



Policy Brief | 13 January 2026

# What can the Government do about supermarket prices and supplier relationships?

Law and Bills Digest section

## Issue

Highly concentrated markets can be less competitive, leading to higher prices for consumers and increased pressure on suppliers. Australia's 2 largest supermarket chains, Coles and Woolworths, account for around two-thirds of supermarket sales. This, combined with recent food price increases, has created renewed interest in how supermarket prices and supplier relationships are regulated.

### Key points

- The Commonwealth has regulatory powers over most supermarkets through the *Constitution*.
- However, Australian law does not currently define the concepts of 'excessive pricing' or 'price gouging' and these can be very difficult to define (and prove).
- The Commonwealth's existing legislative tools to regulate supermarkets include the (recently strengthened) Food and Grocery Code of Conduct. The Code now includes a ban on excessive pricing of groceries by very large retailers, which comes into effect on 1 July 2026.
- Published in February 2025, the Australian Competition and Consumer Commission's (ACCC) supermarket inquiry report made several recommendations, including reforming land use planning and zoning to boost competition.

## Context

Before the 2025 election, the [Labor Government](#) committed to ‘crack down on [supermarket] price gouging’ and establish an advisory taskforce regarding excessive pricing.

In 2024 the Government tasked the ACCC with a supermarket pricing [inquiry](#). Although [the ACCC](#) did not seek to identify evidence of price gouging or excessive pricing (p. 357), it [did find](#) (p. 78) that supermarket oligopolies ‘can limit incentives to compete vigorously on price.’ It also [noted](#) ‘a significant bargaining power imbalance between Coles and Woolworths and some suppliers’. It recommended greater pricing transparency (p. 24).

Accordingly, rather than *price* competition across the supermarket sector, the [Productivity Commission \(PC\)](#) has noted (pp. 10–11) the ‘aggressive competition’ between Coles and Woolworths for *market share*. [A 2024 research note by the e61 Institute](#), an economic research institute, suggested (pp. 4–8) that lack of price competition between Coles and Woolworths might be partly due to consumer inertia. The Institute suggested policymakers enable price comparison platforms (p. 9).

[The Government](#) is funding the consumer advocacy association CHOICE to undertake a quarterly survey and report into supermarket prices. According to a [media release](#) by the Assistant Minister for Productivity, Competition, Charities and Treasury on 25 September 2025: ‘The sixth quarterly report gives consumers the latest pricing information on household products by comparing a basket of basic goods and putting a spotlight on home brand products’.

## What is ‘excessive pricing’ or ‘price gouging’?

‘Excessive pricing’ and ‘price gouging’ are used to describe unreasonably high prices but their definitions can vary depending on the jurisdiction. For example, according to the [European Union \(EU\) Court of Justice](#), a price is excessive when it bears no relationship to the ‘economic value’ of the product supplied (p. 733). Excessive prices are those which are set significantly and persistently above the competitive level (p. 736). There is little consensus ‘on how to distinguish excessively high prices from competitive prices, since all possible benchmarks are subject to criticism’ (p. 775). Price gouging, which is [prohibited](#) in parts of Canada and the United States, typically refers to [drastic price increases on essential goods during emergencies](#), although it is sometimes used interchangeably with excessive pricing.

Unlike [the EU](#), the [UK](#), [Canada](#), [South Africa](#), [India](#) and [several US states](#), Australian competition and consumer law does not prohibit unreasonably high prices *per se*.

During the COVID-19 pandemic, the then Minister for Health made a [Determination under the Biosecurity Act 2015](#) prohibiting price gouging. This determination defined ‘price gouging’ as supplying or offering to supply essential goods at a price more than 120% of the initial purchase price.

There are always trade-offs in attempting to regulate prices. For instance, following natural disasters, price limits may support community solidarity and reduce the financial burdens on

What can the Government do about supermarket prices and supplier relationships?

those affected. However, price limits can also reduce incentives for sellers to re-establish product supplies, and prolong shortages.

## Constitutional issues

The [Constitution](#) allows the Commonwealth to regulate most, but not all, Australian supermarkets. The [broad interpretation](#) of the corporations power (section 51(xx)) allows regulation of most corporate activities, extending to [relationships with third parties](#) (p. 205). Additionally, the trade and commerce power (section 51(i)) [allows regulation](#) of interstate and international trade.

