

# CPSA



**COMBINED PENSIONERS &  
SUPERANNUANTS ASSOCIATION**

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## **Submission to the Senate Select Committee on Supermarket Prices**

February 2024

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## **Combined Pensioners and Superannuants Association of NSW**

Combined Pensioners and Superannuants Association of NSW Inc (CPSA) is a non-profit, nonparty-political membership association that promotes the rights and interests of pensioners of all ages and older people on low incomes. Founded in 1931, our aim is to improve the standard of living and well-being of CPSA's constituents.

Our services are free to all members of the public, regardless of association membership or affiliation. CPSA's core work is:

- Systemic advocacy on issues that impact our constituents, as identified through engagement and consultation.
- Providing information and referrals to the public through our information line and other communication channels.
- Publishing news, commentary and informational articles on our website that are circulated through a regular e-newsletter and monthly print publication, THE VOICE of Pensioners and Superannuants.

CPSA's local branches provide members with the opportunity to have a say in their local community, as well as shaping the policy and advocacy work of the organisation. Many of our membership branches are in regional areas and CPSA is proud to be a voice for our constituents across NSW.

CPSA receives funding support from the NSW Government Department of Communities & Justice under the Ageing Peaks program.

### **Contact**

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[Position statement](#)

Combined Pensioners and Superannuants Association of NSW Inc. (CPSA) welcomes the opportunity to make a submission to the Senate Select Committee on Supermarket Prices. CPSA wishes to highlight the severe impact that rising food and grocery prices have had on vulnerable Australians, including our constituents. In making this submission we aim to contextualise this harm within a broader conversation around inflation that is often used to excuse the opportunism of large corporations.

CPSA has serious concerns about the current state of the grocery retail sector, and the impact on our constituents in the form of high and rising prices, 'shrinkflation' and a lack of accessible and affordable alternatives to the two major supermarket chains.

Equally, CPSA is concerned that the two major supermarket chains have used the twin spectres of inflation and rising supply chain costs as opportunities for profiteering. Put simply, we argue that Coles and Woolworths have become drivers of inflation, increasing their profits during a time of hardship for most Australians. This has left their customers, especially vulnerable people, far worse off.

We note finally that many Australians, including many of our members, are on fixed incomes or lower wages that have not kept up with rising costs of living. This has been

exacerbated by rising food and grocery prices. These same people are least able to cut back on discretionary spending to manage cost of living pressures as they are already spending most of their income on essentials. Even if rising prices reflected legitimate increases in supply chain costs (a premise that we reject), vulnerable Australians would still require additional support to bear these costs.

We therefore argue that the responsibility lies with Government to investigate and regulate prices, and to support wage and welfare payment increases to mitigate the impact of rising costs of living on vulnerable Australians.

CPSA believes that the Committee's Terms of Reference appropriately address these issues and thanks the Committee for the opportunity to comment.

#### Recommendations

**Recommendation 1. CPSA recommends that the Australian Government enacts the recommendations from the Interim Economic Inclusion Advisory Committee's 2023-2024 Report to the Australian Government.**

**Recommendation 2. CPSA recommends that the Australian Government adopts policies that build resilience into grocery supply chains, to reduce the risk and impact of supply chain shocks, and thereby reduce the opportunities for supermarkets to profiteer from emergencies.**

**Recommendation 3. CPSA recommends that the Australian Government intervenes in line with Section 11 of the Reserve Bank Act to prevent interest rate rises from the Reserve Bank of Australia (RBA) during periods of so-called 'sellers' inflation', when price increases are driven by firms' desire to increase profits. Section 11 of the**

**Reserve Bank Act outlines the circumstances under which the Australian Government can determine the policy of the RBA.**

**Recommendation 4. CPSA recommends that the Australian Government review its own understanding and the RBA's understanding of inflationary pressures to consider the role of rising profits or so-called 'sellers' inflation' in causing inflation.**

**Recommendation 5. CPSA recommends that the Australian Government consider whether the RBA's approach to monetary policy is appropriate for addressing instances of so-called 'sellers' inflation'.**

**Recommendation 6: CPSA recommends that the Australian Government, along with the Australian Competition and Consumer Commission (ACCC), explore ways to regulate pricing processes to prevent instances of 'implicit price agreements' that can have the same impact on customers as explicit collusion.**

**Recommendation 7: CPSA recommends that the Australian Government introduces a higher tax rate on profits from a sudden windfall gain, known as a 'windfall profits tax'. This would discourage supermarket profiteering by reducing the actual profit gained from sudden windfall gains, and would redistribute any excessive profits to the public purse. In addition, it would encourage supermarkets to pass on a greater share of profits to consumers in the form of lower prices, rather than incur a higher tax rate from sudden increases to their profits.**

**Recommendation 8:** CPSA recommends that manufacturers be required to clearly indicate on packaging when a product has been reduced through ‘shrinkflation’, and that supermarkets be required to indicate this on product labels.

