

CHOICE

Submission to the Senate Select Committee on
Supermarket Prices

February 2024

About Us

CHOICE

CHOICE is the leading consumer advocacy group in Australia. CHOICE is independent, not-for-profit and member-funded. Our mission is simple: we work for fair, just and safe markets that meet the needs of Australian consumers. We do that through our independent testing, advocacy and journalism.

To find out more about CHOICE's work visit www.choice.com.au/campaigns

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Introduction

CHOICE welcomes the opportunity to contribute to the Senate Select Committee on Supermarket Prices.

A recent national survey by CHOICE revealed that 88% of people in Australia are worried about the cost of food and groceries.¹ While the two major supermarkets post over a billion dollars in profit, many are struggling to put food on the table – especially households on low incomes and those living in remote communities. These households are at breaking point from the rising cost of food. For many people, being able to afford food has become a trade-off with other essential products and services, like seeing a doctor or paying the electricity or gas bill.

The market for groceries is highly concentrated, giving supermarkets the power to influence pricing dynamics, setting and raising prices with limited transparency or competitive pressure. On top of this, supermarkets appear to be using a myriad of promotions and strategies to entice people into buying more or misleading them into thinking they are getting a good deal, when they are not. For example, in late 2023, following a CHOICE complaint to the ACCC, Coles apologised and refunded consumers for raising prices Coles had claimed were ‘locked’. To make things worse, the major supermarkets frequently point to these same questionable promotions to say that they are helping with the cost of living.

This inquiry is a welcome opportunity to scrutinise supermarket pricing and the claims that surround these prices. CHOICE’s submission sets out a number of recommendations; increasing transparency in historical supermarket pricing, banning certain promotional tactics, strengthening unit pricing, exploring the idea of a regulatory incentive scheme and making changes to the consumer and competition laws would help ensure supermarket pricing practices are fair.

Consumers should have access to food at prices that are fair and affordable. Being able to afford food and other essential items is not just a matter of convenience, it’s core to maintaining health, dignity, and well-being.

¹ CHOICE Consumer Pulse September 2023 is based on an online survey designed and analysed by CHOICE. 1,035 Australian households responded to the survey with quotas applied to ensure coverage across all age groups, genders and locations in each state and territory across metropolitan and regional areas. The data was weighted to ensure it is representative of the Australian population based on the 2021 ABS Census data. Fieldwork was conducted from 29 August to 18 September 2023.

Recommendations

The Senate Select Committee on Supermarket Prices should recommend that:

1. The ACCC use its information gathering powers to compel and assess historical pricing data from Coles and Woolworths as part of its inquiry into the supermarket sector
2. The Government require all major supermarkets to publish historical grocery pricing information to increase transparency and allow consumers to track price changes over time
3. The Government introduce a mandatory information standard for supermarkets that ensures their pricing is clear and consistent with consumer expectations
4. The Government ban the practice of member-only pricing in supermarkets
5. The Government ban multi-buy discounts that aim to increase consumer spending
6. The Government increase ACCC resourcing to monitor and enforce retailer compliance with the Grocery Unit Pricing Code
7. The Government expand the Grocery Unit Pricing Code to cover non-grocery stores that supply pre-packaged products
8. The Government prescribe a specific mandatory labelling standard for unit pricing
9. The Government ban supermarket's use of app-only discounts on essentials
10. Governments mandate that supermarkets be required to prominently disclose the change in price or size of a product
11. The ACCC mandate that supermarkets publish the cost of produce available for both small and large format stores online where there is a price difference
12. Governments explore the design of regulatory incentive schemes to encourage the promotion of healthy foods in supermarkets
13. The Government implement any outstanding recommendations from the 2020 report on food pricing and food security in remote Indigenous communities
14. The Government implement reforms to Australia's merger control regime
15. The Government introduce a ban on unfair trading practices

The effect of market concentration and the exercise of corporate power on the price of food and groceries

The market for groceries in Australia is highly concentrated with only four companies controlling over 80% of the total grocery market. The Woolworths Group has the largest share at 37%, followed by Coles at 28%, Aldi at 10% and Metcash at 7%.²

In a concentrated market consumers have little choice on where they do their grocery shopping. Coles and Woolworths stores are located across suburban and rural centres often meaning they are the closest and most conveniently located store, or for many, the only option.

If given a choice, many consumers would prefer to shop elsewhere to avoid the main supermarkets. In a national CHOICE survey conducted in September 2023, nearly 40% of respondents told us they would stop shopping at Coles and Woolworths if there was another option.³ This shows a desire to ‘shop around’, but a lack of competitors is making it difficult or impossible for many to do so – conditions that enable supermarkets to take advantage.

In the 12 months to September 2023, 96% of consumers reported that the cost of everyday items had risen.⁴ 57% of Woolworths or Coles shoppers said prices have increased a lot.⁵ One respondent shared:

“Prices went (sic) up significantly for no reason. We can expect a small increase but looking at prices, they have been rounded up a few dollars (it) doesn’t make sense.”

Almost two thirds of Coles shoppers (66%) and Woolworths shoppers (64%) surveyed said supermarkets are making a lot of money from increasing prices but are blaming price increases on rising costs. In contrast, only 28% of Aldi shoppers believe Aldi is making a lot of money from the price increases but are blaming the price increases on rising costs.⁶

² IbisWorld, August 2023, Supermarkets and Grocery Stores in Australia - Market Size, Industry Analysis, Trends and Forecasts (2024-2029), accessed at: <https://www.ibisworld.com/au/industry/supermarkets-grocery-stores/1834/>

³ CHOICE Consumer Pulse September 2023 is based on an online survey designed and analysed by CHOICE. 1,035 Australian households responded to the survey with quotas applied to ensure coverage across all age groups, genders and locations in each state and territory across metropolitan and regional areas. The data was weighted to ensure it is representative of the Australian population based on the 2021 ABS Census data. Fieldwork was conducted from 29 August to 18 September 2023.

⁴ CHOICE Consumer Pulse September 2023 is based on an online survey designed and analysed by CHOICE. 1,035 Australian households responded to the survey with quotas applied to ensure coverage across all age groups, genders and locations in each state and territory across metropolitan and regional areas. The data was weighted to ensure it is representative of the Australian population based on the 2021 ABS Census data. Fieldwork was conducted from 29 August to 18 September 2023.

⁵ *ibid*

⁶ *Ibid*

97% of respondents to a recent CHOICE survey of 10468 supporters agreed that Coles and Woolworths should be doing more to lower grocery prices.⁷ One respondent shared:

“I am so angry, disappointed and distressed that these companies can raise prices and make a whopping huge profit on the backs of customers who are going through difficult times.”⁸

Rod Sims, former chair of the Australian Competition and Consumer Commission (ACCC), has also linked the rising cost of groceries to a lack of competition in the market:

“At a time of general concern about rising prices, they can increase prices a little bit more... they’ve only got to watch each other rather than anybody else because the two are so dominant”.⁹

It’s clear that consumers are feeling the pressure of rising prices and their experience is reflected in recent data from the Australian Bureau of Statistics (ABS). The cost of food increased 7.5% in 2023 according to figures from the ABS.¹⁰ Dairy had risen in cost by a huge 15.2% with breads and cereals sitting at 11.2%.

