COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

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Level 12, 55 Shortland Street
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www.comcom.govt.nz

29 October 2025

[redacted]

Kia ora [redacted]

Official Information Act request 25.066

Thank you for your Official Information Act 1982 (the OIA) request of 1 October 2025 for copies of the Commission's September 2025 correspondence to RGRs in respect of logistics under clause 11 of the Grocery Supply Code.

Our response

The information you have requested is attached as **Appendix A**.

We have withheld some information from Appendix A under section 9(2)(a) of the OIA to protect the privacy of individuals. In making the decisions to withhold this information, we have determined that the public interest does not outweigh the need to withhold at this time.

Further information

We hope this response has been helpful.

If you have any questions about this response, please do not hesitate to contact us at oia@comcom.govt.nz.

If you are unhappy with our response, you have the right to complain to the Ombudsman. Information about how to do this is available at www.ombudsman.parliament.nz.

Please note, the Commission will be publishing this response on its website as part of our proactive release process. All personal information will be redacted prior to publication.

Ngā mihi nui

[redacted]

Adam McFerran
Senior Advisor | OIA & Information

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1 September 2025

Attn: [redacted]
General Counsel
Woolworths New Zealand Limited

By email to: [redacted]

Dear [redacted]

Information about the Grocery Supply Code, prohibition on requiring particular transport or logistics services

1. The Commerce Commission (Commission) has received a number of complaints alleging that Regulated Grocery Retailers (RGRs) require suppliers to use particular logistics services when supplying goods to RGRs.

2. These include alleged requirements to use particular pallet and crate providers such as Chep, Viscount FCC and Loscam for deliveries to stores and distribution centres, as well as the alleged use of a designated barcode provider, namely GS1.

3. The complaints may raise issues under the Grocery Supply Code (Code) and the Grocery Industry Competition Act 2023 (Act).

4. We have completed a preliminary assessment of the complaints and, based on what we have seen, we would like to highlight the obligations which exist under clause 11 of the Code.

The law

5. Clause 11 of the Code states:

11 Transport or logistics services

(1) The retailer must not directly or indirectly –

a. require a supplier to use a particular transport or logistics service; or

b. impose unreasonable service standards in respect of transport or logistics.

(2) Subclause (1) does not prevent a retailer imposing reasonable service standards in respect of transport or logistics

6. Section 19 of the Act sets out that RGRs must comply with the Code.

Our view

7. Requiring suppliers to directly or indirectly use a particular transport or logistics service is prohibited under clause 11(1)(a) of the Code.

8. Clause 11(2) sets out that the prohibition on requiring particular transport or logistics services does not prevent RGRs from imposing reasonable service standards in respect of transport or logistics services.

9. Accordingly, you should consider the language used in your communications to suppliers and within your procedural requirements, to ensure you are referring to reasonable service standards for transport and logistics, rather than specifying particular transport or logistics providers. Otherwise, you risk breaching the Act, via non-compliance with clause 11(1)(a) of the Code.

10. The Commission considers that not requiring suppliers to use particular transport or logistics services is an important aspect of facilitating competition in transport and logistics markets. The opportunity for competition in the provision of these services is important as the services contribute to costs suppliers face. Competition in the market for these services is therefore ultimately good for consumers.

Penalties for breaching the Act

11. Only the Courts can decide if there has been a breach of the Act. The potential penalties relevant to breaching section 19 of the Act are set out below.

12. Non-compliance with clause 11 of the Code is subject to a tier 2 maximum penalty. For an individual this means the maximum penalty is $200,000, or in any other case the greater of $3 million and the value of any commercial gain resulting from the contravention; or if that can't be readily ascertained, 3% of the company turnover in each accounting period in which the contravention (if any) occurred.

The Commission's role

13. The Commission is responsible for enforcing competition, fair trading, grocery and consumer credit laws in New Zealand, including the Act.

14. The Commission recommends that, as a matter of best practice, RGRs should regularly review their procedures and policies for compliance with the Code to ensure they remain compliant.

