



Inquiry into Supermarket Pricing

Report No. 1, 57th Parliament
Supermarket Pricing Select Committee
May 2024

Super Market Pricing Select Committee

Chair Mr Thomas (Tom) Smith MP, Member for Bundaberg

Deputy Chair Ms Ann Leahy MP, Member for Warrego

Members Mr Steven (Steve) Minnikin MP, Member for Chatsworth

Mr Tony Perrett MP, Member for Gympie

Ms Joan Pease MP, Member for Lytton

Ms Jessica (Jess) Pugh MP, Member for Mount Ommaney

The following members contributed to the committee's work as substitute members appointed under SO 202(1):

- The Hon Dr Steven Miles MP, Member for Murrumba
- Mr Joe Kelly MP, Member for Greenslopes.

Committee Secretariat

Telephone +61 7 3553 6018

Fax +61 7 3553 6699

Email spsc@parliament.qld.gov.au

Technical Scrutiny Secretariat +61 7 3553 6601

Committee webpage www.parliament.qld.gov.au/spsc

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The committee also acknowledges the work of Mr Angus Scott KC and Mr Harold Rafter, Barrister-at-law, who assisted the committee in this inquiry.

All web address references are current at the time of publishing.

Contents

Abbreviations	iii
Chair’s foreword	iv
Recommendations	v
Executive summary	1
1 The committee and its work	2
1.1 The scope of the inquiry	2
1.2 Inquiry process	2
2 Context of this inquiry	3
2.1 Relevant national inquiries	3
2.1.1 ACTU Inquiry into price gouging and unfair pricing practices	4
2.1.2 The Senate Select Committee on Supermarket Prices	4
2.1.3 The Senate Select Committee on the Cost of Living	6
2.1.4 ACCC Supermarkets Inquiry 2024-2025	6
2.1.5 Independent Review of the Food and Grocery Code of Conduct	7
2.2 Queensland’s food and grocery sector	8
2.2.1 The food and grocery sector is highly concentrated	8
2.2.2 Queensland’s food and grocery sector is distinct in some important ways	9
2.3 Queensland supply chains and the ACCC Codes of Conduct	12
2.4 Impact of rising prices on Queenslanders	13
2.4.1 Increasing prices have adversely affected Queenslanders	13
2.4.2 Queenslanders in regional and remote areas are more vulnerable to rising prices and their impacts	14
3 Commercial practices of supermarkets and their impacts	16
3.1 Supermarkets’ practices towards suppliers	16
3.1.1 Market manipulation and oversupply	16
3.1.2 Price gouging and the suppression of farm-gate prices	17
3.1.3 Lack of transparency around how prices for fresh produce are set	19
3.1.4 Supermarkets’ purchasing practices and policies	20
3.1.5 Impact on financial sustainability, grower wellbeing and food security	23
3.2 Supermarkets’ practices towards consumers	24
3.2.1 How prices are displayed and advertised	24
3.2.2 State-based and national pricing strategies	25
3.3 Supermarkets’ practices towards competitors	26
3.3.1 Land banking	26
3.3.2 Indirect acquisition of competitors	27
4 Scope for intervention	29
4.1 Strengthening the Food and Grocery Code of Conduct	29
4.2 Supporting growers and producers	30
4.2.1 Empowering growers to assert their legal rights	30
4.2.2 Supporting Queensland’s dairy industry	32

4.3	Promoting healthy competition	32
4.4	The role of regional freight subsidies	33
4.5	Encouraging infrastructure investment in regional and remote areas	34
4.6	Educating consumers	35
4.7	Click and collect and home delivery services have provided consumers with an option of convenience that has become a popular choice for Queensland shoppers	36
	Appendix A – Submitters	38
	Appendix B – Witnesses at public hearings	40
	Statement of Reservation	43

Abbreviations

ACCC	Australian Competition and Consumer Commission
CEQ	Community Enterprise Queensland
CPI	Consumer Price Index
Food and Grocery Code	Competition and Consumer (Industry Codes—Food and Grocery) Regulation 2015 (Cth)
Horticulture Code	Competition and Consumer (Industry Codes—Horticulture) Regulations 2017
MUAQ	Maritime Union of Australia – Queensland Branch
QCU	Queensland Council of Unions
QRIDA	Queensland Rural and Industry Development Authority
TMR	Department of Transport and Main Roads

Chair's foreword

This report of the Supermarket Pricing Select Committee provides a summary of the examination into the supply chain as it relates to primary producers in Queensland, the supermarket retail chains, and everyday Queensland consumers.

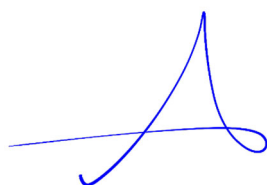
The task before the committee was to consider the determining factors within the broader supermarket sector causing the price discrepancies between prices offered to producers at the farmgate and the prices put to consumers at the point of purchase. Further considerations were to explore the conduct of retailers when engaging within the sector, not simply limited to the negotiation of prices, but the strategies, tactics, and business plans applied upon producers, suppliers, and competing retailers to gain dominance within the market.

As the inquiry unfolded, it became clear that Queensland farmers do not feel empowered or protected to speak out against the dominant retailers and to navigate the complex and imbalanced complaints system that rests under the lacking oversight of the Australian Competition and Consumer Commission. Queensland farmers have a level of representation from their peak industry bodies and association, who the committee thanks for their engagement with the inquiry; however, the Queensland Government must provide an avenue for the voices of farmers to be better heard and acted upon when considering the Horticulture Code of Conduct and Food and Grocery Code of Conduct.

Queensland consumers are at a distinct lack of advantage due to the dominant market share of the two major retailers. Coles and Woolworths continue to record increased profits through their supermarket chains and are therefore able to invest in greater coverage and expansion within the marketplace.

The difficulty that ultimately faced the committee was how can prices be regulated within a greater free-market environment that is the reality of modern Australia. Following the testimonies of witnesses appearing before Counsel Assisting the Committee, Mr Angus Scott KC, there is a determination that planning regulations may provide an opportunity to increase competition by supporting the growth and expansion of smaller supermarket chains.

The committee acknowledges and thanks all submitters and witnesses who formed part of the inquiry and allowed for the recommendations to take shape around their contributions.

A handwritten signature in blue ink, appearing to be 'Tom Smith', with a stylized flourish at the end.

Tom Smith MP

Chair

Recommendations

Recommendation 1	30
The committee recommends that the Queensland Government support measures to strengthen the Food and Grocery Code of Conduct, including by making it mandatory and improving its enforcement.	
Recommendation 2	31
That the Queensland Government investigate the establishment of the Office of the Queensland Farmers’ Commissioner to perform relevant functions such as, but not limited to:	
a) acting as a central point of contact for Queensland based agricultural and horticultural producers navigating industry standards, practices, imposed regulations, and liaison with peak body stakeholders	31
b) publishing comparative data related to farmgate, wholesale, and supermarket price points	31
c) requiring traders recognised under the Horticulture Code of Conduct (merchants and agents) to register with the Office of the Queensland Farmers’ Commissioner when operating within Queensland; listing terms of trading on the Commissioner’s website to uphold the Code, as well as publishing upheld breaches of traders against the Code	31
d) administering mediation under the relevant industry codes	31
e) possessing powers to lodge complaints and act on behalf of Queensland based suppliers in dispute with supermarkets and wholesalers via Code Arbiters; and make requests of the Independent Reviewer under the Food and Grocery Code	31
f) possessing powers to submit complaints on behalf of Queensland based farmers to the Australian Competition and Consumer Commission	31
g) reporting to the Government concerns of improper collusion, behaviours, and business practices adversely impacting Queensland farmers and subsequently Queensland consumers.	31
Recommendation 3	32
That the Queensland Government engage with industry and discuss its role alongside industry in developing a Northern Dairy Industry Strategic Plan.	
Recommendation 4	33
That the Queensland Government reflect on statements provided by industry representatives to the committee and assess the viability of how planning guidelines could generate further competition in the supermarket sector, providing an expanded variety of product and price choice for Queensland consumers.	
Recommendation 5	34
That the Department of Transport and Main Roads ensure freight subsidy schemes continue to exist where necessary and viable considering the increased competition of freight services to particular regional and remote areas of Queensland.	
Recommendation 6	35
That the Queensland Government continue to support and strengthen its record of delivering supply chain infrastructure in regional and remote Queensland, including in the Torres Strait and Northern Peninsula Area.	

Recommendation 7	36
That the Queensland Government support the Office of Fair Trading to provide Queensland’s consumers with education and information about:	36
• the benefits of purchasing so called ‘ugly’ or imperfect, non-premium produce	36
• how to make use of unit pricing and make complaints when it is missing or inadequate	36
• their consumer rights more generally.	36
Consumer education must be available and accessible to people across the state, including Aboriginal and Torres Strait Islander peoples, people living in regional and remote areas, people from culturally and linguistically diverse backgrounds, and people living with a disability.	36
Recommendation 8	37
That the relevant standing portfolio committee examines in greater detail the impact of click and collect and home delivery services on small and medium sized businesses competing within the supermarket sector.	37

Executive summary

On 7 March 2024, the Legislative Assembly established the Supermarket Pricing Select Committee to examine the causes and effects of increased supermarket prices and identify opportunities to increase transparency in the supermarket sector for consumers and producers.

During its inquiry, the committee heard from a broad range of stakeholders. This included growers, industry associations, consumer groups, supermarkets, wholesalers, and members of the public. These groups shared their experiences and viewpoints with the committee through written submissions and at public hearings, which were held in Bundaberg, Cairns, and Brisbane. A private hearing was also conducted in Brisbane to hear from stakeholders who feared reprisal in respect of their evidence.

The rising cost of food and groceries is an important issue in Queensland. As this inquiry has highlighted, the rise in supermarket prices has been a significant driver of cost-of-living pressures for many in Queensland, especially families living in regional and remote areas, especially Aboriginal and Torres Strait Islander communities. These groups are often reliant on long and complex supply chains, making them particularly vulnerable to price increases and limiting their ability to access alternative options.

Throughout the inquiry, stakeholders expressed significant concerns about the commercial practices of supermarkets and the impacts they have on suppliers – especially growers. The purchasing practices of the major supermarkets, Coles and Woolworths, were of particular concern. Many witnesses and submitters expressed concern about the substantial gap between retail and farm-gate prices, the lack of transparency in how prices for fresh produce are set, and the complex nature of the legal arrangements that govern relationships between retailers and suppliers – often to the disadvantage of growers.

Other key issues examined by the committee included how supermarkets advertise and display prices, and whether this makes it harder for consumers to identify the best value products. The committee also heard evidence about the behaviour of the major supermarkets towards their competitors.

While the major supermarkets defended many of their business practices, they also admitted that there are some areas – such as price transparency – where there is room for improvement.

The committee has made eight recommendations. Broadly speaking, these recommendations relate to five key areas:

- strengthening the Food and Grocery Code of Conduct
- supporting Queensland's growers and producers
- promoting healthy competition in Queensland's supermarket sector
- supporting Queensland's regional and remote communities
- empowering consumers in Queensland.

These recommendations are designed to help families facing increased cost-of-living pressures, promote the well-being and industry support of Queensland's farmers, and ensure that Queenslanders' food security is protected over the long term.

1 The committee and its work

The Supermarket Pricing Select Committee (committee) is a select committee of the Legislative Assembly. It was established by the Legislative Assembly on 7 March 2024 to undertake an inquiry to:

- examine the causes and effects of increased supermarket prices
- identify opportunities to increase transparency in the supermarket sector for consumers and producers.¹

1.1 The scope of the inquiry

The committee's terms of reference direct it to consider:

- rising grocery prices in Queensland and discrepancies between retail and wholesale and farmgate prices, including different-sized businesses
- the variability in supermarket offerings and pricing across the state, particularly in regional Queensland and in remote Aboriginal and Torres Strait Islander communities
- the long-term trends in profits accruing along the supply chain for perishable produce, with particular regard to impediments to the profitability of primary producers
- the conduct of retailers in negotiations with Queensland producers, and the prevalence and effects of information asymmetry between these parties
- improvements to Queensland's policy environment to increase transparency for producers, including what data will reduce information asymmetry, and/or reduce prices for consumers
- any other reviews or inquiries occurring in Australia regarding this matter, with a view to complement these analyses by focusing on potential Queensland Government responses.

1.2 Inquiry process

The committee engaged widely with Queensland communities during the inquiry. The committee:

- received, and accepted, 52 submissions (listed in **Appendix A**)
- received a written briefing from the Department of the Premier and Cabinet
- conducted public hearings in Bundaberg, Cairns and Brisbane (a list of witnesses who appeared at these hearings is provided at **Appendix B**)
- conducted a private hearing in Brisbane
- engaged with community leaders in Yarrabah
- received a written briefing from Counsel assisting the committee.

Copies of submissions, hearing transcripts, and correspondence relating to this inquiry are available on the inquiry webpage.

¹ The committee's full terms of reference are available on the inquiry website, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=252&id=4393>.

2 Context of this inquiry

Summary of this section

- Since 2022, five other inquiries relating to supermarket pricing have been initiated at the national level. These have identified several key issues relevant to this inquiry.
- The high degree of current market concentration in the food and grocery sector has been identified as a prominent concern across the relevant inquiries. Through their investigations and testimonies of witnesses, the relevant inquiries uncovered significant power imbalances occurring between producers, suppliers, and retailers, as well as between retailers and consumers.
- Queensland's food and grocery sector is also highly concentrated, with the two major supermarket chains, Coles and Woolworths, accounting for almost two-thirds of the market.
- Queensland's food and grocery sector is distinct to other states and territories. A higher proportion of Queenslanders live in regional and remote areas than in other states. The state of Queensland is also a major producer of certain critical, and highly perishable, crops.
- Rising food and grocery prices are presenting financial challenges for many in Queensland, especially those living in regional and remote areas. Remote Aboriginal and Torres Strait Islander communities are greater challenged by their distance from major distribution centres, resulting in a dependency on long and complex supply chains.
- Farmers in Queensland operate within a unique industry chain that remains heavily reliant on their produce yet subjected to free-market trading practices and prices.
- Queensland farming is diverse in the goods produced for sale, as well as subject to uncontrollable factors such as weather, pests, disease, and further global vulnerabilities.
- Farmers act as suppliers of produce to be retailed and are reporting an increased difference in price-points between what is offered from farm-gate, to wholesalers or supermarkets.