**Recommendation 9:** CPSA recommends that supermarkets be required to provide visually accessible pricing and dockets, including clearly and accessibly labelled per unit costs, consistency/standardisation between per unit costs, discount rates, non-discounted prices, and durations of sales. This information should also include clearly labelled dates of price changes (displaying what prices were set at previously and when, for example), and could also take the form of a graph displaying price changes over a set period e.g. 6 months.

**Recommendation 10:** CPSA recommends that brands owned by supermarkets but designed to look like non-supermarket-owned brands (so-called ‘phantom brands’) should be clearly labelled as supermarket-owned brands. This would allow consumers to make informed decisions about the goods that they are purchasing and the brands that they are supporting.

**Recommendation 11:** CPSA recommends that customer support staffing minimums should be mandated for supermarkets, and that a number of traditional (non-self-service) checkouts be required to support customers who wish to avoid self-service for any reason.

**Recommendation 12: CPSA recommends that the Australian Government, ACCC and/or the Office of the Australian Information Commissioner (OAIC) investigate the use of membership and loyalty programs by the two major supermarket chains, including the use of customer data and the impact of these programs on market concentration.**

**Recommendation 13: CPSA recommends that the Australian Government examines anti-price gouging laws in place overseas and implements similar laws in Australia.**

**Recommendation 14: CPSA recommends that the Australian Government formally recognises that food and groceries are essential goods and implements a mechanism for price caps accordingly to prevent profiteering and the exploitation of customers.**

**Recommendation 15: CPSA recommends that the ACCC be empowered to investigate prices without being directed by Government to encourage firms to operate at a high standard to avoid any potential wrongdoing or perception thereof.**

**Recommendation 16: CPSA recommends that State and Federal Governments explore policies to implement buffer stock systems in commodity markets that are at higher risk of causing supply chain issues or cost shocks, that could in turn become inciting events for instances of 'sellers' inflation'. Buffer stock systems retain a reserve of certain commodities from commodity markets to be used during periods of supply shortages or other unforeseen circumstances.**

**Recommendation 17: CPSA recommends that the Australian Government accepts Recommendation 2 of the ACCC Perishable Agricultural Goods Inquiry, that “An economy-wide prohibition on unfair trading practices should be introduced to the ACL [Australian Competition Law]”, and that unfair trading practices be defined broadly in the ACL to include instances of price gouging.**

**Recommendation 18: CPSA recommends that an official Australian poverty line be set to allow for consistent measurement and that data be regularly collected so that trends can be easily identified.**

**Recommendation 19: CPSA recommends that the Economic Inclusion Advisory Panel considers the adequacy of income support payments and their indexation to ensure that payments keep up with poverty lines and maintain purchasing power.**

Comments in response to the Committee’s terms of reference

- a. *the effect of market concentration and the exercise of corporate power on the price of food and groceries;*

CPSA argues that the two major supermarket chains have used their market power to raise prices and their profit margins. This has caused vulnerable Australians to suffer. To understand how this has occurred, some context is required.

The sharp increases in grocery prices over the past few years are well documented. The Australian Bureau of Statistics (ABS) noted a 4.8% rise in the price of food and non-alcoholic beverages in the year to September 2023<sup>1</sup>, on top of a 9% increase over the year

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<sup>1</sup> <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>



before<sup>2</sup>. Both major supermarkets have attributed these price rises to rising supply chain costs, including wholesale prices<sup>3</sup>. This explanation overlooks their own market power and their ability to set prices over and above the level required to recoup costs and maintain profit margins.

