



Australian Government
The Treasury



Impact Analysis: Excessive Pricing Prohibition for Supermarkets

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Executive Summary

The final report of the Australian Competition and Consumer Commission (ACCC) Supermarkets Inquiry published in March 2025 found that the supermarkets sector is an oligopolistic market structure in which the two largest supermarkets – Woolworths and Coles – have limited incentive to compete vigorously with each other on price.

The ACCC further found that the incumbent market position of Woolworths and Coles is protected by their entrenched market power, resulting in high barriers to entry, and that the present market dynamics and consumer outcomes are set to continue for the foreseeable future. The ACCC found Woolworths and Coles are likely to continue growing their market share. If their markets shares continue to grow, their margins as a percentage of grocery prices can also be expected to grow.

The Inquiry found that prices increased at all supermarkets over the five financial years from 2019–20 to 2023–24. Some of this is attributable to the increased supply and operating costs supermarkets faced, however profit margins of Coles, Woolworths and ALDI also increased during the same period. The ACCC found that they are also among the most profitable supermarkets compared to international peers.

Surveys by consumer advocacy groups and research by Roy Morgan found the Australian public's confidence in Coles and Woolworths has fallen significantly since 2023.

Existing competition and consumer laws that regulate supermarket conduct do not prohibit excessive pricing for supermarkets. Government intervention will deter the possibility of excessive pricing by supermarkets in the future. At the same time, regulation should not stifle incentives for investment and innovation by incumbent supermarkets or restrict new competitors from entering the market.

Two options are considered in this Impact Analysis:

- Option 1: Status quo
- Option 2: Introduce an excessive pricing prohibition (EPP) for supermarkets.

Under Option 1, large incumbent firms are likely to continue to benefit from their entrenched position and market share, and there is a risk that consumers could face excessive prices.

Option 2 would introduce an EPP to guard against the possibility of Australia's two largest supermarket retailers charging excessive prices on groceries. An EPP could also increase consumer trust in the supermarket sector.

Under Option 2, Coles and Woolworths are expected to have one-off establishment costs to interpret the new prohibition and update business processes to ensure compliance. An indicative estimate of the total regulatory burden on Coles and Woolworths is \$7.2 million in present value terms. At this estimate, at a minimum households would each have to benefit by \$1.27 in present value terms (such as, via downward pressure on prices) as a result of the prohibition for the benefits – which accrue to consumers – to outweigh the costs to the two supermarkets.

Background

On 30 March 2025, the Government made an election commitment to introduce legislation on an EPP by the end of the year (also known as a prohibition on ‘price gouging’), as a cost-of-living relief measure to help Australian households.¹ This Impact Analysis (IA) is intended to support policy approval for the model of the EPP proposed to implement the Government’s election commitment.

The election commitment followed the release of the final report of the ACCC Supermarkets Inquiry 2024–25 (ACCC Inquiry)² on 21 March 2025. The ACCC Inquiry examined the pricing practices of the supermarkets and the relationships between wholesale and retail prices.³ It found that ALDI, Coles and Woolworths have increased their average product margins over the five financial years from 2019–20 to 2023–24 and are among the most profitable supermarkets globally.

The ACCC Inquiry did not seek to determine whether grocery prices or margins are excessive, however the ACCC expected that supermarkets’ profit margins would be lower if the sector was more competitive. The ACCC noted that it is challenging to determine whether supermarkets’ retail margins at the product or category level are excessive. Further background on the relevant ACCC Inquiry’s findings relating to the cost of grocery products and level of competition in the supermarkets sector is set out in **Appendix A**.

The Government’s commitment to legislate an EPP complements other measures to foster a more competitive supermarket industry and enhance consumer and supplier outcomes.⁴ The Government:

- introduced a new mandatory Food and Grocery Code of Conduct that came into force on 1 April 2025, which replaced a voluntary regime⁵
- provided CHOICE with \$1.1 million over three years to develop and publish quarterly supermarket price comparison reports⁶
- provided the ACCC with additional funding of \$30 million over four years for investigations and enforcement relating to the supermarket and retail sector⁷
- is making sure the ACCC is notified of supermarket sector acquisitions by Coles and Woolworths and can scrutinise land acquisitions under reforms to merger laws⁸
- is making it easier for supermarkets to enter the market and expand with incentives for the states to cut commercial planning and zoning red tape under the revitalised National Competition Policy, backed by a \$900 million National Productivity Fund⁹
- announced it will implement ACCC Inquiry recommendations that improve price transparency, price trends and promotions, unit pricing and loyalty programs.¹⁰

1 Australian Labor Party, media release: [Labor will ban supermarket price gouging in another move on cost of living](#), 30 March 2025; [Prime Minister’s interview on ABC Insiders](#), 30 March 2025.

2 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025.

3 ACCC, [Media Release: ACCC to examine prices and competition in supermarket sector](#), 25 January 2024.

4 Treasurer media release: [Cracking down on the supermarkets to get a better deal for Australians](#), 21 March 2025.

5 [Mandatory Food and Grocery Code of Conduct established in law | Treasury Ministers](#), 17 December 2024.

6 [Supermarket price monitoring to help Australians make informed choices at the checkout | Treasury Ministers](#)

7 MYEFO 2024–25, Appendix A, p 297 - [Mid-Year Economic and Fiscal Outlook 2024–25](#)

8 Treasurer media release: [Historic reforms for a more competitive economy enter Parliament | Treasury Ministers](#), 10 October 2024.

9 Treasurer media release: [National agreement to revitalise competition – for consumers, businesses and our economy | Treasury Ministers](#), 29 November 2024.

10 [Labor will ban supermarket price gouging in another move on cost of living](#), 30 March 2025.

1. What is the policy problem we are trying to solve and what data is available?

There is a gap in Australia's regulatory toolkit to safeguard consumers from excessive grocery prices

A lack of competition creates a risk that consumers could be charged excessive prices

The ACCC reported the supermarket sector as having a concentrated oligopolistic market structure where the major incumbents are protected from competition by significant barriers to entry and expansion. The sector is dominated by Woolworths and Coles, which the ACCC found closely monitor each other's pricing and strategies and have limited incentive to compete vigorously on price. Although the ACCC did not seek to determine whether prices charged by supermarkets in Australia were excessive, it highlighted the relationship between stronger competition and lower margins. The ACCC's final report states:

*If there were a greater degree of competition between supermarkets, we would expect margins to be lower, either by way of lower retail prices, or higher costs incurred to improve quality of service, or both.*¹¹

The ACCC concluded that the significant barriers to entry and expansion in the sector, Woolworths' and Coles' entrenched advantages and their market position meant that their dominance of the sector and the associated outcomes of this seem set to continue for the foreseeable future. The ACCC Inquiry further noted that, if the market shares and associated market power of Coles and Woolworths continue to increase, their margins as a percentage of grocery prices can also be expected to continue to grow.¹²

The ACCC also found that, in practice, geographic convenience and accessibility are the key determinants for where consumers conduct their main shop for grocery products. As a result, most consumers do not reallocate their spending because the convenience costs of switching exceed the potential savings. These findings are supported by research by the e61 Institute, which found that Coles and Woolworths maintain a significant physical presence at the local level, causing consumers to face network effects and greater costs to switching to cheaper alternatives.¹³

Despite the ACCC consumer survey showing consumers are spending more time comparing prices and cross-shopping,¹⁴ they noted that a lot of this cross-shopping is for top-up shops, rather than the 'main shop'. The ACCC stated the increase in cross-shopping 'does not necessarily indicate all or most consumers are unbundling the bulk of their grocery shopping across stores in response to price differences'.

The survey also found that the value consumers place on convenience is the most important factor cited which limits the extent of unbundling of main shops and the competitive constraint provided by non-supermarket retailers.

¹¹ ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 398.

¹² ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 17.

¹³ e61 Institute, [From Aisles to Oligopolies: New Insights on Supermarket Competition in Australia](#), September 2024.

¹⁴ The ACCC attributed this is likely due in part to the increased availability of online price information and price comparison tools (p 104). Some stakeholder submissions, such as AMES, attributed it to there being very different prices across stores.

Unbundling a main shop inherently involves a reduction in convenience as a consumer needs to visit (or order online from) multiple grocery retailers to complete their shop. The time and effort required to compare prices is likely to further reduce the incentive for consumers to shop around.

It is this main shop where the major supermarkets hold a strong market position and where the capacity to potentially levy excessive prices arises. In evidence provided to the ACCC as part of its inquiry, Coles identified “big baskets” as accounting for the most significant portion of Coles’ food retail revenue, further indicating main shops remain a competitive focus for supermarket chains while also limiting the closeness of competition from non-supermarket retailers.¹⁵

It is this behavioural preference of consumers to purchase a wide variety of groceries at once, and for many of them to do so mostly in one big weekly shop, that means that while Woolworths and Coles can face a number of competitors in the market for any single grocery product, they still have a degree of market power that allows them to set prices higher for that product relative to non-supermarket competitors.

The charging of excessive prices occurs when supermarkets can set prices at which they earn significantly greater returns than if they faced workable competition. Whether the prices are significantly in excess is considered against what they might be in a workably competitive market. In a workably competitive market, prices have a reasonable relation to the economic value of the product being sold. In international jurisprudence, in considering whether a price is excessive, the most common evidentiary process has been to look at the cost the business incurs in supplying the product and then consider whether the return is reasonable.

In a workably competitive market there may be short-term price spikes, but the competitiveness of the market will place a constraint on how high these prices will be, and for how long they will remain that high. Significance incorporates elements of both the quantum of the excess and its duration in considering whether the pricing is consistent with a workably competitive market.

Excessive pricing is often possible in a Cournot equilibrium, where oligopolists can sustainably set prices above their competitive level when there are constraints that limit the outputs of each oligopolist, as is the case with supermarkets who are restricted in their ability to scale either up or down their supply of groceries in the short term. Each firm determines its output level and the prices it sets by having regard to the output and prices of its competitor to ensure profits are maximised.

The ACCC concluded that both Coles’ and Woolworths’ 2015–16 Earnings Before Interest and Tax (EBIT) margins were impacted by Woolworths’ decision to reset its pricing strategy in 2014 to win more customers and be more competitive.¹⁶ This resulted in a significantly lower EBIT margin for Woolworths in 2015–16 compared with its 2014–15 result, and negatively impacted Coles’ EBIT margin in the 2015–16 to 2018–19 financial years. Since then, both retailers’ EBIT margins have trended back up, with the ACCC finding that between 2018–19 and 2022–23 Coles and Woolworths reported higher EBIT margins than most of their international peers.¹⁷


The position of Woolworths and Coles is entrenched and unlikely to change in the near future for a number of reasons the ACCC identified in its Inquiry. For a potential competitor to undertake successful entry or expansion at scale would require building a substantial supplier network, economies of scale at the wholesale level, access to significant capital, and access to suitable retail sites.¹⁸ In addition, Woolworths’ and Coles’ oligopoly position is supported by the benefits of significant amounts of data provided by a large number of suppliers each year (including those who supply to both retailers) that other potential competitors do not have.

15 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 12.

16 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, pp 361–362.

17 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 368.

18 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 150.



These reasons and others led to the ACCC's conclusion that Coles' and Woolworths' market positions are unlikely to change dramatically in the medium- to long-term.

Consumer harms that could result if very large supermarket retailers charge excessive prices

In economic theory, the detrimental effect of excessive prices on consumer outcomes is two-fold: firstly, it is a direct transfer of resources from consumers to supermarkets, to the benefit of supermarkets; and secondly, it results in a deadweight loss and allocative inefficiency, meaning a reduction in total welfare to society.

Given their significant and potentially sustained share of the market, if Coles and Woolworths set their prices excessively, then a large portion of consumers would likely pay more for grocery products like food, personal care items, and household products. Many essential goods can be purchased at Coles and Woolworths. Essential goods are those that are considered necessary to fulfil fundamental human needs, such as food. The presence of essential goods and the consequently high level of inelasticity of demand for the overall basket means consumers are more likely to continue purchasing grocery products as prices increase than they would for goods with more elastic demand.

While some consumers may substitute to lower-quality or smaller baskets of groceries, or forego certain purchases entirely, their willingness to pay for these products may be above the competitive market price. This could manifest in several different ways, including reduced consumption of more expensive and nutritious foods due to higher consumer prices, weakened incentives for supermarkets to improve productivity due to their entrenched market position, and reduced pressure for suppliers to continue to innovate or to reduce costs.

The direct result of excessive grocery prices is that it can redistribute income and welfare from consumers to large supermarket retailers. If Coles or Woolworths set prices persistently and significantly above levels justified by efficient costs, the additional expenditure required to purchase grocery products represents a transfer of purchasing power from consumers to supermarkets with an entrenched market position, reducing the ability of consumers to spend on other essentials like energy, housing and healthcare, or forcing consumers to cut back on discretionary expenditure.

