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FULL ASSESSMENT REPORT & REGULATION IMPACT ASSESSMENT

APPLICATION A395 – UNIT PRICING OF FOODS

1. EXECUTIVE SUMMARY

The Australian Consumers' Association (ACA) submitted an application to amend the *Food Standards Code* to provide for mandatory unit pricing of food.

Consideration has been given as to whether mandatory unit pricing is an appropriate matter to be regulated under the Code.

Mandatory unit pricing does not fit into the criteria for food industry reform by the Australian and New Zealand Governments and is not consistent with COAG Principles or the New Zealand Code of Good Regulatory Practice.

Evidence submitted by respondents suggests that the measure is not cost effective. The food retail industry traditionally operates on low profit margins. This would mean that cost increases would inevitably be passed on to consumers in the form of higher prices. This would damage smaller retailers by eroding their competitive position in relation to the larger supermarkets.

While it is accepted that mandatory unit pricing would help consumers make informed choices about food and get better value for their money, the arguments put forward suggest it is more properly a matter for trade measurement law rather than food law.

The full assessment concludes that the application to amend the *Food Standards Code* to require mandatory unit pricing on all food items should be rejected.

2. BACKGROUND

In July 1999 ANZFA received an application from ACA to amend Standard A1 - Labelling and Advertising of the *Food Standards Code* to require the provision of unit pricing on all foods, packaged and unpackaged, sold in Australia. By unit pricing, the applicant meant that prices would be displayed in dollars and cents per 100g or per 100mL as appropriate in addition to the total price of the product.

ACA claimed that there is a need for a mechanism to allow consumers to easily compare the value of different sized and priced packs of food to enable an informed choice to be made.

It was also claimed the measure would reduce confusion and arithmetic difficulty for consumers in determining the best purchase to make in terms of price.

ACA proposed that the position of the shelf sticker would be specified to require the information, consisting of the words 'unit price' and the respective price in dollar/cent terms, to appear on the supermarket shelf next to the existing price. Alternatively, the unit price and absolute price may be shown together in association with the food in an easily readable format.

ACA further maintained that the key to this form of labelling is uniformity of terminology, so the words 'unit price' should be used. The print size for the unit price should be easy to read, eg 10mm.

The Preliminary Assessment of the application was completed in August 1999 and public comment sought.

As it is anticipated that the current *Food Standards Code* will be phased out over the next two years or so and will be replaced by the *Australia New Zealand Food Standards Code* (the joint Code) the application is being treated as an application to amend to both Codes.

3. ISSUE

The issue is whether it is appropriate to have a mandatory provision in the current Code and the joint Code to require unit pricing on all foods. Also, whether such a provision would be cost effective in achieving the outcome sought by ACA.

4. OBJECTIVE

The objective of the application, as stated by ACA, is to enable consumers to compare more readily the value of food packages of different sizes by requiring unit pricing for all food items offered for sale.

5. RELEVANT PROVISIONS

There is no requirement for unit pricing of foodstuffs in the *Food Standards Code*, the *New Zealand Food Regulations 1984*, the draft *Australia New Zealand Food Standards Code*, the *Codex Alimentarius* or in the European Community's *Directives on Food Labelling*. Insofar as can be established, there is no other country that has a requirement for mandatory unit pricing in its food law.

If it were decided to include unit pricing provisions in joint Australia and New Zealand food law, it would be necessary to develop a new standard.

However, under the auspices of the Ministerial Council on Consumer Affairs (MCCA) there is in place in the States and Territories uniform trade measurement legislation (UTML). The Trade Measurement Acts in the States and Territories include special provisions for the sale of meat and requirements for the mass (ie weight) of meat to be marked in the same manner

as the price marking including the price per kilogram to be indicated. The Trade Measurement (Pre-packed Articles) Regulations in the States and Territories provide for certain products to be unit priced when offered for sale in packs other than in particular specified pack sizes. These products are fruit, vegetables, mushrooms, cheese and cheese products, dressed poultry not marked in terms of minimum mass, fish including crustaceans, meat and smallgoods. The specified pack sizes vary according to the product. The pack sizes that relate to each product are set out in a table to the section. For example, pack sizes for cheese and cheese products are: 100g, 125g, 200g, 250g, 375g, 500g, 750g, 1kg and integral multiples of 500g.

The UTML is currently being reviewed by the Trade Measurement Advisory Committee (TMAC) with the aim of recommending a more effective system of trade measurement to MCCA.

As part of the review, TMAC is proposing a number of amendments to trade measurement legislation, including the removal of special provisions for the sale of meat. TMAC is also proposing that some products be unit priced only when packed in random mass packs.

New Zealand Measurement Legislation is regulated in the *Weights and Measurements Amendment Act 1991* and the *Measurements Standards Act 1992*. The Trade Standards Services Unit of the Department of Consumer Affairs is responsible for enforcing the provisions of the *Weights and Measures Act*. Neither Act has any specific provisions relating to individual unit pricing.

6. PUBLIC CONSULTATION

In response to the invitation for public comment in August 1999, ANZFA received 30 submissions. Of these, only three respondents supported the application, one did not express an opinion on its merits and 26 were firmly opposed. A summary of the submissions received is attached (see Attachment 2).

6.1 ISSUES RAISED IN PUBLIC SUBMISSIONS

A number of respondents made the point that unit pricing was a trade measurement matter rather than a food standards matter. These included Nestlé, Confectionery Manufacturers of Australasia (CMA), Australian Food and Grocery Council (AFGC), Berri Ltd and Trade Measurement Victoria (TMV). Several other respondents agreed that it was not appropriate for unit pricing to be considered as a food standards matter, but did not express an opinion as to where it belonged.

The New Zealand Ministry of Commerce's submission, supported by the Ministries of Health; Agriculture and Forestry; and Foreign Affairs and Trade, did not consider that the application was consistent with the broad policy criteria which the Australian and New Zealand Governments have adopted for the reform of the food industries in the two countries nor did the application fit readily within the *Food Standards Code*. If implemented, unit pricing would represent a significant extension to the nature and extent of the Code's existing provisions. In addition, the COAG Principles and the New Zealand Code of Good Regulatory Practice oblige regulators to recommend minimum effective regulation.

In expressing opposition to mandatory unit pricing many respondents, such as the National Meat Association of Australia (NMAA), New Zealand Pork, InforMed Systems Ltd, New Zealand Dairy Board (NZBD), the National Association of Grocers and Supermarkets of New Zealand (NARGON), Foodstuffs (NZ) Ltd, Australian Supermarket Institute (ASI) and others, pointed out that many products were unit priced on a voluntary basis.

Respondents also considered that mandatory unit pricing would increase the cost of retail operations. There would be increased costs involved in calculating unit prices and in printing and affixing unit priced shelf stickers. Costs would be significantly higher for smaller retailers using stick-on prices on individual products because they may not have shelving suitable for shelf labelling. It was also claimed that the additional capital expenditure on new shelving systems, and computer hardware and software to generate price labels for unit pricing could result in some small stores being forced out of business.

Three respondents were in favour of mandatory unit pricing. They all agreed it would be beneficial for the consumer but acknowledged that there would be an increased financial impact on retailers. The Home Economics Institute of Australia Inc (HEIA) stated that the lack of standardization of the weight and volume of food packaging made it difficult for consumers to compare the relative prices of products. Unit pricing would assist in this process and make it easier for consumers to become more discriminating. HEIA claimed that technology enabled most businesses to generate unit price information. However, they acknowledged that it might be necessary to offer assistance to small businesses unable to afford the technology.