In a recently published study of inflation during emergencies, Isabella Weber and Evan Wasner<sup>4</sup> demonstrate that firms with market power are likely to raise prices if they believe their competitors will do the same. This is referred to as ‘sellers’ inflation’. Weber and Wasner also state that:

“Publicly reported supply-chain bottlenecks and cost shocks can also serve to create legitimacy for price hikes and create acceptance on the part of consumers to pay higher prices”<sup>5</sup>.

In other words, if consumers have been exposed to public discourses of economic instability and ‘hard times’ they will be more likely to expect price increases, and less likely to scrutinise these increases when they arrive. This allows firms to pass off higher prices as a product of ‘legitimate’ costs. This reflects data published recently by The Australia Institute Centre for Future Work, which demonstrated that:

“historically high profits have accounted for a disproportionate share of the initial rise of economy-wide prices in Australia (and many other countries) since the pandemic. This

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<sup>2</sup> <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/sep-quarter-2022>

<sup>3</sup> <https://www.theguardian.com/australia-news/2024/jan/23/accc-supermarket-price-gouging-inquiry-grocery-prices-woolworths-coles>

<sup>4</sup> Weber, I. M. and Wasner, E., 2023, “Seller’s inflation, profits and conflict: why can large firms hike prices during an emergency?” in *Review of Keynesian Economics*, vol. 11, No. 2, pp. 183-213.

<sup>5</sup> Weber and Wasner, 2023, p. 186.

confirms that Australian corporations had power to drive up their prices much more than their costs – and this, by definition, constitutes inflation.”<sup>6</sup>

Weber and Wasner argue that firms have little incentive to lower prices, as doing so may cause competitors to undercut prices in response and spark a price war that leaves all competitors with smaller margins. The two major supermarkets can therefore be understood to be operating under implicit pricing agreements that lead to rising prices in times of emergency and keep prices high when emergency conditions have subsided.

This challenges the orthodox view of inflation that the Committee will likely hear elsewhere, which sees prices as a negotiation between supply and demand, and in which firms’ price setting decisions are simply a response to macroeconomic factors.

Holding with Weber and Wasner’s analysis, current Reserve Bank policies which aim to control inflation by reducing demand via raised interest rates, can act as ‘publicly reported cost shocks’ that condition consumers to prepare for price increases. This provides cover for the two major supermarket chains to raise prices higher than would be required to cover costs, which allows them to boost their profit margins.

CPSA argues that in the face of such market power and profiteering from Coles and Woolworths, Government must intervene to regulate price increases and support consumers through wage and welfare payment increases.

The market power of the two major supermarket chains is reflected in the experience of CPSA’s members. In a recent survey of our constituents, none of the respondents stated that they were able to complete a regular grocery shop without going to either Coles or Woolworths for some key items. In addition, only 19% of respondents said that they were able to find many of their groceries for lower prices elsewhere.

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<sup>6</sup> Stanford J., Denniss R., Grudnoff M., Jericho G., Richardson D. and Saunders M., 2023, “Profit-Price Inflation: Theory, International Evidence, and Policy Implications” *The Australia Institute Centre for Future Work*, p. 50.

Many of our respondents also indicated a growing scepticism over the major supermarket chains' explanations for price increases. One respondent stated that they:

“would like the supermarkets to openly justify why there has to be a price increase on any item. Show the initial purchase price and the current retail price, and give a breakdown of where the profit is going.”<sup>7</sup>

Another respondent demonstrated frustration with the broader state of the food and grocery industry, stating that: “Australia is the land of the duopoly and government does absolutely nothing to control them.”

This scepticism is, however, difficult to translate into actual consumer pressure on the two major supermarket chains, as there are often no real alternatives available to customers, especially those in regional areas.

CPSA notes that the Australian Competition and Consumer Commission (ACCC) has begun its investigation into supermarket pricing. We look forward to seeing the ACCC's conclusions.

**Recommendation 1. CPSA recommends that the Australian Government enacts the recommendations from the Interim Economic Inclusion Advisory Committee's 2023-2024 Report to the Australian Government.**

**Recommendation 2. CPSA recommends that the Australian Government adopts policies that build resilience into grocery supply chains, to reduce the risk and impact**

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<sup>7</sup> Survey respondent, edited for clarity.

of supply chain shocks, and thereby reduce the opportunities for supermarkets to profiteer from emergencies.

**Recommendation 3.** CPSA recommends that the Australian Government intervenes in line with Section 11 of the Reserve Bank Act to prevent interest rate rises from the Reserve Bank during periods of so-called ‘sellers’ inflation’.

