPA**), through regulations made under either of these acts or another act, or a binding Code. Consumer Action at present does not strongly preference one approach to another. Each approach has advantages and disadvantages.

Compliance and enforcement

An effective unit pricing system should be supported by a broad monitoring, compliance and enforcement regime.

Monitoring should be through regular auditing of outlets that are required to provide unit pricing, similar to the regular auditing of scanners, as well as the use of inspectors to monitor compliance, as well as obtain information, documents or evidence. Auditing should be supported by minimum required standards of performance which, if not achieved, trigger warnings and/or penalties.

We also support a range of enforcement tools being available to the regulator, similar to that provided in the TPA. Division VI of the TPA provides for a range of enforcement and remedies and includes administrative remedies such as enforceable undertakings, civil remedies such as injunctions and punitive orders (ie, requiring a person to publish an advertisement acknowledging illegal conduct) and criminal sanctions. We believe similar remedies should be available in relation to breaches of unit pricing regulations.

The Productivity Commission, in its recent Inquiry into Australia's Consumer Policy Framework, recommended that additional enforcement tools be available to consumer regulators, including banning orders, substantiation orders and infringement notices. We strongly believe that such orders would be appropriate to enforce a unit pricing regime, particularly infringement notices. The threat of quick penalty should engage retailers and ensure that they comply with their requirements.

An education campaign is needed

Unit pricing is designed to make it easier for consumers to save money by comparing prices. It is an a consumer information tool. Therefore, it will be more effective if an education campaign coincides with the introduction of unit pricing. This education campaign should have as its goal the transmission of knowledge regarding what unit pricing is and how it can be used.

Consumer Action supports the proposal to require supermarkets to display posters explaining unit pricing and to distribute pamphlets explaining unit pricing. Appropriate consumer information on the website of the Australian Competition and Consumer Commission would also be appropriate, as would be a short-term government information campaign through the media.

Should you have any questions about this submission, please contact us on 03 9670 5088.

Yours sincerely

CONSUMER ACTION LAW CENTRE



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APPENDIX: Minimum standards* for unit pricing of prepackaged grocery items by Australian supermarkets

Queensland Consumers Association

3 June 2008

(Based on results of Churchill Fellowship undertaken in 2007 to study unit pricing in the USA and Europe and discussions with other Australian consumer advocates)

1. Unit prices must be displayed prominently and clearly on all in-store price signs. On shelf labels the font must be the greatest of either 10 mm or 50 per cent of the font of the selling price. Minimum standards should also apply to the presentation of unit price information on other in-store price signs.
2. The measurements used to indicate the unit price must be either per kg, litre, metre, sq metre, cubic metre, or (for products sold by count) per item. (However, the unit used for products sold by count, for example toilet and facial tissues, must be relative to the number of items in the package).
3. The same unit of measure must be used for all sizes of the same product.
4. The unit price must be shown even if the unit price and the selling price are identical.
5. Unit prices must be provided for the maximum possible number of grocery products.
6. Unit prices must be shown for products sold on “special” or other “promotions” as well as at regular prices.
7. Unit prices must be shown clearly on printed advertisements showing the price of a product sold by measurement
8. Unit prices must be provided for groceries ordered on the internet as well as those purchased in-store.
9. Minimum standards must be set and monitored.
10. Initial and on-going consumer education programs must be undertaken.

*To apply to compulsory or voluntary provision.