

# **Self-reporting Potential Non-compliance**

## **Guidance for Regulated Grocery Retailers**

July 2025

## Scope and purpose

1. This guidance is designed for regulated grocery retailers (RGRs)<sup>1</sup> who participate in the New Zealand Grocery industry. It relates to potential non-compliance with the Grocery Industry Competition Act 2023 (the Act). The purpose of this document is to assist RGRs to understand when and how to self-report potential non-compliance with the Act to the Commerce Commission (the Commission).
2. RGRs should use this guidance when considering whether to report potential non-compliance that they have identified in relation to the Act (self-report) to the Commission. This guidance is intended to help RGRs understand the process to follow when reporting potential non-compliance with the Act and the consideration that will be given to the self-report by the Commission. This guidance should be read in conjunction with other Commission guidance available on our website.<sup>2</sup>
3. We encourage RGRs to self-report to the Commission. A self-report helps demonstrate a RGR's approach and attitude to its compliance, including how it addresses harm resulting from compliance issues. It will form part of the Commission's consideration of the appropriate enforcement response, but it does not prevent the Commission from taking any enforcement action that it considers appropriate (see paragraph 16 below).
4. The Commission also receives concerns from members of the public and other interested parties and also monitors the market to assess RGR compliance with the Act. Where we uncover non-compliance that was known or suspected, but not self-reported, this will likely form part of our consideration of the appropriate enforcement response.<sup>3</sup>

## What to report to the Commission and when

5. In determining whether a self-report should be made, RGRs should consider the nature and extent of the issue, the potential harm that has been identified and the grounds on which the RGR has formed the view that there has been potential non-compliance with the Act.

---

<sup>1</sup> "Regulated grocery retailer" has the meaning set out in sections 8 and 26 of the Act.

<sup>2</sup> For example, see the [Investigation Guidelines](#), [Enforcement Response Guidelines](#), [Cartel Leniency and Immunity Policy](#) and [Cooperation Policy](#).

<sup>3</sup> See the Enforcement Response Guidelines.

## Early flag

6. We encourage RGRs to flag any potential issue with us as soon as it is identified. In some cases, this may be before the RGR has uncovered all relevant information about the issue. When raising an early flag RGRs should provide the following:
  - 6.1 a summary of the potential issue;
  - 6.2 the steps the RGR is taking to uncover the facts and how long that is expected to take; and
  - 6.3 when the Commission should expect to be advised that either the issue did not raise non-compliance issues or that a self-report will be made.
7. While we welcome this type of early communication, before we can appropriately assess a self-report, we require certain detailed and specific information. This means that an “early flag” will not be treated by us as a self-report.

## Self-report

8. The Commission expects that a RGR will have gathered sufficient information, in line with this guidance, before it makes a self-report to the Commission.
9. The following details should be provided when a report is made to the Commission:
  - 9.1 A full description of the identified issue including but not limited to:
    - 9.1.1 What the issue is and relevant context as to how the issue arose.
    - 9.1.2 An explanation of why the RGR is reporting it and the section/s of the Act the issue covers.
    - 9.1.3 The date the RGR first became aware of the issue.
    - 9.1.4 How the issue was identified, including whether the RGR had received any complaints about the issue before it was identified (together with the details of those complaints if applicable).
    - 9.1.5 The scope of the issue – how many suppliers and/or wholesale customers the issue affects/affected, an estimate of the financial impact (if any), and which product/s and/or service/s are impacted. This should include an explanation of how the supplier and/or wholesale customer numbers, products and/or services have been identified.

- 9.1.6 The duration of the issue (including dates when the issue arose and when it was resolved or whether it is ongoing).
  - 9.1.7 Whether this is a reoccurrence of an issue or a similar issue.
- 9.2 If the issue is ongoing, any steps/action being taken by the participant to mitigate ongoing harm.
- 9.3 Where relevant, whether the RGR is considering any remediation, or has already remediated, affected suppliers and/or wholesale customers. RGRs should include full details of the remediation (if any).<sup>4</sup> We note that remediation may be monetary or non-monetary and may need to be given in stages.
- 9.4 The RGR's assessment and analysis of the root cause/s of the issue, including confirmation that the root cause has been fixed (if applicable).
- 9.5 Whether the Board/Senior Managers have been informed of the issue.
- 10. If a RGR has multiple issues to self-report to the Commission, we expect the information contained in [9.1] to [9.5] to be provided for each issue.
- 11. RGRs should send the required information to [Grocery.Regulation@comcom.govt.nz](mailto:Grocery.Regulation@comcom.govt.nz) with a clear subject title that includes the text 'self-report'.
- 12. The Commission may require additional information from the RGR in order to make a decision on the appropriate response. A RGR will be notified as soon as possible if additional information is required. At any time during the process, the Commission may compel the RGR to provide the information.<sup>5</sup>

## How the Commission may use the information from self-reports

- 13. On receipt of a self-report from a RGR, the Commission will review the information and decide on the appropriate response in the circumstances, which may include taking no further action or opening an investigation and noting the matter on the Commission's [case register](#). Please refer to the [Investigation Guidelines](#) for further guidance on how the Commission screens and prioritises matters for investigation.
- 14. We may also use the information provided for our ongoing monitoring programme.

---

<sup>4</sup> If relevant, please refer to the [Consumer Remediation Guidance for Businesses](#) for further information on the Commission's view as to how to conduct a structured and consumer-focused remediation process.

<sup>5</sup> Under section 182 of the Act.

15. Where we choose not to investigate, we may use the information provided as part of a self-report to educate the RGR or the sector more generally.
16. The early identification, reporting to the Commission and prompt remedy of any identified issues will form part of the Commission's consideration of the appropriate enforcement response where applicable. However, making a self-report will not prevent the Commission from taking a different view from the RGR on what remediation is appropriate in the circumstances, nor from opening an investigation into the issue and/or taking any form of enforcement action. Please refer to the [Enforcement Response Guidelines](#) for further information on the Commission's enforcement approach.
17. Any remediation that the RGR has provided to affected suppliers and/or wholesale customers or intends to provide (monetary or non-monetary) will also be taken into account in the Commission's assessment of the appropriate enforcement response where applicable.

## **Official Information Act**

18. As with all information provided to the Commission, any person may request a copy of the self-report under the Official Information Act 1982 (OIA). Under the OIA all information is to be made available unless good reasons exist to withhold it. This is known as the principle of availability.
19. There are a number of reasons why the Commission may withhold information where it receives an OIA request. In some cases, there are conclusive reasons to withhold the information; the most relevant is where the release would be likely to prejudice the maintenance of the law, including our investigation.<sup>6</sup> In other cases, the Commission must balance the reason for withholding information against the public interest in disclosure.<sup>7</sup>
20. We will generally consult RGRs before deciding whether their information should be released under the OIA. Please refer to the [Investigation Guidelines](#) for further detail.

## **Sharing information with other agencies**

21. The Commission is subject to information sharing provisions under the Commerce Act 1986.<sup>8</sup> These permit the Commission to provide information and documents that we hold in relation to the performance or exercise of our functions, powers or duties

---

<sup>6</sup> See section 6(c) of the Official Information Act 1982.

<sup>7</sup> See section 9(2) of the Official Information Act 1982.

<sup>8</sup> See section 99AA of the Commerce Act 1986.

to a public service agency, a statutory entity, the Reserve Bank of New Zealand or the New Zealand Police.