

Response to Food and Grocery Code of Conduct Review 2023–24 - Interim Report

To whom it may concern,

Please find enclosed my one-page response to the interim report, thank you for your consideration.

My name is David Horsley, I am an Australian citizen, a husband and a parent who has worked in support of the Education Sector for 25 years. I am also one of the 372,000 shareholders of Woolworths and the 430,000 shareholders of Coles. Due to prohibitive cost of Sydney housing, I invested family savings in supermarkets but I am concerned their profitability is at risk with the political witch-hunt on supermarkets threatening share prices, dividends and public trust in these brands. These supermarkets do not have the super profits of banks or iron ore, and they are not big tech companies that hide tax obligations. Combined Woolworths and Coles employ 335,000 people and have 26,000 suppliers.

I am concerned the federal government is scapegoating supermarkets on the cost of living to divert public attention from perceived mistakes about the impact of immigration on the housing crisis; the end of low and middle-income tax offset; and the failure of the Voice to Parliament referendum.

A cost-of-living crisis requires many parties to resolve, but the narrowness of review was a forgone conclusion with one-sided recommendations at the expense of supermarkets and consumers. A review should also consider whether taxes on business can be removed; efficiency grants implemented and whether a minimum price should be set for fresh food from suppliers, like the minimum wage.

Regarding 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.

Given supermarkets operate on low margins of profit, can the report focus on profits instead of revenue? Also both supermarkets and suppliers should be subject to the Code? The terminology of which party is 'subject' or 'covered' is accusatorial.

Regarding 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.

The Code should not provide a means for problem suppliers to force supermarkets to accept produce with a history of contamination or low quality. The Code should have compliance stipulations for both supermarkets and suppliers and should aim to dissuade populist political and media commentary.

Regarding 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).

Please consider '10% of turnover' should be based on profit, not revenue. Noting Woolworths' income in 2023 was less than 2% of revenue, a penalty of 10% revenue would make them insolvent.

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. This could be achieved by:

Supermarkets should also be able apply for compensation from problem parties.