The National Council of Women of Australia (NCWA) considered unit pricing would be of benefit to consumers, particularly those who had difficulty in ascertaining which size was more suited to their financial circumstances and which offered better value for money. NCWA acknowledged there would be a financial impact on retailers and that any cost increases would be passed on to consumers. The Council considered that the greatest barrier to the acceptance of unit pricing was not increased costs but the current direction of the government in deregulating and/or requiring only minimum regulation in food law.

The West Australian Food Advisory Committee of WA Health supported the application and considered it important to its food budgeting program, *Food Cent\$*. Unit pricing, in combination with the *Food Cent\$* program, would benefit consumers by assisting them to make informed choices and understand value for money. The Committee also asserted that unit pricing was an effective means of promoting healthy nutritious foods such as fruit and vegetables in preference to snack foods high in fat and sugar. As such it was a valuable tool in combating the incidence of morbid obesity and diabetes.

The National Council of Women of New Zealand (NCWNZ) believed that unit pricing helped consumers make informed choices while acknowledging that consumers also take into account many other factors such as appearance, quality and total price. Nevertheless, the Council considered that unit pricing would impose significant additional labelling costs on supermarkets and many small businesses selling food and that these costs would be passed on to consumers in the form of higher prices. Enforcement difficulties could also be expected. Because costs of compliance would significantly outweigh any benefit to consumers, the Council did not support the application.

7. ASSESSMENT OF ISSUES

7.1 Is unit pricing a food standards matter?

ACA has made an application to amend the *Food Standards Code* to provide for mandatory unit pricing of food. A major issue is whether food law is an appropriate vehicle for a mandatory unit pricing regulation.

To assess whether the Code is the appropriate vehicle, it is necessary to understand trade measurement requirements, previously known as weights and measures, and how these have evolved.

The submission by TMV, which is the Victorian Government's authority that administers the Trade Measurement Act 1995, advises that the Act is model uniform trade measurement legislation (UTML) that has been progressively adopted by all States and Territories, with the exception of Tasmania and Western Australia, since 1990. (Both Tasmania and Western Australia have legislation which mirrors the UMTL but their processes for adoption and amendment are different from the other States and Territories.) The Act controls the sale of goods by measurement. Pre-packed articles must be sold by measurement. This provision does not apply to articles that are not prepacked with the exception of meat and alcoholic beverages.

Many articles are currently sold by count, ie as a unit. However, if a vendor chooses to sell by measure, the transaction comes under UTML, which provides for proper measurement and price calculation. In these circumstances, every article needs to be measured by the seller unless the measurement of the article equals or exceeds the measurement stated in the sale.

The States and Territories, through their Weights and Measures Acts, introduced progressively from 1977 a requirement for standardised sizes for pre-packed articles. These Governments' rationale for the introduction of standard sizes was to allow consumers to compare the price of articles in the same size containers. A major review of the legislation in consultation with consumer groups, industry and trade measurement authorities in 1987 recommended the removal of standardised sizes. A majority of Ministers responsible for trade measurement accepted the recommendation in 1990 except for certain products. The deletion was monitored by what is now the Trade Measurement Advisory Committee (TMAC) in association with the Federal Bureau of Consumer Affairs. There has been no criticism of the removal of standard sizes from the legislation and TMAC is proposing to remove the remaining requirements except those relating to random massed packs.

TMV describes this earlier requirement for standardised sizes as a *de facto* form of unit pricing. TMV claims that the system was introduced and then removed without any demonstrated impact on consumers.

TMV also points out that if the Code were to be used as the vehicle to implement unit pricing the food industry would suffer an economic burden that did not apply to other industries. It may be argued that non-food items are of equal or greater importance than food. Many non-food grocery and hardware items such as soap powders, detergents, paints, etc are sold in different size packs. If unit pricing were to be introduced, it would be more equitable for it to apply to all items not just food.

As indicated in the previous section other respondents are also of the view that it is not appropriate to have mandatory unit pricing provisions in the *Food Standards Code*. AFGC states that unit pricing is a generic retail issue that is relevant to all retail transactions not just food items. Non-food grocery items such as toothpaste, household cleaners, washing powders along with many other items are sold in supermarkets. Nestles believes it is a trade measurement issue rather than one relating to food standards. CMA points out that the issue relates to neither public health and safety nor consumer deception. It is more appropriately an issue for retailers rather than food regulations.

Assessment

From the views expressed in submissions, it is evident that unit pricing is more appropriately a trade measurement issue than a food standards issue. While submissions referred to the benefits of unit pricing, no submission gave any reasons why there should be a standard for mandatory unit pricing in the *Food Standards Code* rather than in trade measurement regulations, where its application could extend to non-food items as well as food.

Therefore, it is reasonable to conclude that it is inappropriate to include a standard for mandatory unit pricing in the current *Food Standards Code* or the proposed joint Code.

7.2 Does unit pricing fit into the policy criteria set out by Australia and New Zealand for the reform of the food industries in the two countries?

The New Zealand Ministry of Commerce does not consider that the application is consistent with the broad policy criteria which the New Zealand and Australian Governments have adopted for the reform of the food industries of the two countries. It is not compatible with COAG Principles or the New Zealand Code of Good Regulatory Practice which oblige regulators to recommend minimum effective regulation.

The Ministry indicates that it attaches considerable weight to the absence of mandatory unit pricing provisions in other national and international food law. This point is also made by other respondents. The Ministry is of the opinion that the application might be more appropriately assessed in the context of consumer protection law.

Assessment

Submissions that addressed this subject are all of the view that mandatory unit pricing is not consistent with COAG Principles or the New Zealand Code of Good Regulatory Practice, both of which stress minimum effective regulation. In these circumstances, it is accepted that unit pricing does not fit into the Australian and New Zealand Governments' policy criteria for food industry reform and is therefore outside the scope of the current Code and the proposed joint Code.

7.3 Is unit pricing likely to be cost effective?

A number of respondents are of the view that mandatory unit pricing would increase the cost of retail operations. Shelf labelling for unit pricing would add significantly to capital and labour costs even where shelf pricing already exists. Costs would be proportionately higher for small food stores using stick-on pricing because they may not have shelving suitable for shelf labelling. Such stores would need to invest in new shelving systems and computer

hardware and software to generate price labels. Small traders generally operate on very low average net profit margins and mandatory unit pricing could force some small stores out of business.

Respondents, such as the New Zealand Grocery Marketers Association and ASI, claim that the grocery industry is already highly competitive. The cost of introducing and maintaining a system of unit pricing would negate any perceived benefit that it might offer.

ASI states that the average net profit margin for the supermarket industry in Australia is 2.3 cents in the dollar. There is no reason to believe profit margins are any better in New Zealand.

The ASI claims that it is not possible for the costs of unit pricing to be absorbed by the industry. The situation would be even more difficult for the smaller independent family owned businesses, many of which do not have access to computer-based stock management systems.

The ASI claim that the industry would be unable to absorb costs was echoed by a number of respondents, including some who referred to the benefits of unit pricing. They considered that any costs associated with mandatory unit pricing would have to be passed on to consumers.

Assessment

It is evident that the introduction of mandatory unit pricing would increase costs to the industry. However, the increase would not be distributed evenly throughout the industry in that the effect on smaller retailers could be expected to be greater than on the larger supermarkets. Because of low profit margins cost increases would be likely to be passed on to consumers in the form of higher prices. This would further erode the competitive position of smaller retailers.

7.4 What are the claimed benefits of unit pricing?

NCWA considers that unit pricing would be of benefit to consumers, particularly those who have difficulty in ascertaining which size is more suited to their financial means and which offers the better value for money. The NCWA accepts that there would be a financial impact on food retailers and expects that any cost increases will be passed on to consumers. The NCWNZ also considers that consumers would benefit by having additional information for comparison shopping. This sentiment is echoed by others including the HEIA. The Institute considers that the process would make it easier for consumers to become more discriminating.