**Recommendation 4.** CPSA recommends that the Australian Government review its own understanding and the RBA’s understanding of inflationary pressures to consider the role of rising profits or so-called ‘sellers’ inflation’ in causing inflation.

**Recommendation 5.** CPSA recommends that the Australian Government consider whether the RBA’s approach to monetary policy is appropriate for addressing instances of ‘sellers’ inflation’.

*b. the pattern of price setting between the two major supermarket chains;*

As discussed in response to term a, the two major supermarket chains can be understood to be operating under implicit pricing agreements as they are disincentivised from directly lowering prices and have a shared interest in raising prices in response to supply bottlenecks and cost shocks. This was reflected in some of the responses to our survey, with one respondent stating: “I shop between WW [Woolworths] Coles and Aldi, not a lot of difference between them in price but a difference in the products they sell.”<sup>8</sup>

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<sup>8</sup> Survey respondent.

Another respondent suggested that, even when price differences are observable, there are other factors such as travel costs and time that limit the capacity for customers to shop around for lower prices. They stated: “add the cost of using our vehicle to go to other stores and the real cost of the shop is greater than buying from one location.”<sup>9</sup> This is especially true for customers in rural and regional areas where there may only be one supermarket in the vicinity.

CPSA is also concerned that the price setting practices of Coles and Woolworths have a flow on effect to other supermarket prices, leading to higher prices across the entire sector. We note that the market power of the two major supermarkets creates what Weber and Wasner call “price leadership.... an established norm that other firms follow the leadership of the most powerful firm in a market”<sup>10</sup>. As one respondent noted: “Aldi prices are also increasing. Because they just need to stay cheaper than Woolworths or Coles, their prices are going up commensurately”<sup>11</sup>.

These responses demonstrate that the food and grocery sector is currently too concentrated to provide any downward pressure on prices, especially in rural and regional areas where a single supermarket may have an effective monopoly on the sale of food and groceries in that community. This leaves customers significantly worse off, as they are forced to accept whatever price rises the supermarket chooses without having the freedom to choose different products or to ‘vote with their dollar’ if they feel that prices are unreasonable. As one respondent noted, the ‘choice’ available to many customers is “choosing not to buy an item: either waiting until it’s cheaper or just foregoing it altogether”<sup>12</sup>. For many essential items or purchases that cannot be deferred, even this choice is non-existent.

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<sup>9</sup> Survey respondent.

<sup>10</sup> Weber and Wasner, 2023, p. 189.

<sup>11</sup> Survey respondent, edited for clarity.

<sup>12</sup> Survey respondent, punctuation added for clarity.

**Recommendation 6: CPSA recommends that the Australian Government, along with the ACCC, explore ways to regulate pricing processes to prevent instances of ‘implicit price agreements’ that can have the same impact on customers as explicit collusion.**

*c. rising supermarket profits and the large increase in price of essential items;*

CPSA notes that the two major supermarket chains have enjoyed much higher profit margins in Australia than similar firms have achieved in overseas markets where there is greater competition. In a Guardian report from July 2023, Guardian Australia’s Senior Business Reporter Jonathan Barrett noted that profit margins for the two major supermarket chains were significantly higher than major UK chains<sup>13</sup>.

While there have been some price decreases<sup>14</sup> more recently in the face of growing public pressure and numerous price investigations (including this one), this suggests two things. First, the major supermarket chains have had room to move on prices, but that there has been insufficient market pressure to achieve this. Second, that the threat of intervention by the ACCC and the Australian Government is clearly an effective way to pressure the two major supermarket chains to pass on savings to consumers.

CPSA is concerned that the rising prices of many essential items has had not only economic impacts on our constituents, but also psychological impacts. In response to our survey on cost of living, 87% of respondents said that they had experienced financial stress

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<sup>13</sup> <https://www.theguardian.com/australia-news/2023/jul/27/australian-supermarket-profits-rise-woolworths-coles>

<sup>14</sup> <https://www.afr.com/policy/economy/falling-grocery-prices-undercut-labor-s-grocery-crackdown-20240201-p5f1kv>

in the past 6 months. One respondent stated: “I am worried sick”<sup>15</sup>, while another noted “most pensioners cannot save any money for unexpected expenses”<sup>16</sup>.