Excessive prices also disproportionately affect lower-income consumers by increasing financial stress. This is because lower-income consumers are more likely to spend a higher proportion of their disposable income on basic grocery products, so suffer greater welfare losses than higher income households who have more discretionary expenditure available to reallocate when these items become more expensive.

The indirect result of excessive grocery prices is they create a deadweight loss, where overall market efficiency is negatively affected by market power. This deadweight loss reduces the number of mutually beneficial grocery transactions, which represents lost welfare to society, as resources are misallocated, total output falls, and the market fails to maximise combined consumer and producer surplus.

Australia's existing laws do not address the risk

The objective of Australia's competition and consumer protection laws in the *Competition and Consumer Act 2010 (CCA)* is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. However, the risk Coles and Woolworths could charge excessive prices is unlikely to be addressed by existing protections in the CCA or other legislation. Those considered below are the misuse of market power provisions, the prohibition on unconscionable conduct in the Australian Consumer Law, and existing commonwealth powers to address high pricing during emergencies.

CCA misuse of market power provisions

The misuse of market power prohibition in section 46 of the CCA is directed at conduct that distorts competition in a way that increases, entrenches or protects the business' market power, such as exclusionary or predatory business behaviour that harms competition, for example conduct designed to prevent entry or disadvantage rival businesses.

Section 46 does not apply to the exercise of market power to levy excessive prices. It also requires that the firm has substantial market power in the provision of the product or products in the market in question. While the very large supermarkets have a favourable market position protected by high barriers to entry and the ACCC found they have limited incentives to compete on price, it would be an additional and significant hurdle to establish that any one supermarket business would have substantial market power in the provision of any single product or set of products.

The policy problem is that, as the ACCC identified and as discussed earlier, the supermarket sector is dominated by two supermarkets that face limited competitive constraint in their price setting, in part because consumers favour the convenience of undertaking most of their grocery shopping at one time. These circumstances give rise to a credible risk of excessive prices being sustained in the sector, even if Woolworths or Coles do not each have substantial market power.

Charging excessive prices is also not conduct that is prohibited under section 46. This stands in contrast to section 18 of the United Kingdom *Competition Act 1998*, under which a business holding a dominant position in a market (broadly equivalent to Australia's substantial market power test) is prohibited from, among other things, directly or indirectly imposing unfair purchase or selling prices.¹⁹ The explicit inclusion of unfair prices creates a whole new prohibition on conduct by firms who have that dominant position.

Unconscionable conduct

Schedule 2 of the CCA, under the unconscionable conduct provisions in sections 20–22, prohibits conduct that is so harsh, oppressive or exploitative as to offend good conscience, taking into account relative bargaining power and the circumstances of the dealing. Schedule 2 provisions are generally directed towards conduct in specific commercial relationships, rather than economy-wide or sector-wide price levels. While an individual pricing decision could form part of an unconscionable course of conduct, charging a high price alone is not unconscionable unless it is accompanied by deception, coercion, or abuse of special disadvantage.²⁰ Given the high threshold that courts have determined for unconscionable conduct under the ACL, it is highly unlikely that supermarket prices would meet the standard.²¹


Commonwealth emergency laws

There are Commonwealth emergency laws that can address excessive pricing in specific emergencies. For example, the *Biosecurity Act 2015* provides certain powers for addressing excessive pricing during biosecurity emergencies. These include a broad power for the Health Minister to 'determine any requirement that he or she is satisfied is necessary' to address a declared human biosecurity emergency.

19 Article 102 of the EU Common rules on Competition, taxation and approximation of laws provides for the same.

20 Some examples the ACCC gives are where a business knowingly targets consumers with vulnerabilities such as difficulties reading, writing or with financial skills, or the relationship between the two parties such as whether one had a much stronger bargaining position than the other. - [Unfair business practices | ACCC](#)

21 See for example *Australian Competition and Consumer Commission v Mazda Australia Pty Ltd* [2023] FCAFC 45 and *ACCC v Medibank*. Justice Beach stated in *ACCC v Medibank* at [353] that acting unfairly is generally not enough to establish statutory unconscionability.



This power is limited for use during declared national emergencies, when there is a concern that consumers are being harmed because of a sudden and time limited change in supply and demand dynamics caused by the emergency. It is not available for use to address harms resulting from excessive pricing over a longer period associated with sustained market dynamics, and so does not address the risk of consumers being charged excessive prices by very large supermarkets in non-emergency situations.

Consumer confidence in the supermarket sector has fallen

Evidence from a range of sources suggests that consumer confidence and trust in Australia's largest supermarkets has fallen significantly. Public research shows a sharp fall in brand trust for Coles and Woolworths in recent years, with Roy Morgan's 2025 Risk Monitor reporting that Woolworths is the most distrusted brand in Australia and Coles is the second, which is a significant reversal from being the most trusted brands during the COVID-19 pandemic.²²

According to the ACCC's survey of more than 21,000 consumers, supermarkets remain the main avenue through which consumers buy their groceries.²³ Although prices have risen across a range of other products and services over the last five years, Australian consumers have been particularly concerned about the affordability of food and groceries, with the ACCC finding that prices at all supermarkets have increased over the 2019–20 to 2023–24 financial years and CHOICE's January 2025 Consumer Pulse survey finding that 84% of respondents were concerned about the cost of food and groceries.²⁴ Another survey conducted in 2023 found that almost two thirds of Coles shoppers (66%) and Woolworths shoppers (64%) believed the major supermarkets were 'making a lot of money from increasing prices but...blaming the price increases on rising costs.'²⁵

Consumers' ongoing distrust is also likely being impacted by the ACCC's confirmation that prices charged by Woolworths and Coles could be expected to be lower if there was a greater degree of competition in the sector, and that Woolworths' and Coles' dominance in the sector appears set to continue for the foreseeable future.²⁶

The ACCC's survey of consumers indicated 76% of households earning less than \$499 per week, and 54% of households earning \$500–\$749 per week, were spending more than 20% of post-tax income on groceries.²⁷

This distrust by consumers that Australia's major supermarkets, particularly Woolworths and Coles, are charging them excessive prices for groceries, undermines confidence that grocery markets are delivering fair outcomes to consumers and can damage consumer welfare in an essential and high-frequency spending category.

22 Roy Morgan, [Woolworths and Coles: From Most Trusted to Most Distrusted](#), January 2025.

23 ACCC, [Supermarkets Inquiry 2024–25 Interim Report](#), August 2024, p 28.

24 ACCC, [Supermarkets Inquiry 2024–25 Interim Report](#), August 2024, pp 46–47; CHOICE, [How we survey supermarket grocery prices](#), 25 June 2025.

25 CHOICE, [Submission to the ACCC Supermarkets Inquiry 2024–25](#), April 2024.

26 ACCC, [Supermarkets Inquiry 2024–25 Interim Report](#), August 2024, p 398.

27 ACCC, [Supermarkets Inquiry - Snapshot of insights from consumer survey](#), August 2024.

2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

Given the oligopolistic market structure of the supermarkets sector and the problems discussed above, there is potential benefit to the creation of a guardrail that provides deterrence against excessive pricing.

There are no non-regulatory government options that could achieve this deterrence, given the entrenched market position of Woolworths and Coles within an oligopolistic market structure and the long-running failure of market forces to correct this. The ACCC Inquiry found that Coles and Woolworths had increased their market share compared with when it last looked at the industry in its 2008 Grocery Inquiry, with the two retailers together holding 57.3% of national take-home food and grocery sales in 2022–23 compared with 53.6% in 2006–07.²⁸ As discussed in Q1 above, the ACCC concluded that this entrenched advantage and market position meant that Coles' and Woolworths' dominance of the sector and the associated outcomes of this seem set to continue for the foreseeable future. This position in the market means they can set prices at which they can earn greater returns than if they faced more workable competition.

This means that any deterrence against excessive pricing would require government intervention. The government has the legislative capacity to prohibit excessive pricing and can target it to a certain sector through the industry codes framework of the CCA.

The objectives of regulatory intervention are two-fold: to deter very large supermarkets from potentially setting excessive prices and to help consumers shop with greater confidence. However, regulation should avoid materially deterring incentives for investment and innovation in the sector or entrance by potential competitors.

Protect consumers from the risk of excessive grocery prices


The first objective of government intervention is to reduce the risk of future consumer harm to Australians from excessive pricing in the supermarket sector.

There is a high bar to regulatory intervention in the capacity for businesses to freely set prices, given that price setting that reflects supply and demand is key to an efficient market. However, where there is a market failure owing to high levels of concentration and weak rivalry as a result of the high barriers to entry, this means that the major incumbents have the ability to raise prices in excess of those which they could set if the market was more competitive, without concern that challengers will be able to enter and force them to reduce those prices in the near to medium term. If the very large supermarkets were to price grocery products excessively, this would result in a deadweight loss and allocative inefficiency, meaning a reduction in total welfare to society.

The intent of intervention is therefore to address the possible negative consequences of the entrenched market position held by Coles and Woolworths, through improved oversight, transparency and credible deterrence of certain price-setting practices for grocery products.

The intent is not to constrain pricing decisions that are made on a regular basis in response to market conditions, but rather to prevent any egregious and sustained above-competitive pricing. It needs to preserve the incentives for supermarkets to be cost efficient, responsive to changes in consumer demand (including for new and niche products) and resilient to unforeseen market or external shocks. There must remain a sufficient incentive for very large supermarkets to continue investing in the

28 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, pp 52–53.



supply of groceries in Australia, without concerns that there is insufficient profit to be had from doing so. Ultimately, prices will be lower in the long run if supermarkets are incentivised to invest in the efficiency with which they can sell grocery products.

The supply chain infrastructure in a major supermarkets business in Australia can require massive expenditures to upgrade, as part of servicing thousands of stores across a massive land area and millions of customers that visit the supermarkets on a regular basis. Large capital costs on things like transport and IT upgrades have to be justified by the continuing prospect of reasonable returns. One example of a current and visible investment by the supermarkets is the use of e-tags on shelves, which reduce the costs associated with having to manually change pricing tags.

Additionally, it is important that compliance costs are not so high that supermarkets pass these costs on to consumers in the form of increased grocery prices.

Improve public confidence that supermarkets are delivering fair and efficient outcomes

The other primary aim of intervention would be to give consumers greater confidence that supermarkets are not engaging in excessive pricing.

Even where prices are not excessive, public perception of unfairness in the supermarkets sector can decrease consumer confidence, and trust in the efficacy of Australia's competition framework erodes. These decrease overall consumer welfare and can have regressive welfare losses, where vulnerable consumers incur higher transaction costs than other consumers.

Improving public trust in the supermarket sector means restoring public trust that prices for grocery products are fair and reflect genuine cost pressures, even in circumstances where consumers cannot easily alter their consumption patterns or exercise meaningful choice. As many grocery products are considered essential by consumers, their demand is relatively inelastic, and consumers will purchase these products irrespective of price movements. At the same time, some consumers, for various reasons, predominately or exclusively buy their grocery products from very large supermarkets due to market structure and network effects²⁹. As a result, consumers may find it difficult to switch or reducing their consumption.

Intervention is therefore intended to improve overall trust in the supermarkets sector, by providing a prohibition for very large supermarkets in Australia against pricing grocery products excessively. Consumers have very limited access to information on the input costs supermarkets face, which is necessary in order to be able to assess whether supermarkets are setting prices that are not excessive in the circumstances. The Government is able to enable the regulator, who has experience assessing costs and prices and information-gathering powers that enable it to do so, to be able to make this assessment on consumers' behalf.

By making price-setting decisions subject to greater scrutiny, consumers can trust that their grocery prices are being set transparently and in good faith.

²⁹ See for example e61 Institute, [From Aisles to Oligopolies: New Insights on Supermarket Competition in Australia](#), September 2024. Relevant findings were: that 5% of local markets in NSW and ACT are 'local monopolies', almost all in regional areas; and that there is a high rate of persistence in favouring a particular brand even where consumers do have choices, for reasons that may include transportation costs to different stores, imperfect information about prices, habit formation and understanding of a particular store, rewards for brand loyalty, and intrinsic preferences.

Measuring success

Successful intervention will be the development of credible and effective market regulation that deters very large supermarkets from pricing grocery products excessively. However, success would also avoid unduly burdensome or prescriptive rules around how grocery products should be priced.

These outcomes will be measured through a mix of qualitative and quantitative indicators, including by reference to industry compliance and engagement, and the effectiveness of any regulatory actions undertaken by the regulator. A mix of indicators will be necessary because there is no single one that can capture the effectiveness of the prohibition.

The Australian Bureau of Statistics (ABS) series on the Consumer Price Index (CPI), in particular the inflation in the food and non-alcoholic beverages series, will give a sense of this subset of grocery prices – which make up a large portion of grocery sales – over time.³⁰ However, this faces several limitations, including that it reflects a number of retailers beyond the two supermarkets who are subject to the prohibition, including those who provide food for dining or takeaway services, it does not decompose the effect of changes in input costs on overall price changes, and that it does not consider all grocery products. There are other ABS series on non-durable household products and cleaning and maintenance products, but these face similar limitations.