The Institute also suggests that it might be necessary to offer some assistance to small businesses that cannot afford the technology. The source of funding for any such assistance is not canvassed in the submission.

The West Australian Food Advisory Committee of WA Health has a food budgeting program called *Food Cent\$*. The Committee considers unit pricing would compliment its *Food Cent\$* program by assisting consumers to make informed choices and understand value for money

in their food purchases. The Committee also considers that unit pricing is an effective means of promoting healthy nutritious foods such as fruit and vegetables in preference to snack foods high in fat and sugar. This makes it a valuable tool in combating the incidence of morbid obesity and diabetes. Unfortunately, the Committee offers no evidence to back up its assertion that unit pricing promotes healthy nutritious foods at the expense of snack foods that are high in fat and sugar.

The New Zealand Ministry of Commerce states that there are circumstances where consumers benefit from unit pricing. It would assist consumers in comparing prices of items such as cereals and soap powders sold in oversize packets to allow for settling or shrinkage. Also consumers respond positively to unit pricing as it allows them to make comparisons between different sized and priced packs of food.

Other respondents have taken issue with the 'value for money' argument. They claim that simple price comparisons assume that products are of equal quality and composition, whereas the perception of value involves the assessment of many factors including composition, functional performance, brand and environmental friendliness. Further, unit pricing will not necessarily influence decision making between purchasing large or small containers of perishable products or products that are perishable once opened. For example, a single person only using milk in tea or coffee is not going to buy a two litre container of milk that is considerably cheaper per litre than milk in a 600 mL container.

Another point that has been made is that many foods are sold in standardised packages, eg all brands of milk are sold in 300mL, 600mL and 1, 2 or 3 litre containers, also canned foods for the most part are sold in 300g, 425g, and 800g sizes. These standardised sizes assist consumers in making price comparisons.

Assessment

It is accepted that in many cases unit pricing is of assistance to consumers in making an informed choice in that it provides a basis for price comparison of like products. However, this assistance would not be universal for all consumers in all circumstances as many other factors help influence choice in addition to price and value for money.

7.5 Other relevant matters

One factor that must not be overlooked in assessing the merits of unit pricing is that unit pricing is well established and understood. Many products including foods are sold on a unit price basis. It is the accepted form of pricing for a number of basic foodstuffs. Delicatessen prices for smallgoods are set in dollars per kilogram as is meat in butcher's shops and fish in fish shops and a large range of fresh fruit and vegetables. Some supermarkets have voluntarily adopted universal unit pricing because they consider it gives them a competitive advantage. However, most supermarkets have taken the opposite view that there is no specific advantage to be gained from universal unit pricing.

The NMAA has reported that there is now a growing tendency for customers to move away from the traditional unit pricing of \$ per kg for meat towards a price per item eg a price for three chops. NMAA has carried out a retail survey of 3,195 customers. Survey results reveal that 'per item' pricing is preferred by 51% of customers, 23% prefer 'per gram' pricing and

26% favour 'per kilo' pricing. NMAA believes that retailers should be allowed to display their prices in the manner that best suits their customers.

Two respondents consider that unit pricing could inhibit the practice of supermarkets offering 'specials' as it does not lend itself to discounting for quick sale. Prices can change frequently and at short notice. To implement a 'special', a store would have to calculate a new unit price to reflect the new price of the 'special' and make up and affix two new shelf stickers. This would add to the cost of the 'special'.

Assessment

The fact that unit pricing is the established method of pricing for a range of products is not of itself sufficient reason to make it mandatory as the sole medium for undertaking retail transactions. It would appear that where there is a demand for unit pricing it is being undertaken on a voluntary basis. In this regard, it is evident that the market has responded to a consumer need. On this evidence it could be expected that the range of food items to which unit pricing applies will expand if there is further consumer demand. However, the results of the NMAA survey must cast some doubt on the ACA's claim that most consumers are in favour of unit pricing.

7.6 International Arrangements

Unit pricing in the United States is voluntary. A National Conference on Weights and Measures (NCWM) is a professional organization of State and local weights and measures officials and representatives of business, industry, consumer groups and federal agencies. The Office of Weights and Measures partners with the NCWM to develop standards in the form of uniform laws, regulations, and methods of practice. NCWM standards cover retail food sales, other retail sales, petroleum products, transportation and chemicals.

When State or local governments, or Federal regulatory agencies, adopt these standards, they become mandatory. Only one State has fully adopted the recommended NCWM standard on unit pricing and updates on an annual basis. Other states use the standard as a guide and some States have adopted their own standard, which is not based on the NCWM standard.

There is no similar provision regulating unit pricing in the Codex Alimentarius or in any other national or international food regulatory system.

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, ANZFA is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

In certain circumstances Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable other member countries of the WTO to make comment. Notification is required in the case of any new or changed standards which may have a significant trade effect and which depart from the relevant international standard (or where no international standard exists).

8. Conclusion

The ACA has submitted an application to amend the *Food Standards Code* to provide for mandatory unit pricing. The application is based on the premise that there is a need for a mechanism to allow consumers to make easy comparisons of the values of different sized and priced packs of foods and that this need can be met by mandatory unit pricing. Also, ACA claims mandatory unit pricing would reduce confusion and difficulty for consumers in determining the best value for money and thus assist consumers in making informed choices.

As mentioned earlier in this report the application is being treated as an application to amend both the current Code and the new joint Code.

The conclusions of the assessment of the issues discussed in this report in relation to a standard for mandatory unit pricing are that:

- The measure is not consistent with the broad policy criteria set out by the Australian and New Zealand Governments for the reform of the food industries of the two countries as these relate to minimum effective regulation as set out in the COAG Principles and the New Zealand Code of Good Regulatory Practice.
- It is not appropriate to include such a standard in the either the current Code or the new joint Code. Further, if such a measure were to be deemed appropriate it would sit more appropriately within the Uniform Trade Measurement Legislation rather than in food law;
- there is no similar provision in the Codex Alimentarius or in any other international food regulatory system;
- the measure would increase the costs of food retail operations. The increases would be in both capital and labour costs;
- the costs would impact more heavily on the smaller food retail stores which generally operate on very low average net profit margins;
- because of low margins, cost increases could be expected to be passed on to consumers in the form of higher prices. This would further erode the position of small retailers;
- costs would outweigh the benefit to consumers of having a mechanism that will more easily allow them to compare the value of different sized and priced packages of food;
- the practice of supermarkets regularly offering 'specials' could be inhibited;
- retailers already unit price many food items on a voluntary basis and could be expected to extend unit pricing in response to consumer demand; and
- the NMAA survey results cast doubt on whether the majority of consumers would be in favour of mandatory unit pricing.

RECOMMENDATION

In the light of the above conclusions, it is recommended that the application by ACA to amend the *Food Standard Code* to provide for mandatory unit pricing of foods be rejected.

ATTACHMENTS:

1. Regulatory Impact Statement
2. Summary of Submissions
3. Statement of Reasons

REGULATORY IMPACT STATEMENT

Application A395 – Unit Pricing of foods

BACKGROUND

ANZFA received an application from the Australian Consumers Association (ACA) in July 1999 to amend Standard A1 – Labelling and Advertising of the *Food Standards Code* to require unit pricing on all foods sold in Australia. In its application ACA claim there is a need for a mechanism for consumers to easily compare the value of different sized and priced packages of food to enable an informed choice to be made. As it is expected that the current Code will be phased out over the next two years with the introduction of the new joint *Australia New Zealand Food Standards Code*, the application is being treated as an application to amend both Codes.

