

SPAR AUSTRALIA LIMITED

ACN 102 281 167 – ABN 69 102 281 167

30 FOX RD, ACACIA RIDGE, QLD, 4110
LOCKED BAG 30, ACACIA RIDGE, QLD, 4110

TEL. +61 7 3715 3000
WEB. www.spar.com.au

Recommendations: Enhancing Competition in the Supermarket Sector

Introduction: The Australian supermarket sector is pivotal to the nation's economy, providing essential goods and services to consumers. To cultivate a competitive and equitable marketplace that favours consumers and nurtures small businesses, it's crucial to enact measures promoting transparency, innovation, and fair market access.

Recommendation 1: Implement a Mandatory Code of Conduct Establishing a mandatory code of conduct is imperative to govern the behaviour of major retailers with sales exceeding \$1 billion, as well as suppliers dealing with smaller retailers and wholesaler-supplied stores within a group. Key provisions of this code should include:

- **Fair Pricing:** Retailers must refrain from engaging in predatory pricing strategies aimed at undermining competitors. Suppliers should adopt transparent and non-discriminatory pricing structures to foster fair competition.
- **Payment Terms:** The code should specify fair and reasonable payment terms for suppliers, ensuring timely and predictable payments to sustain the financial stability of all parties involved.
- **Dispute Resolution:** Effective mechanisms for resolving disputes between retailers and suppliers should be established, providing a fair and impartial forum for conflict resolution.
- **Transparency:** Retailers and suppliers should be mandated to disclose pertinent information regarding sourcing practices, product quality, and marketing strategies. This transparency empowers consumers to make informed decisions and fosters trust within the marketplace. Additionally, provisions tailored to market share by postcode should be included to ensure inclusivity and fairness.

Recommendation 2: Prohibit Unfair Practices To safeguard competition and consumer welfare, retailers and suppliers must be prohibited from engaging in unfair practices, including:

- **Predatory Pricing:** Retailers must refrain from using predatory pricing tactics to drive competitors out of the market. Similarly, suppliers should avoid price discrimination and unfair pricing practices.
- **Unfair Terms and Conditions:** Retailers and suppliers should not impose unjust or onerous terms and conditions on their counterparts, such as exclusivity agreements or unjustified price increases.
- **Discriminatory Practices:** Discrimination based on size, scale, or market position should be strictly prohibited. All market participants must be treated fairly and without prejudice, irrespective of their bargaining power or market share. Additionally, any mergers, acquisitions, or store sales involving major retailers should

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undergo rigorous scrutiny to evaluate their potential impact on competition, consumer welfare, and the competitiveness of wholesaler-supplied stores within a group.

Recommendation 3: Strengthen Merger Assessments To safeguard competition and consumer interests, the process of assessing mergers, acquisitions, and store sales within the supermarket sector should be fortified through:

- **Comprehensive Evaluation:** The Australian Competition and Consumer Commission (ACCC) should conduct thorough assessments of proposed transactions, considering factors such as market concentration, market share by postcode, and the potential for anti-competitive behaviour.
- **Conditions and Remedies:** Approvals for mergers, acquisitions, or store sales should be subject to conditions or remedies aimed at preserving competition and protecting consumer welfare. These may include divestiture requirements, price controls, or measures to facilitate market entry for new competitors.
- **Public Consultation:** Meaningful consultation with stakeholders, including consumers, businesses, and industry experts, should be conducted to gather diverse perspectives and insights into proposed transactions. This collaborative approach ensures that regulatory decisions reflect the interests of all affected parties and foster trust and confidence in the marketplace.

Recommendation 4: Reporting and Monitoring To ensure compliance with the mandatory code of conduct and address instances of non-compliance or anti-competitive behaviour, robust reporting and monitoring mechanisms should be established, including:

- **Regular Reporting Requirements:** Major retailers and suppliers should be mandated to submit regular reports to the ACCC detailing their compliance with the mandatory code of conduct, including market share by postcode and adherence to fair pricing and payment terms.
- **Audits and Investigations:** The ACCC should possess the authority to conduct audits and investigations to verify the accuracy of reported data and investigate suspected violations of the code of conduct or anti-competitive practices. Enforcement actions should be taken against any parties found in breach of the law.
- **Public Accountability:** Reporting requirements and audit findings should be made publicly available to promote transparency and accountability within the supermarket sector. This transparency empowers consumers, businesses, and regulators to hold market participants accountable for their actions and fosters trust and confidence in the marketplace.

Conclusion: In conclusion, these recommendations aim to enhance competition, fairness, and transparency within the Australian supermarket sector. By implementing a mandatory code of conduct, prohibiting unfair practices, strengthening merger assessments, and establishing robust reporting and monitoring mechanisms, we can cultivate a more dynamic and competitive marketplace that benefits consumers, supports small businesses, and fosters innovation and growth. It is crucial for policymakers, regulators, and industry stakeholders to collaborate in enacting these measures to ensure a vibrant and sustainable future for the supermarket sector.