It is not possible to produce a reliable measurement of all the diverse input costs supermarkets face in supplying a product. An alternative is to instead look at the profitability of the supermarkets, which the ACCC did in its Inquiry, which broadly represents revenue minus costs.³¹ However, any publicly available measurements are imperfect in evaluating whether there is excessive pricing occurring, as supermarket profitability can be driven by many things that are separate to the prices they charge to consumers and whether they are excessive, including whether they have achieved cost efficiencies and the revenue they are receiving from non-grocery services, such as the advertising services they offer in-store. For this reason, measurements of profitability can be indicators, but do not paint a complete picture of the effect of the prohibition on excessive pricing.

Success will also be measured through improved consumer confidence in Coles' and Woolworths' pricing practices. This can be measured by drawing on public sources, including long-running consumer confidence surveys such as the Roy Morgan Risk Monitor, broader consumer sentiment indices, and targeted consumer pulse surveys conducted by CHOICE and other consumer advocates. Consumer complaints to the ACCC may serve as useful, on-the-ground qualitative feedback on whether Australians are seeing the impact of legislation trickle down to purchase price of goods. However, this again faces limitations, because consumer trust of the major supermarkets is influenced by a number of factors beyond price.

Because of the limitations associated with each measurement, these indicators will all need to be considered together to assess the success of this policy intervention.

Question 7 includes further information on how the chosen option will be evaluated against the success metrics.

³⁰ ABS, [Consumer Price Index](#), 30 July 2025.

³¹ For more information, see Appendix A.

3. What policy options are being considered?

On 30 March 2025, the Government made an election commitment to introduce legislation on EPP as a cost-of-living relief measure to help Australian households.³² As this IA covers matters that were the subject of an election commitment, a range of policy options is not required. Under the Australian Government Guide to Policy Impact Analysis, only the specific election commitment is required to be the subject of analysis, with the focus on the commitment and the manner in which it should be implemented.

Given this, the policy options considered in this IA are:

- Option 1: Status quo
- Option 2: Introduce an EPP for supermarkets.

Option 1: Status quo

Under this option, supermarkets would not be prohibited from charging consumers excessive prices and there would be no ability for the ACCC to directly intervene to protect consumers from facing excessive prices at the supermarket.

There would be no quantifiable monetary costs or benefits to industry or the economy under this option. However, there would be an ongoing risk that, given the ACCC's findings that the large incumbents benefit from an entrenched market position, consumers could face excessive prices. To the extent prices are excessive, they result in costs incurred by consumers to purchase groceries, inefficient decisions to forgo purchases or purchase less preferred alternatives, and consumers' general distrust in Woolworths and Coles may cause reduced consumer welfare and continued decrease in sentiment towards the supermarkets. These issues are explained further in Questions 1 and 2.

Option 2: Introduce an excessive pricing prohibition for supermarkets


Introducing a 'ban on supermarket price gouging' was an election commitment of the Government, and this option for an EPP gives effect to that commitment.

This option would prohibit very large supermarket retailers from charging prices on grocery products that are excessive, where excessive prices are those that significantly exceed the cost to supply plus a reasonable margin.

In understanding whether a margin is reasonable, regard may be had to the supermarket's capital costs, commercial risks, market dynamics, allowance to reasonably benefit from, or recoup, costs in relation to previous investments, and needed investments to supply the grocery product as a supermarket business over the long-term. Overall, the reasonableness test is intended to capture margins that are inconsistent with workably competitive outcomes in grocery product markets.

By defining excessiveness in relation to the cost-plus benchmark, it is intended that regulatory intervention is targeted to prices that are significantly above the workably competitive price, and therefore market failure can be reasonably established.

³² Australian Labor Party, media release: [Labor will ban supermarket price gouging in another move on cost of living](#), 30 March 2025; [Prime Minister's interview on ABC Insiders](#), 30 March 2025.



The prohibition would be implemented as a provision of the Food and Grocery Code of Conduct, which is prescribed by regulations made under Part IVB of the CCA.

This option draws on overseas approaches to excessive pricing regulation, particularly the whole-of-economy abuse of dominance laws present in the United Kingdom (UK) and European Union (EU) that target regulatory intervention to circumstances of market failure in which ineffective competition has enabled the charging of excessive prices, resulting in consumer detriment and economic inefficiency. Courts and tribunals in the UK and EU have developed a useful body of jurisprudence on how excessive pricing is understood that may illustrate for Australian courts how they could consider and apply the prohibition.

- Legislation would be supported by an explanatory statement that aids in understanding its purpose and operation, supplemented by procedural guidance from the ACCC, which would provide information about how it intends to enforce the prohibition and monitor supermarkets' compliance with it. This guidance would help set expectations and improve regulatory certainty for industry.
- Alternative approaches under this option could include building in calculation methods and relevant factors that could, or should, be considered by a court to help it determine whether an excessive price has been charged. This approach could provide clearer requirements for courts, regulators and industry, but may result in reduced flexibility in the evidence relied on by regulators and regulated entities, and the factors that could be considered by the court when applying the prohibition. As such, the prohibition has instead remained principles-based to accommodate this flexibility and the many factors that influence whether a price is, in all the circumstances, excessive.

Under this model, very large supermarket retailers that meet a very high revenue threshold of \$30 billion would be automatically subject to the prohibition. Supermarkets with annual revenue below the \$30 billion threshold would not be subject to the prohibition, nor would 'large wholesalers' that meet the revenue threshold, noting wholesalers do not have a direct relationship with consumers or set retail prices.

Supermarkets subject to the prohibition would be required to keep information on their prices, costs and financial arrangements with suppliers relevant to their sale of groceries for at least 3 years. This would be required to ensure the ACCC could obtain the information needed to analyse whether a regulated supermarket had charged an excessive price. Only information already being generated by the supermarkets would be required to be kept and the supermarkets would not be required to create new records.

To enforce the prohibition, the ACCC would rely on industry code compliance monitoring powers under section 51ADD of the CCA to obtain the initial information needed to conduct an assessment of whether a supermarket has charged an excessive price, and, subject to statutory requirements, could rely on its investigative powers under section 155 of the CCA to obtain additional information to support further investigation or enforcement action.

Breaches of the prohibition could incur the highest maximum civil penalties available for penalty provisions under the Food and Grocery Code of Conduct (for body corporates, the greater of \$10 million, 3 times the value of benefit gained by the breach, or 10% of turnover during the 12 months leading up to the breach). The ACCC would also be able to issue an infringement notice up to the highest penalty available for penalty provisions in industry codes falling within Part IVB of the CCA (for body corporates, currently \$198,000) if it were to have reasonable grounds to believe a supermarket had breached the provisions.

4. What is the likely net benefit of each option?

There are two components to assessing the net benefit of introducing the excessive price prohibition, which are the costs and the benefits.

The costs associated with the prohibition only accrue to the two major supermarkets being captured. These costs come in two forms. The first cost is the compliance cost of having to put in place systems and training to ensure that they are complying with the prohibition, which has been estimated below. The second possible cost is the loss of profits to the extent any excessive pricing would have occurred absent the introduction of the prohibition. As the prohibition has been designed as a safeguard to protect against the possibility of excessive prices, and it can only be a decision of the court made on the basis of substantial evidence in relation to any particular case as to whether any excessive pricing has occurred, we have not sought to quantify this possible loss of profits, so this has been left as 'unquantifiable'.

The benefits of the prohibition accrue to consumers. As the loss of profits to the supermarkets cannot be quantified, the equivalent transfer of benefits to consumers who may be paying less for their groceries also cannot be quantified. There will also be consumer benefits resulting from greater consumer confidence that they are being charged non-excessive prices. However, these are also unquantifiable.

Because the consumer benefits are unquantifiable, we have used a break-even analysis on the net benefits, and calculated the extent to which consumers must benefit for the benefits of the prohibition to outweigh the supermarkets' compliance costs. This involves looking at the number of households that shop at Woolworths and Coles and then calculating how much they would need to save as a result of the prohibition on a per household basis.

Option 1: Status quo

The status quo is described in detail in Question 1. The qualitative discussion below establishes a baseline against which the potential benefits for Option 2 are measured. In discussing benefits and costs for supermarkets, the supermarkets referred to below are those that will be captured by the prohibition because they are above the revenue threshold, which are Coles and Woolworths. It is not expected any other supermarkets will exceed the threshold in the next ten years to which the analysis applies³³, so no other supermarket costs will be incurred.

Supermarkets

The status quo provides supermarkets the flexibility to set price levels according to market conditions, consumer demand and cost pressures without regard to overarching regulation against excessive prices. This may provide greater ability for supermarkets to determine whether to pass on cost increases more quickly or reduce their margins during supply shocks or inflationary periods. It may also facilitate higher profits for them.

The ACCC found that the supermarkets sector has an oligopolistic market structure in which Coles and Woolworths have limited incentive to compete vigorously with each other on price. Evidence provided to the ACCC Inquiry indicated they do closely consider competitors when setting prices. However, while Coles and Woolworths monitor each other's prices, the oligopolistic structure of the market limits the intensity of that competition, giving both supermarkets greater scope to maintain prices above the levels that would exist in a more competitive market.

³³ At the end of this length of time the prohibition will also be reviewed as part of the sunseting of the Food and Grocery Code of Conduct, if has not already been reviewed before then.

Under the status quo, Coles and Woolworths would continue to be subject to existing regulatory requirements. Coles Group stated in its submission to the EPP consultation that it is already subject to more than 220 state and federal laws and regulations it needs to comply with every day.

Coles and Woolworths are already subject to existing record keeping requirements, including in complying with taxation law requirements and the existing requirements under the Food and Grocery Code of Conduct.

- Under the *Income Tax Assessment Act 1936*, businesses are required to retain records for a period of 5 years relating to their tax, superannuation and registration affairs, including any documents relation to the business' income and expenses, and documents containing details of any election, choice, estimate, determination or calculation made for the business's tax and super affairs, including how (basis or method) the estimate, determination or calculation was made.
- Similarly, under the *Corporations Act 2001*, companies must keep financial records for 7 years that track and explain transactions, the company's financial position and performance, and enable accurate financial statements to be prepared and audited. These financial records include invoices, receipts, cheques, books of prime entry and working papers, and may be electronic.
- Under the Food and Grocery Code of Conduct, large grocery businesses with total covered revenue exceeding \$5 billion are required to keep certain documents pertaining to suppliers (such as grocery supply agreements) for a minimum of 6 years.³⁴

As a result of these requirements, the supermarkets already produce and retain a significant amount of information as demonstrated in the ACCC Inquiry's final report. The ACCC collected large amounts of financial information including transactional data from ALDI, Coles, Woolworths, and Metcash over 5 financial years (between 2019–20 and 2023–24).³⁵ This included detailed (on a weekly, monthly and annual basis) information on Stock Keeping Unit (SKU)-level prices, revenues, input costs (cost of goods sold), supplier funding, product margin, gross margin, as well as common costs such as costs of doing business and its components, and business-wide margin data such as EBIT and Net Profit After Tax (NPAT).

Much of this information is also published (either as-is, or in aggregated form) by Coles and Woolworths in their annual reports. Additionally, scanner data is provided by the supermarkets to the ABS for the purposes of estimating the food and non-alcoholic beverages component of the CPI.³⁶ Together, these provide a confident assessment of information already being produced and retained by the supermarkets.


Consumers

Maintaining the status quo does not address the underlying policy problem that Coles and Woolworths have entrenched market positions which could lead to excessive grocery prices. It is not possible to quantify the monetary cost of this risk to consumers. The effect of this risk if realised is that it transfers resources from consumers to large supermarkets and creates inefficiencies and a deadweight loss from reduced consumption. This effect is particularly pronounced for grocery products where changes in price are less likely to result in changes to demand. If the risk of excessive prices were to be realised, it is likely that low-income consumers will face a disproportionate burden as groceries form a larger share of their household consumption, exacerbating inequality.

³⁴ At time of publication, this captures Woolworths, Coles, ALDI and Metcash.

³⁵ ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, Appendix C, 20 March 2025, pp 417–420.

³⁶ ABS, [Use of transaction data in the Australian CPI](#), Consumer Price Index: Concepts, Sources and Methods, February 2019.



To calculate the monetary cost of this risk, a range of data, which are currently unavailable, would be required. These include detailed supermarket-level pricing data, margin data, and how prices for individual grocery products vary across store formats, product ranges and locations. For reasons expressed throughout this analysis, this is a complex exercise that can only be conclusively undertaken by a court with respect to specific grocery products at specific times in specific areas.