ISSUES

The issue is whether it is appropriate to have a mandatory provision in the current Code and the joint Code to require unit pricing on all foods. Also whether such a provision would be cost effective in achieving the outcome sought by ACA. Under the *Australia New Zealand Food Authority Act 1991* the Authority is required to make a full assessment of any application to amend the Code and either to prepare a draft standard or draft variation of a standard or reject the application.

The ACA has not provided evidence of market failure in its application but claims that if introduced the measure would reduce confusion and arithmetic difficulty for consumers in determining the best purchases in terms of price.

OBJECTIVE

To require the provision of adequate information to consumers in a cost-effective manner in respect of the pursuit of value for money in food purchases.

PUBLIC CONSULTATION

Public comment on the application was invited in August 1999. Of the 29 submissions received, only three support the application and one does not express an opinion. The remaining 25 oppose the application. A summary of submissions is attached to the Full Assessment report as Attachment 2.

Those opposing the application represent a wide cross section of interests ranging from individual food companies and industry organisations to government bodies and community groups. Support for the application is limited to two community groups and the Food Advisory Committee of a State Department of Health.

OPTIONS

The Act only allows the Authority to accept or reject the application. Therefore, it is inappropriate to consider non-regulatory provisions such as a code of practice or industry guidelines. In effect the only two options are either to accept the application or to reject it and maintain the *status quo*.

Option 1

The first option is to amend the Code to provide for mandatory unit pricing of all foods. This would involve the drafting of a new standard.

Option 2

This option is to maintain the *status quo* whereby retailers continue to make decisions about unit pricing on a voluntary basis. This means rejection of the application.

ASSESSMENT

In assessing the options against the section 10 objectives of the Act to decide whether a standard to require unit pricing should be developed it should be made clear that public health and safety is not an issue. The only objective that appears relevant to the application is that dealing with the provision of adequate information relating to food to enable consumers to make informed choices.

Those respondents that support the application all make the point that the measure would assist consumers in making an informed choice about the food they purchase. In fact there are a number of respondents that oppose the application that concede this point. However, these respondents and the others that oppose the measure advanced many other arguments as to why there should not be mandatory unit pricing in the Code.

These arguments are canvassed more fully in the section on Assessment of Issues in the Full Assessment Report. In summary they are that:

- the measure is not consistent with the broad policy criteria set out by the Australian and New Zealand Governments for the reform of the food industries of the two countries as these relate to minimum effective regulation as set out in the COAG Principles and the New Zealand Code of Good Regulatory Practice;
- it is not appropriate to include such a standard in the either the current Code or the new joint Code. Further, if such a measure were to be deemed appropriate it would sit more appropriately within the Uniform Trade Measurement Legislation rather than in food law;
- there is no similar provision in the Codex Alimentarius or in any other international food regulatory system;
- the measure would increase the costs of food retail operations. The increases would be in both capital and labour costs;
- the costs would impact more heavily on the smaller food retail stores which generally operate on very low average net profit margins;

- because of low margins, cost increases could be expected to be passed on to consumers in the form of higher prices. This would further erode the position of small retailers;
- costs would outweigh the benefit to consumers of having a mechanism that will more easily allow them to compare the value of different sized and priced packages of food;
- the practice of supermarkets regularly offering ‘specials’ could be inhibited;
- retailers already unit price many food items on a voluntary basis and could be expected to extend unit pricing in response to consumer demand; and
- A survey by the National Meat Association of Australia casts doubt on whether the majority of consumers would be in favour of mandatory unit pricing.

REGULATORY IMPACT

Option 1

This option is to develop a standard for mandatory unit pricing.

Benefits to Consumers

It would assist consumers in making informed choices in relation to their food purchases in that it would allow them to more easily compare the value of different sized and priced packages of food. It would also help reduce confusion for consumers and assist them in deciding which size is more suited to their financial means. It is likely that the result would be that consumers would get better value for their money.

Benefits to Industry

If the provision were to be mandatory it is unlikely that there would be any economic benefit to the retail industry other than some intangible goodwill. There does not appear to be any benefit, tangible or otherwise, to the food manufacturing industry.

Benefits to Governments and Enforcement Agencies.

Apart from the possibility that there might be a small increase in the community’s net saving rate as a result of better purchasing decisions, there does not appear to be any other benefit to Governments.

Costs to Consumers

There is a general consensus amongst both those in favour of the measure and those opposed to it that the price of food to the consumer would rise because of the likelihood that retailers would be unable to absorb cost increases associated with unit pricing. However, the extent of likely price rises is unknown. Therefore, it is not possible to determine whether the price rises would offset the expected savings from better purchasing decisions and thus result in a net benefit or net loss to consumers.

Costs to industry

The food retail sector would be faced with cost increases but these would not fall evenly over the sector. It could be expected that the costs to the smaller food retailers would be greater than the larger supermarkets as many of the smaller enterprises would be faced with capital

costs in the form of new shelving suitable for unit pricing and, in many cases, the purchase of new or upgraded computer hardware and/or software. All food retailers would also be faced with labour cost increases associated with calculating, printing and affixing unit price labels. Profit margins of many small food retailers would be severely affected as it is unlikely that they would be able to fully recover cost increases through higher prices as that would further weaken their competitive position vis-a-vis the larger supermarkets. Because of low profit margins in the food retail sector some smaller food retailers could be forced out of business.

Costs to Governments and Enforcement Agencies

The standard would need to be enforced. This would mean either increased enforcement costs or a rearrangement of existing enforcement priorities which are presently heavily weighted towards protecting public health and safety. Should governments decide to fund enforcement of the unit pricing standard from within existing resources a reduction of enforcement of public health and safety measures could well lead to an increase in public health costs.

Higher food prices without a corresponding increase in productivity would have an inflationary effect on the economy. Without a firm estimate of the likely price rises the extent of this cannot be measured.

Option 2

This option is not to have a standard for mandatory unit pricing thus maintaining the *status quo*.

Benefits to Consumers

As there is no change to existing arrangements, there would be no increase in prices attributable to unit pricing. However, there is no additional benefit to consumers.

Benefits to Industry

By maintaining the *status quo* industry will not have the additional costs associated with unit pricing and small business will not be further disadvantaged. However, there is no additional benefit to industry.

Benefits to Governments and Enforcement Agencies

There is no additional benefit to either governments or their enforcement agencies by not having mandatory unit pricing other than there is no need to divert resources from existing enforcement programs to ensure compliance with unit pricing.

Costs to Consumers

There is no additional monetary cost to consumers in not having mandatory unit pricing. However, there is the cost to consumers of not having a uniform means of determining whether they are getting value for their money.

Costs to Industry

There is no additional cost to industry.

Costs to Governments and Enforcement Agencies

Maintaining the status quo is cost neutral for both governments and enforcement agencies.

EVALUATION

Preferred Option

Insofar as *Option 1* is concerned, it is uncertain whether benefits in the form of better value for money outweigh the additional food costs of mandatory unit pricing to consumers. The benefits, for example, are somewhat uncertain and appear marginal in that value for money measured by the lowest comparable price per unit would be only one factor in a consumer's choice and then only for some items. However, there is no doubt that, in relation to industry, governments and enforcement agencies, costs of mandatory unit pricing far outweigh any benefits. On the other hand *Option 2* is, by and large, cost/benefit neutral.

Therefore, taking these factors and the other concerns about unit pricing outlined in the Full Assessment Report into account, maintaining the *status quo* by rejecting the application for a standard to require mandatory unit pricing of food is the preferred option.