2.1 Relevant national inquiries

Since 2022, five inquiries relating to supermarket pricing have been initiated at the national level:

- the Australian Council of Trade Unions (ACTU) sponsored Inquiry into Price Gouging and Unfair Pricing Practices
- the Senate Select Committee Inquiry into the Cost of Living
- the Senate Select Committee Inquiry into Supermarket Prices
- the Australia Competition and Consumer Commission (ACCC) Supermarkets Inquiry
- Independent Review of the Food and Grocery Code of Conduct.

The most notable findings and recommendations made by these inquiries to date are detailed in the sections below.

These inquiries have observed macrotrends and market features nationally, identifying several key themes. Themes most relevant to the Queensland context include:

- the high degree of market concentration in the supermarket sector, and consequent power imbalances between producers, suppliers, and retailers
- the influence of supermarkets over the pricing and marketing of agricultural and horticultural produce

- a lack of transparency relating to pricing, including allegations of price gouging by supermarkets as well as opaque and misleading pricing practices
- concern about the extent of retailers control over producers and suppliers, including allegations of intimidation, compulsion and coercion
- concern about anti-competitive behaviour by supermarkets, including the use of exclusivity arrangements and non-compete contract clauses
- the complex nature of supply chains in Australia and their impact on affordability and food security.

2.1.1 ACTU Inquiry into price gouging and unfair pricing practices

In 2023, the Australian Council of Trade Unions commissioned an Inquiry into Price Gouging and Unfair Pricing Practices (the ACTU Inquiry) to identify the scale of price gouging practices being deployed by large businesses and to understand the effects this is having on everyday Australians. The Inquiry was chaired by Professor Allan Fels AO, former Chairman of the Australian Competition and Consumer Commission.

The ACTU Inquiry released its final report in February 2024.² That report made five findings and three recommendations relevant to the food and grocery sector.

The ACTU Inquiry's findings included the following:

- There is insufficient competition in the food and grocery sector as evidenced by poor price transmission to final consumers.
- Market power is exercised over farmers and other suppliers, and the gain in profits is not passed on to consumers because of market power and a lack of competition in the product market.
- Price transparency for those down the supply chain of supermarkets is low, and this is one barrier to effective price transmission.
- Supermarkets have not been transparent with customers about price histories of displayed items and correlated discounts.
- Communities in Far North Queensland have suffered massive price increases without oversight, partially induced by supply chain concentration.³

The ACTU Inquiry made the following relevant recommendations:

- There should be a comprehensive ACCC inquiry into competition and prices in the retail food and grocery industry.
- The Food and Grocery Code should be fully mandatory.
- The Food and Grocery Code should investigate creating a price register for farmers to assist them in understanding market prices across primary industries.⁴

2.1.2 The Senate Select Committee on Supermarket Prices

The Senate Select Committee on Supermarket Prices (the Senate Supermarkets Committee) was established in December 2023 and presented its final report on 7 May 2024.⁵

² ACTU, *Inquiry into Price Gouging and Unfair Pricing Practices*, Final Report, February 2024.

³ ACTU, *Inquiry into Price Gouging and Unfair Pricing Practices*, Final Report, February 2024, pp 52-57.

⁴ ACTU, *Inquiry into Price Gouging and Unfair Pricing Practices*, Final Report, February 2024, pp 56-57.

⁵ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024.

That report detailed the evidence received by the Senate Select Committee. Generally, that evidence was consistent with the evidence received by this committee, particularly with regard to the commercial practices of supermarkets (detailed in section 3 of this report) and their impact on different actors in the supply chain. The report documented:

- the high degree of market concentration in the Australian supermarket sector, which contributes to a significant imbalance in market power between the major supermarkets and their smaller suppliers⁶
- the challenges faced by producers of perishable goods, whose market power is further constrained by short sale windows and the limited availability of alternative buyers⁷
- the fear and retribution by retailers put towards many suppliers, which deters them from making complaints⁸
- a lack of market transparency and inequality in terms of access to market data, which disadvantages farmers in their negotiations with supermarkets.⁹

In its report, the Senate Supermarkets Committee made a variety of observations relating to the commercial practices of the supermarkets, many of which were critical of the two major chains. The report stated:

...supermarkets are engaging in forms of unfair trading practices in their dealings with suppliers—with direct impacts on the price of food and groceries for consumers. There is clearly a need for action in this area.¹⁰

Similarly, regarding the allegations that supermarkets engage in land banking (purchasing land to block the expansion of competitors, rather than to develop it into new stores) the report observed:

Despite their suggestions to the contrary, it appears to the committee that land banking practices are being used by supermarkets as means to reduce competition, particularly in greenfield sites... The committee heard that Coles holds around 50 development sites, some acquired up to 20 years ago, while Woolworths holds around 60 development sites, some of which were acquired nearly 30 years ago. Between the two retailers, these are significant land holdings.¹¹

The Senate Supermarkets Committee made 14 recommendations.¹² Those relevant to this inquiry include recommendations to:

- amend amendments section 46 of the *Competition and Consumer Act 2010* (Cth) to prohibit the charging of excess prices (otherwise known as price gouging)
- provide the ACCC with the authority to investigate and prosecute unfair trading practices
- provide the ACCC with powers to investigate and make recommendations to government to address land banking in the supermarket sector

⁶ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, pp 3-6.

⁷ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, pp 50-55.

⁸ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, pp 64-65.

⁹ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, pp 55-58.

¹⁰ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, p 96.

¹¹ Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, p 133.

¹² Parliament of Australia, Senate Select Committee on Supermarket Prices, Final Report, May 2024, pp vii-xi.

- strengthen the Food and Grocery Code, including by making it mandatory, and expand its scope to include the greenlife industry (commercial plant growers) and large retailers that stock food and/or grocery products
- improve the effectiveness of unit pricing.

However, there were divergent views amongst the committee on the report's recommendations. Agreement was greatest regarding recommendations to reform and strengthen the Food and Grocery Code, including the proposal to make it mandatory.

2.1.3 The Senate Select Committee on the Cost of Living

The Select Committee on the Cost of Living (Senate Cost of Living Committee) was established in September 2022 and is due to present a final report by 31 May 2024. The inquiry will report holistically on cost-of-living pressures facing Australians and potential mitigations.

In May 2023, the Senate Cost of Living Committee released an Interim Report.¹³ That report made several interim findings relating to food and groceries:

- The increasing cost of food and groceries are a major contributing factor to the cost-of-living crisis.
- Supply chain disruptions are a primary driver of increasing food and grocery prices. However, increased input costs to the production and provision of these goods, including energy and fuel, will impact the prices paid by consumers.¹⁴

Several Queensland organisations made submissions to the Senate Cost of Living Committee, including two submitters to this committee's inquiry. In addition:

- The Torres Cape Indigenous Council Alliance, which highlighted growing food insecurity and disproportionately high costs of food and household items driven by supply chain challenges.¹⁵
- The Local Government Association of Queensland, which focussed on increased costs and scope of local government services.¹⁶

2.1.4 ACCC Supermarkets Inquiry 2024-2025

The ACCC is currently conducting an inquiry into Australia's supermarket sector (the ACCC Supermarkets Inquiry). This inquiry is examining how suppliers and wholesalers set prices along the supply chain, price transparency, and how these contribute to the difference in price received at the farmgate and the price paid by consumers for groceries.

The ACCC is due to provide an interim report by 31 August 2024 and a final report no later than 28 February 2025.

In February 2024, the ACCC Supermarkets Inquiry released an Issues Paper.¹⁷ It outlined several issues, some of which, such as those relating to supply chains and market concentration, are particularly relevant to the Queensland context. Notably, the Issues Paper observed that:

¹³ Parliament of Australia, Senate Select Committee on the Cost of Living, Interim Report, May 2023.

¹⁴ Parliament of Australia, Senate Select Committee on the Cost of Living, Interim Report, May 2023, p 76.

¹⁵ Submission 18, Senate Select Committee on the Cost of Living.

¹⁶ Submission 23, Senate Select Committee on the Cost of Living.

¹⁷ ACCC Supermarkets Inquiry 2024-45, Issues Paper, February 2024.

- A disruption (e.g. severe weather) or lack of competition at any level of a supply chain can induce cascading impacts - for example, lower farmgate prices, higher consumer prices, or both.¹⁸
- A common concern is that larger supermarkets and wholesalers use their buyer power to extract more favourable terms and conditions from suppliers than would otherwise be the case, potentially impacting the sustainability of supplier operations.¹⁹

2.1.5 Independent Review of the Food and Grocery Code of Conduct

In January 2024, the Australian Government appointed Dr Craig Emerson to lead the 2023-2024 Independent Review of the Food and Grocery Code (the Independent Review). Its final report is due by 30 June 2024.

On 8 April 2024, the Independent Review released an Interim Report.²⁰ That report makes 11 recommendations; eight 'firm recommendations' which will not change and three draft recommendations.

The firm recommendations are as follows:

Recommendation 1: The Food and Grocery Code of Conduct should be made mandatory.

Recommendation 2: All supermarkets that meet an annual revenue threshold of \$5 billion (indexed for inflation) should be subject to the mandatory Code. Revenue should be in respect of carrying on business as a 'retailer' or 'wholesaler' (as defined in the voluntary Code). All suppliers should be automatically covered.

Recommendation 3: The Code should place greater emphasis on addressing the fear of retribution. This can be achieved by including protection against retribution in the purpose of the Code and by prohibiting any conduct that constitutes retribution against a supplier.

Recommendation 4: As part of their obligation to act in good faith, supermarkets covered by the mandatory Code should ensure that any incentive schemes and payments that apply to their buying teams and category managers are consistent with the purpose of the Code.

Recommendation 5: To guard against any possible retribution, supermarkets covered by the mandatory Code should have systems in place for senior managers to monitor the commercial decisions made by their buying teams and category managers in respect of a supplier who has pursued a complaint through mediation or arbitration.

Recommendation 6: A complaints mechanism should be established to enable suppliers and any other market participants to raise issues directly and confidentially with the ACCC.

Recommendation 8: A Code Supervisor (previously the Code Reviewer) should produce annual reports on disputes and on the results of the confidential supplier surveys.

Recommendation 10: Penalties for non-compliance should apply, with penalties for more harmful breaches of the Code being the greatest of \$10 million, 10 per cent of turnover, or 3 times the benefit gained from the contravening conduct. Penalties for more minor breaches would be 600 penalty units (\$187,800 at present).²¹

¹⁸ ACCC Supermarkets Inquiry 2024-45, Issues Paper, February 2024, p 16.

¹⁹ ACCC Supermarkets Inquiry 2024-45, Issues Paper, February 2024, p 19.

²⁰ Independent Review of the Food and Grocery Code of Conduct, Interim Report, April 2024.

²¹ Independent Review of the Food and Grocery Code of Conduct, Interim Report, April 2024, p 7.

The draft recommendations are as follows:

Recommendation 7: The mandatory Code should include informal, confidential and low-cost processes for resolving disputes, and provide parties with options for independent mediation and arbitration. Supermarkets are encouraged to commit to pay compensation of up to \$5 million to resolve disputes, as recommended by the Code Mediator and agreed by the supplier, or as an outcome of independent arbitration.

Recommendation 9: Specific obligations under the Code should set minimum standards that cannot be contracted out of grocery supply agreements or otherwise avoided.

Recommendation 10: The Government should consider increasing infringement notice amounts for the Code.²²

2.2 Queensland’s food and grocery sector

Queensland’s food and grocery sector shares many features of the national food and grocery sector. Whilst there are shared similarities, the unique geographic nature, climate, and weather patterns of Queensland creates distinct differences to other states and territories. Both these similarities and differences have implications for the causes and effects of increased supermarket prices, and opportunities to increase transparency in the supermarket sector for consumers and producers.

2.2.1 The food and grocery sector is highly concentrated

The Australian supermarket sector is worth approximately \$135 billion and is dominated by four major players: Woolworths, Coles, ALDI, and Metcash. Metcash is a wholesaler that primarily supplies independent supermarkets, including those trading under the IGA brand.²³ Together, these four companies account for more than 80 percent of the national market, as detailed in 0. Coles and Woolworths clearly occupy dominant positions, with Woolworths capturing more than one-third of the market, and Coles capturing slightly less.

Queensland’s food and grocery sector mirrors the aforementioned high degree of market concentration; however, the degree of market concentration is likely higher in some parts of the state, such as regional areas. As shown in Table 1, the primary competitor to Coles and Woolworths, being ALDI, has a limited presence in regional areas, currently possessing just over a dozen stores.

Table 1 The food and grocery sector in Queensland

	National	Queensland		
	Market share (2022-23)	Number of stores	Number of stores in regional areas	Employees
Woolworths	37%	257	86	37,000
Coles	28%	180	not available	26,000
ALDI	10%	120	>12	3,300
Metcash	7%	270 (IGAs)	not available	not available

Note: Store and employee numbers are approximate, not exact figures. The number of employees is the number of people employed in stores and distribution centres.

Source: Independent Review of the Food and Grocery Code of Conduct, Interim Report, April 2024, p 17; Submissions 10, 26, 36 and 39.

²² Independent Review of the Food and Grocery Code of Conduct, Interim Report, April 2024, p 8.

²³ ‘Australia Market Overview 2024’, Hunt Export Advice, accessed 3 April 2024, <https://www.huntexportadvice.com/post/australia-market-overview-2021>.

ALDI advised the committee that it is looking to expand its presence in regional areas, having recently opened a store in Townsville (its most northern store) and will soon be opening a store in Mackay.

A review of the market share dominance must note the successful business operations of these major supermarket chains; although, successful operations does not necessarily equate to fair market pricing for consumers or for produce suppliers such as Queensland farmers. Further business operations conducted by the major supermarket chains, such as perceived land-banking of greenfield sites by Coles and Woolworths, customer rewards and loyalty points marketing schemes, as well as offerings of 'convenience shopping' such as Click and Collect and Home Delivery services, all appear to operate at a level that is out of reach for other food and grocery competitors.