The pattern of price setting between the two major supermarkets

CHOICE has observed drastic price increases on groceries over the past few years, with the major supermarkets regularly rotating products through a variety of different discounts and often confusing promotions. Constantly fluctuating prices has potentially allowed supermarkets to increase prices beyond what they would have been able to, had they simply increased prices transparently over time.

CHOICE supporters have shared their frustration about this pattern of price setting:

“Most common practice is to increase (the) price and then have it at (the) old price on special for (a) very short period. A lot of price increases are huge, especially Coles. I use Heart Active milk which now costs me \$3.80 (an) increase of about \$1.00. Bought same at IGA which pays much higher wholesale price than Woolworths and Coles. Their price was \$3.20.”

⁷ CHOICE survey on Supermarket Specials conducted in November 2023

⁸ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

⁹ The Guardian, May 2023, ‘Australia should increase competition to fight ‘excessive pricing’ by supermarkets, Rod Sims says’

¹⁰ ABC News, 14 Aug 2023, ‘Food prices have risen 7.5 per cent in the last year. Here’s what that looks like at the check-out’

“I am frustrated and angry with the price dishonesty. Often, when a product is marked at a half price special it has had a price rise from the previous week before being advertised as a half price special.”

Because the two major supermarkets don't publish historical pricing data, it's difficult to track the pattern of price setting. **The Senate Select Committee on Supermarket Prices should recommend that the ACCC use its information gathering powers to compel and assess this data from major supermarkets as part of its inquiry into the supermarket sector.**

The Committee should also recommend that the Government require all major supermarkets to publish historical pricing information to increase transparency and allow consumers to track price changes over time. This will help consumers assess whether current prices or special offers represent value when this important contextual information is considered. Currently, consumers are left to rely only on the 'Was' prices provided by the supermarket, which may be chosen at points in time when the price was artificially inflated. CHOICE has observed a number of products claiming to be on 'special' at major supermarkets, but the price labelling doesn't include the 'Was' price, or even the amount of the discount.

Recommendations:

The Senate Select Committee on Supermarket Prices should recommend that:

1. The ACCC use its information gathering powers to compel and assess historical pricing data from Coles and Woolworths as part of its inquiry into the supermarket sector
2. The Government require all major supermarkets to publish historical pricing information to increase transparency and allow consumers to track price changes over time

The prevalence of opportunistic pricing, price mark-ups and discounts that are not discounts

The major supermarkets employ a number of potentially misleading or deceptive pricing strategies. Discount and 'special' claims made by supermarkets are often confusing and difficult for consumers to verify, making it incredibly hard for people to know if they're getting a genuine discount or value for money.

83% of supporters surveyed by CHOICE said that they think some Coles and Woolworths 'specials' or other promotions make it hard to know if you're getting a genuine discount or value for money.¹¹ One respondent shared:

*"The main problem I see is that there are too many different ways of highlighting a product. You look down an aisle with tickets of different colours which are so confusing (sic). Is this deliberate. All I want to know is (if) the price (is) acceptably discounted. Some tickets that are especially annoying. Price matched- I don't care and don't want to spend my time comparing alternative stores prices to see if it's true... Special price where the discount is so small-forget it. It seems a deliberate attempt to make you think 20c on a price of \$6 is worth considering. The original prices shown on discount tickets are so small, often you have to examine the ticket with a magnifying glass."*¹²

It should be clear to consumers that discount claims represent genuine discounts, especially amidst the cost of living pressures people are currently experiencing.

Specials and other promotions are extremely influential on consumer buying behaviour, so it's crucial that consumers can trust the promotional claims made by supermarkets. ABS data shows that supermarket promotional items can sell up to 70 times their normal rate.¹³ A national CHOICE survey of grocery shoppers also showed that over a third of consumers thought the best way to get value for money in their grocery shopping was by choosing items on sale (38%). This was followed by comparing unit prices (23%), then buying own brand products (20%)¹⁴, despite comparing unit prices being a more reliable measure of true value for consumers.

CHOICE has found a number of ways in which major supermarkets are potentially confusing, misleading or deceiving consumers through a number of pricing and promotional strategies.

¹¹ CHOICE survey on Supermarket Specials conducted in November 2023

¹² Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

¹³ Australian Bureau of Statistics, September 2021, Using scanner data to estimate household consumption, accessed at:

[https://www.abs.gov.au/statistics/research/using-scanner-data-estimate-household-consumption-september-2021#:~:text=The%20Australian%20Bureau%20of%20Statistics,Consumer%20Price%20Index%20\(CPI\).](https://www.abs.gov.au/statistics/research/using-scanner-data-estimate-household-consumption-september-2021#:~:text=The%20Australian%20Bureau%20of%20Statistics,Consumer%20Price%20Index%20(CPI).)

¹⁴ CHOICE national grocery shopping survey of 1008 grocery shoppers aged 18+ conducted in November 2022

False pricing claims

Major supermarkets like Coles and Woolworths advertise how they're helping people save during the cost of living crisis by pointing to their specials and other promotions. CHOICE is concerned that major supermarkets may be making false pricing claims that could mislead consumers. Even if inadvertent, major corporations should have strict controls in place to ensure pricing claims are correct and clear.

In October 2023, CHOICE made a complaint to the ACCC regarding a 'locked' price promotion run by Coles. CHOICE identified that Coles had claimed the price of a product was 'locked' until 31 October 2023 across its supermarket network, but proceeded to raise the price of the product before the end of the promotional period (attachment 1).¹⁵



11 February - 12 October 2023, Coles Marrickville

Following CHOICE's complaint, Coles identified that it had prematurely raised the prices of 20 different items across the year that it had claimed were 'locked'¹⁶, including cream, cereals, tinned tomatoes, pregnancy tests and more (see table below). Although Coles says it proactively refunded Flybuis and online customers that it could identify for the full cost of the products if purchased, it's likely that a significant number of in-store customers did not receive refunds because they were unaware, did not keep receipts, or simply didn't pursue a refund.

¹⁵ All attachments can be found at the end of this submission

¹⁶ Sydney Morning Herald, 8 December 2023, 'Coles offers refunds after raising prices on 20 'locked' items'

Affected products:

Product	Advertised price	Price charged	Dates
Bulla Thickened Cream 300ml	\$2.85	\$3.50	08/03/2023–04/07/2023
Bulla Thickened Cream 600ml	\$5.35	\$6.00	08/03/2023–04/07/2023
Bulla Thickened Cream Lite 300ml	\$2.85	\$3.50	08/03/2023–04/07/2023
Somat Excellence Dishwashing Tablets 30pk	\$18.00	\$30.00	07/04/2023–11/04/2023
Somat Excellence Dishwashing Tablets 45pk	\$21.00	\$35.00	07/04/2023–11/04/2023
Somat Gold Dishwashing Tablets 25pk	\$9.60	\$16.00	07/04/2023–11/04/2023
Somat Gold Dishwashing Tablets 51pk	\$18.00	\$30.00	07/04/2023–11/04/2023
Somat Rinser & Drying Booster Dishwasher Rinse Aid 500mL	\$4.75	\$8.00	7/04/2023–11/04/2023
Coles BBQ Briquettes	\$10.00	\$10.60	30/08/2023–31/10/2023
Napolina Chopped Tomatoes 4pk	\$4.00	\$6.00	07/06/2023–04/07/2023
Bran Flakes With Sultanas 580g	\$4.05	\$4.50	14/09/2023–01/12/2023
Kellogg's Corn Flakes	\$6.00	\$6.50	30/08/2023–01/12/2023
Coles Ankle Support Premium	\$8.00	\$8.50	20/09/2023–01/12/2023
Coles Heat Pack Silicone Bead	\$14.00	\$14.50	20/09/2023–01/12/2023
Coles Medistrips Fabric Pk 50	\$2.70	\$3.00	24/05/2023–25/07/2023