In addition, consumer confidence in the supermarkets sector is likely to remain lower for longer, as consumers remain concerned that they are paying unfairly high prices for grocery products during their weekly shop.

Option 2: Introduce an excessive pricing prohibition for supermarkets

Under Option 2, Government would prohibit very large supermarket retailers from charging prices on grocery products that are excessive. The prohibition would be implemented as a provision of the Food and Grocery Code of Conduct, which is prescribed by regulations made under Part IVB of the CCA.

A break-even analysis has been used to measure the costs and benefits of Option 2 relative to the status quo. This is because the expected monetary benefits of the policy cannot be precisely quantified. Using a break-even analysis instead helps to identify the scale of consumer benefit that is required relative to quantifiable indicative establishment and administrative costs.

Further information on the cost and benefits methodology for Option 2 is set out at **Appendix B**.

Benefits

Supermarkets

Option 2 is designed to protect consumers rather than to benefit supermarkets.

However, there is a possible benefit to the affected supermarkets associated with restoring consumer trust that they are not charging excessive prices. The CHOICE 2023 pulse survey of consumers found that an average of 65% of respondents who shopped at Woolworths and Coles were sceptical about whether the supermarkets were justified in increasing their prices.³⁷ However, consumers are unable to know all the factors that determine the prices that supermarkets set, including the direct costs incurred in purchasing the products from suppliers, the indirect costs such as logistics, leasing premises, paying employees, and the other costs such as significant investments in their supply chain or other operational functions. The prohibition is designed to give the ACCC the means to investigate these factors, and for the court to be able to decide whether the prices are excessive.

If consumers have more trust that the regulator is capable of undertaking these investigations and considering on the consumers' behalf whether they are being charged excessive prices, then – absent any findings of excessive pricing – this might help restore consumer trust in the two major supermarkets.

Consumers

The regulatory intervention is intended to benefit Australian consumers by providing a credible deterrent against Coles and Woolworths charging excessive grocery prices and improving overall consumer welfare and trust in their pricing practices. The intent of Option 2 is to change the supermarkets' incentives and behaviour, and not to increase the likelihood of regulatory intervention.

37 CHOICE, Submission to the ACCC Supermarkets Inquiry 2024–25, p 8.

If Coles and Woolworths respond to the EPP by acting competitively when setting prices, then the provision would rarely need to be used.

Under this option, consumer welfare gains are expected through regulation that constrains the ability of Coles and Woolworths to impose prices significantly above competitive levels for sustained periods. These benefits will likely be more pronounced for low-income households who spend a larger portion of their income on grocery items and will be disproportionately affected by any excessive grocery prices.

Establishing a new overarching conduct requirement in law will also improve consumer confidence in the pricing practices of Coles and Woolworths by demonstrating that this conduct is subject to oversight and that consumers are better protected from excessive prices. Over time, this may shift consumer behaviour towards greater market participation, improving overall welfare.³⁸

As discussed above, because these benefits are impossible to fully quantify, a break-even analysis has been used to determine the minimum net monetary benefit per consumer using the likely costs of the intervention. This analysis is set out in the estimated regulatory burden section below.

Costs

Supermarkets

There are expected to be compliance costs for the supermarkets once the prohibition commences and on an ongoing basis. These costs will be in monitoring their own compliance with the prohibition and assuring themselves they are not in breach. Option 2 has been designed to minimise these costs as much as possible. Given the market position of Woolworths and Coles, there is a concern that any additional costs would be able to either be wholly or partly passed on to consumers.

This cost analysis only considers costs for Woolworths and Coles because it is not considered likely that other supermarkets will enter the remit of the prohibition over the ten-year evaluation period.

All supermarkets consulted have argued it will be complex to determine the attributable cost of an individual product, as operating costs such as wages, freight, and electricity are spread across products. Option 2 is designed in such a way that supermarkets are not expected to actively determine on a day-to-day basis the attributable cost of each individual product including the proportion of operating costs attributable to each individual product. Instead, they should consider the margins that they target when setting their prices and whether these are significantly in excess of the margins they would target if they faced workable competition.

The element of significance incorporates standards of quantity and duration. This means that if supermarkets are setting prices across a price cycle or an extended period where the margins are not likely to be excessive, they do not have to consider every price within that cycle. They do maintain freedom to set prices in response to market conditions over that time, provided none of them are significantly in excess of what they would be in a workably competitive market. One common practice for supermarkets is high-low price cycles, which are normally agreed with their suppliers, and where a price will be higher for a period and then lower for a period. This practice is not in and of itself inconsistent with a workably competitive market. Because duration is a factor in significance, a price that might be considered excessive if it was set for a long period may not be excessive if it is only for a short period in the context of a high-low cycle, depending on cost of supply and return to the supermarket.

38 See for example Stiglitz, [The Contributions of the Economics of Information to Twentieth Century Economics](#), Quarterly Journal of Economics, 2000 – Imperfect information create situations where trust reduces the cost of market participation, pp 1468–1471.

As such, the prohibition should not impose compliance costs every time a price is set. Instead, the compliance costs are expected to be more in the form of understanding the prohibition and then making sure relevant staff are familiar with it.

Establishment costs

As the target of the EPP, very large supermarket businesses are expected to face one-off establishment costs to interpret the new regulation and update business processes to ensure compliance. Large supermarkets may need to consider the impact of an obligation to not price products excessively on pricing strategies, compared to prior arrangements.

Option 2 includes a record-keeping obligation for very large retailers to keep pricing information for at least three years, to support enforcement by enabling the ACCC to obtain records to assess whether a breach has occurred. The requirements are intended to limit regulatory burden on industry and not extend the duration, form or type of record-keeping beyond current expectations under other existing laws, including the Food and Grocery Code of Conduct and tax requirements. It is expected that Coles and Woolworths are already keeping records consistent with what is required under this option (as discussed in Option 1 above), and as such additional regulatory costs are expected to be minimal.

As Woolworths and Coles have largely consistent statewide or national pricing, it is not expected that all staff across their network would require new training. Only corporate head-office staff responsible for setting prices, such as category managers and heads of retail, would be impacted.

It is also unlikely that there would be substantive compliance costs to purchase new equipment or upgrade IT systems.

To support understanding of the prohibition and how the supermarkets are expected to comply, the ACCC will also provide regulatory guidance, which will make it easier for businesses to understand their obligations.

Estimated establishment costs and ongoing costs are summarised in Tables 1 and 2 below. As similarly sized large supermarkets, it is assumed that Coles and Woolworths would incur the same costs. These costs only relate to the ongoing costs associated with complying with the prohibition, and do not factor in the costs associated with any enforcement action for its alleged breach, which is not a compliance cost. Further, in the case of this prohibition, it is primarily intended to serve as a credible deterrent to excessive pricing by large supermarkets, rather than a prohibition that has to be frequently enforced.

Further detail on the costed activities and labour costs is in **Appendix B**.

Table 1: Estimated one-off establishment costs for Coles and Woolworths

Description of activity	Hours required	Labour cost	Cost
Interpret new regulation – legal and compliance specialists	3,000	\$150	\$450,000
Update business processes to ensure compliance with the new regulation – senior managers	4,000	\$150	\$600,000
Update business processes to ensure compliance with the new regulation – working-level staff	5,300	\$85.17	\$451,401
Total for each supermarket			\$1,501,401
Total for both Coles and Woolworths			\$3,002,802

The assumed establishment cost of around \$1.5 million per supermarket fall in the midpoint of the \$1-2 million estimated range provided by Coles during consultation. It captures the initial costs of interpreting moderately complex regulation and implementing new business processes in response to

the new requirements. The estimates are based on three main activities: interpreting the regulation, redesigning operational processes, and implementing process updates at the working level.

It is assumed that Coles and Woolworths would each engage about 25 staff over a three-month establishment period, comprising 6 legal and compliance specialists, 8 senior managers, and 11 operational staff to implement the procedural and systems updates. Hourly rates of \$150 for specialists and senior executive time and \$85.17 for working-level implementation staff have been applied. This equates to 12,300 labour hours, consistent with total costs of about \$1.5 million per supermarket.

Ongoing Costs – Compliance

In addition to one-off establishment costs, it is expected that there will be low, ongoing administrative costs to ensure compliance with regulation.

It is assumed that Coles and Woolworths would incur the same ongoing administrative costs. It is assumed that their ongoing administrative costs will be the same every year over the 10 years.

Table 2: Estimated ongoing administrative costs over 10 years for Coles and Woolworths

Description of activity	Hours required per year	Labour cost	Cost per year	Cost over 10 years
Compliance and governance – legal and compliance specialists and senior managers	800	\$150	\$120,000	\$1,200,000
Monitoring and reporting – working-level staff	1,400	\$85.17	\$119,238	\$1,192,380
Training and communications – working-level staff	700	\$85.17	\$59,619	\$596,190
Total for each supermarket over 10 years				\$2,988,570
Total for both Coles and Woolworths over 10 years				\$5,977,140

These costs reflect the functions that are likely to be required by both businesses to maintain compliance with Option 2. The total 10-year cost of approximately \$3 million is distributed across these functions to reflect the intensity of effort typically required within a large business with an established compliance framework to comply with moderately complex legislation.

Ongoing Costs – possible decline in profits

In addition to establishment and administrative costs, Option 2 may result in loss of profits for supermarkets if they set lower prices because they are concerned that they may otherwise be in breach of the prohibition. Because evaluating whether pricing is excessive on any particular grocery product or group of grocery products is a complex analysis that is best undertaken by a court with regard to a range of specific circumstances, we have not sought to make a finding on the extent to which prices are currently excessive. Without having access to all the supermarkets' costs information that facilitate an evaluation of margin, it is not possible to quantify the extent to which excessive pricing is currently happening. Without knowing the extent to which it is currently happening, we cannot quantify the extent to which supermarkets may lower their prices and have lower profits after the prohibition because of its introduction.

To the extent there are higher costs to supermarkets in the form of lower profits, these would be directly transferrable to consumers as an equivalent benefit.

Other businesses

Regulatory costs incurred by supermarkets are unlikely to have flow-on effects to food and grocery suppliers, including farmers. In incorporating the cost of supply and focussing on supermarket margins, there is no basis for this prohibition to act as a reason for supermarkets to exert further pressure on their suppliers to keep supply costs down. The ACCC will continue to regulate the conduct of large grocery businesses towards their suppliers under the Food and Grocery Code of Conduct.

Consumers

Supermarkets may seek to pass increased regulatory costs on to consumers through slightly higher prices – while noting that the effect of the prohibition is that they could not become higher to the point of becoming ‘excessive’. Given the effect of the prohibition itself and that regulatory costs are very small as a portion of the revenue base for the very large supermarkets, the compliance costs of Option 2 are unlikely to lead to any material price increases. It is also expected that Option 2 would not impact the variety of products the supermarkets stock, and consumers will continue to be offered a similarly wide range of products.

The prohibition has been designed to target excessive pricing conduct carrying a degree of breadth and duration and is limited to when prices are established to be significantly excessive. This is intended to manage the risk of various potential unintended consequences, such as incentivising Woolworths and Coles to change their product ranges (such as by dropping their highest margin products), change or cease their promotional pricing practices (such as high-low pricing), change specific pricing practices (such as nationwide or statewide consistent pricing, and portfolio pricing) or to squeeze wholesale prices.

The presence of supernormal profits in a sector would normally act as a beacon for potential challengers to enter or expand their operations. In a competitive market, periods of higher profitability can provide a signal for efficient competitors to gain market share, pushing prices towards more competitive levels over time. One risk the design of the prohibition seeks to navigate is that by limiting the excessiveness of profits of the largest supermarkets that it will deter entry and expansion by competitors. If the prohibition were applied too broadly or perceived as penalising legitimate commercial behaviour, it could discourage further entry or expansion by reducing expected returns.

While the prohibition is intended to constrain very large supermarkets from charging excessive prices, this is not expected to meaningfully impact incentives for new entry by other supermarkets. Firstly, the threshold has been set at such a high level (\$30 billion annual turnover) that no potential competitor is expected to breach it in the near future, and the Food and Grocery Code of Conduct in which it is proposed to be situated will be reviewed within the next ten years. Entry or expansion at a more likely scale – such as challenging in particular regions in Australia or in particular segments of the grocery market – will not be deterred as only full-scale supermarkets servicing a large proportion of Australians could come close to the \$30 billion threshold.

Secondly, the design of the prohibition itself is such that it requires pricing to be significantly in excess of the cost of supply plus a reasonable margin. A reasonable margin does not eliminate the capacity for supermarkets to make a profit, and courts in the UK and EU have incorporated broad factors like the risks that a business has taken and the investments it has made into consideration when deciding what is a reasonable margin. Challenger supermarkets looking to enter or expand would have to undertake significant investment and risk, and the court would factor this into any consideration of what is a reasonable return.