2.2.2 Queensland's food and grocery sector is distinct in some important ways

There are several ways in which Queensland's food and grocery sector is distinct from that of other states and territories. These include the relatively decentralised nature of Queensland's population, the vulnerabilities of the supply chain in some areas (such as the Torres Strait and Northern Peninsula Area), and the distinct profile of Queensland's agricultural and horticultural industries.

2.2.2.1 *Queensland is a geographically dispersed state*

In Queensland, the food and grocery sector services a decentralised state, making the supply chain more complex. The significant distances involved add to the cost of getting products onto shelves. It also increases vulnerability to disruption; extreme weather events, especially in the state's Far North and West, frequently flood roads and isolate communities.

In 2021, Queensland was one of the only states in which most of the population (50.7 per cent) lived outside its capital city (the other being Tasmania).²⁴

Although the southeast of Queensland is more heavily populated than the northern and western parts of the state, as shown in Figure 1, more of Queensland's population lives in regional and remote areas than most other states. According to data from the Australian Bureau of Statistics (ABS), in 2023:

- 65.2 per cent of Queenslanders live in a major city, compared to 72.6 per cent nationally
- 32.4 per cent of Queenslanders live in a regional area, compared to 25.5 per cent nationally
- 2.3 per cent of Queenslanders live in a remote or very remote area, compared to 1.9 per cent nationally.²⁵

The proportion of Queensland's Aboriginal and Torres Strait Islander peoples who live outside a major city is even higher, with the majority living in regional and remote areas. In 2021:

- 37.7 per cent of Queensland's Aboriginal and Torres Strait Islander peoples lived in a major city
- 49.9 per cent lived in a regional area
- 13.5 per cent lived in a remote or very remote area.²⁶

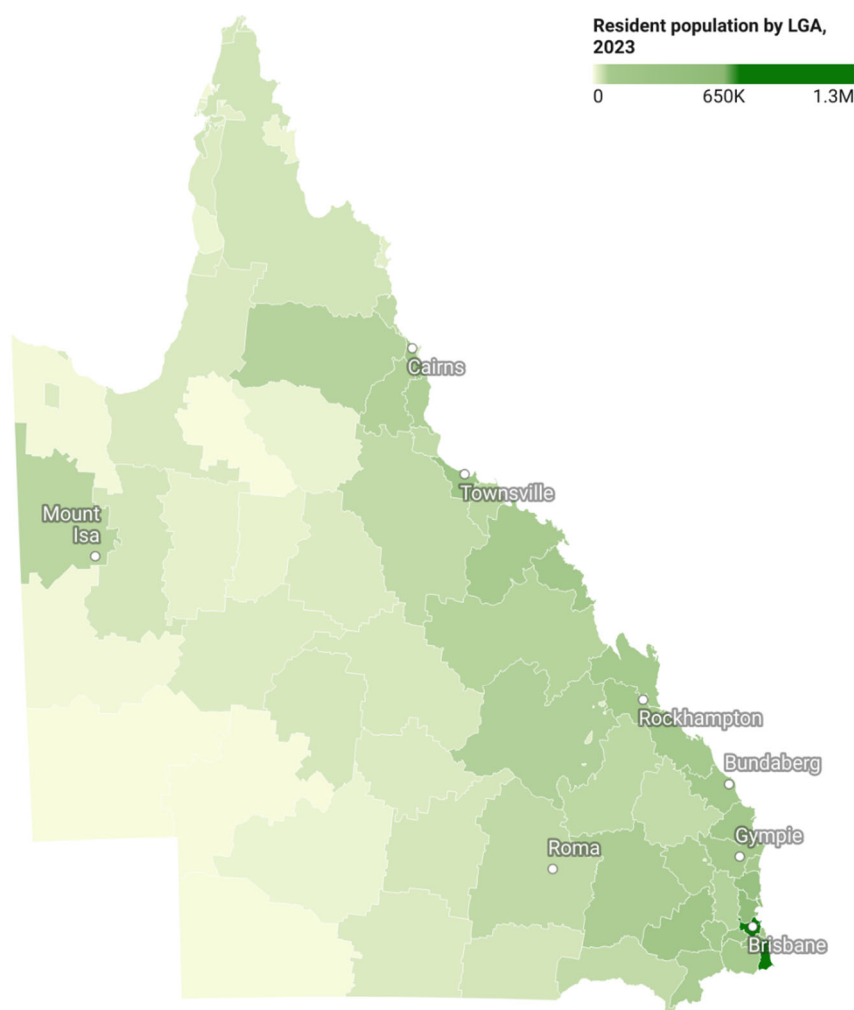
²⁴ Queensland Government Statistician's Office, *Queensland compared with other jurisdictions, Census 2021, 2022*, p 1, <https://www.qgso.qld.gov.au/issues/11951/qld-compared-other-jurisdictions-census-2021.pdf>.

²⁵ Committee secretariat calculation using: ABS, 'Population estimates by LGA, Significant Urban Area, Remoteness Area, Commonwealth Electoral Division and State Electoral Division, 2001 to 2023', *Regional population, 2022-23*, https://www.abs.gov.au/statistics/people/population/regional-population/2022-23/32180DS0004_2001-23.xlsx.

²⁶ Committee secretariat calculation using: ABS, 'Estimated resident Aboriginal and Torres Strait Islander population, States and territories, Remoteness Areas by 5-year age groups (to 75 and over)—30 June 2021', *Estimates of Aboriginal and Torres Strait Islander Australians, June 2021*,

This means that Aboriginal and Torres Strait Islander peoples are disproportionately affected by the long and complex supply chains that characterise regional and remote parts of the state.

Figure 1 *Proportional representation of Queenslanders living in regional and remote areas*



Note: This figure was created using Datawrapper. The Torres Strait Islands, Palm Island and Mornington Island are not shown due to limitations of the mapping tool.

Source: Population data from ABS Regional Population Growth, Australia, 2023.

2.2.2.2 Supply chains in some parts of the state are particularly long and complex

The length and complexity of supply chains in regional and remote Queensland has important implications for food and grocery prices, as well as food security. As representatives of Health and Wellbeing Queensland told the committee:

In terms of logistics and supply chain, we know that on average healthy foods are 34 per cent more expensive in remote communities and that some foods can travel up to 3,500 kilometres over eight days, including 20 touchpoints, to reach stores, which can impact quality, variability, cost and supply.²⁷

https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/30-june-2021/3238055001D003_2021.xlsx

²⁷ Gemma Hodgetts, Deputy Chief Executive Officer, Health and Wellbeing Queensland, public hearing transcript 3 May 2024, pp 6-7.

The Queensland Government provides a number of freight subsidies designed to reduce the costs of essential food and grocery items in certain regional areas (these are discussed in more detail in sections 2.4.2.2 and 4.4, below).

Evidence received by the committee demonstrated that communities reliant on long and complex supply chains are particularly susceptible to higher shelf-prices. Communities in the Torres Strait often experience significant disruptions to the food and grocery supply chain. Dalassa Yorkston, the Chief Executive Officer of Torres Shire Council explained to the committee:

Some islands have been in a really unfortunate situation where they have not had a barge for up to a month due to weather and due to access.²⁸

Similarly, the Torres Strait Regional Authority advised the committee that the supply chain was vulnerable to disruption due to seasonal challenges – floods, cyclones and extreme high or low tides.²⁹

In their submission, Torres Shire Council stated that the region’s supply chain was characterised by what they claimed were de-facto government monopolies. They explained that the dominant freight company, Sea Swift, is owned by the Queensland Investment Corporation, while the majority of retail outlets were operated by Community Enterprise Queensland, a Queensland Government statutory body.³⁰ Whilst the committee notes the Torres Shire Council wanting more competition, there does not appear to be any restrictions on a private enterprise entering the market, apart from the likely unprofitability of such an operation; justifying Government support in its current form.

Furthermore, the committee notes that Coles and Woolworths have negotiated a supply chain safety charter with the Transport Workers Union. As at the time of publishing, it is the understanding of the committee that ALDI have yet to negotiate for a supply chain safety charter. Transport logistics can often be subject to unsustainable financial environments, whilst transport workers themselves can be subjected to dangers external to their own decision making, yet not outside of the experiences of the profession. The committee determines it is necessary to ensure that there are safe, sustainable and fair rates for all transport workers. ALDI is encouraged to enter into such an agreement.

2.2.2.3 Queensland is a major agricultural and horticultural producer

Queensland’s food and grocery sector is also distinct because the state is a major agricultural and horticultural producer, representing a large percentage of national production of several key commodities. Queensland Fruit and Vegetable Growers advised the committee that the state produces:

- 99 per cent of Australia’s pineapples
- 98 per cent of Australia’s ginger
- 94 per cent of Australia’s bananas
- 70 per cent of Australia’s avocados
- 66 per cent of Australia’s capsicums
- 66 per cent of Australia’s macadamias.³¹

²⁸ Public hearing transcript, Brisbane, 3 May 2024, p 3.

²⁹ Public hearing transcript, Cairns, 23 April 2024, p 2.

³⁰ Torres Shire Council, submission 41.

³¹ Queensland Fruit and Vegetable Growers, submission 40, p 5.

Queensland also has the largest beef cattle herd in Australia, accounting for almost half (48.5 per cent) of the national herd.³²

Notably, many of the key commodities produced in Queensland, such as avocados, are highly perishable and sold primarily through domestic retail outlets. This has implications for the food and grocery sector, making the nature of relationships between producers, suppliers, and retailers, particularly significant in the Queensland context.

Producers in some of Queensland's farming sectors also face challenges that differ from those faced by counterparts in other states.

For example, Queensland's dairy industry is distinct in several ways. On average, Queensland's dairy farmers have smaller herds than in other states: in Queensland, the average herd is 216 cows, compared to 281 in Victoria (the next smallest average) and 466 in New South Wales.³³ Queensland's dairy farmers tend to be more focussed on the production of milk for domestic supply (rather than export), often have higher production costs (due to their greater reliance on fodder) and have far fewer processors to whom they can sell their milk (especially in Central Queensland and North Queensland).³⁴

These factors potentially affect the stability of supply in the state, and the price paid by consumers.

2.3 Queensland supply chains and the ACCC Codes of Conduct

The supply of produce from farmgate to consumer exists within a free and federally regulated market that relies on a mandatory and non-mandatory code of conduct. As is the same for their national counterparts, Queensland farmers engage in direct or indirect supply to supermarkets and wholesalers under the regulation of the ACCC's Horticulture Code and Food and Grocery Code. Whereas primary producers of dairy and nuts supply to processors who later on-sell new packaged products to supermarkets and wholesalers,³⁵ fruit and vegetable growers determine whether to sell direct to supermarkets/wholesalers or to traders categorised as 'merchants' and 'agents' under the Horticulture Code.³⁶ Graziers too, often trade using merchants and agents as part of their supply operations.

Referred to as aggregators by Coles and Woolworths during their public hearing appearances, merchants and agents have been identified as a critical component of the supply chain by this committee, and an additional element that weakens the transparency in factors determining farmgate price vs. shelf-price for consumers. Merchants and agents negotiate terms of trade with primary producers that must comply with the Horticulture Code; however, the trade relationship differs between the two categorised trades:

An **agent** sells a grower's produce on the grower's behalf for a commission or fee. An agent never owns the horticulture produce they are selling.

³² ABS, *Agricultural Commodities, Australia 2021-22*, <https://www.abs.gov.au/statistics/industry/agriculture/agricultural-commodities-australia/latest-release>.

³³ Dairy Farmers Milk Cooperative, submission 6, p 9.

³⁴ ACCC, *Dairy inquiry*, Final report, April 2018.

³⁵ Public hearing transcript, Brisbane, 29 April 2024, pp 7-11; Public hearing transcript, Brisbane, 29 April 2024, pp 13-14.

³⁶ ACCC, 'Trade covered by the horticulture code', <https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct/trade-covered-by-the-horticulture-code>.

A **merchant** purchases horticulture produce from a grower for the purpose of resale. However, the code doesn't apply to produce that is purchased by a merchant for retail sale or export.³⁷

Bound by the Horticulture Code (code), a written horticulture produce agreement must exist between the engaged participants before trading, achieving prescribed criteria conditions and minimum requirements set by the code, or else the parties will be considered in breach of the code.³⁸ To be in breach of the code may see a civil penalty or infringement notice apply.³⁹

Direct supply to supermarkets and wholesalers operates within the Food and Grocery Code which, as highlighted previously, is not mandatory.

The variation of supply chains has created a complicated market that shifts the balance of power away from farmers in favour of the large supermarket chains, with little oversight and intervention, leaving farmers exposed to coercion, extortion, retribution, and fearful to speak out.⁴⁰

Without the protection of a mandatory code of conduct to strictly regulate the direct supply market, farmers are subjected to what stakeholders have summarised to the Queensland Fruit and Vegetable Growers as 'unconscionable' but 'not illegal' practices to impact price.⁴¹

2.4 Impact of rising prices on Queenslanders

Many stakeholders who provided evidence to the committee emphasised the impact of rising supermarket prices on consumers across the state. Several of them noted that the impact of rising supermarket prices is particularly acute in regional and remote Queensland, where consumers' alternative options are often far more constrained.

2.4.1 Increasing prices have adversely affected Queenslanders

Many stakeholders highlighted the impact of food and grocery price increases on consumers in Queensland, noting this has been a major contributor to increased cost of living pressure.

For example, the Queensland Council of Unions (QCU) advised the committee that according to data from the ABS, in 2023, Queenslanders experienced:

- the second highest increase in the Consumer Price Index (CPI) in the country, at 4.3 per cent
- the second highest quarterly percentage change in the CPI for food and non-alcoholic beverages, with a 4.5 per cent increase
- significant increases in the cost of key staples, including bread, breakfast cereals, milk, cheese, and eggs, which rose by 9.4 per cent, 8.7 per cent, 4.2 per cent, 8.6 per cent, and 10.9 per cent respectively.⁴²

According to QCU, these increases have had adverse impacts on Queensland's workers, including by undermining food security. In a recent survey of 1000 Queenslanders, conducted by QCU:

³⁷ ACCC, 'Trade covered by the horticulture code', <https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct/trade-covered-by-the-horticulture-code>.

³⁸ ACCC, 'Horticulture produce agreements', <https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct/horticulture-produce-agreements>.

³⁹ ACCC, 'Horticulture produce agreements', <https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct/horticulture-produce-agreements>.