Coles Pregnancy Midstream Test 1 Pack	\$6.00	\$6.50	20/09/2023- 01/12/2023
Coles Pregnancy Midstream Test 3 Pack	\$10.00	\$10.50	20/09/2023–01/12/2023
Coles Wrist Support Premium	\$8.00	\$8.50	20/09/2023–01/12/2023
Fehlbergs Jalapeños Sliced 470g	\$4.00	\$5.00	04/10/2023–17/10/2023

A retailer as large as Coles failing to keep its pricing promises is unacceptable, particularly during a cost of living crisis. This error could be an indicator that there are broader systemic issues with ensuring that promotions are compliant with the Australian Consumer Law, and CHOICE welcomes further investigation and enforcement action for any breaches by the ACCC.

‘Was/Now’ pricing claims

CHOICE is concerned about the widespread use of ‘Was/Now’ pricing by major supermarkets that may lead consumers to believe a product is better value than it really is.

‘Was/Now’ pricing allows supermarkets to choose a point in the past when the product price was higher and present a comparison of the two prices to show a discount. This pricing practice doesn’t show the full picture of price changes between those points in time to the consumer. The supermarket could theoretically select a point in time when the price of the product was artificially high and ignore other fluctuations in price since then – including potentially ignoring points in time when the product was cheaper than the ‘Now’ price. The result is that a product may be more expensive than it was in the past, but supermarkets are still able to present this as a discount to consumers. We also have concerns about the appropriateness of using natural seasonal variations in pricing to make was/now discount claims.

Supermarkets regularly choose comparative prices from points in time that were long ago. For example, Coles Marrickville advertised Palmolive Shower Scrub Coconut Butter 400ml as ‘Down Down’ at \$4.50, claiming the price was \$6.49 in September 2017 (attachment 2) – a date which was over five years ago and over three and a half years before the Coles Marrickville store opened.



11 February 2023, Coles Marrickville

Another example of this occurred at Woolworths Metro Marrickville where Ajax Lemon Antibacterial Wipes 100pk were advertised as 'Prices Dropped' at \$9.00, referring back to the original price of \$11.55 in August 2020, three and a half years earlier (attachment 2). Although these claims may be truthful, CHOICE's view is that the 'Was' price provided is so far in the past that it is irrelevant and does not represent a genuine discount for the consumer.



4 February 2024, Woolworths Metro Marrickville

In some cases, supermarkets display 'Was' prices, but the label beneath the promotional sticker is the same as the current 'discounted' price. Consumers are drawn to the special sticker and are led to believe they are receiving a discount when in fact, the price does not appear to have changed.

At Woolworths Alexandria, 500gm of lamb mince was 'discounted' to \$5.50, claiming the price had previously been \$7. Yet underneath the 'discount' tag the original tag reads \$5.50, indicating that the new price may not be a discount at all. It's CHOICE's view that this does not represent a genuine discount for the customer, but the practice allows supermarkets to present the price as a discount and falsely market discounts to consumers.



22 January 2024, Woolworths Alexandria

Because supermarkets don't publish historical pricing information, it's difficult to verify 'Was/Now' claims and to determine whether the discounts claimed are genuine. CHOICE welcomes the ACCC investigating the use of 'Was/Now' pricing by major supermarkets.

Specials and discounts that omit important contextual information

It is difficult for consumers to verify claims that a product is discounted or on another promotion when the price tag does not inform the consumer what the price was previously or the amount of the discount. This practice may lead consumers to believe that products are more discounted, or better value, than they actually are. CHOICE has found a number of examples of this pricing practice in Coles and Woolworths stores and online (attachment 3).

In some cases, 'special' tags appear to reflect the same price that the product originally was, as the 'special' tag is placed over the regular tag, when lifting the 'special' tag it can be seen that the original price was exactly the same.

Supporters shared:

"We have seen lots of "special" prices stuck over regular prices and they are the same. There's nothing special about the new price."¹⁷

"I have seen items with 'Special' tags, then curiosity led me to lift the tag and look at what the original price was, the price was the same! The item was not on 'Special'."

¹⁷ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

"I lift the 'yellow' discount tag on the shelf to see what the original price was to find it was only reduced by less than 5 cents. This seems to be occurring more often."¹⁸

Consumers are likely to rely on claims like 'down down', 'dropped' and, 'special' to indicate that a product is more discounted, or better value than it really is. This practice could entice consumers to buy products they might not otherwise have bought as they are given the impression that they are getting a good deal.



11 February 2023, Coles Marrickville

Tags designed to look like special discount offers when the product isn't actually discounted

Major supermarkets often use price tags that have the same, or similar, colours and design elements as the tags used to advertise 'specials'. Many survey respondents noticed this happening at their local supermarkets:

"'Special' tags with a 'new' price placed over the usual price tag, but when one lifts that 'special' tag to see what is under it, the price is the same!"

CHOICE has seen examples of tags designed to look like special discounts, in particular the use of 'while stocks last' at Coles (attachment 4). The tag looks as if it is signifying a discount when in fact it appears to be the regular price. A person not paying close attention could be easily misled into thinking the product is on sale.

¹⁸ ibid



2 September 2023, Coles Marrickville

Other promotional claims

Supermarkets often use terms like ‘everyday’, ‘everyday low price’, ‘low price’, ‘fresh special’, ‘new’ or ‘introductory price’ to signify that there is something new, different or special about the price of a product with these tags. These terms are ambiguous and provide no contextual information for the consumer to be able to verify the claims being inferred. People may be misled into thinking an item is of good value or discounted, when in fact it may be the price it has always been.

On 4 February 2024, at Woolworths Metro on Illawarra Road Marrickville, a collection of promotional tags was seen on a range of nuts (attachment 5). Some labels said ‘prices dropped’ and some said ‘low price’, but it is not clear how the price is low compared to the ‘prices dropped’ tags. The ‘low price’ tag does not appear to offer any discount to consumers. In this particular case, a consumer could be confused by these tags due to the similar colours used and side-by-side placement, alluding to sales and discounts across all nuts rather than a select few.



4 February 2024, Woolworths Metro Marrickville

Transparent pricing

There needs to be increased price transparency around supermarket pricing to ensure that people are able to effectively assess the variety of ways supermarkets communicate specials and discounts. Supermarkets should publish historical pricing data on all products in stock so that consumers are able to compare and verify pricing claims. Empowering consumers with this information will mean they are able to make stronger purchasing decisions and not be lured into misleading specials and discounts.