Estimated net regulatory burden

Based on establishment costs of approximately \$1.5 million per supermarket, total ongoing costs of \$298,857 per year over 10 years, and a standard 7% discount rate, the present value cost to the sector is estimated at about \$7.2 million. Discount rate calculations, including those at 3% and 10% representing the uncertainty with which future outcomes are valued, with 3% giving greater weight to future costs, and 10% giving greater weight to present effects, are set out below.

Table 3: Present value cost estimate

Discount rate	Present value of admin costs (10 years)	Establishment costs	Total present value
3%	\$5,098,622	\$3,002,802	\$8,101,424
7% (preferred)	\$4,198,093	\$3,002,802	\$7,200,895
10%	\$3,672,694	\$3,002,802	\$6,675,496

At a 3% discount rate, the total present value cost is about \$8.1 million. If the discount rate is 10%, the total present value cost falls to about \$6.7 million.

At these estimates, only minor improvements to consumer welfare would be required for the intervention to deliver net benefits to the community, as set out using break-even analysis below.

To calculate the expected break-even costs of the intervention, a per-adult or per-household estimate of the costs borne by Coles and Woolworths is used as a denominator. A per-household cost estimate is the preferred measure, this reflects the purchasing unit which bears the cost. This is because grocery products are shared, and most purchasing decisions are made on behalf of an entire household unit.

In the 2021 Census, there were 9,993,900 households in Australia.³⁹ Taken as constant (which overrepresents the likely cost per household according for subsequent population growth), and that the market conditions identified by the ACCC persist, where approximately 85% of grocery product expenditure occurs at supermarkets,⁴⁰ and Coles and Woolworths' collective market share comprises 67% of national supermarket retail sales,⁴¹ the per-household present value cost equates to \$1.27 (based on the preferred present value of about \$7.2 million). Households would therefore need to benefit on average by at least \$1.27 in present value terms following implementation to justify the intervention. This break-even estimate is set out in the table below.

Table 4: Break-even cost estimate per household

Denominator	Households	Present value per household
All households (2021 Census)	9,993,900	\$0.72
Households which purchase groceries via supermarkets (85% of groceries expenditure)	8,494,815	\$0.85
Percentage of household expenditure on groceries at Coles and Woolworths (85% x 67% of spend)	5,691,526	\$1.27

39 ABS, [Household and families: Census, 2021](#).

40 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 51.

41 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 52.

Alternatively, on a per-adult basis, which may overstate the cost for smaller or single-person households and understate the cost for larger households but provides for more up-to-date figures, 2025 ABS estimates of resident adult population in Australia is 22,398,882.⁴² Using the same assumptions as above, resident adults would need to benefit by at least \$0.56 in present value terms following implementation to justify the intervention.

Table 5: Break-even cost estimate per resident adult

Denominator	Resident adults	Present value per resident adult
All resident adults (ABS estimate at 30 June 2024)	22,398,882	\$0.32
Resident adults which purchase groceries via supermarkets (85% of groceries expenditure)	19,039,049	\$0.38
Percentage of resident adult expenditure on groceries at Coles and Woolworths (85% x 67% of spend)	12,756,163	\$0.56

Using a break-even analysis, Option 2 therefore only needs to generate very small benefits to the consumers, via downward pressure on prices, for this option to result in a net benefit. However, this analysis does not take into consideration the risks discussed above that the prohibition may interfere with some existing supermarket practices or deter further investment or entry in the supermarket sector. If any of these risks were realised, the cost benefit analysis could change, requiring greater benefits for the costs to be offset.

The ACCC found that consumers spent \$84.7 billion at Coles and Woolworths combined in the 2023 financial year (representing about 67% of the \$126.5 billion supermarkets industry).⁴³ This equates to about \$8,480 per year per household (using the total number of households from above). Thus, the average household would only need to save 0.015% on their total grocery spend for the prohibition's benefits to outweigh its costs.

The table below outlines the final monetary regulatory burden estimate.

Table 6: Regulatory burden estimates for Option 2 in present value over 10 years

Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$7.2	\$ 0	\$ 0	\$7.2

⁴² ABS, [National, state and territory population](#), March 2025.

⁴³ ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 52.

5. Who did you consult and how did you incorporate their feedback?

Targeted consultation

Following the Government's announcement of an EPP, Treasury conducted targeted consultation with key stakeholders to help design the draft prohibition that was ultimately released for public consultation. This included supermarkets, consumer advocacy groups, suppliers, academics, other relevant Government agencies such as the ACCC, Department of Agriculture, Department of Home Affairs, and National Indigenous Australians Agency, and international regulators the New Zealand Commerce Commission and UK Competition Markets Authority.


Stakeholder feedback

- **Supermarkets** did not support being subject to an EPP, but did not believe that they would be found to be breaching a prohibition if it was based on the same principles as the UK/EU prohibition. As such, they were more concerned about the associated regulatory costs for any new requirements for information provision or record creation, and the cost and public brand impacts of having to defend any potential actions.
- **Consumer advocacy groups** had not previously undertaken detailed work on an EPP for supermarkets nor recommended it, but they generally expressed support for a UK/EU style prohibition and suggested this could be extended to other concentrated sectors of the economy.
- **Food and grocery suppliers** were concerned about an EPP that pressures supermarkets to negotiate more aggressively on supply costs in order to lower their retail prices. They wanted the EPP to be designed in a way that does not incentivise supermarkets to drive down supply costs. Small-scale suppliers were particularly concerned, given their weaker bargaining power with the supermarkets.
- **Academics and international regulators** pointed to a range of international models that could inform the design of a prohibition, including in the US, UK, EU and South Africa, as well as historical domestic legislation that has targeted excessive pricing in other contexts. It was also suggested that the prohibition may not need to include a substantial market power test, given the ACCC Inquiry report had already identified the two firms with a strong market position and limited incentive to compete vigorously with each other on price.

How feedback was incorporated

In response to targeted consultation, the Government proceeded with the development of exposure draft legislation that would introduce a prohibition in line with Option 2 for further consultation with stakeholders.

Incorporating the feedback provided by stakeholders, the prohibition was designed having regard to overseas approaches to excessive pricing regulation and particularly drew from the abuse of dominance laws in the UK and EU, which target regulatory intervention to circumstances of market failure, where ineffective competition has enabled the charging of higher prices. The advantage of this model means there is a developed body of jurisprudence available in both the UK and EU on how excessive pricing is understood for courts, regulators and industry to consider for how the new laws will be interpreted and applied in Australia.



One key divergence from the UK and EU model was to not require that it is proven that supermarkets have substantial market power before considering whether their prices are excessive. This reflected feedback that while Australia's two largest supermarkets are not incentivised to compete vigorously on price, they are unlikely to be considered to have substantial market power in any grocery product, and so a more appropriate application is that the excessive price prohibition applies based on their significant annual turnover and the findings of the ACCC Inquiry.

In response to the supermarket retailers' concerns about the regulatory costs, the prohibition has been designed with the intent not to create requirements for any records that supermarkets do not already generate in the ordinary course of business.

Exposure Draft consultation

Treasury undertook public consultation on the exposure draft legislation for the prohibition from 20 October to 3 November 2025.

Consultation materials included the draft amendments, an accompanying explanatory statement and a consultation paper.

The public consultation was open to submissions from interested stakeholders. Treasury also met with stakeholders, including supermarkets, supplier industry groups, consumer advocacy groups and academics.

Questions put to all stakeholders primarily focussed around whether the high-level framing of the prohibition would achieve the legislative and policy intent and whether additional detail or express reference to factors or defences would be beneficial in terms of providing regulatory certainty and potentially reducing compliance costs.⁴⁴

For the purposes of understanding the regulatory impacts of the legislation, Treasury also asked affected supermarkets for information on the compliance costs they expected to incur because of the introduction of the prohibition, including any material changes in business practices that would be required. For example, whether there are any changes that need to be made to facilitate the retailers' compliance with the prohibition or record-keeping practices, and the expected one-off and ongoing costs for the business, including any legal costs to interpret the prohibition.⁴⁵

Stakeholder feedback

- **Coles and Woolworths** continued to not support the introduction of the prohibition. They considered that if an excessive pricing prohibition for groceries is introduced that it should apply more broadly – including to cover potential competitors that sell groceries but not in a traditional supermarket format, and other sectors where higher profit margins may be present.
 - Woolworths' view was that if the law remained at a high level it would be challenging and costly for them to assess their compliance, and that some additional clarity would be preferred. To improve certainty of outcomes and reduce compliance costs the preference would be for this clarity to be made in the law itself.
 - Both retailers were concerned about potential unintended consequences, particularly around whether the law could interfere with their national or statewide pricing strategies, or incentivise the stocking of a smaller range of SKUs to cut down ongoing compliance costs across ranges.

⁴⁴ Treasury, [Consultation Paper: Introducing an excessive pricing prohibition for supermarkets](#), October 2025, p 9.

⁴⁵ Treasury, [Consultation Paper: Introducing an excessive pricing prohibition for supermarkets](#), October 2025, pp 9–10.

- **Consumer advocacy groups** noted the law had been designed at a high level and considered that there may be merit in providing additional clarity to stakeholders on how a court may interpret the law. They also considered that the introduction of the prohibition may have no or only a small impact on consumer confidence returning, and that consumer trust may only be restored if they see a general lowering of supermarkets' grocery prices.
- **Food and grocery suppliers** were concerned about potential impacts the prohibition could have on supermarkets' supply chains, noting that the UK and EU experience may not translate perfectly in the Australian context given the differing supports for producers' cost bases, and the variability of prices for many products. Suppliers were supportive of the record-keeping provisions capturing information held only by supermarkets but suggested the provisions capture all payments transferred between the very large retailers and suppliers for a complete view of the cost base, or alternatively argued for further clarity on the information intended to be kept by supermarkets.
- **Academics** provided a view that the court's interpretation of the law once implemented is uncertain given the significant flexibility provided in the drafting, without a definition of excessive in the law itself. It was suggested that more certainty could be achieved through the addition of a non-exhaustive list of factors for the court to consider in establishing whether a price is excessive. It was also suggested that the law could benefit from the addition of defences for charging excessive prices that consider the particular circumstances of the retailer.

Supermarkets' feedback on regulatory compliance costs

Coles provided estimated total costs that could help inform the costings for the impact analysis. Coles estimated that total Year 1 compliance costs would be between \$1 and \$2 million. This figure was provided based on the costs of implementing measures to comply with recent changes made to the supplier provisions of the Food and Grocery Code of Conduct, which has cost more than \$2 million over six months, but included additional actions including the reissuing of new trading terms to its entire supplier base. This would not be required to comply with the excessive pricing prohibition.⁴⁶

Evaluation of the consultation process

How feedback was incorporated into the design of the prohibition

In response to stakeholder concerns that the high level framing of the prohibition in the law creates a high degree of uncertainty for supermarkets to be able to comply with the prohibition, and uncertain outcomes if a case was considered by a court, further detail was provided in the law to help define an excessive price as one that is significantly in excess of the cost to supply and a reasonable margin.

In interpreting the cost of supply and a reasonable return, it is expected the court will have regard to the Explanatory Statement and relevant jurisprudence. The cost of supply includes costs beyond the cost that was incurred in buying the product. It incorporates other costs of supply including staff salaries, leasing costs, investments in efficiencies and other costs that support the sale of the product. By including a reasonable rate of return, allowance is also made for reasonable profits to be made, including a return on cost efficiency investments that have been made in relation to the sale of the product.

⁴⁶ Coles, Submission to Making supermarket price gouging illegal – draft law package, p 4.

Stakeholders also raised concerns about potential unintended consequences for supermarkets' national and statewide pricing practices and incentives to invest in cost efficient innovations, which are typical practices the supermarkets follow that are not considered harmful and that the prohibition should not interfere with. This has been considered and incorporated in a couple of ways. Firstly, the concept of 'excessive price' was replaced with 'excessive pricing', which considers the practice of price-setting system and methodology, and can take a broader view of how prices are set. Where prices are higher in particular areas because of a statewide or nationwide pricing policy, it should be flexible enough to consider that and be read in the context of whether it results in 'consumer harm', which is in the purpose clause of the prohibition. Secondly, a non-exhaustive set of factors that the prohibition should not interfere with was added to the Explanatory Statement.

Various stakeholders considered that there could be further clarity on the types of records that the supermarkets would be expected to keep. The record-keeping provision was amended to make clear that only one form of pricing information had to be kept, removing the risk that the same information might have to be kept across multiple documents or files. It was also made clearer that only retail price information has to be kept, rather than records relating to any discussion of possible prices as they are negotiated or deliberated, prior to that retail price being set. This change will help limit the costs incurred by the supermarkets to comply with their record-keeping obligations and provide certainty around the expectations for document retention for both supermarkets and the regulator.