A395 – UNIT PRICING

SUMMARY OF SUBMISSIONS

National Meat Association of Australia

NMAA is strongly opposed to mandatory unit pricing. Businesses must be able to label and display pricing by unit or by item as appropriate. The omission of a definition for ‘unit price’ has caused confusion as there are varying interpretations of the term. For the purposes of this submission, NMAA has interpreted it to mean price per kilo.

Meat retailers report that customers often require conversion from a price per kilo to a price per item. A customer may wish to purchase 9 sausages for a meal. In this case a price per kilo is meaningless.

Retail members of the NMAA surveyed 3,195 customers on unit pricing versus per item pricing. 51% of customers preferred per item pricing, 23 % preferred per gram pricing and 26% favoured per kilo pricing. As a result of the survey NMAA believes that retailers should be allowed to display their prices in the manner that best suits their clientele.

In its review of the Food Standards Code, ANZFA has been working towards standards that are consistent with international standards such as Codex. There is no international standard relating to unit pricing nor does any other country require mandatory unit pricing. Should ANZFA progress this application it would be moving away from regulating in line with international standards.

NMAA firmly believes that ANZFA is not the appropriate body to deal with pricing regulations. ANZFA’s main objective relates to public health and safety. It should reject the application on the grounds that it is not the Authority’s role to make regulations on pricing.

Food Technology Association of Victoria

The application should be rejected as it has no relevance to food standards and does not involve public health and safety issues. Also, neither Codex, EEC or other countries have standards or regulations on such an issue.

New Zealand Pork

There is no need for mandatory unit pricing. In the New Zealand meat retail sector it is already standard practice. Market forces have ensured that unit pricing is necessary if meat sales are to be maintained. The practice is universal and, given the competitiveness of the market, it is hard to imagine the practice being discontinued. There is no need for mandatory unit pricing.

Home Economics Institute of Australia Inc

Given the lack of standardization of the weight and volume of food packaging, it is difficult for consumers to compare the relative prices of different items on sale. Shelf or product unit pricing would assist in this process and make it easier for consumers to become more discriminating.

Increased levels of technology provide an effective process for most businesses to generate this information. However, there may be a need to offer some assistance to small businesses unable to afford the technology.

Food Technology Association of Western Australia

Food industry members request that ANZFA reject the application on the grounds that it introduces additional unnecessary labeling expenses. It is over prescriptive and the issue is not relevant to food safety. Thus, it should not be regulated by the Food Standards Code.

Nestlé Australia Ltd

Nestlé supports the submission of the AFGC opposing mandatory unit pricing. It is not a matter for food standards, but rather one of trade measurement. Its introduction into food legislation is not appropriate.

National Council of Women of New Zealand

The Council is aware of many consumers reading the unit price displayed on a few supermarket shelves and knows that most of these consumers appreciate the information provided. However, the Council also sees many consumers using calculators to make their own comparisons where unit prices are not displayed.

The Council agrees that there would be implementation difficulties in unit pricing in certain circumstances. It also agrees with the potential regulatory impact that:

- Consumers would benefit by having additional information for comparison shopping;
- Unit pricing could be expected to impose significant additional labeling costs on supermarkets;
- Many small businesses selling food such as minute markets and corner stores could face substantial cost increases as many of these use stick on labels and would be forced to install new shelving to take unit price inserts;
- It could be anticipated that these increased costs would be passed on to consumers in the form of higher prices;
- The application opens a new field of regulation and calls for a high level of prescriptiveness which is contrary to the stated COAG objectives of minimum effective regulation.

While the Council believes that unit pricing helps consumers make informed choices, it also believes they take into account many other factors such as appearance, quality and total price.

Council believes there would be many difficulties in enforcing this application, especially in dairies and superettes and that the consequent time, effort and cost of complying would

significantly outweigh any benefit to consumers. Therefore, the Council does not support the application.

Confectionery Manufacturers of Australasia (CMA)

The confectionery industry opposes the application given that Trade Measurement provisions require the net weight of foods to be displayed in a visible location on the package. This together with the retail price provides consumers with adequate information to determine their purchasing decision without being deceived.

CMA does not believe that it is the responsibility of ANZFA to consider unit pricing in the context of food regulations. The issue does not concern public health and safety nor consumer deception. It is more appropriately an issue for retailers and does not need to be prescribed.

InforMed Systems Ltd

The intent of the application is, in itself, laudable. Some supermarket chains already provide unit pricing. While most supermarkets could incorporate unit prices on their shelf stickers without significant extra cost, this is not the case for many other retailers. As retail prices are set by the retailer, the unit price would be calculated by the retailer. The chances of mathematical error in small businesses are substantial. Most unpackaged products sold by weight are effectively unit priced in any case.

Mandatory unit pricing would increase the complexity, and hence the cost, of retail operations. This would be reflected in the price to the consumer. Further, it is not in accord with the ANZFA principle of simplification and reduction of prescription in food law. Therefore the application is not supported.

However, it is recommended that voluntary unit pricing is discussed with retail food organizations. The trade should be encouraged to adopt it as policy wherever it can be achieved with relative ease.

National Council of Women of Australia

Unit pricing would be of benefit to consumers, particularly those who have difficulty in ascertaining which size is more suited to their financial limitations and which offers better value for money.

There would be a financial impact on food retailers and there is no doubt that any increase in costs is passed on to the consumer.

The greatest barrier to unit pricing being accepted is not the increased cost of providing the information but rather the current direction of the government in deregulating and/or requiring only minimum regulation in food law.

Berri Ltd

Berri is opposed to the application for the following reasons:

- It is impossible for manufacturers to include a unit price on the label as the final price of the product is set by the retailer;
- Pricing information is readily available to the consumer. Therefore unit pricing does not address fraud and deception as consumers are able to make their own judgements on what package size to buy;
- Unit pricing calls for a high degree of prescriptiveness which is contrary to COAG's stated objectives; and
- Unit pricing is already regulated under the Trade Measurement Act, therefore, there is no reason for ANZFA to introduce another set of regulations on this matter.

The Beer Wine and Spirits Council of New Zealand

The Council is strongly opposed to unit pricing for the following reasons:

- An unnecessary requirement when consumers are protected under existing consumer law;
- Unnecessary labeling costs to be borne ultimately by the consumer;
- Unnecessary when manufacturers and retailers already have an incentive to price alcoholic beverages in a transparent and competitive manner;
- Potentially confusing to consumers as they would need to make buying decisions on two levels of pricing;
- Hard to enforce in outlets where drinks are sold over the bar in an individual bottle or glass or from a beer tap; and
- Potentially in conflict with WTO protocol on Technical Barriers to Trade.

The Council also considers that unit pricing conflicts with one of ANZFA's key objectives of minimum effective regulation. There is no guarantee that unit pricing would result in a more meaningful flow of price information to consumers. It should be incumbent on the applicants, ACA, to provide rigorous cost-benefit analysis on the impact of unit pricing on manufacturers, retailers and consumers.

Australian Food and Grocery Council (AFGC)

AFGC opposes the application. The reasons for the Council's opposition are as follows:

- Unit pricing is a generic retail issue. As an issue it is relevant to all retail transactions, not just food items. Non food grocery items such as toothpaste, household cleaners, washing powders garbage bags, etc, as well as cosmetics, pharmaceuticals, hardware items, oils, etc are all sold at retail.
- Unit pricing would be costly. Mandatory shelf labeling for unit pricing would impose significant capital and labour costs even where shelf pricing already exists. There would be increased running costs to provide new labels each time a product was put on 'special'. With 'specials' the retailer provides the price and savings information which is likely to be of greater value to the consumer than unit pricing. Food outlets, other than supermarkets, and outlets where food is a secondary part of the business often do not have shelf pricing. In these cases, unit pricing would impose considerable cost in installation of new shelving and display systems.