Price tags offering specials and discounts should be consistent with consumer expectations and follow a mandatory information standard that outlines what qualifies as a discount and how it should be communicated.

A new mandatory information standard should mandate how the price of an item is displayed. The standard should:

- Require clear prices to be displayed on all products sold by supermarkets online and in-store.
- Standardise and rationalise discount and promotional terms, including preventing supermarkets from using terms, designs or colours that indicate a discount is being offered when the product is not discounted.
- Require supermarkets to publish the most recent previous price of the product, with the date, and clearly state the amount the product has been discounted in dollars and as a percentage.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

3. The Government introduce a mandatory information standard for supermarkets that ensures their pricing is clear and consistent with consumer expectations

Member-only pricing offers

Everyone should have access to food and essential items at the lowest possible price. Supermarkets are increasingly offering low prices to members only, a practice that locks non-members out of discounts and special offers.

Loyalty programs like Woolworths' Everyday Rewards and Coles' Flybuys program are a data goldmine for retailers. Allowing them to collect valuable and very specific data about their customers to develop profiles, which they can then use to target customers with tailored offers or share and sell this data to other businesses.

In 2019, the ACCC was compelled to investigate loyalty schemes, examining the ways they collect data and whether consumer information and benefits were sufficient. The final report shed some light on the potential harms of the schemes:

“Problematic data practices, in addition to impacting market efficiency, can cause consumer harm. These harms include decreased consumer welfare from decreased privacy, and risks to consumers from increased profiling and from discrimination and exclusion.”¹⁹

Many consumers are reluctant to sign up for loyalty schemes due to these privacy risks. CHOICE is of the view that member-only pricing is an unfair pricing practice, as it pushes consumers to sign up to rewards programs – providing their personal information and detailed purchasing behaviour in exchange for cheaper products. In some cases, the offer looks too good to refuse, forcing the consumer to sign up to the program in order to access the cheaper price. This is particularly inappropriate when applied to essential products like groceries, as everyone should be able to access affordable groceries, without joining a membership program.

Woolworths has recently introduced member-only pricing that requires consumers to sign up to the Woolworths’ Everyday Rewards loyalty program to access certain offers. On 1 September 2023, Woolworths online (Marrickville location) advertised Woolworths pork sizzle 400g at a ‘Member Price’ of 2 for \$15, or \$8 each for non-members (attachment 6). However, two of the same products were able to be purchased for \$15 on 15 August 2023. The product had increased in price for non-members, but remained the same price for members only. Consumers could be misled into thinking that the offer represented a discount on a previously offered price, when in our view it did not.

Some member-only prices look too good to refuse. Woolworths advertised a range of dips at both member and non member prices back on 27 November 2023 at a metro Woolworths store in Marrickville. For Heritage Blue Cheese Fig & Pistachio dip the non-member price was \$9.45, for a member the price was \$6.30 - meaning a non-member would have to pay 50% more for the same product. Supermarkets should not be allowed to force consumers to choose between affordable food and a membership scheme.



¹⁹ Australian Competition & Consumer Commission, September 2019, Customer Loyalty Schemes - Draft Report, accessed at: https://www.accc.gov.au/system/files/Customer%20loyalty%20schemes%20-%20draft%20report_151119.pdf

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

4. The Government ban the practice of member-only pricing in supermarkets

Multi-buy offers that make people spend more

Some special offers are only available to consumers when they purchase two of the same item, meaning the individual will only get a discount if they buy double what they intended to buy. In some cases this can be beneficial for a shopper with a big family or a big freezer, but it could also push people to spend more than they had intended and leaves individuals without the means to buy double with no savings or discounts.

One supporter shared their experience of this as a pensioner:

“I hate those 2 for specials. I am on pension so I have to be so careful and it seems like punishing poor customers who can't afford to buy 2 items, I usually just end up getting one at full price. Very unfair.”²⁰

Another supporter shared their frustration about how this practice could be used to raise the overall price of the product:

“Often prior to a significant price rise Woolworths put out a 2 for 1 deal which is cheaper per item but uses the price rise new price to compare. For example BBQ Shapes: Were \$2.00 per packet but with the price rise are now \$3.00 so they use the new price and say 'Now 2 for \$5' Seems like a save but actually dearer than previous price even with special. They do this all the time”²¹

Many are of the view that this ‘special’ is designed to make you spend more:

“I don't like the multi buy. Why should you buy 3 of something to get it cheaper just discount the one item. It makes you spend more”²²

If a product is eligible for a discount, it should be applied to the individual item, leaving consumers with the choice to purchase more than one rather than being penalised for purchasing the amount they require.

²⁰ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

²¹ *ibid*

²² *ibid*

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

5. The Government ban multi-buy discounts on groceries that aim to increase consumer spending

Inconsistent unit pricing

Unit pricing is an important resource for consumers in retail settings. It is an objective tool that empowers people to make well-informed decisions and ensures they are getting value for money on their purchases. But supermarkets are making it increasingly difficult for consumers to see, read and understand unit pricing both instore and online.

Unit pricing was introduced in 2009 to help consumers find the cheapest option when shopping in large supermarkets. The Grocery Unit Pricing Code requires the unit price to be prominently displayed, in close proximity to the selling price, legible and unambiguous. The Grocery Unit Pricing Code, administered by the ACCC, is mandatory for supermarkets of more than 1000 square metres and online stores that are required to provide unit prices for packaged grocery items.

Unit pricing is essential to ensure that people are able to choose the best value products. A CHOICE survey of 1008 grocery shoppers asked people to look at product images and tell us which one they thought was the best value for money. When shown images without a unit price, only 60% of shoppers picked the best value product. When the unit price was included, this number jumped to 74%.²³

Respondents to our survey in November 2023, shared:

*"I always compare unit pricing to try and get the best value for money and that, perhaps, helps me not get conned by 'specials'."*²⁴

*"Thank goodness for 'Unit Pricing', this allows me to check prices to actually confirm whether something actually is on 'special'."*²⁵

44% of shoppers surveyed by CHOICE said that they use unit pricing as one of the ways to cut down on spending. 80% of shoppers who are aware of unit pricing, use it regularly and yet,

²³ Reference CI data Jan 2023

²⁴ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

²⁵ Ibid

when in store, an **alarming 71% say that they have encountered issues with the unit pricing provided.**²⁶

35% told us that the unit price was not always displayed, 34% say it was difficult to read for reasons such as the text being too small and 31% say it was obstructed or covered up by another label.²⁷

Across a range of supermarkets, the standard of unit pricing is faltering. Retailers have started to use smaller font sizes, inconsistent units of measure or are simply not providing unit prices for all items. One supporter shared:

“Unit pricing although a good initiative by the supermarkets the ticketing is woefully inadequate. Pricing (sic) size is far too small and on the lower shelves the tickets should be at an angle to make reading easier and to save one to get down on one’s knees to read the damn things”²⁸

The ACCC, as the enforcer of the code, should be given further resourcing in order to prioritise the monitoring and enforcement of retailer compliance with the Grocery Unit Pricing Code. Supermarkets currently in breach of the code are not being penalised, instead consumers are facing more barriers to pricing transparency.