Status of the Impact Analysis at each decision point

Decision Point	Timeframe	Status of the IA
Government announces the intention to implement an excessive pricing prohibition for supermarkets	30 March 2025	Undeveloped
Targeted consultation with stakeholders on policy options	July 2025	Commenced development of Draft IA informed by information and data already available in the ACCC's Supermarkets Inquiry Final Report 2025 and additional information received through targeted consultation.
Decision to develop exposure draft legislation	September 2025	Decision informed by a Draft IA that had not been through an OIA assessment.
Public consultation	October–November 2025	Requested feedback on the draft legislation and explanatory statement, and costings from very large retailers to inform cost-benefit analysis in the IA.
First pass	November 2025	IA for first pass assessment presented to OIA.
Second pass	November 2025	Draft final for assessment
Final policy decision	November 2025	Final IA included

6. How the preferred option will be implemented

What is the best option from those you have considered?

Option 2 is the recommended option. The benefits of implementing an excessive pricing prohibition to safeguard consumers from excessive pricing caused by insufficient competition in the supermarket sector, and in doing so, fix a key gap in Australia's competition and consumer protection framework under Option 2 have been assessed as making it the preferred option in comparison to the status quo under Option 1.

Option 2 is preferred as it will meet the two core objectives: 1) to prohibit and deter very large supermarkets from charging excessive prices, and 2) to give consumers confidence that they are not being charged excessive prices for groceries. The break-even analysis at Question 4 estimated that households would need to benefit on average only \$1.27 in present value terms following implementation to justify the intervention.

The ACCC found that:

- if there were a greater degree of competition between supermarkets, we would expect margins to be lower, either by way of lower retail prices, or higher costs incurred to improve quality of service, or both, and
- there are significant barriers to new entry and expansion in the sector, with Woolworths' and Coles' entrenched advantages and market positions resulting in their strong market position and associated outcomes set to continue for the foreseeable future.

This IA concludes that a safeguard is warranted to protect consumers from the possibility of excessive pricing by Australia's largest supermarkets. Further, retaining the status quo would mean continued low consumer confidence that Woolworths and Coles are not charging them excessive prices. As noted in the response to Question 1, consumer distrust in the largest supermarkets can undermine confidence that grocery markets are delivering fair outcomes and can damage consumer welfare in what is an essential, high-frequency spending category.

Introducing a prohibition consistent with Option 2 will help consumers trust that Woolworths and Coles will not charge them excessive prices in the future, and that if they do, the ACCC will have the power to take enforcement action.


How will it be implemented?

The prohibition will be implemented through amendments to the *Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024* (the Food and Grocery Code of Conduct), which is prescribed by regulations made under Part IVB of the *Competition and Consumer Act 2010 (CCA)*.

The amendments are targeted to be made by the end of 2025, with the prohibition to commence 1 July 2026.

Following the implementation of the amendments to the Code, the ACCC will liaise with stakeholders ahead of issuing procedural guidance that will supplement the new laws and explanatory statement, setting out how they intend to monitor and enforce the prohibition, to aid the supermarkets in evaluating their compliance.

The prohibition will be accompanied by record keeping obligations on the supermarkets. In order to not impose additional compliance costs, the record keeping obligations do not require the supermarkets to keep information they do not already keep. Having these record keeping obligations



in accompaniment to the prohibition means that the ACCC can monitor compliance by accessing these records without having to take investigatory steps.

The ACCC's guidance will also cover these new obligations on very large supermarkets to require them to keep information or documents containing information on their prices, costs and other factors relevant to their sale of groceries for at least three years. This guidance will help Woolworths and Coles to better understand the types of documents that will be captured by the provision.

Supermarkets that meet the definition of a 'very large retailer' under the new provisions will be required to notify the ACCC that they are subject to the prohibition and related record keeping requirements from the time the prohibition commences.

Implementation challenges and risks

A number of challenges and risks have been considered, including:

- The prohibition may disincentivise Woolworths and Coles from making investments that would have provided cost efficiencies and reduced prices for consumers over the long term
- Supermarkets may stop selling high-margin products despite consumer demand for them
- Supermarkets may not want to maintain practices that benefit some consumers but may result in some price distortions from the efficient market price – such as statewide and nationwide pricing
- The prohibition may capture other conduct that was not intended to be captured
- Supermarkets may seek to pass on compliance costs to consumers through higher prices
- The prohibition may deter entry or expansion by supermarkets that could challenge the market position of Coles and Woolworths
- There may be lingering uncertainty around what constitutes an excessive price if there are no cases brought forward for consideration by the courts.

These risks have been considered in the design of the prohibition. The prohibition is flexible because the circumstances in which pricing may be excessive are very particular to the circumstances of the case. The UK/EU prohibition has been effectively targeted to circumstances of market failure in which ineffective competition has enabled the charging of excessive prices, resulting in consumer detriment and economic inefficiency. Over time, courts and tribunals in the UK and EU have developed a useful body of jurisprudence on how excessive pricing is understood that may illustrate how the prohibition would be applied in Australia.

The design of the prohibition – to prohibit pricing which is significantly in excess of the cost of supply and a reasonable margin – is flexible enough to consider that a reasonable margin may be different in different circumstances, including that it may be higher when supermarkets take a risk on new products, in moving into new locations, or in undertaking significant investments to improve their services.

Australian consumers are attuned to grocery prices, and ultimately it is expected that there will be ongoing attention on the outcomes of the prohibition. The effectiveness of the prohibition will be considered on an ongoing basis, with the ACCC having the powers to monitor supermarkets' compliance. If there is not reason for an ad-hoc review sooner, the prohibition will be reviewed along with the rest of the Food and Grocery Code of Conduct before it sunsets in 2035.

7. Evaluation

As outlined in the need for Government action, the objectives of the excessive pricing prohibition are to prohibit and deter supermarkets from charging consumers excessive prices and build consumer confidence that the major supermarkets are not charging excessive prices when they shop at them. These objectives will be achieved if there is found to be an absence of excessive pricing by covered supermarkets and if consumers are more confident that the prices being charged by covered supermarkets are the prices that would be charged in a workably competitive market.

Supermarkets' compliance with the prohibition will be supported by the record-retention requirements being implemented with the prohibition and compliance monitoring by the ACCC. Covered supermarkets will be required to keep information on their prices, costs and other factors relevant to the sale of groceries for three years to ensure that information relevant to establishing whether prices are excessive will be retained. If the policy is successful in deterring supermarkets from charging excessive prices, then there will be no need for the ACCC to undertake enforcement action.

The food and grocery industry is a highly scrutinised sector, with particular attention given to supermarkets noting the role they provide in delivering essential grocery products to consumers and the high concentration of the industry among a small number of businesses. Several reviews and inquiries have been conducted over the last two decades, including an ACCC inquiry into the competitiveness of retail prices for standard groceries in 2008, the Senate Select Committee on Supermarket Prices which tabled its report in 2024, the ACCC Supermarkets Inquiry reporting in 2025, and three reviews of the Food and Grocery Code of Conduct in 2018, 2023 and 2024.⁴⁷

There will have to be a review of the Code and whether it should be remade before it sunsets in 2035, which will include assessment of whether the prohibition has operated as intended. Although who will lead the review will be a decision for Government, historically Treasury, or an independent reviewer supported by Treasury, have led reviews of the Code. The outcome of each review has been made available to the public in the form of a report.


Both the ACCC and Treasury will have a role to play in monitoring the effect of the prohibition. The ACCC will be monitoring, investigating, and – where warranted – taking action on prices that could be considered excessive. Meanwhile, Treasury has a watching brief both on economic data and on sector-specific concerns as they arise and will also consider any stakeholder feedback that is relayed.

Enforcement outcomes

Ultimately the only determinative measure in whether a price is excessive will be whether a court finds it to be. However, it is not expected that this is a prohibition under which enforcement action will be taken often, due to the evidentiary complexity in establishing whether a price is excessive, and so this determinative measurement cannot be expected to evaluate the enormous range of grocery products that the two largest supermarkets offer. Instead, it would only be conclusive as to whether the products the subject of the action are excessively priced.

While court proceedings will likely be limited to a narrow range of the products subject to the prohibition, they will provide useful interpretations that will help develop an understanding for stakeholders on when excessive pricing is occurring. This will include informing whether future reviews are needed to determine whether the prohibition is targeting the conduct intended to be captured in the way it was expected.

⁴⁷ ACCC, Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, July 2008; Treasury, Independent Review of the Food and Grocery Code of Conduct Final Report, September 2018; Treasury, Review of Part 5 of the Food and Grocery Code of Conduct Report; Treasury, Independent Review of the Food and Grocery Code of Conduct, Final Report, June 2024.



As a decision that prices are excessive is a decision of the court and the court will not be deliberating on every price, there cannot be perfect measurement of the ambition of this policy intervention to deter excessive pricing, and the Government will instead use a range of indicators that can give an overall sense as to its effectiveness.

Data sources

The complexity in evaluating whether a price is excessive is why the prohibition has to be principles-based and evaluated by the court rather than built on a simple metric, and why it requires a number of data sources to be considered, but which still can only give an indication rather than a conclusive outcome. Some of the data sources that can give an indication are below.

Prices

Consumer Price Index

One of the leading factors that led to calls for the ACCC Inquiry and influenced the growth in consumer distrust of supermarkets was the increase in supermarket prices over the last few years. One publicly available proxy for grocery price inflation is the ABS price series on food and non-alcoholic beverages, which forms part of its CPI analysis, and includes price indexes by disaggregated Expenditure Classes (ECs) (for instance, ‘bread and cereal products’ sub-group disaggregated to its components ‘bread’, ‘cakes and biscuits’, ‘breakfast cereals’ and ‘other cereal products’).⁴⁸ The broader CPI series also provides a benchmark for whether these prices are exceeding broader inflation.

However, in evaluating the effect of the prohibition it faces some significant shortcomings. In addition to considering other supermarkets than the two that are subject to the prohibition, it also considers retailers who provide food for dining or takeaway services. It also does not consider what the effect of changes in supply costs have been for any changes in these prices, which are often factors beyond the control of the ultimate retailers. Other ABS CPI sub-series that capture other goods sold at supermarkets, such as non-durable household products, cleaning and maintenance products and other non-durable household products, all face similar limitations. In addition, the scope for the CPI is limited to capital cities of Australia, so prices in regional and remote areas are not captured. Finally, the ABS does not publish inflation information for particular products or groups of products, for instance, taking our ‘cakes and biscuits’ EC example from above, disaggregated data on ‘cakes’ and ‘biscuits’ are not separately available.

It therefore does not provide a measurement of the concern that Woolworths and Coles are able to use their market position to set prices higher than they would in a more competitive market. It can, however, form an indicator of the broader market and can form a benchmark against which to evaluate Woolworths’ and Coles’ prices, if such a series of their prices is created.

In 2024, CHOICE was also provided with additional funding to publish reports comparing supermarket prices, with CHOICE releasing quarterly reports comparing the prices of a basket of basic goods bought at each of the major supermarkets – Coles, Woolworths, ALDI and IGA. These reports will continue to be produced for a short time after the prohibition commences and could be used to compare prices for a select range of goods before and after the commencement of the prohibition.⁴⁹ This is a more targeted measurement of prices at Woolworths and Coles than broad CPI.

⁴⁸ Australian Bureau of Statistics, [Consumer Price Index](#), 30 July 2025.

⁴⁹ For example, CHOICE, [New year, new basket: CHOICE’s second year of quarterly supermarket price surveys begins](#), 25 June 2025.

However, it also faces shortcomings, including that it is comparing products offered at each of the supermarkets which are not identical, so the quality of each is not factored into the comparison. Further, it does not abstract from the cost base for each of them. ALDI has a business strategy focussed more on servicing areas with greater population density, which helps keep its cost base down. This means that even if it was selling products that are otherwise the same as those at Coles and Woolworths, it is expected that – if all other cost factors were even – they could do so at a lower price. In reality, there are a wide range of factors affecting the cost base, and without knowing these it cannot be determined whether a supermarket is charging excessive prices relative to its rivals.

Further analysis on price changes could be conducted by collecting information published by price comparison websites that scrape supermarkets websites for the purposes of providing consumers the service of being able to search and compare prices across multiple retailers. The Government has committed to consulting on Recommendation 2 of the ACCC Inquiry, to further improve price transparency for consumers and third-party websites. Implementing this recommendation would support the availability of pricing information to inform analysis of price trends over time.⁵⁰

Producer Price Indexes and International Trade Price Indexes

As discussed above, one of the limitations of the Consumer Price Index is that it does not consider the effect of changes in supply costs on any changes in retail prices. To address this, a comparison can be made between the CPI and the Producer Price Indexes (PPI), the latter of which measures price change of goods and services as they leave or enter the production process, and is also published by the ABS.⁵¹

The ACCC Inquiry compared CPI ‘food and non-alcoholic beverages’ against input prices to, and output prices of, PPI ‘food product manufacturing’ and ‘beverage and tobacco product manufacturing’ series.⁵² This provided an approximate indication of whether increases in retail grocery prices were largely consistent with increases in grocery suppliers’ input costs.