⁴⁰ Public hearing transcript, Brisbane, 29 April 2024, p 2.

⁴¹ Public hearing transcript, Brisbane, 29 April 2024, p 2.

⁴² Submission 32, p 4.

- over half (52 per cent) of respondents said they were unable to afford basic grocery items such as bread, milk, cheese and eggs in the last 6 months
- one in every 140 respondents (14 per cent) stated that they were unable to afford these basic items every week.⁴³

Several other submitters also highlighted the negative impact of increasing food and grocery prices on Queenslanders. Adrian Tantari MP, the Member for Hervey Bay, told the committee such increases 'caused a great deal of stress for many local families.'⁴⁴ In a recent survey of his electorate:

- almost half (47 per cent) of respondents reported that they were purchasing different food items or skipping meals
- 40 per cent of respondents had reduced their spending on non-essential items
- 28 per cent of respondents were struggling to pay other family bills.⁴⁵

Several other members, including Robert Skelton MP, the Member for Nicklin, Corrine McMillan MP, the Member for Mansfield, and Jimmy Sullivan MP, the Member for Stafford, stated that people in their electorates had reported similar experiences.⁴⁶

2.4.2 Queenslanders in regional and remote areas are more vulnerable to rising prices and their impacts

While rising food and grocery prices have affected all Queenslanders, evidence before the committee indicates that those living in regional and remote areas are disproportionately affected. For Queensland's Aboriginal and Torres Strait Islander peoples who are more likely to live in regional and remote parts of the state (see section 2.2.2), these impacts are compounded.

Stakeholders emphasised the higher rate of food insecurity among some regional and remote Queensland communities, and the challenges that some communities face in accessing healthy food. Also highlighted throughout the inquiry was the reliance on Queensland Government freight subsidies to assist communities in some regional and remote areas facing higher shelf-prices due to the logistics of transport. These issues are discussed in detail below.

2.4.2.1 Higher rates of food insecurity and challenges accessing healthy food

Queensland's regional and remote communities often experience higher rates of food insecurity and challenges accessing healthy food. These problems are particularly pronounced in Aboriginal and Torres Strait communities. As Health and Wellbeing Queensland explained to the committee:

The significant health gap in remote Aboriginal and Torres Strait Islander communities is a result of combined and complex factors, as the committee is well aware. One such factor, estimated to contribute to 15 per cent of the health gap, is poor nutrition. In remote Queensland, poor nutrition is often a result of food insecurity. In Queensland, numerous factors impact food insecurity including geographical isolation, long supply chains, and reduced economic opportunities... In remote Aboriginal and Torres Strait Islander communities, food security is as high as 31 per cent.⁴⁷

Representatives from Aboriginal and Torres Strait communities also told the committee that the high cost of food and grocery items undermines food security in their communities. For example, an analysis conducted by Torres Shire Council estimated that on average, the price of basic food and

⁴³ Submission 32, p 5.

⁴⁴ Submission 42, p 1.

⁴⁵ Submission 42, p 3.

⁴⁶ Submissions 20, 24 and 49.

⁴⁷ Gemma Hodgetts, Deputy Chief Executive Officer, Health and Wellbeing Queensland, public hearing transcript 3 May 2024, p 6.

grocery items on Thursday Island is more than 170 percent higher than in another regional community (Chinchilla).⁴⁸ Similarly, Vonda Malone, the Chief Executive Officer of the Torres Strait Regional Authority, told the committee:

We are situated in one of the most remote, vulnerable and hard-to-reach regions of Australia where 83 per cent of our residents are in the highest quantile for socioeconomic disadvantage and living costs are up to 40 per cent higher than for urban areas... Research indicates that basic goods and services in remote Queensland can cost 35 to 40 per cent more than the same goods and services in urban areas. The cost of freight alone adds more than 14 per cent to the cost of goods sold.⁴⁹

Health and Wellbeing Queensland advised the committee that it is rolling out a number of initiatives to help improve food security and access to healthy food in Queensland's Aboriginal and Torres Strait Islander communities as part of the Gather + Grow strategy.⁵⁰ These include the Healthy Diets ASAP tool, which is designed to capture improved data about diet affordability in remote communities, improving the evidence base for interventions.

2.4.2.2 Government assists many regional and remote communities through freight subsidies

At present, the Queensland Government subsidises the cost of transporting certain essential goods (including food and groceries) to some parts of the state. It does this through several channels, including:

- the Regional Freight Transport Services Contract with Linfox (administered by the Department of Transport and Main Roads, TMR) which subsidises rail and road freight services in regional Queensland
- the Remote Communities Freight Assistance Scheme (administered by the Queensland Rural and Industry Development Authority, QRIDA, on behalf of TMR) which subsidises freight to communities in the Northern Peninsula, Torres Strait and Gulf regions.

On its website, TMR notes that it is currently implementing a new freight funding package for the local government areas of Balonne, Bulloo, Murweh, Paroo and Quilpie.⁵¹

⁴⁸ Public hearing transcript, Brisbane, 3 May 2024, p 2; see also submission 41, Annexure 1.

⁴⁹ Public hearing transcript, Cairns, 23 April 2024, pp 1-2.

⁵⁰ Submission 28.

⁵¹ See <https://www.tmr.qld.gov.au/business-industry/transport-sectors/freight/remote-community-freight-contracts>.

3 Commercial practices of supermarkets and their impacts

Summary of this section

- Many stakeholders expressed significant concerns about the commercial practices of supermarkets and the impacts they have on suppliers – especially growers, consumers, and competitors.
- Some stakeholders allege that the major supermarkets engage in market manipulation, encouraging the oversupply of produce to drive down prices paid to suppliers and leading to waste. The major supermarkets deny engaging in this practice.
- Stakeholders expressed particular concern about the purchasing practices of major supermarkets, highlighting the substantial gap between retail and farm-gate prices, a lack of transparency about how prices are set, and the complex nature of the legal arrangements that govern relationships between retailers and suppliers – often to the disadvantage of growers.
- Some stakeholders are concerned that supermarkets advertise products in ways that are misleading, or which make it harder for consumers to identify the best value products.
- There are conflicting views about supermarkets’ national and state-based pricing policies. Although these policies lower prices for consumers in many regional areas, they may have adverse effects on other actors in the supply chain and limit the range of goods available to people in more remote locations.
- Some stakeholders expressed concern that the major supermarkets use land banking and indirect acquisitions to reduce competition. The extent and impact of these practices is difficult to document.

3.1 Supermarkets’ practices towards suppliers

The committee heard from a range of stakeholders who expressed concern about the commercial practices of supermarkets and their impact on suppliers. The concerns raised by stakeholders relate to a wide range of issues, but many relate to the purchasing practices of the major retail chains, Coles and Woolworths, and the impacts of these practices on fresh produce growers.

3.1.1 Market manipulation and oversupply

Some submitters and witnesses alleged that the major supermarkets engage in market manipulation. Specifically, they have suggested that supermarkets consciously induce oversupply of perishable products, which drives down the prices paid to growers and increases their dependence on the major supermarkets.

Bundaberg Fruit and Vegetable Growers told the committee that retailers sometimes signal an intention to purchase a specified volume of produce from multiple growers, inducing a surge in production. However, the retailers then renegotiate the purchase price with the grower or buy from the central market where prices are depressed through the oversupply they induced.⁵² Similarly, Queensland Fruit and Vegetable Growers speculated that supermarkets may be using supplier agreements to induce oversupply and suppress farmgate prices.⁵³

⁵² Submission 27, p 7.

⁵³ Submission 40, p 11.

Other stakeholders alleged that the major supermarkets encourage growers to scale-up production to levels that are unsustainable without selling to the major supermarkets, effectively entrapping producers in a commercial relationship.⁵⁴

Both major supermarkets denied encouraging the oversupply of produce, stating they typically purchase all of the signalled demand, sometimes more. For example, Adam Fitzgibbons, the Head of Public Affairs for Coles, told the committee they work with suppliers to minimise waste and they are very clear with their suppliers about what volumes are expected for a season. However, he acknowledged that there are challenges in the horticulture space, most notably the impact of climatic events, that inevitably create a degree of uncertainty when they set volumes with suppliers at the beginning of a season.⁵⁵

Similarly, Paul Harker, the Chief Commercial Officer of Woolworths, told the committee that although overproduction sometimes occurs, it does not happen as a result of information provided by Woolworths. He explained:

Someone planting something does not know what the person down the road is necessarily going to plant and, as you can appreciate, sometimes the people see the prices in one season and assume they might get that the next season, so a lot of people decide to plant product and then there is an oversupply based on what was available the previous year.⁵⁶

Whilst both Coles and Woolworths denied encouraging oversupply of produce, the committee heard particular accounts of interest by two witnesses during the Bundaberg hearing. The witnesses expressed their belief that the practice does occur within the industry as a greater whole. Without naming the two parties involved, Judy Plath retold an account of a large dairy processing company being forced to reduce its price on a top-shelf product by 25 per cent following pressure by a large supermarket chain. The very nature of supplying a perishable product at a large volume beyond the intake of smaller retailers provides suppliers with little option but to comply. She stated:

They took the 25 per cent reduction to keep their yoghurt on the shelf because everything has a shelf life. They are not selling make-up or something that keeps forever. They are selling short shelf-life products, and the supermarkets know that they have all the power.⁵⁷

The committee determines that accepting large volumes of produce beyond the intake capacity of other retail competitors encourages the increased investment of farmers and processors to supply perishable produce. Producing large volumes of perishable goods that can only be supplied to a highly limited list of retailers places suppliers in a position of vulnerability, weakening their competitive options when negotiating prices. Woolworths Chief Commercial Officer, Paul Harker, appeared unwilling to accept such terms as put to him during the public hearing on 13 May 2024.⁵⁸

3.1.2 Price gouging and the suppression of farm-gate prices

Some submitters and witnesses alleged that the major supermarkets engage in price gouging (setting retail prices at an unreasonably high level, to secure a large profit margin on certain products) while using their market power to suppress the 'farm-gate' prices paid to producers.

For example, stakeholders from the dairy industry told the committee that the \$1 per litre milk campaign, undertaken by supermarkets between 2011 and 2019, set milk prices at an unreasonably

⁵⁴ Judy Plath, public hearing transcript, Bundaberg, 22 April 2024, p 25.

⁵⁵ Public hearing transcript, Brisbane, 13 May 2024, p 45.

⁵⁶ Public hearing transcript, Brisbane, 13 May 2024, p 61.

⁵⁷ Judy Plath, public hearing transcript, Bundaberg, 22 April 2024, p 24

⁵⁸ Public hearing transcript, Brisbane, 13 May 2024, pp 89-90.

low level. This, they suggested, contributed to the decline of the dairy industry in Queensland, and had a negative impact on the confidence of farmers and the sustainability of the supply chain.⁵⁹

Stakeholders from other industries told the committee that the major supermarkets used their market power and information superiority to suppress the prices paid to producers. Darryl Stewart, formerly from the Queensland Pork Producers Organisation, stated, 'supermarket buyers are generally aware of production costs and bargain ruthlessly with suppliers to get the lowest possible price for product to sell at what becomes a higher profit margin'.⁶⁰ Similarly, Queensland Fruit and Vegetable Growers CEO Rachel Chambers discussed with the committee how little is the ability for growers to set prices and are at the determination of retailers and what they are willing to pay for produce.⁶¹

A common theme in submissions was the observation that prices paid to producers, including growers, have remained stable – or in some cases, declined, even as the retail price paid by consumers has increased. For example, Bundaberg Fruit and Vegetable Growers stated:

Despite significant increases to the cost of production many growers we represent are receiving the same price or less from retailers than what they were receiving many years ago.⁶²

Further elaborating on the challenges facing growers within this context, Queensland Fruit and Vegetable Growers told the committee that growers have experienced 'dramatic increase in cost of production without significant revenue increases' since 2020, meaning that many businesses had gone 'backwards'.⁶³

At the Bundaberg hearing, local producer Trevor Cross provided commentary to the committee as to how production costs had risen since the global impact of COVID-19, stretching the value of prices offered at the farmgate.

Everything went up. People could do whatever they wanted to do in regards to prices. A tractor that three and a half years ago was worth \$300,000 is about \$650,000 – same tractor – because the production slowed... we actually started making some money – right on that coronavirus period – but our costs were still beating us. Once we came out of that, the money we got paid dropped straight down but our costs still stayed the same.⁶⁴

In contrast, major supermarkets told the committee that recent increases in retail prices were largely driven by price increase requests from their suppliers. Coles advised the committee that in the 2021-22 and 2022-23 financial years, it received an average of over 70 requests for price increases from suppliers and farmers each week.⁶⁵ They also attributed rising retail prices to the increasing cost of doing business, emphasising increased costs associated with energy, labour logistics, packaging, interest and tax.⁶⁶

For all their reasoning, Coles confirmed that their operating profit had indeed increased over the previous five financial years when questioned by Angus Scott KC at the public hearing held in Brisbane on 13 May 2024.⁶⁷

Some consumer groups suggested that a lack of transparency about the costs associated with the food and grocery supply chain makes it difficult for consumers to assess whether retail prices are

⁵⁹ Dairy Farmers Milk Co-operative, submission 5, pp 2 and 8.

⁶⁰ Submission 16, p 2.

⁶¹ Public hearing transcript, Brisbane, 29 April 2024, pp 2-3.

⁶² Submission 27, p 3

⁶³ Submission 40, p 6.

⁶⁴ Trevor Cross, public hearing transcript, Bundaberg, 22 April 2024, p 23.

⁶⁵ Submission 26, p i.

⁶⁶ Submission 26, p 17.

⁶⁷ Public hearing transcript, Brisbane, 13 May 2024, pp 7-10.

reasonable. The Indigenous Consumer Assistance Network state that the lack of transparency related to supply chain costs means that there is no opportunity to compare how much it costs to get food and groceries to one community relative to another, and therefore no opportunity for communities to interrogate the costs.⁶⁸

3.1.3 Lack of transparency around how prices for fresh produce are set

Some stakeholders complained that there is a lack of transparency around how supermarkets set prices and the profit margins they make on particular products. Many of these complaints related to how supermarkets determine the prices that they will pay for fresh produce, including produce put on 'special'.