## Current regulatory mechanisms

### Competition and Consumer Act 2010

#### Misuse of market power provision

[Subsection 46\(1\)](#) of the [Competition and Consumer Act 2010 \(CCA\)](#) [broadly prohibits](#) a firm with a substantial degree of market power from engaging in conduct that substantially lessens competition. Examples include [predatory pricing](#), [exclusive supply agreements](#) and [discriminatory pricing practices](#).

Part VI of the CCA provides for [pecuniary or other penalties](#) for breaches. For corporations, the maximum penalty is the greater of \$50 million, 3 times the value of the benefit gained from the breach or 30% of the company's adjusted turnover during the breach period.

#### Food and Grocery Code of Conduct

The [Food and Grocery Code of Conduct](#) (FG Code), made under the CCA and enforced by the ACCC, regulates how large grocery businesses interact with their suppliers. From 1 April 2025, compliance became mandatory for all retailers and wholesalers with over \$5 billion in annual earnings. The Code mandates, among other things, that these businesses deal with suppliers lawfully and [in good faith](#).

Recent [legislation](#) amended the CCA to allow the FG Code to impose a maximum penalty per contravention of \$10 million, 3 times the value of the benefit derived or 10% of the company's preceding annual turnover—whichever is greater.

The Treasurer issued a [media release](#) on 14 December 2025 stating that a new ban on excessive pricing of groceries for consumers had become law and would come into effect on 1 July 2026. The measure was implemented through [amendments](#) to the FG Code.

The [main features](#) are:

- The laws would apply to 'very large retailers' (with an annual revenue threshold that exceeds \$30 billion).

What can the Government do about supermarket prices and supplier relationships?

- Subsection 45B(3) of the FG Code provides that a relevant retailer engages in excessive pricing if, in all the circumstances, the pricing for the supply is significantly excessive when compared to the cost to the retailer, plus a reasonable margin.
- In relation to whether the pricing for the supply is significantly excessive, the court is required to consider all the relevant circumstances, which may include the market and competition settings, the geographic area of the supply, the duration and format of the supply, the nature of any supplier contributions, and market dynamics such as seasonal and other demand trends.

### **Unit Pricing Code**

The mandatory [Unit Pricing Code](#) (UP Code) requires [many retailers](#) to use [unit pricing](#) for some items. A 2021 [review](#) into its operation found the UP Code currently covers ‘the vast majority of grocery items’ at retailers where people do most of their grocery shopping and ‘promotes price competition between these grocery stores’.

On 21 March 2025 the Government [announced](#) it would be ‘[c]lamp[ing] down on shrinkflation by strengthening the Unit Pricing Code, including penalties for breaches and making prices clearer for shoppers.’ ‘[Shrinkflation](#)’ occurs where a product’s size decreases but the price either remains the same or increases. In September 2025, Treasury [consulted](#) on options to strengthen the UP Code.

### **Price inquiry by the ACCC**

Under [Part VIIA](#) of the CCA, the Treasurer can direct the ACCC to hold a price inquiry into a particular matter. As mentioned above, in February 2024, [the Treasurer](#) directed the ACCC ‘to investigate pricing and competition in the supermarket sector’. The inquiry’s [final report](#) was released in February 2025.

### **Merger notification regulations**

Like other businesses, supermarkets are subject to Australian merger laws. A new [mandatory merger control regime](#) has been inserted in the CCA and starts on 1 January 2026. All businesses in Australia (including supermarkets) must notify the ACCC of a proposed acquisition if the transaction meets the monetary thresholds.

The Government has made the [Competition and Consumer \(Notification of Acquisitions\) Determination 2025](#), which takes effect on 1 January 2026, setting out additional notification requirements for Coles and Woolworths’ acquisition of supermarket businesses.

### **Australian Consumer Law**

Under [section 18](#) and [related provisions](#) of the [Australian Consumer Law](#) (ACL), supermarkets cannot engage in misleading or deceptive practices. This includes false or misleading representations about prices, promotions, or product features. [In September 2024](#), the [ACCC](#) commenced Federal Court proceedings against Woolworths and Coles for alleged misleading ‘Prices Dropped’ and ‘Down Down’ claims.

What can the Government do about supermarket prices and supplier relationships?

Under [section 21](#) of the *ACL*, supermarkets cannot engage in [unconscionable conduct](#) in [dealings with suppliers](#) or consumers. [The High Court](#) has set a high bar for unconscionable conduct.