- The ANZFA objectives of protection of public health and safety, etc, do not relate to pricing or financial transactions in relation to food.
- Unit pricing is a trade measurement issue and falls more appropriately under the Trade Measurement Act. Any requirement for unit pricing under the Food Standards Code would be duplicating legislation and contrary to the principle of minimum effective legislation. Unit pricing is outside ANZFA's jurisdiction.
- Food manufacturers package and label food but are not responsible for setting retail prices. Therefore it is not possible for manufacturers to include a unit price on the label. Thus unit prices could only be shown on shelf prices or on the labels of foods packed in store. Space is limited for the former and it is generally done already for the latter.
- Most unpackaged food products for which unit pricing is important are already unit priced, eg fruit and vegetables, meat processed meat and confectionery. Similarly, pre-packed 'random weight' foods such as meat and cheese are also marked in this way.
- Unit pricing will not influence decision making between purchasing large or small containers for perishable products or products that are perishable once opened. A single person who uses milk only in tea or coffee will not buy a two litre container of milk even if it is five cents per litre cheaper than milk in a 600mL container. Conversely, when shopping for a family of six all of whom eat breakfast cereal every day, a person is unlikely to buy milk in 300mL containers even if it is one cent per litre cheaper than buying it in a two litre container. Unit pricing will not provide any additional information when comparing the price between different brands of the same product in containers of the same size.

Trade Measurement Victoria (TMV)

TMV is the Victorian Government's authority that administers the Trade Measurement Act 1995. The Act is model uniform trade measurement legislation (UTML) that has been progressively adopted by all States and Territories, with the exception of Tasmania and Western Australia, since 1990. The Act controls the sale of goods by measurement. Articles that are not pre-packed (except meat and alcoholic beverages) are not required to be sold by measurement.

Pre-packed articles must be sold by measurement. The Act provides for proper measurement and price calculation. Currently, there are many articles that are sold as a unit (by count) but they could be sold by measure if the seller wanted to sell them this way. If a seller sells by measure, he can easily calculate the price of articles per unit of measure (ie \$/kg). In doing so the transaction becomes one that falls under the Act. When this occurs, every article would need to be measured by the seller unless he was confident that the measurement of the article equaled or exceeded the measurement stated in the sale.

Before the introduction of UTML, the Weights and Measures Acts of the States and Territories prescribed the sizes for pre-packed articles. These were called standardized sizes. Governments progressively introduced this requirement into their legislation following development of the Uniform Model Weights and Measures (Pre-packedArticles) Regulations 1977. In 1987 there was a major review of the packing legislation in consultation with consumer groups, industry and trade measurement authorities and it was decided not to retain standardised sizes. In July 1990 a majority of State and Territory Ministers responsible for trade measurement acted on the recommendations of the review and agreed to delete

provisions for standardized package sizes except for certain goods. As a consequence, the UTML reflected this decision.

The deletion of the provisions was monitored by the Standing Committee on Trade Measurement (now the Trade Measurement Advisory Committee) in association with the Federal Bureau of Consumer Affairs. In the submissions made to TMAC, there was no criticism of the removal of standard sizes from the legislation. TMAC is currently proposing to remove the remaining requirements except those relating to random mass packs.

Governments introduced standard sizes in an attempt to give consumers the ability to compare the price of articles in the same size containers. This is a defacto form of unit pricing. The system was introduced and then removed without any demonstrated impact on the consumer.

Introducing unit pricing would, in TMV's opinion, be costly for any size business to implement and operate with the likelihood of the costs being passed on to the consumer.

Should the Code be amended, the food industry would suffer an economic burden that would not apply to other industries. Some consumers may argue that non-food articles are of equal or greater importance than food. Should unit pricing apply in the marketplace it should apply to all articles not just food.

No evidence has been submitted with the proposal to support the view that sellers are not giving consumers enough information to make an informed choice nor has it been shown that consumers are making complaints about sellers providing insufficient information. TMV is not in favour of amending the *Food Standards Code* to introduce unit pricing.

New Zealand Dairy Board (NZDB)

NZDB favours the rejection of the application. The Board considers that it is a retailer and supermarket issue and not a regulatory issue. Currently, some supermarkets do display this type of information on the shelves for consumer information. The Board believes consumer pressure on the supermarkets will determine whether unit pricing is displayed.

This proposal is not practical and would be onerous. The unit price would vary depending whether it is being sold at wholesale, retail supermarkets or dairies. The unit price would vary in each. Unit pricing would also vary depending on the weekly specials and seasonality.

The National Association of Grocers and Supermarkets of New Zealand (Inc) (NARGON)

NARGON does not support the concept of unit pricing. The following comments are relevant:

- Unit pricing only provides consumers with a price comparison. It does not inform the consumer of quality, purpose, composition or use.
- The cost and work involved in implementing and maintaining unit pricing would not be offset by the benefits.
- There has been no great demand for unit pricing by consumers.

- There would be confusion over a fair method of unit pricing many products. For toilet rolls is it the price per sheet and what about single ply and double ply? Unit pricing in these circumstances could be misleading or, at best, confusing to consumers.
- Unit pricing would be difficult to implement. Larger stores are aided by computer technology in printing shelf labels, in smaller stores with manual labeling would need to upgrade systems. This would incur capital costs as well as ongoing costs to maintain the system.
- Prices within stores can change at short notice and often. This would mean frequent amendment of the labels. Bakery items are often discounted at particular times of the day to clear stock. This would require different shelf labels for different times of the day.
- The issue is not one of food safety. Enforcement would use valuable resources without providing the consumer with clear benefits. These resources would be better employed in ensuring the safety of the food supply.
- One NZ retailer provides unit pricing on some foods presumably because he feels that this gives him a market advantage. However mandatory unit pricing is neither required nor supported.

NARGON recently attended a meeting convened by the Ministry of Commerce and support their views that mandatory unit pricing is over prescriptive, would incur high enforcement costs and benefits would be well outweighed by the costs.

New Zealand Meat and Allied Trades Federation Inc.

The Federation opposes the application on the following grounds:

- Mandatory unit pricing will increase compliance costs which will be passed on to consumers. Supermarkets operate on small margins and to erode those margins will mean higher prices.
- The application suggests most consumers buy on price. If true, 'no names' brands would be the most popular foods purchased. The reality is different. Consumers buy foods for reasons of price, quality, brand loyalty, health and sometimes because a product is new or attractively packaged.
- Unit pricing could cause difficulties in small and medium size butchers shops. Often meat is sold on specials according to price. A \$20 pack may contain some steak, sausages, chops and mince. To work out what this would represent as a unit price would be meaningless. There would be nothing to compare it with unless a competitor had exactly the same special pack.
- Most meat is sold by the unit (kg) and to place another unit price per 100 gms on it would be unnecessary and possibly confusing to consumers.
- Mandatory unit pricing is not consistent with ANZFA's aim of minimum effective regulation. It is overly prescriptive and out of step with current regulatory practices.