Next Steps

15. We are intending to re-engage with you in approximately six weeks to understand any changes you have made regarding your obligations under clause 11 of the Code.

16. Please contact me on 04 924 3635 or by email at zeb.walker@comcom.govt.nz if you have any questions about this letter.

Yours sincerely.

[redacted]

Zeb Walker
Principal Investigator
Market Regulation Branch

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1 September 2025

Attn: [redacted]
General Counsel and Company Secretary
Foodstuffs North Island Limited

By email to: [redacted]

Dear [redacted]

Information about the Grocery Supply Code, prohibition on requiring particular transport or logistics services

1. The Commerce Commission (Commission) has received a number of complaints alleging that Regulated Grocery Retailers (RGRs) require suppliers to use particular logistics services when supplying goods to RGRs.

2. These include alleged requirements to use particular pallet and crate providers such as Chep, Viscount FCC and Loscam for deliveries to stores and distribution centres, as well as the alleged use of a designated barcode provider, namely GS1.

3. The complaints may raise issues under the Grocery Supply Code (Code) and the Grocery Industry Competition Act 2023 (Act).

4. We have completed a preliminary assessment of the complaints and, based on what we have seen, we would like to highlight the obligations which exist under clause 11 of the Code.

The law

5. Clause 11 of the Code states:

11 Transport or logistics services

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a. require a supplier to use a particular transport or logistics service; or

b. impose unreasonable service standards in respect of transport or logistics.

(2) Subclause (1) does not prevent a retailer imposing reasonable service standards in respect of transport or logistics

6. Section 19 of the Act sets out that RGRs must comply with the Code.

Our view

7. Requiring suppliers to directly or indirectly use a particular transport or logistics service is prohibited under clause 11(1)(a) of the Code.

8. Clause 11(2) sets out that the prohibition on requiring particular transport or logistics services does not prevent RGRs from imposing reasonable service standards in respect of transport or logistics services.

9. Accordingly, you should consider the language used in your communications to suppliers and within your procedural requirements, to ensure you are referring to reasonable service standards for transport and logistics, rather than specifying particular transport or logistics providers. Otherwise, you risk breaching the Act, via non-compliance with clause 11(1)(a) of the Code.

10. The Commission considers that not requiring suppliers to use particular transport or logistics services is an important aspect of facilitating competition in transport and logistics markets. The opportunity for competition in the provision of these services is important as the services contribute to costs suppliers face. Competition in the market for these services is therefore ultimately good for consumers.

Penalties for breaching the Act

11. Only the Courts can decide if there has been a breach of the Act. The potential penalties relevant to breaching section 19 of the Act are set out below.

12. Non-compliance with clause 11 of the Code is subject to a tier 2 maximum penalty. For an individual this means the maximum penalty is $200,000, or in any other case the greater of $3 million and the value of any commercial gain resulting from the contravention; or if that can’t be readily ascertained, 3% of the company turnover in each accounting period in which the contravention (if any) occurred.

The Commission’s role

13. The Commission is responsible for enforcing competition, fair trading, grocery and consumer credit laws in New Zealand, including the Act.

14. The Commission recommends that, as a matter of best practice, RGRs should regularly review their procedures and policies for compliance with the Code to ensure they remain compliant.

Next Steps

15. We are intending to re-engage with you in approximately six weeks to understand any changes you have made regarding your obligations under clause 11 of the Code.

16. Please contact me on 04 924 3635 or by email at zeb.walker@comcom.govt.nz if you have any questions about this letter.

Yours sincerely.

[redacted]

Zeb Walker
Principal Investigator
Market Regulation Branch

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1 September 2025

Attn: [redacted]
Legal Counsel and Company Secretary
Foodstuffs South Island Limited

By email to: [redacted]

Dear [redacted]

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Yours sincerely.

[redacted]

Zeb Walker
Principal Investigator
Market Regulation Branch