However, both these PPI series are not a perfect measure of supply costs. The Producer Prices Indexes capture only domestic production of goods and services, which means input and output prices of several imported grocery products are excluded (although imported materials for the purposes of domestic production are included). In this case, the ABS International Trade Price Indexes may provide an indication.

Profitability


Analysis of supermarkets’ annual reports would reveal changes to supermarkets profitability following the implementation of the prohibition, as well as potential impacts on supermarkets’ incentives to direct profits toward investments that could result in long term benefits to consumers. As it is intended for the prohibition to preserve incentives for supermarkets to invest in improving the efficient supply of groceries to Australians, analysis of supermarkets’ profitability and investment decisions before and subsequent to the commencement of the prohibition could provide indications of whether this policy objective has been achieved.

This analysis could be conducted using the available data published in the ACCC Inquiry’s final report, including the reported Gross Margins, EBIT and NPAT margins for each of the retailers, with the reported margins in future annual reports published by the major retailers. These and other profitability measurements could then be compared to international peers to better understand the relative profitability of major Australian supermarkets and whether the retailers subject to the

50 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025.

51 ABS, [Producer Price Indexes](#), 31 October 2025.

52 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, pp 40–42.



prohibition may have reduced their profit margins in response to the implementation of the prohibition.⁵³ Note while NPAT margins comprise of profits earned by Coles Group's and Woolworths Group's other, non-supermarket businesses, it may still provide insights when considered together with the other margin metrics mentioned above (as the ACCC did in its final report).

However, this is also just useful as a general indicator. Supermarkets derive their profitability from several factors. For the sale of groceries, they could increase profitability either by decreasing costs or by increasing revenue. The prohibition is not intended to limit incentives for supermarkets to find efficiencies in their cost base, as ultimately these lower costs play a significant role in driving lower prices over the medium to longer term as competitors eventually catch-up and reapply price pressure. Also, supermarkets are primarily concerned with the sale of groceries, but they have other revenue streams, such as the sale of advertising to be broadcast in their stores. Any role these other services play in the profitability of the supermarkets is not relevant to whether they are charging excessive prices for groceries.

The usefulness of profitability is also limited because it reports across all the products that supermarkets sell, rather than specific products or ranges of products where prices might be excessive. This lack of published product margin information makes it difficult to assess whether prices for particular products are excessive.

Consumer trust

Evaluation could also be conducted on changes to consumer trust in the major supermarkets over time. While measuring consumer confidence can be challenging, consumer trust in Coles and Woolworths has been captured for several years by Roy Morgan's consumer survey on trusted brands, which could act as one proxy for measuring consumers' confidence that the products they are buying are fairly priced. Analysis conducted by research houses and banks on consumer grocery spending trends can also be used as proxies, including National Australia Bank's quarterly consumer sentiment survey which includes information on both consumers' recent spending and future spending intentions. Further comparison could be made with the September 2023 CHOICE Pulse Survey of more than 1,000 Australian households which provided a point in time snapshot of consumer's views and concerns towards the major supermarkets.⁵⁴

Consumer confidence is inherently a subjective measure – self-reported and highly subject to factors other than the legal test of excessiveness. For this reason, it cannot be expected that there will be perfect correlation of consumer confidence with the impact of the prohibition on supermarket pricing decisions. However, confidence plays its own economic role, influencing economic decision-making and, given groceries are a staple in peoples' spending choices, potentially having spillover effects to confidence in the broader economy.

53 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, pp 8–9.

54 CHOICE, Consumer Pulse Survey, September 2023.

Evaluation questions

Below is a sample of evaluation questions that could assist with evaluation of the effectiveness of the prohibition by objective, and the relevant data and evaluation methods that could be drawn on.

Objective	Sample evaluation questions	Relevant data & methods
Prohibit and deter supermarkets from charging consumers excessive prices	<ul style="list-style-type: none"> Are supermarkets complying with the prohibition and, if not, what actions have been taken by the ACCC to enforce compliance with the prohibition, were the actions successful and was the conduct captured the type of conduct targeted by the prohibition? What changes did the supermarkets need to make to comply with the prohibition, and what were the costs incurred to make the changes? Has the prohibition created any distortionary impacts on supermarkets and their incentives to invest and improve cost efficiencies? 	<ul style="list-style-type: none"> The number and nature of the compliance and enforcement activities undertaken by the ACCC. Quantitative and qualitative information from supermarkets on the initial and ongoing costs of compliance with the prohibition. Analysis of Woolworths' and Coles' annual reports will contain information about profits and investment decisions made by Woolworths and Coles in relation to their retail groceries businesses over time. The ABS: <ul style="list-style-type: none"> Consumer Price Index tracks annual inflation of food and non-alcoholic beverages over time Producer Price Indexes measure price change of goods and services as they leave or enter the production process International Trade Price Indexes measure the change in the prices paid for imported products and the prices received for exported products. Interrupted time series analysis to assess pre- and post-implementation price trends. Difference-in-difference (DiD) approaches if any supermarkets or product categories are exempt or phased in at different times.
Build consumer confidence that the major supermarkets are not charging excessive prices	<ul style="list-style-type: none"> How has consumer confidence that supermarkets are not charging excessive prices for groceries changed since the prohibition was implemented? Has there been a change in consumers' trust that Woolworths' and Coles' prices are the prices that would be charged in a workably competitive market? 	The Roy Morgan annual consumer survey on trusted brands will provide indicators of changing consumer trust in Woolworths and Coles as a proxy for consumer confidence that both firms are not charging excessive prices.

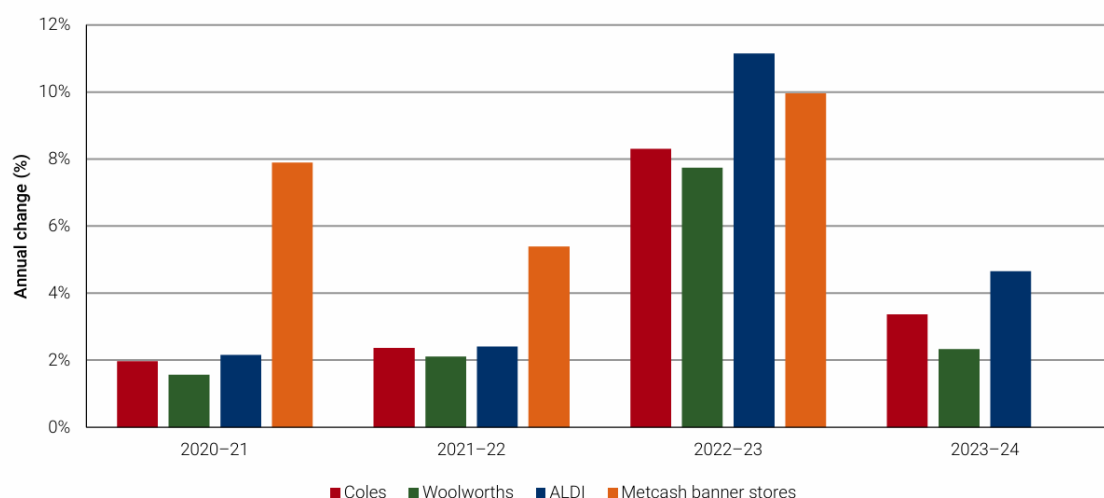
Appendix A – Relevant findings from the ACCC Inquiry

Supermarket prices have risen, impacting consumers

Prices at all major supermarkets have increased from 2020–21 to 2023–24 financial years, as shown in Figure 1. Grocery prices have significantly outpaced wages growth since 2021.⁵⁵

Figure 1: Prices increased at all supermarkets between 2020–21 and 2023–24 financial years, and significantly in 2022–23

Annual change in effective prices for each supermarket between 2020–21 and 2023–24 financial years



Source: Figure 2.4 of the ACCC Supermarkets Inquiry Final Report

Note: ACCC did not obtain data for Metcash banner stores for the 2023–24 financial year. Further, Metcash banner stores' financial year period follows a May to April cycle, unlike the other supermarkets whose financial year period is the conventional July to June cycle. As a result, Metcash banner stores' financial year data does not wholly align with the other supermarkets' data.

Against the backdrop of this period generally being inflationary across other products and services, food and grocery affordability has become a particular issue for Australian consumers. CHOICE's September 2025 Consumer Pulse survey found that 86% of respondents were concerned about the cost of food and groceries.⁵⁶

Supermarkets play an important role in how Australians buy their groceries. Survey data from the ACCC suggests that while there are alternatives available to consumers, such as fresh fruit markets, convenience stores and small or specialty retailers, supermarkets are still the main avenue through which consumers buy their groceries.⁵⁷

Consumers on lower incomes spend a higher proportion of their income on groceries and are therefore more likely to be adversely impacted by high grocery prices.⁵⁸ Higher prices for food can adversely impact broader outcomes, both directly by influencing what and how much people buy and consume, and indirectly by reducing the available budget for other living costs, which may include housing, energy and medical needs. Research suggests that the price of food available to people is an

55 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, pp 2–3.

56 CHOICE, [How we survey supermarket grocery prices](#), 25 June 2025.

57 ACCC, [Supermarkets Inquiry 2024–25 Interim Report](#), August 2024, p 28.

58 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 245.

influential determinant of the quality and quantity of food consumed and therefore their health and well-being over their lifetimes.⁵⁹

Low-income households are more likely to experience food insecurity.⁶⁰ An ACCC consumer survey reflected many respondents on lower incomes reporting significant concerns over food insecurity, where many respondents reported buying only essentials, and some noting that they are eating less and skipping meals to provide for their children.⁶¹

High market concentration and barriers to entry and expansion

The ACCC Inquiry found that Australia's supermarkets industry is highly concentrated, characterised as an oligopoly, and the market is particularly dominated by two firms – Woolworths and Coles. The ACCC observed that due to the oligopoly structure of the Australian supermarket sector, Coles and Woolworths have limited incentive to compete vigorously on price.⁶² The ACCC asserted that if there was a greater degree of competition between supermarkets, it would expect retail margins to be lower, either by way of lower prices, or higher costs to improve quality of service, or both.⁶³

Woolworths, Coles, ALDI, and Metcash banner stores⁶⁴ collectively hold an 83% market share of supermarket grocery sales, with a 67% share held by Woolworths (38%) and Coles (29%). ALDI has 9% of market share and Metcash, as a proxy for the independent supermarkets it supplies, has 7%.⁶⁵ Woolworths and Coles collectively account for over 57.3% of supply of national take-home food and grocery sales in 2022–23, increasing from 53.6% in 2006–07.⁶⁶ Woolworths, Coles and ALDI have expanded their market share since 2006–07 while Metcash's market share has decreased by more than 10%.

The only major discounter in the Australian market, ALDI, does not compete with Coles and Woolworths wholly, given ALDI is not a full-service supermarket retailer. ALDI is primarily based in metropolitan areas and have minimal presence in regional and remote areas, including no presence in the Northern Territory, Tasmania and far-north Queensland. ALDI does not have an established online shopping offering (including home delivery or 'click and collect') due to its low-cost business model. However, it recently announced it is trialling providing online grocery delivery with DoorDash in Canberra.

Furthermore, there are significant barriers to entry and expansion in the current market. The ACCC Inquiry found that a competitor achieving large-scale new entry or expansion is unlikely in the short to medium-term. Other international supermarkets, such as Kaufland, have tried to enter Australia but subsequently withdrawn.⁶⁷ Inaction from Government may result in persistent high barriers to entry. Competitively effective entry or expansion by a supermarket chain requires building a supplier network, economies of scale at the wholesale level, capital, and access to suitable retail sites.

The ACCC Inquiry found that Coles and Woolworths' dominance of the supermarkets sector is set to continue in the foreseeable future. Despite facing ongoing competitive challenges, the two supermarket firms have an entrenched position in the market. The ACCC determined the market's

59 Global Centre for Preventive Health and Nutrition, Submission 22 to the Senate References Committee Inquiry on Supermarket Prices, 2 February 2024.

60 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 16.

61 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 245.

62 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 75.

63 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 360.

64 Metcash banner stores are independent grocery retailers who operate under a brand licensed from Metcash, such as IGA.

65 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 4.

66 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 53.

67 Kaufland, [Submission to ACCC Supermarkets Inquiry](#), 10 July 2024.

barriers to entry and expansion and the advantages held by Coles and Woolworths mean the fundamental dynamics of competition in this sector and associated outcomes appear set to continue.