Foodstuffs (NZ) Ltd

Foodstuffs strongly opposes the application. The reasons are as follows:

- Unit pricing does not necessarily reflect value. It assumes that products are of equal quality and composition. The perception of value will involve assessments of many factors including composition, functional performance, brand, environmental friendliness etc.
- Most foods are sold in standardized packages which makes it easy to compare different plans, eg all brands of milk are sold in 300ml, 600ml, 1litre and 2 litre packs also canned foods are traditionally sold in 300gm, 425gm and 800 gm sizes.
- Unit pricing does not accommodate piece pricing. Many fresh food items are sold by the piece rather than by weight. Examples are melons, cauliflowers, pies, oysters (by the dozen) and many specialty meat items. These are not uniform in weight so it would be impossible to unit price them.
- Unit pricing does not lend itself to discounting for quick sale.
- Consumers who are very price sensitive will always seek out the lowest price option regardless of quality. These consumers have a choice and can shop in those stores that position themselves as having the lowest grocery prices. However it is not necessary to require mandatory unit pricing in all stores for the convenience of a minority of consumers.
- There does not appear to be a strong demand for unit pricing among consumers.
- It is logistically difficult and expensive to implement. Unit pricing would generate double the amount of shelf labeling. Costs would have to be recovered through food price increases. Costs would be significantly higher for small food stores using stick on pricing because they do not have shelving suitable for shelf labelling. Such stores would need to invest in new shelving systems and computer hardware and software to generate price labels. This could force some small stores out of business.
- Policing of mandatory unit pricing could divert scarce enforcement resources away from the more important concerns of public health and safety.
- Unit pricing is contrary to the Government's stated objectives of minimum effective regulation and reducing compliance costs.

Progressive Enterprises Ltd

Progressive does not consider that unit pricing should be mandatory. Not all retailers have the technology for unit pricing. Some retailers provide this information on a voluntary basis already, including Progressive's own Foodtown stores.

New Zealand Ministry of Commerce

The Ministry's submission is supported by the Ministry of Health, the Ministry of Agriculture and Forestry and the Ministry of Foreign Affairs and Trade. The Ministry also consulted with the Ministry of Consumer Affairs, Commerce Commission, Consumers' Institute, Retail Merchants' Association of NZ, National Association of Retail Grocers and Supermarkets of NZ, Foodstuffs (NZ) Ltd, NZ Seafood Industry Council, NZ Federation of Independent Greengrocers, Retail and Mixed Business Association of NZ and Beer Wine and Spirits Council of NZ.

The Ministry considered the impact on business and the impact on enforcement agencies. With regard to impact on business the following is offered:

- Mandatory unit pricing is not supported by supermarkets as it would unnecessarily increase costs. Nevertheless some supermarkets provide voluntary unit pricing.
- It would have a greater impact on small and medium sized businesses. Costs are likely to be proportionately higher for small traders who operate on very low average net margins. Their profitability is already fragile.
- Many small retailers could also be faced with capital costs to install shelving or alter display units.
- In fish retailing, most wet fish is sold unpackaged in \$/kg. While shellfish can either be sold on a price per kilo basis or on a unit price basis., eg oysters are usually sold by the dozen.
- Unit pricing would not be of assistance in the restaurant or fast food outlets where pricing by portion is well understood by consumers. Would the weighing be done before or after cooking?
- There are a number of circumstances where consumers would benefit from unit pricing. It would assist in comparing prices of cereals and soap powders sold in oversize packets to allow for settling or shrinkage.
- There is evidence that consumers respond positively to unit pricing as it allows them to compare different sized and priced packs of food. However, dual pricing has the potential to confuse those who cannot readily distinguish between item price and unit price.
- Additional compliance costs borne by businesses would be reflected in higher prices. This would offset benefits accruing to a proportion of consumers.

The impact on enforcement and regulatory agencies is also relevant.

- The cost of enforcement would be substantial.
- New Zealand enforcement agencies do not believe it is practicable to allocate sufficient resources and assign priorities to ensure full compliance with a mandatory standard of this kind.
- There is concern with the degree of prescriptiveness required by mandatory unit pricing. ANZFA is bound by COAG Principles and the New Zealand Code of Good Regulatory Practice.
 - These principles oblige regulators to recommend minimum effective regulation.
- The Ministry does not consider that this application is consistent with the broad policy criteria which the New Zealand and Australian Governments have adopted for the reform of the food industries in the two countries.
- The application does not fit readily within the Food Standards Code. If implemented, unit pricing would represent a significant extension to the nature and extent of the Code's existing provisions.
- The Ministry attaches considerable weight to the apparent absence of mandatory unit pricing provisions in other national and international law.
- It is considered that the application might be more appropriately assessed in the context of consumer protection law. If a consumer felt deceived or misled by the manner in which a price was expressed a legal remedy might be available under the Australian Trade Practices Act or the New Zealand Fair Trading Act.

Chamber of Commerce and Industry of WA

The Chamber is opposed to the application. The Chamber considers that the application should be rejected on the basis that it is unnecessary, ineffective and costly.

Bread Research Institute of Australia Ltd

The Institute does not support the application. It does not provide helpful information to consumers as it only allows the comparison of one product to another based on price and does not consider formulation or quality. Unit pricing is not a health or safety issue.

The cost of compliance will be passed on to the consumer as higher prices. Unit pricing already applies where it is relevant but it should not be mandatory.

Australian Liquor Stores Association (ALSA)

ALSA opposes the application for the following reasons:

- Alcohol products are already labeled with the volume of beverage contained in each package. In addition, the number of standard drinks, which relates to the alcohol content, must also be included on the label. Thus the consumer can easily compare the price and contents of similar beverages.
- Most Consumers partake of alcohol in moderation and their choice depends as much on taste as it does on the actual volume or alcohol content per dollar.
- A unit price based on the amount of alcohol per dollar could give the wrong message to ‘at risk’ groups.
- Unit pricing would be costly in terms of labels and shelving.

Winemakers’ Federation of Australia Inc (WFA)

The WFA opposes the application by the ACA on the following grounds:

- It would add significantly to labeling costs.
- It would incur considerable compliance and logistical costs.
- It puts small retailers at a comparative competitive disadvantage.
- It provides, at best, only minor benefits to a small group of consumers.

Australian Hotels Association (AHA)

AHA considers the application by ACA as unnecessary, burdensome and may not assist consumers at large. ACA has not demonstrated that unit pricing is necessary or desirable.

The Association considers that unit pricing is a move away from the legal principle of *caveat emptor* and places an unwelcome burden on the manufacturer and vendor of the goods.

It is not clear at which point the unit price would be displayed, on the label of the product or at point of sale. Both have disadvantages. If it is on the label it is of direct disadvantage to consumers as it militates against price cutting and towards predetermined fixed prices. If it is at point of sale it has cost disadvantages for the vendor which would be passed on to the consumer.

Additional costs in the form of provision of shelf space for unit pricing information and of remodeling and reorganizing for unit pricing are unlikely to be absorbed by the vendor. It will pose difficulties for small business which operates on low margins. These costs will be passed on to the consumer.

New Zealand Grocery Marketers Association Inc

The Association does not support the application. Unit pricing would be an unacceptable precedent in food standard setting. Matters relating to pricing and financial arrangements are not functions of food regulation. The Food Standards Code is not an appropriate way to address pricing issues.

Unit pricing does not comply with the principle of minimum effective regulation. It is not cost effective.

The New Zealand grocery industry is highly competitive and has effective means of conveying prices to consumers without the high costs associated with mandatory unit pricing.

Given the resource constraints on ANZFA it is essential that food standards focus on ensuring and promoting public health and safety, the core function of the legislation.

Australian Supermarket Institute (ASI)

Members of ASI oppose the introduction of mandatory unit pricing of grocery products. No other countries have mandatory unit pricing.

Economies of scale in purchases often gives large retailers a price advantage over smaller stores. The unit price of a branded can of soup would be different in a chain store from an independent business depending on the size and strength of the businesses purchasing arrangements. Unit price would vary over relatively short time periods if the retailer's buying price was affected by seasonal conditions, shortages or other reasons. Data maintenance is thus time consuming and costly negating any consumer benefit.