## Committee consideration of draft legislation

In May 2024, the [Senate Select Committee on Supermarket Prices](#) reported on supermarket prices and the [Competition and Consumer Amendment \(Divestiture Powers\) Bill 2024](#), introduced by Greens Senator Nick McKim. Its recommendations included that the Government (pp. vii to xi):

- amend the *CCA* to create supermarket-specific divestiture powers ‘to be drawn upon when all else fails’ (para 9.20)
- amend section 46 of the *CCA* to prohibit excessive pricing (para 9.30) and
- give the ACCC the authority to investigate and prosecute unfair trading practices beyond current legal thresholds (para 9.47).

[The Government has not responded to the report.](#)

## The ACCC’s final report on supermarkets

The ACCC published a [final report](#) into the supermarket sector in February 2025. Its 20 recommendations included requiring large supermarkets to publish prices on their websites and for very large chains (ie, Coles and Woolworths) to allow online comparison tools to access the data. Further recommendations regarded grocery supply chains and trading arrangements, including greater transparency (pp. 27–30).

The ACCC report:

- did not recommend divestiture powers, having noted the complexity surrounding this in its [interim report](#) (p. 189)
- did not recommend a legal prohibition against excessive prices, noting that determining instances of this is challenging (pp. 397–8)
- reiterated its support for prohibiting unfair trading practices, as included in a November 2023 [submission](#) to the Treasury on its 2023 [consultation](#) (p. 197).

## Planning and zoning

In its [supermarkets report](#), the ACCC commented:

## What can the Government do about supermarket prices and supplier relationships?

The limited availability of suitable sites for supermarket retailers in Australia is likely significantly impacted by planning and zoning laws (which restrict overall supply) and Coles' and Woolworths' advantages over other retailers in securing retail sites. (p 76)

Accordingly, it recommended (p. 25) that all levels of government adopt measures to simplify, streamline and harmonise planning and zoning laws across jurisdictions.

As the Commonwealth has no direct constitutional power to regulate land use planning and zoning, it can only indirectly influence land use through some of its other powers. Planning and zoning are largely the responsibility of the states, territories and local governments. However, the Commonwealth could adopt a [‘cooperative federalism’](#) approach, involving ‘voluntary arrangements between the States and the Commonwealth’ (p. 9). Also, the Commonwealth could use its grants power ([section 96](#) of the Constitution) to fund or influence ([but not compel](#)) (p. 55) the adoption of planning and zoning initiatives.

Such measures can be seen within the [National Competition Policy priority reforms](#), where Australian governments have committed to ‘streamlining commercial planning and zoning systems’. The package is supported by a [\\$900 million National Productivity Fund](#).

## Further options for addressing supermarket conduct

- The Government could prohibit unfair trading practices (including by supermarkets), such as misleading promotions and confusing pricing, price gouging, and exploitative dealings with suppliers. The Government [committed to ban unfair trading practices](#) in October 2024, and [consulted](#) on a proposal in November–December 2024.
- The Government could also evaluate the effectiveness of the revamped Food and Grocery Code at an appropriate time.

## What can the Government do about supermarket prices and supplier relationships?

### Licence

© Commonwealth of Australia



Creative Commons

With the exception of the Commonwealth Coat of Arms, and to the extent that copyright subsists in a third party, this publication, its logo and front page design are licensed under [CC BY-NC-ND 4.0 Deed | Attribution-NonCommercial-NoDerivs 4.0 International](#) licence.

In essence, you are free to copy and communicate this work in its current form for all non-commercial purposes, as long as you attribute the work to the author and abide by the other licence terms. The work cannot be adapted or modified in any way. Content from this publication should be attributed in the following way: Author(s), Title of publication, Series Name and No, Publisher, Date.

To the extent that copyright subsists in third party quotes it remains with the original owner and permission may be required to reuse the material.

Inquiries regarding the licence and any use of the publication are welcome to [webmanager@aph.gov.au](mailto:webmanager@aph.gov.au).

### Disclaimer

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

For copyright reasons some linked items are only available to members of Parliament. All links are correct at the time of publication and are not subsequently updated.

Any concerns or complaints should be directed to the Parliamentary Librarian at [webmanager@aph.gov.au](mailto:webmanager@aph.gov.au). Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.

## Acknowledgement of Country

We acknowledge the traditional owners and custodians of country throughout Australia and acknowledge their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.


The Parliamentary Library of Australia was established in 1901 and serves as a trusted source of information, analysis and advice for the Australian Parliament. The Library is part of the Department of Parliamentary Services.

Our services are confidential, impartial, and offered on an equal basis to all parliamentarians, parliamentary committees, and to staff acting on their behalf.

Our published material is available to everyone at:

 [aph.gov.au/library](http://aph.gov.au/library)

 Australian Parliamentary Library

 @ParLibrary