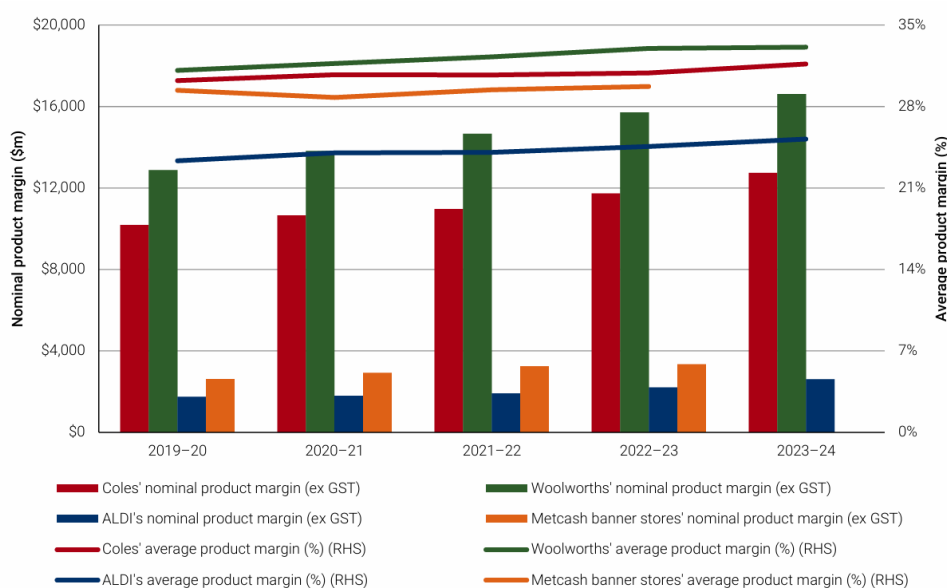
Major supermarkets are consistently profitable and have increased their product margin

The ACCC Inquiry found that grocery prices in Australia increased over the last 5 financial years. Most of those increases are attributable to increases in the cost of doing business across the economy, particularly including production costs for suppliers. Input and operational costs increased over this time, but Coles and Woolworths still maintained or increased their product margin.⁶⁸

The ACCC Inquiry found regardless of the metric applied (EBIT, NPAT or return on capital), ALDI, Coles and Woolworths are consistently profitable. Figure 2 shows that ALDI's, Coles' and Woolworths' average product margins consistently increased over the last 5 financial years, while Metcash banner stores' average product margins have been relatively flat.

Figure 2: ALDI's, Coles' and Woolworths' average product margins have increased since 2019–20 financial year, while Metcash banner stores' average product margin has been relatively flat

Nominal product margin (\$) and average product margin (expressed as a % of sales revenue) by supermarket between 2019–20 and 2023–24 financial years.



Source: Figure 7.10 of the ACCC Supermarkets Inquiry Final Report

Note: Product margins include cost of goods sold which are costs directly related to the production or acquisition of a product. In practice, additional costs are included in gross margins. Further, indirect costs or operating costs (such as wages, rent, utilities, marketing) are generally included in the whole-of-business profitability metrics discussed in section 7.1. As a result, ACCC expect product margins to be higher than the margin ultimately earned by a supermarket (as represented by EBIT or NPAT margins).

ACCC note that the early financial years in our analysis included the COVID-19 period, which affected all supermarkets' business operations and therefore financial metrics.

⁶⁸ Product margin represents a product's sales revenue (excluding GST) less its cost of goods sold, expressed as a proportion of that product's sales revenue. Cost of goods sold includes costs directly related to the production or acquisition of that product, including direct materials, labour, manufacturing overhead, freight and shipping costs, but not wages, rent, utilities, marketing, office supplies or legal costs.

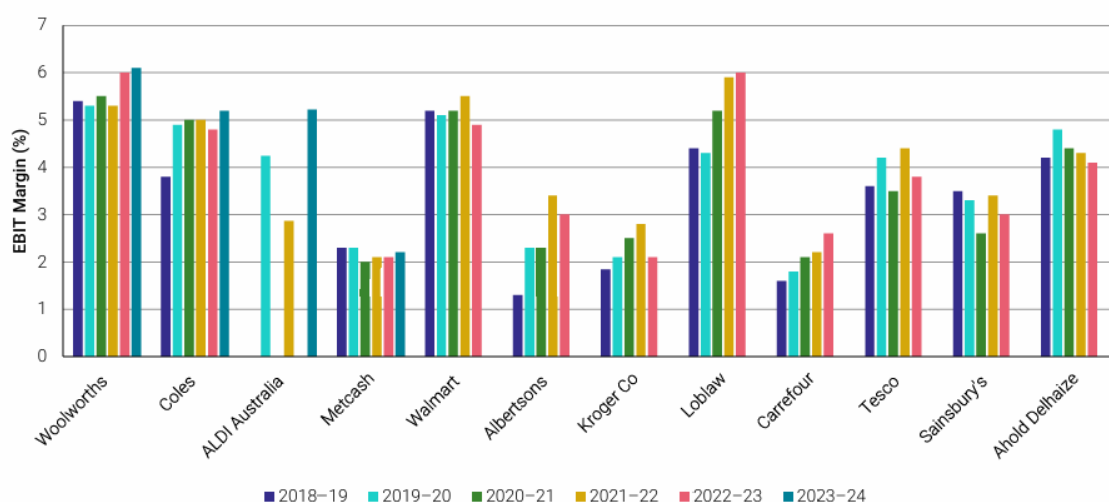
ACCC did not obtain data for Metcash banner stores for the 2023–24 financial year. Further, Metcash banner stores' financial year period follows a May to April cycle, unlike the other supermarkets whose financial year period is the conventional July to June cycle. As a result, Metcash banner stores' financial year data does not wholly align with the other supermarkets' data.

The ACCC Inquiry found that Woolworths and Coles can maintain, if not increase, their margins in percentage terms regardless of changes in cost prices from suppliers. This results in an increase in retail price by more than the cost price increase (in dollar terms). This would have the effect of increasing the supermarket's profit in both dollar terms as well as an increase in margins in percentage terms, at the expense of consumer outcomes.⁶⁹ The ACCC Inquiry found Woolworths and Coles are likely to continue growing their market share and increase their product margins in the long term.⁷⁰

Coles and Woolworths are among the most profitable supermarkets compared to international peers

The ACCC Inquiry also found that Coles and Woolworths are among the most profitable supermarket businesses among global peers.⁷¹ Figures 3 and 4 outline EBIT margins and NPAT margins for Australian supermarkets and their global peers. In the ACCC's view, these findings indicate there is scope for greater competition. However, the advantages of existing businesses having a well-established incumbent position make it unlikely for a full-service supermarket to enter or expand in the market.⁷²

Figure 3: EBIT Margin comparison – Coles and Woolworths report higher EBIT margins than most of their international peers between 2018–19 and 2022–23
Reported EBIT margin of Australia supermarkets and their global peers



Source: Figure 7.6 from the ACCC Supermarkets Inquiry Final Report

69 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 376.

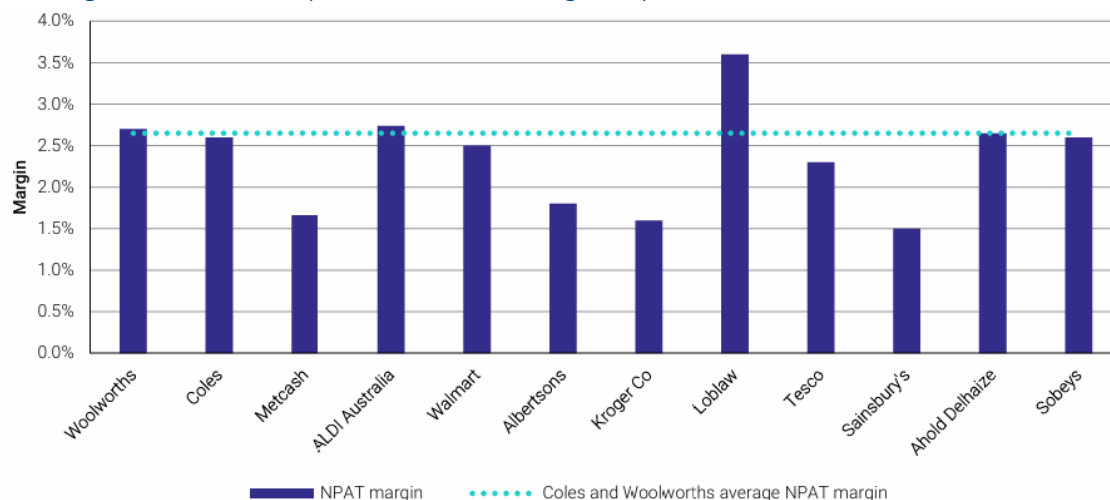
70 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 17.

71 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 357.

72 ACCC, [Supermarkets Inquiry 2024–25 Final Report](#), February 2025, p 145.

Figure 4: NPAT Margin comparison – Coles Group and Woolworths Group NPAT margin is among the highest of their global peers between 2019–20 and 2022–23

NPAT margin of Australian supermarkets and their global peers



Source: Figure 7.7 from the ACCC Supermarkets Inquiry Final Report

Note: ALDI recorded an unusually high NPAT in 2020–21 following a significant one-off gain. For the purposes of figure 7.7, ALDI's average NPAT margin does not include its 2020–21 NPAT margin

Although NPAT includes a broader range of income than just that obtained through supermarkets (such as those earned from Coles Group's and Woolworths Group's non-supermarket businesses), these findings about the profitability of Australian supermarket retailers compared to international peers still raises concerns about the state of competition in the supermarket sector, and that there is potential for supermarkets to charge excessive prices absent of additional competition.

Appendix B – Estimated regulatory costs for businesses

Assumptions

The labour costs for businesses are based on the standard formula of time required × labour cost × number of staff × number of businesses.

- A \$85.17 hourly rate for labour costs is used for working-level staff, consistent with the standard rate for the IA process.
- A \$150 hourly rate for labour costs is used for involvement by supermarket senior executives and senior in-house lawyers. This hourly rate is a Treasury estimate.⁷³
- It is assumed that no labour-related services are outsourced, as supermarkets would rely on in-house legal counsel and in-house price analysis.
- It applies only to Woolworths and Coles.

One-off establishment costs

Woolworths and Coles would face costs to interpret new regulation and update their business processes to ensure compliance with the new regulation. It is assumed that each activity would be performed once.

There are no expected one-off substantive compliance costs such as purchasing new equipment or significantly upgrading IT systems. There would be no expected delay costs – there would be no new expenses and loss of income through an application delay or an approval delay.

For this IA, it is assumed that Woolworths and Coles will have the same establishment costs.

Table 7: Estimated one-off establishment costs for Coles and Woolworths

Description of activity	Hours required	Labour cost	Cost
Interpret new regulation – legal and compliance specialists	3,000	\$150	\$450,000
Update business processes to ensure compliance with the new regulation – senior managers	4,000	\$150	\$600,000
Update business processes to ensure compliance with the new regulation – working-level staff	5,300	\$85.17	\$451,401
Total for each supermarket			\$1,501,401
Total for both Coles and Woolworths			\$3,002,802

⁷³ A \$150 hourly rate is consistent with Treasury estimates used in the 2024 Impact Analysis for [Merger Reform: A Faster, Stronger and Simpler System for a More Competitive Economy](#) for senior executive involvement in merger transactions.

Ongoing administrative costs over 10 years

Option 2 is expected to impose ongoing administrative costs in the form of labour costs for staff to ensure continued compliance with the regulation.

As they are similarly sized very large retailers, it is assumed that Coles and Woolworths have the same costs. It is assumed that their ongoing administrative costs will be the same every year over the 10 years.

Table 8: Estimated ongoing administrative costs over 10 years for Coles and Woolworths

Description of activity	Hours required per year	Labour cost	Cost per year	Cost over 10 years
Compliance and governance – legal and compliance specialists and senior managers	800	\$150	\$120,000	\$1,200,000
Monitoring and reporting price setting activity – working-level staff	1,400	\$85.17	\$119,238	\$1,192,380
Training and communications – working-level staff	700	\$85.17	\$59,619	\$596,190
Total for each supermarket over 10 years				\$2,988,570
Total for both Coles and Woolworths over 10 years				\$5,977,140

Discount rate calculation

Discount rates were applied to the one-off establishment costs and ongoing administrative costs of Option 2 to provide estimated regulatory costs in present-value terms. Discounting is intended to reflect the time value of money, which suggests that costs and benefits occurring in the future are worth less than those occurring today.

The analysis applies discount rates of 3%, 7% and 10%, which provides a range estimates of the time value of the costs associated with Option 2. The 7% rate is used as the 'central' discount rate, which represents the average real return that could be earned if these resources were applied elsewhere. Each discount rate was calculated using standard OIA cost benefit analysis guidance.

Table 9: Present value cost estimate

Discount rate	Present value of admin costs (10 years)	Establishment costs	Total present value
3%	\$5,098,622	\$3,002,802	\$8,101,424
7% (preferred)	\$4,198,093	\$3,002,802	\$7,200,895
10%	\$3,672,694	\$3,002,802	\$6,675,496