CHOICE is very supportive of extending the mandatory Code obligations to other retailers that sell packaged products, such as pet stores, hardware shops, pharmacies and stationary shops. Consumers spend large amounts of money at these retailers, yet these stores are not covered by the mandatory code, and they rarely voluntarily use unit pricing to help consumers make informed purchasing decisions.

The display of unit pricing is often inconsistent across stores and even within stores. Different font sizes and font types are used, creating confusion for the consumer. The Grocery Unit Pricing Code should include a specific and prescriptive mandatory labelling standard, outlined in detail for retailers, this could also be addressed within our proposed pricing information standard (see recommendation 3).

The current principles-based approach to the display of unit pricing is open to interpretation and difficult to enforce. Retailers are able to decide how they display the unit pricing information and can change how it is displayed to suit their needs. The current system is likely to disproportionately impact those with low vision, as it makes it increasingly difficult for the uniting pricing to be noticed.

²⁶ CHOICE Unit Pricing Survey 2022 is based on a survey of 1008 Australians grocery buyers. The sample includes a spread of age groups, genders and location to ensure coverage in each state and territory across metropolitan and regional areas. Fieldwork was conducted on 14-29 November, 2022.

²⁷ *ibid*

²⁸ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

Recommendations:

The Senate Select Committee on Supermarket Prices should recommend that:

6. The Government increase ACCC resourcing to monitor and enforce retailer compliance with the Grocery Unit Pricing Code
7. The Government expand the Grocery Unit Pricing Code to cover non-grocery stores that supply pre-packaged products
8. The Government prescribe a specific mandatory labelling standard for unit pricing

The use of technology and automation to extract cost-savings from consumers and employees

Coles and Woolworths have member rewards programs that people can sign up to in order to earn points on their shopping. Woolworths has Everyday Rewards and Coles has Flybuys. These point based reward systems provide the consumer with an app and require them to tap with their membership card at checkout to access potential rewards, such as discounts.

Everyday Rewards users are required to 'boost' products through the app to earn extra points or receive discounts. These discounts and special offers are not available for non-members. Supporters have shared their concerns with us over the gamification of grocery shopping:

"Boosted points on certain products or on spend amount makes me like an addict. I feel compelled to spend (a) specific amount to earn additional points, on products I don't really need/ want at that time just (to) earn a pittance of \$10 off my shop. I find it hard to let go. I should probably cancel membership so I'm not controlled/ focussed on Rewards."

"I've been a member of Woolworth's 'Everyday Rewards' for many years but, more recently, I've been bombarded with emails urging me to 'boost' certain products, for extra points. Worse still, they obviously track the purchasing trends of every member of their loyalty program, because the products they want me to 'boost' are products I buy all the time!"

"Woolworths Rewards system is designed to encourage greater spending to get more points. Parts of it only work for those who can afford to spend a lot of money at once. Whilst I'm financially secure and this system doesn't impact me personally I find it's out of balance and unjust in today's economic climate."

“The day following the purchase of a particular item at Woolies I’ll get an email offering great rewards points on that item if I buy it before a particular date. If I haven’t shopped in a while I’ll receive offers to spend a particular amount to get great rewards.”

“Woolies Everyday Rewards scheme with its boosters is very annoying. Discounts and other advantages should be available to members without having to click on websites every time.”²⁹

Coles Flybuys members must spend a certain amount of money each week for a certain amount of weeks to receive bonus points and discounts. Encouraging consumers to spend more than they needed to in order to reach a ‘bonus target’:

“As a Coles Flybuys member I regularly get offers for Bonus points if I spend more than a certain amount for four weeks. Over the years that amount has increased as I spend a few dollars more to reach the bonus target. It was once \$120 now \$270 for four weeks.”³⁰

Respondents to CHOICE’s survey also shared their concerns over the ‘free with flybuys’ promotions. Many are offered a ‘free’ item when they hit certain thresholds, but arrive in store to be told it is out of stock, weeks before the promotion was due to end. Encouraged to spend more to receive the ‘free’ item, consumers are then disappointed to find out they have been misled when they never receive the product:

“Also coles “free with flybuys” promotions are a farce you spend a fortune and the pots or whatever you’re saving are out of stock months before the promotion ends, and if you call customer support they tell you x amount of the item you want have been delivered today but the store says they didn’t receive any! Absolutely dishonest customer service.”

“Coles regularly offer flybuys members a “free” item.. old marketing thought would be for product promotion but regularly - this week Abbotts Sourdough - I thought “I’ll try that” to be told at three different stores that item is out of stocking and no longer being stocked. Also recently when barramundi was advertised half price I went into store at 11am on first day of offer - 3 hours into week long promotion - to be told it was out of stock and no more available!!”³¹

Supermarkets should not be able to make certain discounts and specials available only to members through loyalty programs. As highlighted in recommendation four.

“I think loyalty programs, like Flybuys, should be banned on groceries. We are made to jump through hoops to get cheaper prices that should be ours in the first place. Eg.

²⁹ Respondents to CHOICE survey on Supermarket Specials conducted in November 2023

³⁰ ibid

³¹ ibid

*spend \$180 each week for 4 weeks to get 10,000 points (\$50). Also, for online shopping, points earned/equivalent dollars should be able to be deducted from the online bill.*³²

App-only discounts exclude people without the technological expertise to navigate them and introduce unnecessary complications to the shopping process. App-only discounts should be banned for essential items, as these promotions should be made available to everyone who walks into a supermarket.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

9. The Government ban supermarket's use of app-only discounts on essentials

Rising supermarket profits and the large increase in price of essential items

Supermarket profits in a cost of living crisis

People are struggling to afford the essentials due to cost of living pressures. 3.7 million households in Australia have experienced food insecurity in the 12 months to September 2023, which represents more than the number of households in Sydney and Melbourne combined.³³ OzHarvest has seen a 20% increase in people seeking support, with around 2100 people turning to OzHarvest every week.³⁴ And financial counsellors say that more people are turning to buy now, pay later products to afford essentials such as food, petrol and bills, leaving many stuck in a spiral of debt.³⁵

Meanwhile, Coles and Woolworths saw their profits skyrocket. Coles Group posted a \$1.1 billion profit at its most recent full-year results and Woolworths Group recorded an annual profit of \$1.6 billion.³⁶ At the same time, both supermarkets heavily promote the ways they say they are helping with the cost of living. Posting over a billion dollars in profits while claiming to be helping people with the cost of living is part of the reason CHOICE awarded Coles and Woolworths a Shonky award for 'cashing in during a cost of living crisis' in November 2023.

³² Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

³³ Foodbank, 25 September 2023, Foodbank Hunger Report 2023 - National Key Findings Report, accessed at: https://reports.foodbank.org.au/wp-content/uploads/2023/10/2023_Foodbank_Hunger_Report_IPSOS-Report.pdf

³⁴ SBS News, 27 December 2023, 'Food insecurity is surging in Australia. Advocates say it's the worst they have ever seen'

³⁵ The Guardian, 8 November 2022, *Australians turning to buy now, pay later schemes for groceries 'stuck in a revolving door' of debt*

³⁶ The Guardian, 13 January 2024, *Annual profit is more than \$1bn for Woolworths and Coles. How do they set prices and can they justify rises?*

In September 2023, CHOICE asked a sample of Australians what they thought about the prices that the major supermarkets are charging. More than **60% of Coles and Woolworths shoppers surveyed believe** Coles and Woolworths are making a lot of money by hiking up the prices at the checkout and less than 20% thought the two major supermarkets were doing everything they could to keep prices down.³⁷

The cost of essential items

The increasing cost of food and essential items has significant repercussions for consumers. Inflated costs are creating a strain on household budgets and are negatively impacting well-being and quality of life as people cut back on other expenses to get food on the table.