For example, Bundaberg Fruit and Vegetable Growers stated that there has been little transparency around how specials are set. They suggested that if specials are set weeks in advance they cannot be based on volume availability, and complained that a lack of information about the volumes likely to be required by supermarkets undermines growers' negotiating power.⁶⁹

Although, in a demonstration of the uncertainty within some industry associations and a need for greater government oversight, one witness told the committee of his past criticism of the Bundaberg Fruit and Vegetable Growers for not proceeding with a campaign to list prices being paid by supermarkets to farmers, then publishing those prices in comparison to the prices charged on consumers.⁷⁰

In outlining the lack of transparency and alleged practices of driving down farmgate prices to provide more favourable pricing to consumers, the committee's Chair put to Coles, during the Brisbane public hearing, what he had been told by an anonymous Queensland grower.

I have spoken to a farmer who has an ongoing agreement for 10 pallets a month. He has been contacted on numerous occasions to say there will be a special in Coles on his particular product. A representative from Coles calls that farmer and says, 'You'll reduce your price to this price, and instead of 10 pallets we'll take 50 pallets.'⁷¹

Stories such as the one relayed to the Chair are easily uncovered when engaging with the primary producer industry; however, as Rachel Chambers, CEO of Queensland Fruit and Vegetable Growers stated to the committee:

We cannot get a grower to take the stand who is a direct supplier into supermarkets. That is because their fear of commercial retribution is real.⁷²

At a public hearing, Coles elaborated on how it sets prices for fresh produce. Its representatives explained that the main way they determine weekly pricing in the market is by using a third-party website that provides up-to-date wholesale fresh produce market prices in Brisbane, Adelaide, Sydney and Melbourne. Coles did, however, concede that this data was only one of the factors considered when negotiating supply, and if the market is 'about to tip down because of a huge flush that might be about to hit the market' Coles might make an offer below the current price.⁷³

Adam Fitzgibbons, the Head of Public Affairs for Coles, stated that in relation to prices, the company 'is very willing to be part of a solution that would involve greater transparency for fresh produce

⁶⁸ Submission 37, p 4.

⁶⁹ Submission 27, pp 6-7.

⁷⁰ Public hearing transcript, Bundaberg, 22 April 2024, p 21.

⁷¹ Tom Smith MP, public hearing transcript, Brisbane 13 May 2024, pp 18-19.

⁷² Public hearing transcript, Brisbane, 29 April 2024, p 2.

⁷³ David Brewster, Chief Legal and Safety Officer, Coles Group Ltd, public hearing transcript, Brisbane, 13 May 2024, p 16.

growers'.⁷⁴ Despite such a claim, he added that caution is required to ensure such transparency does 'not incentivise unintended behaviour where there might be an ability to come together on prices—which would fall foul of the ACCC requirements.'⁷⁵

Mr Fitzgibbons added that there are good examples of other sectors where there is a degree of price transparency, such as the red meat industry, where indices are available that allow producers to see the general market price. Allowing himself flexibility to move within the context of the questioning, Mr Fitzgibbons applied his observation that there are challenges in the horticulture space in providing price transparency due to product variations that may occur because of significant climate events.⁷⁶

Paul Harker, Chief Commercial Officer for Woolworths, agreed that more could be done to increase transparency in the horticulture sector. He suggested that there may be a role for government to play in this area, explaining:

... there is a government appointed, grower owned research and development corporation called Hort Innovation that would be well placed to examine this matter and come up with proposed remedies that work for growers and people in the sector.⁷⁷

In further consideration of the committee, the complex and poorly structured complaints system formed under the Food and Grocery Code further suppresses transparency via the Code Arbiter process. A relatively new addition to the Code, Code Arbiters are individuals tasked with investigating and resolving complaints put by suppliers to supermarkets and wholesalers; the very same supermarkets and wholesalers who appoint their arbiter under the Code.⁷⁸ This is discussed in greater detail in section 4 and forms part of the basis for the Committee's most notable recommendation.

3.1.4 Supermarkets' purchasing practices and policies

Many submitters and witnesses raised concerns about the purchasing policies and practices of major supermarkets. Their concerns varied, but many related to the legal status of supply agreements and the fact that these arrangements do not include a guaranteed price for most fresh produce. Other key concerns included the quality control standards set by supermarkets, the use of exclusivity clauses, and the imposition of 'rebates' on producers.

3.1.4.1 The legal status of supply agreements and lack of a guaranteed price

Some submitters and witnesses have expressed concern that supermarkets often enter into informal or unwritten agreements with growers, rather than formal contracts. Their evidence pointed to a degree of uncertainty about the legal status of supply agreements, which govern the relationship between supermarkets and suppliers, with several stakeholders expressing the view that these agreements were 'not contracts' despite being used as such.⁷⁹ Some expressed concern that this made it more difficult for suppliers, especially growers, to understand and assert their rights.⁸⁰

At a public hearing, both major supermarkets explained the nature of the legal arrangements that govern their relationships with producers. Coles stated that it enters into 'Grocery Supply Agreements' (GSA) with horticulture suppliers (fresh produce growers). These agreements state the volume of produce that Coles intends to purchase, which can be increased or decreased by 15 per cent at Coles'

⁷⁴ Public hearing transcript, Brisbane, 13 May 2024, p 2.

⁷⁵ Public hearing transcript, Brisbane, 13 May 2024, p 17.

⁷⁶ Public hearing transcript, Brisbane, 13 May 2024, p 45.

⁷⁷ Public hearing transcript, Brisbane, 13 May 2024, p 59.

⁷⁸ Australian Government, Food and Grocery Code Independent Reviewer, 'How to raise a complaint', <https://grocerycodereviewer.gov.au/process/how-raise-complaint>.

⁷⁹ See, for example, Queensland Fruit and Vegetable Growers, submission 40, p 17.

⁸⁰ Judy Plath, public hearing transcript, Bundaberg, 22 April 2024, p 26.

discretion. No price is identified or guaranteed in the agreements.⁸¹ Coles stated that it also establishes GSAs with aggregators, suppliers (including some growers) who act as wholesalers, purchasing product from growers and selling it to Coles.⁸²

Woolworths stated that it uses two instruments to regulate purchasing arrangements with producers and suppliers: its National Vendor Trading Terms and Purchase Orders. The National Vendor Trading Terms are general terms which operate as a binding contract on both Woolworths and the supplier; however, they do not specify volume commitments or prices for produce.⁸³ These terms effectively provide a contractual framework for future negotiations. After the trading terms are entered into, Woolworths negotiates volumes and prices with its suppliers and issues a Purchase Order that indicates volumes and prices – in the case of fruit and vegetables this typically occurs one week before delivery.⁸⁴ Woolworths conceded that under its National Vendor Trading Terms – which regulate the negotiations with suppliers – Woolworths has no obligation to provide its suppliers with a Purchase Order (guaranteeing volumes and price).⁸⁵

Many stakeholders expressed concern that the contracting arrangements employed by the major supermarkets do not provide producers with a guaranteed price for their produce. Witnesses at public hearings in Bundaberg and Brisbane stated that growers are often unaware of what they will be paid for their produce until it has been packed and shipped to the retailer, by which point it is not economically viable to refuse a low offer and on-sell in another market.⁸⁶ They expressed concern that the lack of price certainty meant that growers could not be confident that they will recover the input costs of production when the produce is ready to sell.

The committee has observed that the discrepancy between Purchase Orders agreed to between farmers and traders differ to those between farmers and supermarkets because they each fall under separate national codes. When a farmer engages with a trader, be them a merchant or agent, they engage under the ACCC's Horticulture Code which is mandatory for all parties⁸⁷. When a farmer supplies directly to a supermarket such as Coles or Woolworths, they engage under the ACCC's non-mandatory Food and Grocery Code.⁸⁸ In the committee's analysis, providing, in effect, the same service yet under two different codes of conduct and regulation of those codes, complicates the negotiation and price setting along the supply chain for producers, as well as providing greater freedoms for supermarkets to explore their 'flexibility' of terms within a code lacking greater required oversight.

Operating within two different codes can also cause confusion and therefore vulnerabilities for farmers seeking dispute resolutions or investigations into complaints. Woolworths' Chief Commercial Officer, Paul Harker, offered to the committee his consideration that many within the industry do not 'understand their rights under the Horticulture Code of Conduct', suggesting that industry bodies and associations increase the knowledge of rights and responsibilities through education campaigns.⁸⁹

⁸¹ Public hearing transcript, Brisbane, 13 May 2024, pp 14-15.

⁸² Public hearing transcript, Brisbane, 13 May 2024, p 14.

⁸³ Public hearing transcript, Brisbane, 13 May 2024, p 55.

⁸⁴ Public hearing transcript, Brisbane, 13 May 2024, pp 55-56.

⁸⁵ Public hearing transcript, Brisbane, 13 May 2024, p 55.

⁸⁶ Bundaberg Regional Council, public hearing transcript, Bundaberg, 22 April 2024, pp 2, 6; Queensland Fruit and Vegetable Growers, public hearing transcript, Brisbane, 29 April 2024, p 3.

⁸⁷ ACCC, 'Rights and responsibilities of traders and growers under the code', <https://www.accc.gov.au/business/industry-codes/horticulture-code-of-conduct/rights-and-responsibilities-of-traders-and-growers-under-the-code>.

⁸⁸ Public hearing transcript, Brisbane, 13 May 2024, p 78.

⁸⁹ Paul Harker, public hearing transcript, Brisbane, 13 May 2024, p 79.

3.1.4.2 Quality control standards

Some submitters claimed that the major supermarkets often impose unreasonable quality standards on fresh produce and/or reject produce, a practice lacking transparency and leading to waste.⁹⁰ The Queensland Chamber of Fruit and Vegetable Industries Co-Operative Ltd (Brismark) criticises supermarkets for rejecting large amounts of produce and dumping it on the central market, stating that this distorts the market and has an adverse impact on growers.⁹¹ Similarly, Trevor Cross of Cross Family Farms stated that supermarkets exploit their purchasing agreements with producers to reject volumes of produce previously ordered - often under the pretext of quality control - where the producer has no means of recourse.⁹²

David Brewster, representing Coles, stated that under the Food and Grocery Code, Coles have a limited time window to reject produce that does not meet its quality control standards, which are contained in the General Service Agreements with growers. He explained that sometimes the produce is received by Coles near the end of that period, and that Coles can give notice that it will not accept the produce because it does not meet agreed specifications. He advised the committee that quality issues may include fruit that is rotten in the core or produce that has been picked too early meaning that an unacceptably high percentage is under-ripe.⁹³ Coles stated that on the whole, the volume of produce that it rejects is relatively low, noting that in the 2023 financial year, it rejected 1.49 per cent of fresh produce received.⁹⁴

Representatives of Woolworths told the committee that its product specifications are primarily driven by customer expectations and reflect what people want to buy when they come into a supermarket. Paul Harker, the company's Chief Commercial Officer, explained:

There are some appearance and size specifications in there, but actually they are more about eating quality and the things that we would like to see in terms of products. Fresh produce is rejected when it does not meet our product specifications. Less than two per cent of all deliveries are normally subject to a rejection.⁹⁵

In response to the claims of consumer expectation and customer demand for preferred specifications, the committee reflects on the contribution from Judy Plath during the public hearing in Bundaberg, 22 April 2024. Ms Plath compared examples of capsicums and bananas, highlighting the economic forces behind desired specifications and how these can even drive-up input costs for farmers. The committee recommends a reading of Ms Plath's appearance from page 24 of the public hearing transcript.⁹⁶

3.1.4.3 Exclusivity clauses

Some stakeholders expressed concern that supermarkets often include exclusivity clauses in their contracts with suppliers. They state that this has an adverse impact on suppliers, especially growers, who may find they are prevented from selling excess produce and/or 'seconds' that have been rejected by supermarkets. Representatives of Bundaberg Regional Council stated that farmers in their region had reported that such clauses prevented them from on-selling rejected produce.⁹⁷

⁹⁰ Bundaberg Fruit and Vegetable Growers Limited, submission 27; Bundaberg Regional Council, submission 29.

⁹¹ Submission 31.

⁹² Public hearing transcript, Bundaberg, 22 April 2024, p 22.

⁹³ Public hearing transcript, Brisbane, 13 May 2024, pp 30-31.

⁹⁴ Public hearing transcript, Brisbane, 13 May 2024, p 24.

⁹⁵ Public hearing transcript, Brisbane, 13 May 2024, pp 60-61.

⁹⁶ Public hearing transcript, Bundaberg, 22 April 2024, pp 24-28.

⁹⁷ Public hearing transcript, Bundaberg, 22 April 2024, p 5.

In response to questioning, both major supermarkets told the committee that they do not routinely use exclusivity clauses in the agreements with suppliers. Coles advised the committee that, in general, it only uses exclusive supply agreements when it has developed a product together with a supplier. For example, Coles and one of its suppliers developed a variety of heirloom tomatoes which the supplier now provides to Coles under an exclusive arrangement.⁹⁸ Similarly, when questions about whether such clauses prevent its suppliers from selling rejected produce through other channels, the Woolworths Group Chief Commercial Officer, Mr Paul Harker stated that ‘it does not happen.’⁹⁹

3.1.4.4 Rebates in invoices to growers

Some submitters and witnesses have expressed concern about rebates included in invoices to growers. Queensland Fruit and Vegetable Growers submitted that many growers report being charged rebates of between 3.5 per cent and 5 per cent by supermarkets, without any explanation or right of reply.¹⁰⁰

Coles told the committee that ‘rebates are one of a number of items that may be negotiated and agreed between Coles and suppliers.’¹⁰¹ At a public hearing, David Brewster, the company’s Chief Legal and Safety Officer elaborated, explaining that rebates are charged:

Usually in return for some type of consideration that is paid to the supplier. For example, in the past there have been rebates that were paid to provide additional information and data to suppliers relating to their level of sales to help them plan better, assess the efficacy of marketing campaigns et cetera. There is effectively a levy for the cost involved in collating and providing that information.¹⁰²

3.1.5 Impact on financial sustainability, grower wellbeing and food security

Several stakeholders told the committee that the commercial practices of supermarkets erode the financial sustainability of farm businesses in Queensland. Queensland Fruit and Vegetable Growers told the committee that since 2020, growers had experienced significant increases in the cost of production without comparable increases in revenue. They stated:

This has been the case now for almost four years with growers reporting that they have now expended all their reserves with nothing else left to draw upon.¹⁰³

Queensland Fruit and Vegetable Growers expressed concern for the wellbeing of growers given the challenges they face.¹⁰⁴

In describing the personal hardship of financial stress within the industry, the President of Bundaberg and District Chamber of Commerce, told the committee:

We also believe that our farmers and primary producers have accepted low prices for their product and produce for far too long. This has resulted in financial stress and mental health issues—the cost being business failures, family breakdowns and lives lost.¹⁰⁵

Some stakeholders stated that many farmers are considering exiting the agricultural sector, and/or switching to commodities that offer more sustained/secure returns. In private hearings, some growers told the committee they had already abandoned more perishable crops sold primarily on the domestic market, in favour of alternatives – such as sugar cane – that offered them more secure prices. Others

⁹⁸ Coles, response to question taken on notice at public hearing on 13 May 2024, 17 May 2024, p 4.

