

25 March 2026

[REDACTED]

Kia ora [REDACTED]

Official Information Act request 25.185

Thank you for your Official Information Act 1982 (the OIA) request on 25 February 2026 where you noted that the Commission had obtained legal advice on the scope of clause 11 of Schedule 2 of the Grocery Industry Competition Regulations (the Grocery Supply Code) and subsequently corresponded with retailers.

You asked for a copy of *all legal advice received by the Commerce Commission in relation to clause 11, particularly any advice addressing whether a service standard must be in place before a crate or pallet can be used.*

Our Response

Firstly, I would like to draw your attention to the guidance published by the Commission about its interpretation of clause 11 on 4 March 2026. You can find a copy here: <https://www.comcom.govt.nz/assets/Uploads/Grocery-supply-code-guidance-Clause-11-Transport-or-logistics-services-4-March-2026.pdf>

The Commission received:

- Internal legal advice via email regarding proposed communications with respect to clause 11 on 3 November 2025. This email is released in full attached as Appendix A; and
- External legal advice on the Grocery Supply Code Review Report and correspondence with regulated grocery retailers with respect to clause 11. This advice is withheld under section 9(2)(h) of the OIA on the basis of maintaining legal professional privilege.

In making this decision to withhold certain information under section 9 of the OIA, we have determined that the public interest does not outweigh the need to withhold the information 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 uia@comcom.govt.nz.

If you are not happy 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.

Finally, I would like to inform you that the Commission may publish this response on our website as part of our proactive release process. Any personal information will be redacted prior to publication. If you have any questions or concerns about this please let us know.

Ngā mihi nui

OIA Coordinator | OIA & Information

Appendix A

From: Michael Lim
Sent: Monday, 3 November 2025 10:03 am
To: Janeve Beer
Subject: RE: Update on pallets/crates discussion

Hi Janeve

As discussed, see some suggested edits in **blue below**.

I've also reordered some of the sentences.

Please feel free to change any wording (if my wording is too blunt and you would like to be more sensitive to [REDACTED]) or cull down the length if its all too wordy for you to send out.

Kind regards

Michael (Kiseob) Lim

Legal Counsel

Commerce Commission | Te Komihana Tauhokohoko

[REDACTED] | michael.lim@comcom.govt.nz



55 Shortland Street | PO Box 2351 | Auckland 1010 | New Zealand

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From: Janeve Beer <Janeve.Beer@comcom.govt.nz>
Sent: Monday, 3 November 2025 9:09 am
To: Michael Lim <Michael.Lim@comcom.govt.nz>
Subject: FW: Update on pallets/crates discussion

As discussed. Highlighted the part that I think needs rewording please 😊

Thanks,

JB

Janeve Beer

Manager, Compliance

Grocery Regulation



Commerce Commission | *Te Komihana Tauhokohoko*

44 The Terrace | PO Box 2351 | Wellington 6140 | New Zealand

██████████ | janeve.beer@comcom.govt.nz

www.comcom.govt.nz

From: Zeb Walker <Zeb.Walker@comcom.govt.nz>

Sent: 03 November 2025 08:31

To: Janeve Beer <Janeve.Beer@comcom.govt.nz>

Subject: RE: Update on pallets/crates discussion

Morning – suggest you have the proposed reply below checked with legal:

Thanks ████████.

While we are conscious that there are ongoing issues to be worked through, suppliers are ultimately operating under Grocery Supply Agreements which may set out requirements to comply with reasonable service standards when delivering goods to retailers.

Unfortunately, the Commission, as the industry regulator, cannot comment on how suppliers should/propose to comply with their commercial obligations under Grocery Supply Agreements.

Whether some of these retailer transport or logistics requirements are in non-compliance with the Code is another issue which the Commission is actively considering.

As you'll be aware, clause 11 of the Code prohibits retailers from requiring a supplier to use a particular transport or logistics service, or imposing unreasonable service standards in respect of transport or logistics. This includes in Grocery Supply Agreements, or in other operational requirements that a retailer might have.

If suppliers consider that they are being told to use specific logistics providers, or meet unreasonable service standards, (current timing dictates that) they will either have to wait for the Commission's work to play out, or raise a concern via the dispute resolution service.

Kind regards,

From: [REDACTED]
Sent: Monday, 3 November 2025 8:20 am
To: Zeb Walker <Zeb.Walker@comcom.govt.nz>
Cc: Janeve Beer <Janeve.Beer@comcom.govt.nz>
Subject: RE: Update on pallets/crates discussion [CCNZ-IMANAGE.FID460665]

Hi

[REDACTED] is the contact from [REDACTED].

I'm away sick today but it would be good and we did discuss this at the meeting around providing some words about why suppliers are not free to use alternate crate/pallets from this point forward??

Many thanks

[REDACTED]

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From: Zeb Walker <Zeb.Walker@comcom.govt.nz>
Sent: Friday, 31 October 2025 2:53 pm
To: [REDACTED]
Cc: Janeve Beer <Janeve.Beer@comcom.govt.nz>
Subject: Update on pallets/crates discussion [CCNZ-IMANAGE.FID460665]

Hi [REDACTED],

Thanks for your time this morning.

We have discussed the situation and over the next week intend to engage each of the retailers ([REDACTED]), along with each of the pallet/crate providers ([REDACTED]). The purpose of our engagement is to understand the basis for any shortage with crates or pallets over the summer period, and each party's role or position in respect of it.

- Can you please provide us a contact for [REDACTED]?

Following this engagement, we will be in a better position to understand what is happening, and the options for resolution which might exist.

In the interim, we note that issues between suppliers and retailers under the Code can be raised with the Grocery Industry Dispute Resolution Scheme: <https://nzdrc.co.nz/expertise/grocery-industry-dispute-resolution-scheme/>. This includes issues under clause 11 of the Code. If suppliers are facing information or treatment that appears to contravene the Code, raising their concerns through the dispute resolution scheme may be an option. The scheme has specific rules which would need to be considered.

I trust this is helpful as an immediate update.

Kind regards,

Zeb Walker

Principal Investigator – Market Regulation branch

Commerce Commission | Te Komihana Tauhokohoko

[REDACTED] | zeb.walker@comcom.govt.nz



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