We have heard the frustrations of many CHOICE supporters about supermarkets raising the prices of essentials again and again:

“When Woolworths actively stated in 2022 (was on the news) that they would not increase the prices, especially on everyday staples, within two months the prices had increased. ie; 1kg Flora Marg normal price \$5.50, jumped to \$8.95. They have rorted the Australian public shamelessly.”³⁸

One respondent noticed that home brand products in particular had gone up in price:

“Woolies home-brand soda and mineral water 1.25L bottles have just gone up from 75c to \$1.30 and \$1.20 respectively... Coles home-brand peanut butter 375g jars have recently gone from \$1.80 to \$3.00. No other brand of these products has increased its price significantly, so there is no plausible justification for either of these increases by the supermarkets' brands, apart from the fact that they used to be considerably cheaper than the next-cheapest branded equivalent. I guess the supermarkets figured they may as well gouge some extra profit by closing the gap.”³⁹

Shrinkflation is a huge concern for consumers, where products are reduced in size but remain the same price, or in some cases get more expensive. The Australian Bureau of Statistics (ABS) has stated that shrinkflation is contributing to inflation, as consumers are paying more for a given amount of a product. Not only are consumers getting less value for their groceries, the phenomenon of shrinkflation is also contributing to the increasing cost of living.⁴⁰

³⁷ CHOICE Consumer Pulse September 2023 is based on an online survey designed and analysed by CHOICE. 1,035 Australian households responded to the survey with quotas applied to ensure coverage across all age groups, genders and locations in each state and territory across metropolitan and regional areas. The data was weighted to ensure it is representative of the Australian population based on the 2021 ABS Census data. Fieldwork was conducted from 29 August to 18 September 2023.

³⁸ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

³⁹ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

⁴⁰ ABC News, 2 December 2023, 'Does your weekly shop feel a little lighter or smaller? You're not imagining it, it's 'shrinkflation''

People feel frustrated when they turn up at the shops to see a product they buy has been regularly reduced in size and either remains the same price or the price has increased. Many respondents to our survey shared this frustration:

“Woolworths Rose's English Breakfast marmalade glass jar sizes reduced from 500g to approx 320g along with price increase. Similar situation with biscuits, chocolates, cereals.”

“Can we please talk about 'shrinkage', where a product is listed on special and is MUCH smaller than previously, hence for then on in being the smaller size which goes up to the old price. This has to stop.”

“I'm sick & tired of items shrinking in size or packaging & paying a higher price. Eg cat food dry biscuits used to be 1.5kg are now .8 & paying more. Toilet paper quilton used to come in 9 rolls now 8 but pay the same price as 9 at woolies. It's criminal what they are doing to get money.”

“We have noticed that products are becoming smaller in volume, but the price has increased, so not getting the same value for money...shrinkflation. This applies to chocolate bars, baby powder, fruit & vegetables, most anything where they reduce the volume, but increase the prices.”

“What annoyed me recently was Woolies announcing Frico Dutch Goat's cheese wedge as new when the only new thing about it was that it was now 200g in size instead of 250g. The price had dropped, however the new size and price made it more expensive per 100g than the old version.”⁴¹

In Spain, supermarkets are required to clearly inform consumers when a product's size or price changes, after the competition regulator labelled shrinkflation an 'unfair method of competition'⁴². This method of 'shrinkflation notices' should be adopted in Australia, notifying consumers when a product has been changed in size or price, both in store and online.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

10. Governments mandate that supermarkets be required to prominently disclose the change in price or size of a product

⁴¹ Respondents to CHOICE survey on Supermarket Specials conducted in November 2023

⁴² OCU, June 23 2022, Press Release - OCU denounces six companies for reductions in competition, accessed at: <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2022/reduccion>

Online prices

The Coles and Woolworths websites only list the prices of products at their larger format stores, not Woolworths Metro or Coles Local stores. A range of products at Metro or Local stores are higher than larger format stores. Consumers may check the price of an item online and head to their closest metro store only to discover that the price online is only offered at the larger format store.

Not listing Metro and local store prices online creates confusion for consumers and a false expectation that the price they see online would always be the price they see in store. Supermarket websites should include a way to check the price of an item across a range of the closest stores, so that consumers can compare prices and make stronger purchasing decisions.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

11. The ACCC mandate that supermarkets publish the cost of products available for both small and large format stores online where there is a price difference

The availability of healthy food

According to Australia's Food Environment Dashboard, supermarket catalogues promote unhealthy foods more often than they promote healthy foods. They place unhealthy foods and drinks at prominent end of aisle displays and allocate more shelf space to key unhealthy food and drinks compared with healthy items, concerningly more so in stores located in more socioeconomically disadvantaged areas.⁴³

One supported shared their observation of specials and unhealthy foods:

"A lot of their so-called weekly specials are for items that should be considered discretionary spending. Chocolate, ice-cream, packaged or processed foods, non-essentials"⁴⁴

Supermarkets should be pushed to provide a range of healthy and affordable essentials in store. This could be done through a regulatory incentive scheme, like the ones that exist in the energy market. In the energy market, regulatory incentive schemes promote investment in energy efficiency. Without these regulatory incentives, energy firms would be encouraging consumers to use as much energy as possible.

⁴³ Australia's Food Environment Dashboard accessed at: <https://foodenvironmentdashboard.com.au/supermarkets/>

⁴⁴ Respondent to CHOICE survey on Supermarket Specials conducted in November 2023

A regulatory incentive scheme for providing healthy food could set a target for the proportion of healthy food that must be available on supermarket shelves. A simple scheme could require supermarkets to put forward their own plan, that meets certain standards, as to how they can increase the uptake of healthy and affordable food. For example, this plan could say that healthy foods will take up a certain percentage of shelf space, then supermarkets would be required to publish those plans and audit their achievement of them.

As providers of essential goods, supermarkets should be incentivised to promote the interests of the community above their own profit. An incentive scheme could be a way to achieve that, to push supermarkets to switch their promotion of unhealthy foods to healthy, sustainable alternatives.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

12. Governments explore the design of regulatory incentive schemes to encourage the promotion of healthy foods in supermarkets

The cost of essential items in regional supermarkets

The rising cost of food and food security has been an issue for many years for Aboriginal and Torres Strait Islander peoples living in remote communities. They are faced with exorbitantly high food prices or long commutes to find food at affordable prices.

The cost of transporting food to remote communities and the lack of competition amongst supermarkets in these communities mean Australians living in rural locations are paying as much as three times more for items than those who live in the city.⁴⁵ The rising cost of fuel is now making it more difficult for people to drive to other locations to access more affordable food.