ACA's assertion that unit pricing would be of benefit to consumers is not borne out by significant numbers of inquiries or requests by supermarket customers. Grocery retailing is highly competitive and extremely responsive to consumer demand. If there were any significant demand for unit pricing, one or all of the major supermarket companies would have offered it to gain a competitive advantage.

If most customers purchased foods solely or mainly on price alone then generic and house brands would dominate the market. They do not. Quality, taste, brand loyalty, habit, curiosity advertising and many other factors are often more important than price alone.

The cost of introducing and maintaining a system of unit pricing would negate any perceived benefit that unit pricing might offer. Average net profit margin for the supermarket industry in Australia is 2.3 cents in the dollar.

It is therefore not possible for the cost of unit pricing to be absorbed by the industry. It is even more difficult for the smaller independent family owned businesses many of which do not have access to computer based stock management systems.

If, as it is argued, consumers want unit pricing on food in supermarkets, presumably those consumers also want unit pricing in take-aways, restaurants, etc. If the unit price is required on a prepacked, oven ready pizza purchased in a supermarket then it should also be required of a pizza home delivered by a pizza shop.

Health Department of Western Australia

The Western Australian Food Advisory Committee of WA Health supports the application and considers it of importance to its food budgeting program, Food Cent\$.

The Committee notes that unit pricing is widely used in Europe.

Unit pricing would benefit consumers, particularly in combination with the Food Cent\$ program which aims to assist consumers to make informed choices and understand ‘value for money’ purchases.

Unit pricing is also an effective means of promoting healthy nutritious foods such as fruit and vegetables in preference to snack foods high in fat and sugar and as such is a valuable tool in combating the incidence of morbid obesity and diabetes.

Office of Regulation Review

ORR has made comments that are relevant to the development of the Regulatory Impact Statement. These relate, *inter alia*, to identifying whether a problem exists and if there is market failure, as well as relating the objective to the problem and identifying and assessing options.

Wailles and Associates

The firm is not in favour of unit pricing. It does not consider the issue a public health concern and it does not fit with other ANZFA objectives such as prevention of fraud and deception, etc.

A few years back, ANZFA rejected an application concerning drained weight labeling. This was subsequently looked at by TMAC. Unit pricing is a commercial matter similar to drained weight.

Unit pricing does not fit in the same fashion as Standard A2 – Date Marking of Packaged Foods. Compliance with Standard A2 is to ensure acceptable quality is available to consumers and to ensure public health in the context of short shelf life products. These expected outcomes are not consistent with the issues raised in support of unit pricing of food.

Packaged food is sold through retailers who are independent from manufacturers and the Preliminary Assessment Report identifies that unit pricing of foods is a retailing issue. However, the wording of the conclusion implies that manufacturers (labelling) may be included in the proposal. If, after full process of review, unit pricing was to be included in the Code then it must be unequivocal that manufacturers are exempt as they do not control retail pricing.

STATEMENT OF REASONS – DRAFT

REJECTION OF APPLICATION A395 – UNIT PRICING

The Australia New Zealand Food Authority has before it an application received on 16 July 1999 from the Australian Consumers Association requesting an amendment to Standard A1 in the *Food Standards Code* to provide for mandatory unit pricing of food.

ANZFA recommends rejection of the application for the following reasons:

- Unit pricing is more properly a matter for trade measurement law rather than food law. Unit pricing is a generic retail issue that is relevant to all retail transactions not just food items;
- Mandatory unit pricing does not fit into the criteria for food industry reform by the Australian and New Zealand Governments and is not consistent with COAG Principles or the New Zealand Code of Good Regulatory Practice and is therefore outside the scope of the current Code and the proposed joint Code;
- The measure is not likely to be cost effective. Unit pricing would most likely lead to price increases which would not be distributed evenly throughout the industry. The effect on smaller retailers could be expected to be greater than on the larger supermarkets. Increased costs would outweigh the benefit to consumers of having a mechanism that may more easily allow them to compare the value of different sized and priced packages of food;
- Unit pricing is already an established method of pricing for a range of products. However, this is not of itself sufficient reason to make it mandatory as the sole medium for undertaking retail transactions. It would appear that where there is a demand for unit pricing it is being undertaken on a voluntary basis; and
- There is no similar provision regulating unit pricing in the Codex Alimentarius or in any other national or international food regulatory system.

REGULATION IMPACT

ANZFA has undertaken a regulation impact assessment process which also fulfils the requirement in New Zealand for an assessment of compliance costs. That process concluded that requiring mandatory unit pricing of foods would offer no clear benefits to government, industry or consumers but would introduce costs to government, industry and consumers.

WORLD TRADE ORGANIZATION (WTO) NOTIFICATION

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, ANZFA is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

In certain circumstances Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable other member countries of the WTO to make comment. Notification is required in the case of any new or changed standards which may have a significant trade effect and which depart from the relevant international standard (or where no international standard exists).

As ANZFA is recommending that no variation to food regulation be made as a result of this application, there is no need to make a notification to the WTO.

FOOD STANDARDS SETTING IN AUSTRALIA AND NEW ZEALAND

The Governments of Australia and New Zealand entered an Agreement in December 1995 establishing a system for the development of joint food standards. The Australia New Zealand Food Authority is now developing a joint *Australia New Zealand Food Standards Code* which will provide compositional and labelling standards for food in both Australia and New Zealand.

Until the joint *Australia New Zealand Food Standards Code* is finalised the following arrangements for the two countries apply:

- **Food imported into New Zealand other than from Australia** must comply with either the Australian *Food Standards Code*, as gazetted in New Zealand, or the New Zealand *Food Regulations 1984*, but not a combination of both. However, in all cases maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the New Zealand *Food Regulations 1984*.
- **Food imported into New Zealand from Australia** must comply with either the Australian *Food Standards Code* or the New Zealand *Food Regulations 1984*, but not a combination of both. However, in all cases maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the New Zealand (Maximum Residue Limits of Agricultural Compounds) Mandatory Food Standard 1999
- **Food imported into New Zealand from Australia** must comply with either the Australian *Food Standards Code* or the New Zealand *Food Regulations 1984*, but not a combination of both.
- **Food imported into Australia from New Zealand** must comply with the Australian *Food Standards Code*. However, under the provisions of the Trans-Tasman Mutual Recognition Arrangement, food may be imported into Australia from New Zealand if it complies with the New Zealand *Food Regulations 1984* or *Dietary Supplements Regulations 1985*.

- **Food manufactured in Australia and sold in Australia** must comply solely with the *Australian Food Standards Code*, except for exemptions granted in Standard T1.

In addition to the above, all food sold in New Zealand must comply with the *New Zealand Fair Trading Act 1986* and all food sold in Australia must comply with the *Australian Trade Practices Act 1974*, and the respective Australian State and Territory *Fair Trading Acts*.

Any person or organisation may apply to ANZFA to have the *Food Standards Code* amended. In addition, ANZFA may develop proposals to amend the *Australian Food Standards Code* or to develop joint Australia New Zealand food standards. ANZFA can provide advice on the requirements for applications to amend the *Food Standards Code*.

Any person or organisation may apply to the Authority to have the *Australian Food Standards Code* amended. In addition, the Authority may develop proposals to amend the *Australian Food Standards Code*. the Authority can provide advice on the requirements for applications to amend the *Australian Food Standards Code*.

FURTHER INFORMATION

Submissions: No submissions on this matter are sought as the Authority has completed its assessment.

Further information on this and other matters should be addressed to the Standards Liaison Officer at the Australia New Zealand Food Authority at one of the following addresses:

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Requests for copies of the Full Assessment Report and other information papers should be addressed to the Authority's Information Officer at the above address, or Email info@anzfa.gov.au .