⁹⁹ Public hearing transcript, Brisbane, 13 May 2024, p 68.

¹⁰⁰ Submission 40, p 15.

¹⁰¹ Response to question taken on notice at public hearing on 13 May 2024, 17 May 2024 p 2.

¹⁰² Public hearing transcript, Brisbane, 13 May 2024, p 20.

¹⁰³ Submission 40, p 6.

¹⁰⁴ Submission 40, p 22.

¹⁰⁵ Public hearing transcript, Bundaberg, 22 April 2024, p 8.

reported that they had discouraged their children from taking on family businesses because they did not see viable futures for them in agriculture. They noted this would have broad implications, potentially turning Australia into a net importer of food and undermining the country's food security.

The potential threat to food security was also highlighted by other stakeholders. For example, Rachel Chambers, the Chief Executive Officer of Queensland Fruit and Vegetable Growers emphasised this issue. She stated:

Our food security is at risk, our growers livelihoods are at risk and their lives are at risk, and our regional areas which predominantly house the industry are at risk. This is a hugely complex issue which will require change from retailers, growers, consumers and government for there to be a reliable supply of Queensland-grown fresh fruit, vegetables and nuts for generations to come.¹⁰⁶

3.2 Supermarkets' practices towards consumers

Several stakeholders raised concerns about the practices of supermarkets in relation to consumers, and the impact they have on people in Queensland. Some of these concerns related to how prices are displayed and advertised, while others related to the broader pricing policies and strategies adopted by major retailers.

3.2.1 How prices are displayed and advertised

Several submitters told the committee that the major supermarkets often advertise products in ways that are misleading, or which make it harder for consumers to identify the best value products.¹⁰⁷ Some submitters provided evidence of prices presented in a manner that resembled 'specials', but did not offer any discounts, while others observed that unit prices were often displayed in a confusing manner (e.g. using different units of measurement for the same type of product).¹⁰⁸ They noted that the variety of measurements provided made it more difficult for consumers to correctly identify which products offered the cheapest price.

In its submission, the Queensland Consumers Association:

- stated that grocery unit pricing is often much less effective than it could and should be
- alleged that many grocery stores fail to ensure that all the unit prices for packaged products they sell are easy for consumers to notice, read, understand and use
- presented data collected by CHOICE regarding the most common difficulties consumers encounter using unit pricing, which include being difficult to read, being obstructed or covered, showing different units of measurement for the same type of products, and not being displayed.¹⁰⁹

During a public hearing in Brisbane, Ian Jarratt, the Vice-President of the Queensland Consumers Association emphasised the importance of ensuring that unit pricing is effective. He explained:

Effective, comprehensive unit pricing makes it easy for consumers to make many types of value comparisons—there are a lot of comparisons one can make—and to identify the best value for money. This is particularly important, of course, now given the great pressures being felt by so many Queensland consumers due to the cost-of-living crisis. Importantly, it also increases competition right along the supply chains which in turn can increase efficiency, reduce prices and increase choice. It is a very simple but very powerful tool.¹¹⁰

¹⁰⁶ Public hearing transcript, Brisbane, 29 April 2024, p 2.

¹⁰⁷ Queensland Consumers Association, submission 17.

¹⁰⁸ Desley Cowley, submission 1; Queensland Consumers Association, submission 17.

¹⁰⁹ Submission 17.

¹¹⁰ Public hearing transcript, Brisbane, 3 May 2024, p 11.

He went on to explain why unit pricing is not currently living up to its potential:

The main problems with the system at the moment are that both in store and online far too many unit prices are difficult to notice and read. Different units of measure used for the same type of product and unit prices are not always provided when they should be.¹¹¹

He suggested these problems indicate a need for stronger regulation and more effective enforcement of existing unit pricing requirements by the ACCC.¹¹²

Some other stakeholders, including Bundaberg Regional Council, called for the strengthening of standards to ensure that consumers are provided with clear and consistent pricing information. They also suggested that supermarkets should be required to prominently disclose changes to the price or size of products.¹¹³

The two major supermarkets, Coles and Woolworths, advised the committee they use a range of promotional campaigns and tools to offer their customers value-for-money options.¹¹⁴ For example, Woolworths noted that its website and app allow customers to use a 'Best Unit Price' tool to rank products from lowest to highest unit price.¹¹⁵

At a public hearing, Paul Harker, the Chief Commercial Officer of Woolworths, told the committee that consumers should not encounter prices presented as 'specials' in their stores unless they are offered a discount on the shelf price. He encouraged consumers who found prices presented as 'specials' without offering a discount to report the issue to staff in store, so that they could correct such errors.¹¹⁶ This encouragement for consumers came following a concession by Mr Harker to the committee's Chair that such scenarios were supported by evidence collected throughout the course of the inquiry.

3.2.2 State-based and national pricing strategies

The major supermarkets operate both state-based and national pricing strategies, meaning that consumers across Australia – or across Queensland, in the case of state-based strategies – pay the same price for most items, regardless of their location. Regarding the main supermarket chains:

- Woolworths operates a national pricing strategy for packaged goods, and state-based pricing for fresh food.¹¹⁷
- Coles operates a state-based pricing model.¹¹⁸
- ALDI has a national pricing strategy, excluding fresh produce.¹¹⁹

Stakeholders expressed a range of views about how these pricing strategies affect consumers in Queensland, as well as other actors in the supply chain.

In their submissions, the major supermarkets emphasised how these policies benefit regional consumers. According to Woolworths, their pricing strategy 'means that regional customers benefit

¹¹¹ Ian Jarratt, Vice-President, Queensland Consumers Association, public hearing transcript, Brisbane, 3 May 2024, p 11.

¹¹² Ian Jarratt, Vice-President, Queensland Consumers Association, public hearing transcript, Brisbane, 3 May 2024, p 11.

¹¹³ Bundaberg Regional Council, public hearing transcript, Bundaberg, 22 April 2024, p 2.

¹¹⁴ Coles, submission 26, p 19; Woolworths, submission 39, p 3.

¹¹⁵ Submission 39, p 3.

¹¹⁶ Public hearing transcript, Brisbane, 13 May 2024, p 65.

¹¹⁷ Woolworths, submission 39, p 3.

¹¹⁸ Coles, submission 26, p 18.

¹¹⁹ ALDI, submission 36.

from competitive pricing, as we largely absorb the cost of distributing groceries to stores in rural and remote locations.¹²⁰

Mr Adam Fitzgibbons, the Head of Public Affairs at Coles, told the committee that state-based pricing is ‘particularly relevant to Queensland given it is the most decentralised state in Australia’ explaining that in their stores, ‘the prices that are offered in Brisbane are the same prices that are offered in Cairns.’¹²¹ Mr Jordan Lack, from ALDI, told the committee that ‘ALDI’s national pricing strategy means that Queenslanders, whether located in Bundaberg or Burleigh Heads, all have access to the same high-quality groceries at the same low prices as customers based in other states.’¹²²

In contrast, some other stakeholders have been critical of these pricing strategies. For example, eastAUSmilk submitted that supermarkets’ national pricing policies have an adverse effect on processors and farmers in high-cost regions, such as north Queensland. They suggested that while this may result in lower prices for consumers on some products, it also resulted in certain products being unavailable in some locations.¹²³

eastAUSmilk explained this concern in detail within their submission:

This [national and state-based pricing] inevitably means that for some products, the shelf price produces a lower margin for the supermarket than in other locations, because of the additional cost of getting that product onto those particular shelves.

In some locations, additional transport costs are so high that the supermarket prefers to not stock particular products, because the margin is too low or below zero.

In such high-cost regions, national pricing makes it unprofitable for processors to supply products to retailers. This is the case for milk in some parts of Queensland and especially in north Queensland.

...

This national pricing policy forces insufficient milk production in some high-cost regions and availability for consumers is affected, with from time to time no milk on shelves. This shortage of milk is already occurring in north Queensland and will become significantly more widespread in the future unless something is done.¹²⁴

3.3 Supermarkets’ practices towards competitors

Several submitters and witnesses who gave evidence to the committee raised concerns about the pricing policies and practices of the two major supermarkets. Labelling Coles and Woolworths as a duopoly, they identified two main concerns: land banking and the indirect acquisition of competitors.

3.3.1 Land banking

The committee received conflicting evidence about whether the major supermarkets engage in land banking (i.e. purchasing land, but not developing it, in order to block competitors from opening in certain locations).

At a public hearing, David Brewster, the Chief Legal and Safety Officer of Coles, told the committee that, ‘the intention when we purchase land is to develop it as soon as is possible given the circumstances.’¹²⁵ However, he explained that this can often take a number of years, particularly if the land is a smaller block, meaning that the company’s ability to develop it is contingent on adjacent

¹²⁰ Woolworths, submission 39, p 3.

¹²¹ Public hearing transcript, Brisbane, 13 May 2024, p 40.

¹²² Public hearing transcript, Brisbane, 14 May 2024, p 2.

¹²³ Submission 9.

¹²⁴ Submission 9, p 13.

¹²⁵ Public hearing transcript, Brisbane, 13 May 2024, p 38.

properties becoming available for purchase. He noted that Coles may purchase land without the intention to immediately develop it in areas where the population is not yet sufficient to sustain a store. In such cases, the company would expect to develop the land into a supermarket once the population reached an adequate level.¹²⁶

Providing a similar response under questioning, representatives of Woolworths denied that it engages in land banking and stressed the long lead times involved in the development of new supermarkets. Paul Harker, the company's Chief Commercial Officer, explained:

Our interest in buying land is about our business and making sure that we have land in growth corridors. I think everyone would be aware that those types of developments (a) have a long lead time; or (b) sometimes the actual community itself takes some while to be formed. If you think of outer metropolitan areas, when people advise they are going to open up a new suburb or something like that they would talk to retailers about whether they are going to build a shopping facility or the like, and therefore we would be involved in those scenarios. Most of our activity is around greenfield sites in growth corridors.¹²⁷

In response to a question taken on notice at a hearing, Woolworths advised the committee that it currently owns 16 sites in Queensland that are intended for future supermarket development.¹²⁸ Although the committee asked Woolworths how much time typically elapses between its purchase of a greenfield site and the commencement of a development application, Woolworths did not provide a clear answer. Instead, Woolworths stressed that the time periods involved vary from site to site, stating that on average the development assessment process takes between five and seven years, sometimes longer.¹²⁹

Other stakeholders told the committee that they had heard of land banking occurring in Queensland, but that concrete examples were often hard to identify. Wayne Mason, the Manager of State Operations (Queensland) for Australian United Retailers (FoodWorks) told the committee:

I do know of land banking occurring. I have heard that there is land banking occurring in Agnes Water and that they do not always eventuate. When you hear of them acquiring land, we do not usually do much until we know that a DA is being approved on it.¹³⁰

In contrast, ALDI advised the committee that it was 'not aware of specific instances where Coles or Woolworths have bought land and stopped ALDI from entering new areas.'¹³¹

3.3.2 Indirect acquisition of competitors

In its evidence to the committee, as well as the Senate Select Committee on Supermarket Prices, Metcash expressed concern about the 'indirect' acquisition of competitors by the major supermarkets. Metcash alleges the major supermarkets, or a developer acting as their proxy, purchase a shopping centre that contains an independent supermarket, then forces that competitor to close by declining to renew their lease.¹³²

According to Metcash, this has occurred in the Brisbane suburb of Milton. Luke Mackenzie, the company's Government Relations Manager explained:

¹²⁶ Public hearing transcript, Brisbane, 13 May 2024, p 38.

¹²⁷ Public hearing transcript, Brisbane, 13 May 2024, p 69.

¹²⁸ Woolworths, response to question taken on notice at hearing on 13 May 2024, 19 May 2024, p 5.

¹²⁹ Woolworths, response to question taken on notice at hearing on 13 May 2024, 19 May 2024, p 6.

¹³⁰ Public hearing transcript, Brisbane, 14 May 2024, p 30.

¹³¹ ALDI, response to question taken on notice at public hearing on 14 May 2024, p 2.

¹³² Mr Grant Ramage, Chief Executive Officer, Metcash Food, Metcash, public hearing transcript, Senate Select Committee on Supermarket Prices, Parliament of Australia, Canberra, 11 April 2024, p 15.

Coles bought the Milton shopping centre. The Milton shopping centre had an IGA in it—a spectacularly good store which had a lease that ended towards the end of last year, and the store closed in January this year. The shoppers and residents of Milton Village were outraged and expressed that in strong terms on social media platforms, because they wanted their independent to stay. Coles, of course, has two stores within four minutes' drive of Milton centre, either to the left or to the right... The community is outraged that they are losing choice—the only independent left in that market—when Coles is already present twice.¹³³

When queried about this case, Adam Fitzgibbons, the Head of Public Affairs from Coles told this committee it reflected normal business practice rather than anti-competitive behaviour. He said:

I think it represents the normal ordinary course of commercial relationships where the term of the tenancy expired and there was a view to develop that. I think it is worth pointing out that instances in the past—we have had a look at this in the last 10 years; we did an analysis of where a competitor took over a Coles lease. There were 13 instances of that; and in the last 10 years where Coles has taken over a competitor lease, there have been five instances of it. That is demonstrably not a growth strategy that is employed by Coles.¹³⁴

¹³³ Public hearing transcript, 14 May 2024, p 14.

¹³⁴ Public hearing transcript, 13 May 2024, p 39.