Health impacts on our members are also a serious concern. Many of CPISA’s constituents have had to change their diets due to rising grocery prices and other cost of living pressures. We have received responses about people cutting out meat, cheese and in some cases, fruits and vegetables from their diets, or skipping meals altogether in order to keep prices down. One respondent told us: “I rarely buy meat and if I buy vegetables I get frozen”<sup>17</sup>, while another respondent said that “I have had to live on just the basics cutting out fruits, vegetables and meat”<sup>18</sup>. This appeared to be a common occurrence among our respondents. Another stated that:

“We have had to reduce our fortnightly spend and concentrate on specials that are mainly junk food. Our diet has changed in keeping with what we can afford. We now have one or two meals per day instead of three. We cannot afford to buy red meat. When combined with the cost of utilities, petrol etc we struggle to keep cool/warm and cannot go out easily”<sup>19</sup>.

Given the older age of most of our constituents, these forced dietary changes are a major concern for us.

In a study of changing eating behaviours among older people, Drenowski and Shultz argue that:

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<sup>15</sup> Survey respondent.

<sup>16</sup> Survey respondent, edited for clarity.

<sup>17</sup> Survey respondent, edited for clarity.

<sup>18</sup> Survey respondent, edited for clarity.

<sup>19</sup> Survey respondent.

“lower food intake among the elderly has been associated with lower intakes of calcium, iron, zinc, B vitamins and vitamin E. Low energy intakes or low nutritional density of the diet may increase the risk of diet-related illnesses and so pose a health problem.”<sup>20</sup>

Likewise, the Aged Care Quality and Safety Commission states that: “the consequences of poor nutrition are significant and often irreversible for older people.”<sup>21</sup> CPSA therefore argues that large increases in prices of essential items are a particular risk for our constituents, and one that requires special attention from the Committee.

CPSA argues that the two major supermarket chains have an ethical responsibility to consumers as providers of essential goods. There is a recognition in Australia that other providers of essential goods and services such as energy companies cannot simply act with impunity, but must be strictly regulated to protect consumers and to ensure a fair provision of essential goods and services. Regulation is therefore appropriate in such sectors where there is limited competition or choice for consumers, and the guarantee of these essential goods and services is a dual responsibility of governments and providers.

**Recommendation 7: CPSA recommends that the Australian Government introduces a higher tax rate on profits from a sudden windfall gain, known as a ‘windfall profits tax’. This would discourage supermarket profiteering by reducing the actual profit gained from sudden windfall gains, and would redistribute any excessive profits to the public purse. In addition, it would encourage supermarkets to pass on a greater share of**

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<sup>20</sup> Drenowski, A and Shultz, J M, 2001, “Impact of aging on eating behaviors, food choices, nutrition, and health status”, in *The Journal of Nutrition, Health and Aging*, 5 (2) pp. 75-79

<sup>21</sup> <https://www.agedcarequality.gov.au/providers/food-nutrition-dining/why-meals-matter>



**profits to consumers in the form of lower prices, rather than incur a higher tax rate from sudden increases to their profits.**

*d. the prevalence of opportunistic pricing, price mark-ups and discounts that are not discounts;*

In a recent case, Coles was found to have raised the price of 20 products during a promotional period in which prices had previously been advertised as being “locked” for the duration of the promotion. This was reported to consumer advocacy group CHOICE who in turn complained to the ACCC<sup>22</sup>. CPSA understands that there were no penalties issued to Coles beyond a requirement that they refund affected customers with proof of purchase. Given that many customers likely would have purchased these items in-store, they would not have received the automatic reimbursement afforded to online customers or Flybuys members. It is likely then that many customers have not yet been refunded and that Coles has seen no meaningful consequence for this action.

CPSA is particularly concerned that instances such as this go largely unpunished, especially as our constituents may face barriers to shopping online or to accessing available information relating to opportunities for refunds. As such, they are at greater risk of missing out on reimbursement in these situations. CPSA argues that there should be mandatory penalties put in place for these cases to ensure the highest standard of compliance and to protect customers who may otherwise be less able to seek a refund.