In 2020, the House of Representatives, Standing Committee on Indigenous Affairs conducted an inquiry into the cost of food in Indigenous communities. Their report on food pricing and food security in remote Indigenous communities, made a number of recommendations aimed at alleviating the pricing pressures in these regions.⁴⁶

These recommendations include, calling on the Treasurer to direct the ACCC to undertake an enhanced market study into food and grocery prices in remote community stores. It also recommended that the Government support local food production in remote communities,

⁴⁵ ABC News, 13 June 2022, '*Cost-of-living crisis forcing people in remote regions to give up fresh produce*'

⁴⁶ The Parliament of the Commonwealth of Australia, House of Representatives Standing Committee on Indigenous Affairs, November 2020, '*Report on food pricing and food security in remote indigenous communities*' accessed at: https://www.aph.gov.au/-/media/02_Parliamentary_Business/24_Committees/243_Reps_Committees/Indigenous/Food_pricing/Report.pdf?la=en&hash=13F5E4BE6B2757223211A7C5E0353BDD9DCDBD14#:~:text=1.3%20On%2021%20May%202020,reference%20on%2027%20May%202020.&text=combat%20price%20gouging.

introduce a remote community competitive grants program that could support local food production schemes and ensure that Aboriginal and Torres Strait Islander residents of town camps can receive food deliveries from nearby supermarkets.

There also needs to be increased transparency about the cost of delivering food to remote supermarkets so that consumers have access to all the information on the price of food at their local supermarket. This review could be included in an ACCC market study into food and grocery prices in remote community stores.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

13. The Government implement any outstanding recommendations from the 2020 report on food pricing and food security in remote Indigenous communities

Improvements to the regulatory framework to deliver lower prices for food and groceries

Support for merger reforms

Australia's grocery market is a cautionary tale for why merger laws matter for consumers.

Our supermarket sector is highly concentrated and the major supermarkets have grown in size and power in a way that very likely harms consumers. A key reason for this concentration is the steady acquisition of smaller independent supermarkets by Coles and Woolworths over a number of decades. These individual acquisitions may not have contravened competition laws or triggered the merger control regime, but taken together the impact of these 'creeping acquisitions' is very likely to have harmed competition in the grocery market. This has been the focus of a number of past inquiries⁴⁷ and highlights the importance of getting merger laws right.

New Zealand's history with merger reforms and supermarket mergers is another example worth highlighting. In May 2001, on the day before stronger merger laws took effect, the second and third largest supermarket chains in New Zealand applied for merger clearance. If the stronger merger test had been applied, the merger would not have been permitted. However, after a legal appeal process confirmed it was the old (weaker) merger law that was to be applied, the acquisition proceeded. This merger is often cited as what gave rise to New Zealand's

⁴⁷ See for example Joint Select Committee on the Retailing Sector, Parliament of Australia, Fair Market or Market Failure? A Review of Australia's Retailing Sector (1999) ('Baird Report')

supermarket ‘duopoly’⁴⁸. We note New Zealand’s Commerce Commission has recently found “competition is not working well for consumers in the retail grocery sector”⁴⁹.

CHOICE has welcomed the focus on merger reform as the first priority of the Government’s newly established Competition Taskforce. Preventing mergers is key to addressing consumer harms as addressing these harms after a market has become highly concentrated can be complex, often requiring more specific regulation outside of competition policy.

CHOICE made a submission to the consultation on merger reforms that makes the following recommendations:

1. Support for the ACCC’s proposed changes to Australia’s merger control regime
 - a. Including a mandatory administrative merger clearance regime that requires merger parties to satisfy the ACCC that the merger is not likely to substantially lessen competition (SLC)
2. Support for reforms to the SLC test to:
 - a. Modernise the list of factors to be considered under the SLC test
 - b. Expand the SLC test to cover mergers that entrench or materially increase or extend market power, and
 - c. Allow consideration of related agreements as part of considering the effect of mergers on competition
3. Support for reforms to:
 - a. Ensure consumer advocates are notified of potential mergers that may harm consumers and are invited to provide evidence
 - b. Enable consumer advocates to access funding required to participate throughout the merge control processes, noting that engaging with Australian Competition Tribunal or Court-based processes can be particularly resource intensive; and
 - c. Ensure the merger control test(s) enables consideration of evidence about the effect of the merger decision on consumers experiencing disadvantage and vulnerability.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

14. The Government implement reforms to Australia’s merger control regime

⁴⁸ NZ Herald, 11 June 2022, *Supermarket Merger Defies Government Intervention*,

⁴⁹ Commerce Commission New Zealand, *Market study into the retail grocery sector. Final report - Executive Summary*, accessed at:

https://comcom.govt.nz/__data/assets/pdf_file/0023/278402/Market-study-into-the-retail-grocery-sector-Executive-summary-8-March-2022.pdf

Introduce a ban on unfair trading practices

Coles and Woolworths use a number of practices like tags that look like specials but aren't, potentially misleading 'Was/Now pricing and other deceptive tools that could result in consumers spending more than they intended or making purchasing decisions they otherwise wouldn't. Many of these practices may not be illegal. Supermarket loyalty schemes are also an area where there could be unfair but lawful practices if, for example, supermarkets unilaterally changed the terms of these schemes in a way that was unfair or the design of the scheme benefited the interests of wealthier consumers only.

Similarly, many complaints from small businesses suppliers about supermarket practices may be unfair but not illegal.

The Federal Government is currently considering options to amend the Australian Consumer Law to introduce a ban on unfair trading practices. Introducing a strong ban on unfair trading practices would cultivate a healthier marketplace, ensure more equitable economic transactions and benefit vulnerable individuals and small businesses who may be unable to protect their own interests.

A ban on unfair trading practices should be drawn broadly, and be able to respond to conduct and practices that exist today and that could develop over time. The ban should be accompanied by a guiding principle that requires the consideration of consumer vulnerability and should include a blacklist prohibiting certain practices that should be specified and managed by the ACCC.


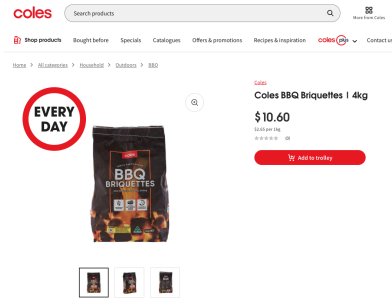
A ban on unfair trading practices should be economy-wide and include penalties and remedies, including civil penalties and actions for damages and compensation, for each breach of the prohibition. This would have significant benefits for consumers such as preventing the use of pricing strategies that disadvantage consumers or address the unfair practices in the design of loyalty programs.