4 Scope for intervention

Summary of this section

- Much of the legislation affecting the food and grocery sector is set at the federal level. However, stakeholders suggested a variety of ways in which the Queensland Government could influence the operation of the sector in Queensland in a positive way.
- A diverse mix of stakeholders support strengthening the Food and Grocery Code of Conduct, including by making it mandatory and improving its enforcement.
- Some stakeholders proposed changes to state-based laws and policies to improve competition in the supermarket sector, including changes relating to planning, and trading hours.
- There are opportunities for the Queensland Government to better support growers and consumers through education programs that will empower these groups to assert their legal rights.
- Some stakeholders called for continued support to regional and remote communities, noting the importance of regional freight subsidies and the benefits of investing in supply chain infrastructure in these areas.

4.1 Strengthening the Food and Grocery Code of Conduct

A wide variety of stakeholders indicated that they support making the Food and Grocery Code mandatory and strengthening its enforcement. This included many stakeholders from the supermarket sector. For example:

- Paul Harker, the Chief Commercial Officer of Woolworths, told the committee that the company supports the Food and Grocery Code becoming mandatory, with appropriate penalties attached¹³⁵
- Jordan Lack, ALDI's Managing Director, National Buying, stated that the company supports the Food and Grocery Code becoming mandatory and offered in principle support for other recommendations designed to strengthen that code made in the Independent Review's Interim report (see section 2.1.5)¹³⁶
- Luke Mackenzie, the Metcash's General Manager, Queensland, stated that Metcash supports the Food and Grocery Code becoming mandatory.¹³⁷

Several groups representing growers and workers also indicated support for the Food and Grocery Code becoming mandatory, including (but not limited to) Queensland Fruit and Vegetable Growers,¹³⁸ Brismark,¹³⁹ and the Queensland Council of Unions.¹⁴⁰ Although some noted that a mandatory code would likely involve higher compliance costs, they expressed the view that the overall impact of such a change would be positive.¹⁴¹

¹³⁵ Public hearing transcript, Brisbane, 13 May 2024, p 47.

¹³⁶ Public hearing transcript, Brisbane, 14 May 2024, p 11.

¹³⁷ Public hearing transcript, Brisbane, 14 May 2024, p 23.

¹³⁸ Submission 40.

¹³⁹ Submission 31.

¹⁴⁰ Submission 32.

¹⁴¹ See, for example, Brismark, submission 31.

Committee comment

The committee notes that a diverse mix of stakeholders indicated support for strengthening the Food and Grocery Code, including by making it mandatory and improving its enforcement. The committee also notes that the Interim Report of the Independent Review of that Code (discussed in section 2.1.5) has included such actions among its ‘firm’ recommendations.

The committee acknowledges that a mandatory code may come with higher compliance costs for different actors in the supply chain. Ultimately, strengthening the Food and Grocery Code would help to improve relationships between supermarkets and their suppliers, hold bad actors to account, and ensure Queensland’s growers receive a fair price for their produce.

Recommendation 1

The committee recommends that the Queensland Government support measures to strengthen the Food and Grocery Code of Conduct, including by making it mandatory and improving its enforcement.

4.2 Supporting growers and producers

Stakeholders suggested several ways in which the Queensland Government could provide targeted support producers.

4.2.1 Empowering growers to assert their legal rights

Some stakeholders suggested that the Queensland Government could support growers and suppliers by funding programs that offer education and training, including education about contracting arrangements and relevant industry codes. Providing this kind of training to retailers, suppliers and producers would improve compliance with regulatory requirements, foster good behaviour, and ultimately empower more vulnerable actors, such as growers, to assert their legal rights.

For example, Brismark submitted:

There is a need for investment in educational programs tailored to enhance the business skills and capabilities of independent fruit and vegetable retailers, enabling them to compete more effectively in the market.¹⁴²

Brismark went on to note that any changes to industry codes, such as the changes proposed to the Food and Grocery Code by the Independent Review (see section 2.1.5) would increase the need for education and training, to ensure that different actors in the supply chain are aware of their rights and obligations.¹⁴³

The need for education that empowers growers to assert their legal rights was also highlighted by evidence relating to the complex and confusing nature of the legal arrangements between supermarkets, suppliers and growers. As detailed in section 3.1.4.1, the complex nature of these arrangements contributes to growers’ uncertainty of their rights and how they can assert them.

Committee comment

The evidence received by the committee highlighted the complex and confusing nature of the legal arrangements that govern the relationship between supermarkets, suppliers and growers, as well as the relevant industry codes.

The committee acknowledges that some of this complexity may be unavoidable, as it stems from the nature of sectors such as horticulture where the volume, price and quality of products are seasonal and dependent on a wide range of factors. However, the committee is concerned that the complex

¹⁴² Submission 31, p 7.

¹⁴³ Submission 31, p 34.

nature of these arrangements can exacerbate power imbalances between supermarkets and suppliers, making it harder for Queensland's growers to assert their rights and protect their livelihoods.

Farmers have expressed first-hand to the committee, as a whole and individually as representatives of their electorates, the level of fear for retribution cast upon them by supermarkets and other actors within the industry, as well as the unethical and manipulative tactics used against them. Whilst the committee notes that representatives for the large supermarkets who appeared before the committee deny such allegations, the overwhelming collective voice of Queensland farmers cannot be simply discarded and left without action.

Providing price point comparisons along the supply chain is also considered an important action by the committee. Providing greater transparency of current pricing throughout the supply chain would empower farmers when negotiating at the farmgate, as well as empowering consumers to determine which supermarkets and wholesalers are providing the best reasonable prices and support for local industry.

This committee was formed by the Queensland Parliament to listen to the voice of all Queenslanders, and it is important that where jurisdiction allows, that practical legislative measures be applied. Farmers are well represented by peak bodies and associations; though it is the consideration of this committee that Queensland farmers require an established statutory office to support, represent, and advocate on their behalf.

Therefore, the committee recommends the Queensland Government take the necessary steps to establish an Office of the Queensland Farmers' Commissioner.

Recommendation 2

That the Queensland Government investigate the establishment of the Office of the Queensland Farmers' Commissioner to perform relevant functions such as, but not limited to:

- a) acting as a central point of contact for Queensland based agricultural and horticultural producers navigating industry standards, practices, imposed regulations, and liaison with peak body stakeholders
- b) publishing comparative data related to farmgate, wholesale, and supermarket price points
- c) requiring traders recognised under the Horticulture Code of Conduct (merchants and agents) to register with the Office of the Queensland Farmers' Commissioner when operating within Queensland; listing terms of trading on the Commissioner's website to uphold the Code, as well as publishing upheld breaches of traders against the Code
- d) administering mediation under the relevant industry codes
- e) possessing powers to lodge complaints and act on behalf of Queensland based suppliers in dispute with supermarkets and wholesalers via Code Arbiters; and make requests of the Independent Reviewer under the Food and Grocery Code
- f) possessing powers to submit complaints on behalf of Queensland based farmers to the Australian Competition and Consumer Commission
- g) reporting to the Government concerns of improper collusion, behaviours, and business practices adversely impacting Queensland farmers and subsequently Queensland consumers.

4.2.2 Supporting Queensland's dairy industry

Some stakeholders in the dairy industry suggested that government could support dairy producers by funding the development of a strategic plan for the industry.

Dairy Farmers Milk Cooperative (DFMC) explained that the process of developing a strategic plan, and its final product, would be of great value to the state's dairy industry, stating:

Dairy farmers, milk processors and industry bodies sitting down in the same room to have constructive dialogue on the future of the industry has been a great thing through the early stages of creating a steering committee for a Northern Dairy Strategic Plan...

We feel that the Queensland Government must take a role in the process to ensure there is a sustainable industry for farmers, consumers and those working the milk processing sector.¹⁴⁴

Committee comment

Given the importance of the dairy industry to Queensland's food security, and the particular challenges faced by dairy farmers in this state (which are discussed in section 2.2.2.3), the committee considers it of benefit for the government to engage with industry and discuss the development of a Northern Dairy Industry Strategic Plan.

Recommendation 3

That the Queensland Government engage with industry and discuss its role alongside industry in developing a Northern Dairy Industry Strategic Plan.

4.3 Promoting healthy competition

Some stakeholders suggested that the Queensland Government amend state-based laws and policies to promote healthy competition in the supermarket sector.

Some stakeholders also suggested specific changes relating to planning. For example, Metcash suggested that planning requirements be clarified to ensure that the impact of new developments on competition is considered when planning decisions are made. Its representatives suggested that, at present, impacts on competition are not routinely considered during decisions about rezoning land for retail use.¹⁴⁵ Luke Mackenzie, Manager of Government Relations at Metcash, explained:

The net community benefit test underlies everything the planning system does, because the planning system is about not only delivering development but also delivering development that communities and people want. What they want, we know, in this sector is more choice, more options, more competition. The Queensland town planning system at the moment does not take account at all, as part of the assessment for strategy where they map out new places for where retail goes or for spot rezonings, what the community wants in terms of its outcome. It simply looks at what is the population.¹⁴⁶

Australian United Retailers (FoodWorks) supported this proposal.¹⁴⁷

ALDI proposed that the Queensland Government could develop consistent, state-wide planning guidelines, similar to those that exist in NSW and Victoria. They suggested this would make the planning and approval process much easier to navigate, noting that at present, Queensland's local

¹⁴⁴ Submission 8, p 11.

¹⁴⁵ Public hearing transcript, Brisbane, 14 May 2024, pp 14, 15, 17, 19.

¹⁴⁶ Public hearing transcript, Brisbane, 14 May 2024, p 14.

¹⁴⁷ Wayne Mason, Manager, State Operations – Queensland, Australian United Retailers (FoodWorks), public hearing transcript, Brisbane, 14 May 2024, p 25.

government areas (LGAs) have varying requirements, making it difficult for ALDI to identify possible sites for new stores.¹⁴⁸

In particular, ALDI suggested that the Queensland Government could establish a consistent definition of 'small format supermarkets' to be used for planning purposes. This would allow local governments, via zoning, to more clearly and consistently identify sites that they consider appropriate for the development of small supermarkets, such as ALDI.¹⁴⁹

ALDI also suggested that changes to the regulation of trading hours could improve competition in the supermarket sector. Specifically, ALDI suggested that removing restrictions on Sunday trading in some regional areas (specifically, the Kingaroy LGA) would make it easier for small supermarkets to remain financially viable in such areas.¹⁵⁰

Committee comment

The committee notes the importance of ensuring that Queensland's planning laws and policies promote healthy competition within the supermarket sector. A more consistent, state-wide approach to some issues – such as the definition of 'small format supermarket' – may help to strengthen competition in this area. However, the committee acknowledges that local governments are often best placed to gauge whether certain types of development are appropriate in certain areas and will deliver benefits to the local community.

Similarly, while the committee acknowledges that changes to the state's trading hours could potentially improve the financial sustainability of some small and independent supermarkets, it also acknowledges that some local communities may oppose the changes suggested by certain stakeholders. As such, additional community consultation should always first be undertaken to assess whether changes would be appropriate in those areas.

Recommendation 4

That the Queensland Government reflect on statements provided by industry representatives to the committee and assess the viability of how planning guidelines could generate further competition in the supermarket sector, providing an expanded variety of product and price choice for Queensland consumers.

4.4 The role of regional freight subsidies

As noted in section 2.4.2.2, the Queensland Government assists certain regional and remote communities by subsidising the cost of freight for essential goods. It provides subsidies via two schemes: the Regional Freight Transport Services Contract and the Remote Communities Freight Assistance.

Independent retailers and some regional councils described freight subsidies as critical to the ability of local stores to offer groceries at affordable prices to consumers in regional and remote areas.

Committee comment

The committee acknowledges the concerns expressed by some stakeholders regarding the future of the Regional Freight Transport Services Contract.

¹⁴⁸ ALDI, response to question taken on notice at public hearing on 14 May 2024, 17 May 2024, p 1.

¹⁴⁹ ALDI, response to question taken on notice at public hearing on 14 May 2024, 17 May 2024, pp 1-2.

¹⁵⁰ ALDI, response to question taken on notice at public hearing on 14 May 2024, 17 May 2024, p 1.

However, the committee notes the advice provided by the Department of Transport and Main Roads, on its website, that it is currently implementing a new freight funding package for the local government areas of Balonne, Bulloo, Murweh, Paroo and Quilpie.¹⁵¹

The provision of additional information about the new freight funding packing being developed and implemented by that department would be welcomed by stakeholders.

Recommendation 5

That the Department of Transport and Main Roads ensure freight subsidy schemes continue to exist where necessary and viable considering the increased competition of freight services to particular regional and remote areas of Queensland.

4.5 Encouraging infrastructure investment in regional and remote areas

As discussed in section 2.2.2.2, communities living in regional and remote parts of Queensland, such as the Torres Strait, rely on long and complex supply chains. This increases the cost of food and groceries, and leaves this group more vulnerable to disruptions, including those caused by extreme weather and natural disasters.

The Queensland Government has already made notable investments towards relevant infrastructure in regional and remote areas. For example, the Queensland Transport and Roads Investment Program 2023-24 to 2026-27 includes:

- \$54.9 million towards the construction of a bridge on the Peninsula Developmental Road, at the Archer River Crossing
- \$40 million for the Torres Strait Islands Marine Infrastructure Program
- more than \$100 million for upgrades to the Flinders Highway
- \$46.7 million towards upgrading the floodway at Wyaga Creek on the Gore Highway (Millmerran – Goondiwindi section).¹⁵²

In 2024, the government also committed \$500 million for the development and progressive delivery of upgrades to priority road corridors to support the beef industry in Central Queensland. This forms part of a project co-funded by the federal government.¹⁵³

In noting the level of investment undertaken by the Queensland Government to ensure food supply, certain stakeholders advocated strongly for the continued investments in supply chain infrastructure in remote areas where needed. A particular example of such advocacy in relation to the Torres Strait:

Dalassa Yorkston, the Chief Executive Officer of the Torres Shire Council, told the committee that significant investments in the region’s critical infrastructure would be necessary to bring food and grocery prices down to a more reasonable level.¹⁵⁴

¹⁵¹ Department of Transport and Main Roads, ‘Remote community freight contracts’, <https://www.tmr.qld.gov.au/business-industry/transport-sectors/freight/remote-community-freight-contracts>.