A response from one of our constituents indicated that they had encountered a similar occurrence. They stated that: “supermarkets like Coles advertise a certain product for 2

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<sup>22</sup> <https://www.choice.com.au/shopping/everyday-shopping/supermarkets/articles/coles-caught-red-handed-raising-locked-prices>

weeks for half price... then 2<sup>nd</sup> week of sale price has gone up”<sup>23</sup>. Another respondent indicated that the major supermarkets would raise prices ahead of a special to disguise price hikes or diminish the actual discount offered. Discussing Coles’ ‘Dropped and Locked’ campaign, they stated that:

“[Coles long life milk] stayed at \$1:30 for a long time until the gouging started all of a sudden price down and locked in at \$1.60. I’m buying the same cat food for at least 7 years [for] \$5.00 for 6 small tins, all of a sudden price drop and locked in at \$5.70”<sup>24</sup>.

This practice has also been in use by Woolworths as reported by the Guardian<sup>25</sup>. In a report from June 2023, Guardian Australia’s senior business reporter Jonathan Barrett notes that Woolworths has frequently raised the price of instant coffee before putting it on special to show a greater discount figure.

Alongside these instances of misleading discounts, CPSA also received a response from a constituent who suspected that the two major supermarket chains used other techniques to drive up sales of certain products. The respondent stated that:

“Rarely is every choice of a product available all the time. One variety, generally the cheaper option, is always sold out enforcing the purchase of the more expensive item in the full knowledge that the customer is unlikely to defer the purchase. This occurs with unpopular products where there would not be overwhelming demand”<sup>26</sup>.

While we recognise that such an occurrence may be coincidental, we note also that this may also constitute anti-competitive behaviour if found to be deliberate.

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<sup>23</sup> Survey respondent, edited for clarity.

<sup>24</sup> Survey respondent, edited for clarity.

<sup>25</sup> <https://www.theguardian.com/business/2023/jun/11/what-the-price-of-nescafe-at-woolworths-tells-us-about-supermarket-promotion-tactics>

<sup>26</sup> Survey respondent.

**Recommendation 8: CPSA recommends that manufacturers be required to clearly indicate on packaging when a product has been reduced through ‘shrinkflation’, and that supermarkets be required to indicate this on product labels.**

**Recommendation 9: CPSA recommends that supermarkets be required to provide visually accessible pricing and dockets, including clearly and accessibly labelled per unit costs, consistency/standardisation between per unit costs, discount rates, non-discounted prices, and durations of sales. This information should also include clearly labelled dates of price changes (displaying what prices were set at previously and when, for example), and could also take the form of a graph displaying price changes over a set period e.g. 6 months.**

*e. the contribution of home brand products to the concentration of corporate power;*

CPSA is concerned that rising food and grocery prices are forcing customers to switch to cheaper home brand products, thereby leading to further entrenchment of market power by the two major supermarket chains. In a survey of our constituents, CPSA found that 40% of respondents said that they purchased home brand Coles or Woolworths products because of the cheaper price. In response to another of our surveys, one person stated:

“I think there is less brand competition because many brands are being replaced by ‘Home Brands’. I try not to purchase ‘Home Brands’ on principle but that is becoming more difficult due to limited choice and price difference.”<sup>27</sup>

As previously mentioned, this indicates that the cost of living crisis both reinforces and is reinforced by the market concentration of the food and grocery sector. In other words, the lack of available alternatives to the two major supermarket chains allows them to raise prices without risk of losing market share, which in turn limits the ability of customers to afford to choose non-home brand products or to shop at speciality retailers, thereby further entrenching the market power of the two major chains.

CPSA is also concerned that many supermarket-owned brands are not clearly labelled as such, preventing customers from being able to accurately decide whether they want to avoid such brands and products. CHOICE refers to these as ‘phantom brands’<sup>28</sup>. CPSA argues that these phantom brands should be clearly labelled as supermarket-owned, so that customers are able to actively decide which brands they want to support with their purchasing power.

**Recommendation 10: CPSA recommends that ‘phantom brands’ should be clearly labelled as supermarket-owned brands.**

*f. the use of technology and automation to extract cost-savings from consumers and employees;*

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<sup>27</sup> Survey respondent, edited for punctuation and spelling.

<sup>28</sup> <https://www.choice.com.au/consumers-and-data/data-collection-and-use/how-your-data-is-used/articles/facial-recognition-scorecard>

CPSA is concerned that the switch to self-service checkouts limits the opportunities for customers to query pricing errors and increases the likelihood that customers may be overcharged or incorrectly charged for their purchases. We also note that these interfaces can be difficult to navigate for some customers who may be less familiar or comfortable with technology, combined with the fast pace with which customers are expected to move through self-service checkouts can cause stress and anxiety for many people.