Recommendation:

The Senate Select Committee on Supermarket Prices should recommend that:

15. The Government introduce a ban on unfair trading practices

Attachments

1. False pricing claims		
<p>11 February 2023 - 12 October 2023</p>	<p>Coles Marrickville</p>	<p>Photo taken at Coles Marrickville on 11 February 2023</p>  <p>The photo shows a bag of BBQ Briquettes (4kg NET) on a shelf. Two price tags are attached to the bag. The top tag is a red 'EVERY DAY' tag showing a price of \$10 for 4kg, with a unit price of \$2.50 per kg. The bottom tag is a white 'LOCKED' tag with a red border, showing a price of \$10 for 4kg, with a unit price of \$2.50 per kg, and a validity period of 'UNTIL 31 OCT 2023'.</p>
		<p>Screenshot Coles online store captured 12 October 2023 (Marrickville location set)</p>  <p>The screenshot shows the Coles online store interface. The product 'Coles BBQ Briquettes 4kg' is displayed with a price of \$10.60 and a unit price of \$2.65 per kg. A red 'EVERY DAY' tag is visible on the left side of the product image. The 'Add to basket' button is highlighted in red.</p>
		<p>Photo taken at Coles Marrickville on 14 October 2023</p>

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2. 'Was/Now' pricing claims		
<p>11 February 2023</p>	<p>Coles Marrickville</p>	
<p>27 October 2023</p>	<p>Coles online</p>	

4 February 2024

Woolworths Metro Marrickville



22 January 2024



Woolworths Alexandria









3. Specials and discounts that omit important contextual information

<p>11 February 2023</p>	<p>Coles Marrickville</p>	
<p>11 February 2023</p>	<p>Coles Marrickville</p>	

<p>18 February 2023</p>	<p>Coles Marrickville</p>	
<p>16 October 2023</p>	<p>Coles Marrickville</p>	

<p>19 August 2023</p>	<p>Coles Marrickville</p>	
<p>31 August 2023</p>	<p>Woolworths Metro Park Sydney Erskineville</p>	
<p>23 October 2023</p>	<p>Woolworths app (for Home Delivery to Birchgrove)</p>	<p>Screenshots show inconsistent practices for 'dropped' prices, with some 'Prices dropped' claims omitting the previous 'was' price.</p>

		<p style="text-align: center; border: 1px solid red; padding: 2px;">PRICES DROPPED</p>  <p style="text-align: center;">Bonne Maman Orange Marmalade 370g</p> <p style="text-align: center;">\$6.00</p> <p style="text-align: center;">\$1.62 per 100g</p> <p style="text-align: center; color: red;">Range was \$6.70 22/08/2023</p> <p style="text-align: center; background-color: green; color: white; padding: 5px; border-radius: 10px;">Add</p> <p style="text-align: center; border: 1px solid green; padding: 5px; border-radius: 10px;">Lists</p>	<p style="text-align: center; border: 1px solid red; padding: 2px;">PRICES DROPPED</p>  <p style="text-align: center;">Tasti Smooshed Wholefoo...amel 207g</p> <p style="text-align: center;">\$6.75</p> <p style="text-align: center;">\$3.26 per 100g</p> <p style="text-align: center; color: red;">Range since 24/08/2022</p> <p style="text-align: center; background-color: green; color: white; padding: 5px; border-radius: 10px;">Add</p> <p style="text-align: center; border: 1px solid green; padding: 5px; border-radius: 10px;">Lists</p>
		<p style="text-align: center; border: 1px solid red; padding: 2px;">PRICES DROPPED</p>  <p style="text-align: center;">Tasti Smooshed Wholefoo...acao 207g</p> <p style="text-align: center;">\$6.75</p> <p style="text-align: center;">\$3.26 per 100g</p> <p style="text-align: center; color: red;">Range since 24/08/2022</p> <p style="text-align: center; background-color: green; color: white; padding: 5px; border-radius: 10px;">Add</p> <p style="text-align: center; border: 1px solid green; padding: 5px; border-radius: 10px;">Lists</p>	<p style="text-align: center; border: 1px solid red; padding: 2px;">PRICES DROPPED</p>  <p style="text-align: center;">Macro Dried Mixed Fruit 400g</p> <p style="text-align: center;">\$4.50</p> <p style="text-align: center;">\$11.25 per 1kg</p> <p style="text-align: center; color: red;">Was \$5 22/08/2023</p> <p style="text-align: center; background-color: green; color: white; padding: 5px; border-radius: 10px;">Add</p> <p style="text-align: center; border: 1px solid green; padding: 5px; border-radius: 10px;">Lists</p>

		<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>PRICES DROPPED</p>  <p>Yoplait Vanilla Yoghurt 1kg</p> <p>\$4.90</p> <p>\$0.49 per 100g</p> <p>Range was \$5.50 19/09/2023</p> <p>Add</p> <p>Lists</p> </div> <div style="text-align: center;"> <p>PRICES DROPPED</p>  <p>Sanitarium Weet-bix Bites Wild...real 500g</p> <p>\$4.50</p> <p>\$0.90 per 100g</p> <p>Range since 28/06/2022</p> <p>Add</p> <p>Lists</p> </div> </div>
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<p>26 December 2023 & 22 January 2023</p>	<p>Woolworths Marrickville</p>	<p>Item originally shows a price drop of \$4.50 to \$2.80 stating that this was since 9/1/2023</p> 
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The same item at the same store on the 22nd of January 2023 no longer includes the original price and identifies a different date since the price drop.



22 January 2024

Woolworths
Alexandria



4. Tags designed to look like special discount offers when the product isn't actually discounted

<p>2 September 2023</p>	<p>Coles Marrickville</p>	
<p>9 September 2023</p>	<p>Coles Marrickville</p>	

14 October 2023

Coles Marrickville



5. Other promotional claims

4 February 2024

**Woolworths Metro
Marrickville**



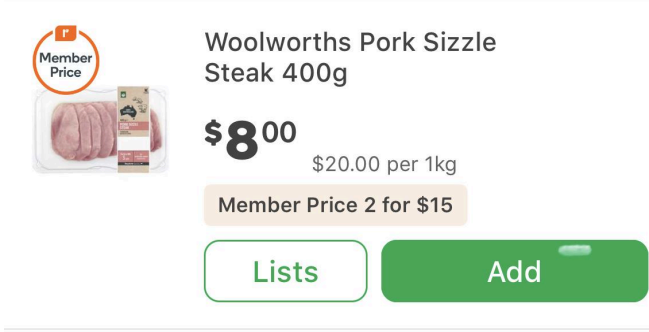
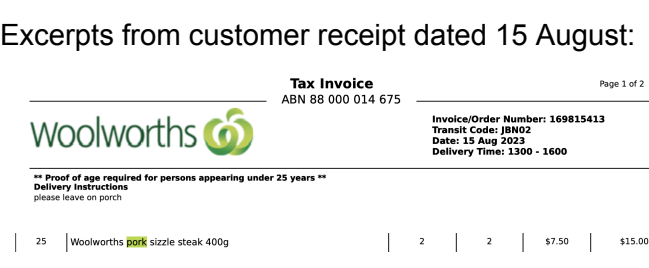

2 February 2024

**Woolworths
Marrickville**



<p>2 February 2024</p>	<p>Woolworths Marrickville</p>	
<p>2 February 2024</p>	<p>Woolworths Marrickville</p>	

6. Member-only pricing offers

<p>15 August - 1 September</p>	<p>Woolworths online (Marrickville)</p>	<p>Screenshot taken 1 September 2023 from Woolworths online (Marrickville location set)</p>  <p>Excerpts from customer receipt dated 15 August:</p> 
<p>27 November 2023</p>	<p>Woolworths Metro Marrickville</p>	



<p>2 February 2024</p>	<p>Woolworths Marrickville</p>	
<p>2 February 2024</p>	<p>Woolworths Marrickville</p>	