¹⁵² Department of Transport and Main Roads, ‘Queensland Transport and Roads Investment Program 2023-24 to 2026-27 – Program highlight and maps’, <https://www.tmr.qld.gov.au/qtriponline/program-highlights>.

¹⁵³ Hon Bart Mellish, Minister for Transport and Main Roads and Minister for Digital Services, ‘\$500m committed to beef roads in Central Queensland’, Media statement, 13 March 2024, <https://statements.qld.gov.au/statements/99894>.

¹⁵⁴ Public hearing transcript, Brisbane, 3 May 2024, p 5.

Committee comment

The committee notes that the government has made significant investments in infrastructure across regional and remote areas over the last few years. The nature of weather events and unforeseen natural disasters often play a role in the need for continued infrastructure investment in order to maintain the delivery of food and grocery supply to regional and remote areas of Queensland.

Recommendation 6

That the Queensland Government continue to support and strengthen its record of delivering supply chain infrastructure in regional and remote Queensland, including in the Torres Strait and Northern Peninsula Area.

4.6 Educating consumers

Queensland's Office of Fair Trading provides consumer education in a variety of ways. These include:

- publishing a range of consumer resources, including information sheets, videos, and sample documents, on its website
- providing free hard copies of consumer resources, via mail, to Queenslanders who request them
- publishing consumer resources in several languages other than English, including Arabic, Chinese, Hindi, Japanese, Samoan and Vietnamese
- running an annual 'Buy Smart' competition that helps school-aged students to learn vital consumer skills
- providing tailored advice for Aboriginal and Torres Strait Islander consumers, and consumers with disabilities, on its website
- using social media channels, such as Facebook, to provide up-to-date information on fair trading and consumer rights to Queenslanders.¹⁵⁵

The evidence provided by some stakeholders suggests that Queensland Government could concentrate consumer education to include greater understanding in the benefits of purchasing non-premium produce, unit pricing, and consumer rights more generally.

Some stakeholders expressed concern that major supermarkets have trained consumers to expect 'perfect' produce, deterring them from seeking out 'imperfect' or 'ugly' products that may offer cost savings. For example, Bundaberg Regional Council reported:

Local growers have expressed to Council that one of the issues related to rising prices for fresh food are consumer expectations set by the supermarkets for perfect, blemish free produce.¹⁵⁶

The council suggested that changing consumer expectations, via education, would reduce wastage, increase supply, and ultimately lead to lower prices for consumers.¹⁵⁷

Other stakeholders told the committee that consumers were often uncertain about how to assert their rights, including how to make complaints when unit pricing is not displayed, or when they have

¹⁵⁵ Office of Fair Trading, 'Consumer rights and responsibilities', <https://www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams/consumer-advice-rights-and-responsibilities>; Office of Fair Trading, 'Consumer education and resources', <https://www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams/consumer-education-and-resources>.

¹⁵⁶ Submission 29, p 1.

¹⁵⁷ Submission 29, pp 1-2.

concerns about prices.¹⁵⁸ For example, the Indigenous Consumers Network emphasised the need for a clear and responsive complaints process to empower remote communities to make complaints about food prices.¹⁵⁹

The Queensland Consumers Association told the committee that education has an important role to play in ensuring that unit pricing is effective. They stated:

Consumer use of unit pricing could also be increased if there was more consumer education about what it is and how to use it. This is needed because research has shown that general usage increases when consumers are provided with educational information and new consumers (including migrants many of whom come from countries where unit pricing is not provided for packaged products) need to be made aware that it is provided in Australia and encouraged to use it.¹⁶⁰

Other submitters also suggested that improved consumer education could help Queensland's consumers to make better informed choices.¹⁶¹

Committee comment

The committee considers it essential that Queensland's consumers are empowered to assert their rights and to identify the products that offer them the best value for money. This is particularly important at present, given the impact that rising supermarket prices have had on consumers across the state, particularly in regional and remote areas.

The committee acknowledges the important work done by the Office of Fair Trading in this area. The committee encourages the Office of Fair Trading to work in collaboration with peak body organisations and associations such as Queensland Fruit and Vegetable Growers to ensure the promotion of important consumer education in an accessible and insightful manner that is available to Queenslanders across the state.

Recommendation 7

That the Queensland Government support the Office of Fair Trading to provide Queensland's consumers with education and information about:

- the benefits of purchasing so called 'ugly' or imperfect, non-premium produce
- how to make use of unit pricing and make complaints when it is missing or inadequate
- their consumer rights more generally.

Consumer education must be available and accessible to people across the state, including Aboriginal and Torres Strait Islander peoples, people living in regional and remote areas, people from culturally and linguistically diverse backgrounds, and people living with a disability.

4.7 Click and collect and home delivery services have provided consumers with an option of convenience that has become a popular choice for Queensland shoppers.

In a response given to a question on notice, Woolworths's Chief Commercial Officer, Paul Harker, stated that click and collect and home delivery services attributed for approximately ten percent of their market and continues to grow.¹⁶² Both Coles and Woolworths have increased their operations of

¹⁵⁸ Queensland Consumer Association, submission 17; Indigenous Consumers Network, submission 37.

¹⁵⁹ Submission 37, p 5.

¹⁶⁰ Submission 17, pp 4-5.

¹⁶¹ Robert Skelton MP, Member for Nicklin, submission 20, p 3.

¹⁶² Public hearing transcript, Brisbane, 13 May 2024, p 72.

the aforementioned services, whilst their next largest supermarket competitor ALDI informed the committee that such an innovation could not be met within their own business model without increasing prices on consumers.

Committee comment

The committee recognises that all industry sectors engage with modern technology to advance their operations and provide accessible and attractive services for consumers. Recent growth of market share via click and collect and home delivery services has catered for an element of the Queensland consumer base, and in doing so creates a competitive advantage for retailers willing and able to undertake such an investment.

The investment in such practices are not without cost and, as cited by ALDI, may present a negative impact for loyal consumers of a particular supermarket chain through the need to increase prices. For this consideration, the committee believes a greater inquiry into click and collect and home delivery services is required to further determine its impacts on competition within the sector.

Recommendation 8

That the relevant standing portfolio committee examines in greater detail the impact of click and collect and home delivery services on small and medium sized businesses competing within the supermarket sector.

Appendix A – Submitters

Sub #	Submitter
001	Desley Cowley
002	Michael McNeilly
003	Confidential
004	Western Downs Regional Council
005	Balloo Shire Council
006	Dairy Farmers Milk Co-operative
007	Australian Food and Grocery Council
008	Name Withheld
009	eastAUSmilk
010	Australian United Retailers
011	Mark Makin
012	Confidential
013	Philip and Donna Humphris
014	Name Withheld
015	Australian Macadamia Society Ltd
016	Darryl Stewart
017	Queensland Consumers Association
018	Michael Straubinger
019	Donna Allan - plus additional submission
020	Robert Skelton MP, Member for Nicklin
021	The Bundaberg and District Chamber of Commerce
022	Australian Meat Industry Council
023	Madonna Waugh
024	Corrine McMillan MP, Member for Mansfield
025	Desmond Deighton
026	Coles Group
027	Bundaberg Fruit and Vegetable Growers Limited
028	Health and Wellbeing Queensland
029	Bundaberg Regional Council
030	Sea Swift Pty Ltd
031	The Queensland Chamber of Fruit and Vegetable Industries Co-operative Limited
032	Queensland Council of Unions
033	Confidential

- 034 Robbie Katter MP, Member for Traeger
- 035 Queensland Beekeepers' Association Inc
- 036 ALDI
- 037 Indigenous Consumer Assistance Network
- 038 Business Council of Australia
- 039 Woolworths Group
- 040 Queensland Fruit and Vegetable Growers
- 041 Torres Shire Council
- 042 Adrian Tantari MP, Member for Hervey Bay
- 043 Torres Strait Regional Authority
- 044 Maritime Union of Australia
- 045 Name Withheld
- 046 The Shop Distributive and Allied Employees' Association (Queensland Branch)
- 047 Confidential
- 048 Australian Retailers Association
- 049 Jimmy Sullivan MP, Member for Stafford
- 050 Name Withheld
- 051 Bruce Jones
- 052 CHATO International Pty Ltd

Appendix B – Witnesses at public hearings

BUNDABERG – 22 April 2024

Bundaberg Regional Council

- Helen Blackburn, Mayor
- Tracey McPhee, Councillor

Bundaberg and District Chamber of Commerce

- Tim Sayre, President

Bundaberg Fruit and Vegetable Growers

- Bree Watson, Chief Executive Officer
- James Randall, Chair
- Tina McPherson, member
- James Hansen, member

Individuals appearing in private capacity

- Trevor Cross
- Judy Plath

CAIRNS – 23 April 2024

Torres Strait Regional Authority

- Vonda Malone, Chief Executive Officer

Individuals appearing in private capacity

- John Hartigan
- Christopher Zinn

Sea Swift

- Chris Pearce, Managing Director

Far North Queensland Regional Organisation of Council

- Anthony Archie, Executive Officer

Machans Beach Community Association

- Letitia Choppy, President

Meals on Wheels

- Chris Van Dorssen, General Manager

BRISBANE – 29 April 2024

Queensland Fruit & Vegetable Growers

- Rachel Chambers, Chief Executive Officer

Australian Macadamia Society Ltd

- Clare Hamilton-Bate, Chief Executive Officer

eastAUSmilk

- Joe Bradley, President
- Mike Smith, Government Relations Manager

Dairy Farmers Milk Co-operative

- Ross McInnes, South East Queensland Director
- Damien Tessman, Northern Regional Manager

BRISBANE – 3 May 2024

Torres Strait Shire Council

- Elsie Seriat OAM, Mayor
- Dalassa Yorkston, Chief Executive Officer

Health and Wellbeing Queensland

- Renae Earle, Senior Public Health Nutritionist
- Gemma Hodgetts, Deputy Chief Executive Officer
- Dr Simone Nalatu, Director, Equity and Communities

Queensland Consumers Association

- Ian Jarratt, Vice-President

Queensland Council of Unions

- Jacqueline King, General Secretary
- Nate Tosh, Legislation and Policy Officer

Brismark

- Andrew Young, Chief Executive Officer

BRISBANE – 13 May 2024

Coles Group Ltd

- David Brewster, Chief Legal and Safety Officer
- Adam Fitzgibbons, Head of Public Affairs

- Matt Swindells, Chief Operations and Sustainability Officer

Woolworths Group Ltd

- Paul Harker, Chief Commercial Officer
- Danny Baldwin, Queensland State Director of Operations

BRISBANE – 14 May 2024

ALDI

- Jordan Lack, Managing Director, National Buying

Metcash

- Roy Leisk, General Manager, Queensland
- Luke Mackenzie, Government Relations Manager, Metcash

White's Grocers (appearing with Metcash)

- Roz White, Owner and Operator

Australian United Retailers (FoodWorks)

- Wayne Mason, Manager, State Operations Queensland

Statement of Reservation

Statement of Reservations
LNP Members of the Supermarket Pricing Select Committee

Opposition Committee Members wish to highlight how critical the rising cost of living is as an issue for Queenslanders. Whilst the Opposition welcomes any action that will place downward pressure on Queenslanders' cost of living, Opposition committee members have serious concern the critical drivers of the Queensland cost of living crisis were excluded from examination in this inquiry, and wish to place them on record.

These critical drivers within the purview of the State Government that were excluded from the scope of this inquiry included:

- The impact of rising electricity prices on grocery costs, including Queensland experiencing the highest electricity price rises in the nation since Callide C went offline.
- The impact of skyrocketing insurance prices on small and family business, due to the Queensland Youth Crime Crisis.
- The impact of rising water costs on grocery costs, as well as a lack of water security, with the Government failing to build new dams and now tearing down the Paradise Dam.
- The impact of increased transport costs on grocery costs, due to the Queensland Government's failure to adequately invest in Queensland's road network.

The inquiry heard repeated concerns from witnesses regarding:

- increasing energy costs and unreliable electricity supply,
- increasing payroll tax,
- increasing land taxation,
- increasing labour costs,
- increasing transport costs,
- inadequate infrastructure at end of life and poorly maintained roads
- lack of compliance on planning approvals,
- increasing costs of food safety compliance,
- increasing Occupational Health and Safety costs

Despite these concerns the Parliament refused to expand the terms of reference to allow the committee to appropriately examine them.

Throughout the inquiry, it was evident a multifaceted investigation was required. It is disappointing the expanded scope put forward by the Opposition was rejected. Because of the lack of scope, the recommendations contained within this report are incredibly limited, due to the investigation of the costs of products in a silo. Given this, it is important to note the determinations and therefore the recommendations are one dimensional.

Whilst the Opposition believes the major supermarkets must absolutely be held to account for the role they play, this inquiry was purely about the costs at the checkout, not the cost to produce the product. This inquiry was lip service to farmers and primary producers. It neglected to look at the major costs that the state government has control over and there was no attempt to look at reducing cost to the farmer or primary producer.

The Opposition are also concerned by the limited timeframe for the inquiry and how this did not enable a broad range of primary producers from across Queensland to participate. The inquiry timeframe and terms of reference were very narrow for an issue that impacts every Queensland, more than it ever has.

It is also important to highlight there is Federal and State legislation and codes of conduct (i.e. Horticulture and Food and Grocery) that regulate and provide mechanisms for the protection of the buyer and the seller. Under the state jurisdiction are the *Sale of Goods Act* and the *Auctioneers and Agents Act*, yet during the inquiry's deliberations there were no strong calls for review of this legislation.

Opposition Members have concerns in relation to Recommendation number 2. This adds another layer to the existing state and federal laws, agencies and mechanisms. It is also premature given that Dr Craig Emerson's 2023-2024 Independent Review of the Food and Grocery Code (the Independent Review) will not report until 30th June 2024.

This inquiry had the opportunity to shine a light on key drivers of the cost of living crisis that the State has jurisdiction over. Had the scope actually included these factors, this committee process could have been productive and actually result in tangible outcomes to ease the pressure on Queensland families. The Opposition is disappointed this is a missed opportunity to achieve such an outcome.



Ann Leahy MP
Member for Warrego
Deputy Chair



Tony Perrett MP
Member for Gympie



Steve Minnikin MP
Member for Chatsworth