CPSA also notes that many of our constituents have privacy concerns and are not comfortable with the added surveillance that comes with automation. We note that many self-service checkouts have numerous cameras pointed at the customer from several different angles. Given the possibility that these cameras can capture sensitive information such as card numbers, CPSA believes that there needs to be far greater transparency and oversight in the collection and use of this information. We argue also that there needs to be an option for customers to opt out of this process without losing the capacity to do their grocery shopping.

These added surveillance measures are particularly concerning to us, given the capacity for this surveillance to be coupled with facial recognition technology without the awareness or consent from customers. CPSA notes that Bunnings and Kmart were investigated by the Office of the Australian Information Commissioner (OAIC) over their use of facial recognition technology in 2022<sup>29</sup>. While Coles and Woolworths have stated that they have no plans to use facial recognition technology according to CHOICE<sup>30</sup>, CPSA argues that

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<sup>29</sup> <https://www.oaic.gov.au/newsroom/oaic-opens-investigations-into-bunnings-and-kmart>

<sup>30</sup> <https://www.choice.com.au/consumers-and-data/data-collection-and-use/how-your-data-is-used/articles/facial-recognition-scorecard>

there should be stronger enforcement mechanisms in place to ensure that this remains the case.

CPSA notes that the switch to self-service checkouts represents a decrease in customer support services. We argue that customers should be compensated for this reduction in support by passing any cost savings on in the form of price reductions.

CPSA is also concerned that cost of living pressures are driving more customers to sign up for rewards and membership programs in order to access exclusive specials or deals to make their grocery shopping more affordable. This entrenches the already outsized market power of the two major supermarket chains as smaller independent retailers are unable to compete in this space. In addition, customers are faced with a choice to either sign over their data with no way of knowing how it will be used, or pay higher prices for their groceries at a time when many people are struggling. In practice, lower income customers do not have the luxury of choice, as many of the discounts offered by membership programs are on essential items.

**Recommendation 11: CPSA recommends that customer support staffing minimums should be mandated for supermarkets, and that a number of traditional (non-self-service) checkouts be required to support customers who wish to avoid self-service for any reason.**

**Recommendation 12: CPSA recommends that the Australian Government, ACCC and/or the Office of the Australian Information Commissioner investigate the use of membership and loyalty programs by the two major supermarket chains, including the use of customer data and the impact of these programs on market concentration.**

*g. improvements to the regulatory framework to deliver lower prices for food and groceries;*

Despite the many apparent cases of price gouging reported by our constituents and in the media, CPSA notes that such price gouging practices are not illegal and are therefore not enforceable by the ACCC. We argue that this demonstrates a failing of the regulatory and legislative framework. Governments have abrogated responsibility over fair pricing and have instead expected the market to right itself. The current state of the food and grocery sector, including the outsized market power of the two major supermarket chains, clearly serves as evidence for the inadequacy of this approach.

CPSA notes too that anti-price gouging laws exist in several other countries and in 37 US states<sup>31</sup>. We argue that State and Federal Governments should examine these laws and introduce comparable legislation in Australia.

CPSA argues that food and groceries are essential goods and should therefore be treated as such by governments. Other markets for essential goods, such as electricity, are independently regulated, and include price caps to prevent profiteering and the exploitation of customers. We argue therefore that similar caps should be introduced for a range of food and grocery items.

CPSA notes that the ACCC has recently been directed by the Australian Government to conduct an inquiry into the supermarket sector. While we welcome this inquiry, we also suggest that the ACCC could be empowered to investigate prices without being directed by

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<sup>31</sup> <https://www.ncsl.org/financial-services/price-gouging-state-statutes>

the Government. This would encourage Coles and Woolworths to operate at a high standard to avoid any potential wrongdoing or perception thereof.

We note also that the current regulatory framework is insufficient to insulate against supply chain shortages or cost shocks that can act as the inciting event for instances of sellers' inflation. Weber and Wasner argue that 'buffer stock systems' in commodity markets can dampen the impact of price fluctuations and can insulate against short-term supply shortages<sup>32</sup>. These systems ensure that there is a reserve of critical commodities held aside from commodity markets. These reserves can be used to supplement commodity stocks in the event of supply shortages or other unforeseen events. CPSA suggests that such measures could be introduced in Australia, and recommends that State and Federal Governments explore policies to achieve this.

