



Competition and Consumer (Price Inquiry— Supermarkets) Instrument 2024

The Australian Competition and Consumer Commission makes the following notifiable instrument.

Dated this 15 day of March 2024.

A handwritten signature in cursive script that reads 'Gina Cass-Gottlieb'.

Gina Cass-Gottlieb
Chair

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Part 1—Preliminary

1 Name

This instrument is the *Competition and Consumer (Price Inquiry—Supermarkets) Instrument 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument.	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Competition and Consumer Act 2010* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

inquiry has the meaning given by subsection 95A(1) of the Act.

Food and Grocery Code of Conduct means the code set out in Schedule 1 to the *Competition and Consumer (Industry Codes—Food and Grocery) Regulation 2015*.

groceries includes the following:

- (a) groceries within the meaning of the Food and Grocery Code of Conduct; and
- (b) raw materials that are to be processed into, or used in the manufacture of, items covered by paragraph (a).

price has the meaning given by subsection 95A(1) of the Act.

retailer has the meaning given by the Food and Grocery Code of Conduct.

Section 4

State or Territory authority has the meaning given by subsection 95A(1) of the Act.

supplier has the meaning given by the Food and Grocery Code of Conduct.

supply has the meaning given by subsection 95A(1) of the Act.

the Act means the *Competition and Consumer Act 2010*.

wholesaler has the meaning given by the Food and Grocery Code of Conduct.

Part 2—Price inquiry into the supply of groceries

5 Commission to hold an inquiry

- (1) Under subsection 95H(1) of the Act, the Commission is required to hold an inquiry into the markets for the supply of groceries. The inquiry is *not* to extend to any of the following:
 - (a) the supply of a good or service by a State or Territory authority; and
 - (b) reviewing the operation of any Australian law (other than the Act) relating to the supply of groceries, except as necessary to consider the matters set out in section 6; and
 - (c) reviewing the operation or scope of the Food and Grocery Code of Conduct, except as necessary to consider the matters set out in section 6.
- (2) For the purposes of subsection 95J(1), the inquiry is to be held in relation to goods and services that are groceries.
- (3) Under subsection 95J(2), the inquiry is not to be held in relation to the supply of goods and services of that description by a particular person or persons.

6 Directions on matters to be taken into consideration in the inquiry

Under subsection 95J(6) of the Act, the Commission is directed to take into consideration all of the following matters in holding the inquiry:

- (a) the structure of the markets for the supply of groceries by suppliers, wholesalers and retailers, including:
 - (i) the level and nature of competition at each of these levels of the markets; and
 - (ii) relationships between the parties at different levels of each of the markets (for example, relationships between wholesalers and retailers); and
 - (iii) the competitiveness of small and independent retailers, including those in regional and remote areas; and
 - (iv) the impact of technological change on each of the markets, including the impact of the growth of online shopping; and
- (b) the approach of suppliers, wholesalers and retailers to setting prices for groceries, including the use of data analytics in setting prices;

- (c) factors affecting the price of inputs along the supply chain for groceries, including:
 - (i) any impediments to the efficient availability of inputs along the supply chain; and
 - (ii) any impediments to the efficient pricing of inputs along the supply chain; and
 - (iii) any difference between the prices paid, and prices charged, by suppliers, wholesalers and retailers for groceries; and
- (d) non-price aspects of competition in the markets for groceries, including the impact of:
 - (i) loyalty programs; and
 - (ii) discounts offered by retailers for future purchases of groceries or other goods or services.

7 Directions as to holding of the inquiry

Under subsection 95J(6) of the Act, the Commission in holding the inquiry is directed to give to the Treasurer an interim report on the inquiry by no later than 31 August 2024.

8 Period for completing the inquiry

For the purposes of subsection 95K(1) of the Act, the inquiry is to be completed, and a report on the matter of inquiry given to the Treasurer, by no later than 28 February 2025.

9 Commencement of inquiry

The commencement date of the inquiry is 2 February 2024 at the office of the Commission, Level 27, 135 King Street, Sydney, NSW, 2000.