Finally, CPSA is concerned that the current market concentration of the food and grocery sector facilitates implicit price agreements between the two major supermarket chains. While this is not explicit collusion and is therefore not enforceable by the ACCC, they can nonetheless have the same pricing outcomes for consumers. We therefore recommend that the Australian Government, along with the ACCC, look into ways to regulate pricing processes to prevent these implicit agreements.

**Recommendation 13: CPSA recommends that the Australian Government examines anti-price gouging laws in place overseas and implements similar laws in Australia.**

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<sup>32</sup> Weber and Wasner, 2023.



**Recommendation 14: CPSA recommends that the Australian Government formally recognises that food and groceries are essential goods and implements a mechanism for price caps accordingly to prevent profiteering and the exploitation of customers.**

**Recommendation 15: CPSA recommends that the ACCC be empowered to investigate prices without being directed by Government to encourage firms to operate at a high standard to avoid any potential wrongdoing or perception thereof.**

**Recommendation 16: CPSA recommends that State and Federal Governments explore policies to implement buffer stock systems in commodity markets that are at higher risk of causing supply chain issues or cost shocks, that could in turn become inciting events for instances of ‘sellers’ inflation’.**

*h. frameworks to protect suppliers when interacting with the major supermarkets;*

CPSA has no comment but strongly supports this term of reference.

*i. the role of multinational food companies in price inflation; and*

CPSA argues that, while the price setting behaviour of the two major supermarket chains likely constitutes sellers’ inflation, this does not mean that they are the only firms within the food and grocery supply chain engaging in this process. We note that the ACCC’s Perishable Agricultural Goods Inquiry published in 2020, found numerous instances of market monopsonies (monopoly buying power) within the agricultural goods sector. We note that, at

the time of writing (January 2024), the Australian Government has not released a full response to the ACCC's inquiry. In particular, Australian Government is yet to respond<sup>33</sup> to the ACCC's recommendation that "An economy-wide prohibition on unfair trading practices should be introduced to the ACL [Australian Competition Law]"<sup>34</sup>.

CPSA recommends that the Australian Government accepts the ACCC's recommendation, and that 'unfair trading practices' be defined broadly in the ACL to include instances of price gouging.

**Recommendation 17: CPSA recommends that the Australian Government accepts Recommendation 2 of the ACCC Perishable Agricultural Goods Inquiry, that "An economy-wide prohibition on unfair trading practices should be introduced to the ACL [Australian Competition Law]", and that unfair trading practices be defined broadly in the ACL to include instances of price gouging.**

*j. any other related matters.*

This inquiry, and the broader cost of living crisis in which it is taking place, highlights the total inadequacy of the current state of income support services in Australia. CPSA argues that the failure to properly address the impact of these circumstances on vulnerable Australians stems from both a failure of political will and a failure of understanding about the nature of poverty and income insecurity.

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<sup>33</sup> The Treasury released a consultation statement in August 2023 that includes the ACCC's recommendation, but is yet to state a position.

<sup>34</sup> <https://www.accc.gov.au/system/files/Perishable%20Agricultural%20Goods%20Inquiry%20-%20Final%20Report%20-%20December%202020.pdf> p. xvii.

**Recommendation 18: CPSA recommends that an official Australian poverty line be set to allow for consistent measurement and that data be regularly collected so that trends can be easily identified.**

**Recommendation 19: CPSA recommends that the Economic Inclusion Advisory Panel considers the adequacy of income support payments and their indexation to ensure that payments keep up with poverty lines and maintain purchasing power.**

[Further comment](#)

CPSA thanks the Committee for the opportunity to make comment on these important issues. While we recognize that many of the factors surrounding these issues may be beyond the Committee's scope, we also note that the Committee has an important role to play alongside the other investigations that have been announced and are taking place. CPSA wishes to reiterate the impact that these issues have on our constituents and on vulnerable people. We also wish to emphasise the broader role that the two major supermarket chains have in causing and perpetuating inflation, and the need for the Australian Government to understand this role in their approach to managing inflation.

CPSA is available to engage further on these issues.