

POST-CABINET PRESS CONFERENCE: MONDAY, 30 MAY 2022**HANSARD TRANSCRIPT**

Hon Grant Robertson: Kia ora, ngā mihi nui ki a koutou katoa, talofa lava. I'm joined today, as you can see, by Dr David Clark, the Minister of Commerce and Consumer Affairs. I'll shortly make some very brief introductory remarks, and then Dr Clark will work through the announcement that we're making today around supermarkets. Then we'll do questions on that topic and then let Dr Clark go, before we launch into questions on other matters. This week, Parliament is returning: the House will focus on finishing the Budget debate, and obviously during the week a highlight will be early Wednesday morning, when the Prime Minister has her meeting with the President of the United States.

Today I am joined by the Minister of Commerce and Consumer Affairs, David Clark, to announce the Government's next steps in ensuring New Zealanders get a fair deal at the supermarket checkout. The Commerce Commission market study we ordered into the retail grocery sector in November 2020 delivered what we knew to be true: competition was not working and change is needed. They found New Zealanders paid the fifth-highest prices out of 38 OECD countries, and that major grocery retailers earn excess profits of around \$1 million a day, more than double what the commission considered to be a normal rate of return. We have already taken steps, the most significant of which to date has been the urgent legislation to stop supermarkets from engaging in the anti-competitive land wars where they buy up land or dictate the terms of leases to block their competitors from getting a foothold in the area.

This practice leaves customers without choice, and sees suburbs and shopping centres with only one option. That limits the ability of consumers to shop around for a better range of products, and of course, a better price.

The wider sector is taking notice, and we are seeing the emergence of more options, such as The Warehouse stocking food basics and Costco setting up shop, and some supermarkets committing to price freezes. It's noticed; but it won't fix the problem, and so we move to our next steps. Today, we're announcing that we're going further than the Commerce Commission has recommended. We've accepted 12 of the commission's 14 recommendations, and we're taking stronger action on the other two. The two recommendations where we are going further relate to the implementation of a voluntary wholesale access regime, and another review of competition in three years. We do not believe that these issues can be kicked down the road. We need to address the underlying drivers of lack of competition now. I'll now hand over to Dr Clark, to go into further detail of the Government's response.

Hon Dr David Clark: Kia ora koutou, ngā mihi nui ki a koutou. Thank you, Acting Prime Minister. I'm pleased to be here today to talk through the Government's response to the supermarket study—and the Government is effectively putting the supermarket sector on notice and the message is clear: change at pace to increase competition; and be prepared for regulation. The Government and New Zealanders have been very clear that competition in the supermarket industry is not working, it's not competitive, and shoppers are not getting a fair deal. The duopoly needs to change, and we're preparing the necessary legislation to do that.

Now, the Deputy Prime Minister has already outlined the fact that the Commerce Commission found that the supermarkets are earning excess profits estimated to be at a minimum of \$1 million a day. That is excess profit that is taken directly out of Kiwis' pockets. And people and families are rightly fed up with paying a premium for just the basics, and they are demanding their fairer deal at the checkout.

Budget 2022 delivered a cost of living payment for around 2.1 million Kiwis to help with the impact of rising prices, and fixing our supermarket sector is another action that the Government can take. The Commission made 14 recommendations, including introducing a

mandatory code of conduct, establishing an industry regulator, and ensuring loyalty programmes are easy to understand and transparent. The Government has accepted 12 of the recommendations, and it's taking stronger action on the other two.

As the Acting Prime Minister mentioned before, the two recommendations not accepted relate to implementing a voluntary wholesale access regime and to another review of competition in three years' time. In my view, these issues can't be kicked down the road. We need to address the underlying drivers of the lack of competition now.

I spoke with both supermarket companies this afternoon to make this very clear. They know what is expected from them and the time we are preparing to give them to change before regulation kicks in.

Our supermarkets know they are under the spotlight, and we've recently seen some gestures from them around price roll-backs. However, it doesn't fix the systemic problem at large—a lack of genuine competition. So in response to the commission's findings, we will implement a wholesale access regime and develop a regulatory backstop for that. Alongside the retail stores, supermarkets have wholesale arms. We are calling on the duopoly to open these up to would-be competitors at a fair price. Do this knowing Government is determined to get a regulatory backstop finalised by the end of this year. If supermarkets do not strike good-faith wholesale deals with their competitors, our regulatory measures will make it happen for them. We are not afraid to unlock the storeroom door to get a fair deal for consumers.

We're taking these actions because if competitors don't have proper access to wholesale goods, there's no real incentive to enter the market. You can't run a supermarket with empty shelves, and the New Zealand market clearly needs more competition.

In addition to ensuring wholesale access for would-be competitors, we are progressing other actions. We're also undertaking further work around requiring major grocery retailers to divest some of their stores or retail banners. This is a longer-term piece of work due to its complexity.

From today, consultation on how to implement compulsory unit pricing on grocery products has gone out to the industry and other stakeholders. Once enacted, this will give shoppers the ability to better compare products based on price.

We're working on a mandatory code of conduct between major grocery retailers and suppliers. This will also be heading out to stakeholders next month for consultation. We will progress work on recommendations to improve access to sites through planning-law reform.

In terms of establishing an industry regulator, the Commerce Commission will act as an interim regulator while we progress the relevant legislation for a permanent grocery regulator. The watchdog entity will keep pressure on the grocery sector by providing annual state-of-competition reviews to keep supermarkets honest. It'll also facilitate a resolution scheme to mediate disputes between suppliers and retailers.

As I announced on Budget night, I've also introduced a bill to prohibit restrictive and exclusive covenants over land and leases to address a key competition issue in the sector. These covenants prevent competing grocery retailers or potential entrants from setting up a supermarket on a piece of land or from operating within the same mall or shopping centre as another grocery retailer. This bill is another important part of Government's response and is currently before select committee.

The momentum for change is already with us. Supermarkets voluntarily ditched some of their covenants, and the temporary price roll-backs indicate they know the tide is turning. None of this was happening before the market study.

I look forward to continuing to engage with the grocery industry and New Zealanders as we progress this suite of actions and reforms. The bulk of these reforms will be given effect by the Grocer Industry Competition Bill, which I intend to introduce to the House later this year. This is an important day for competition and consumers in the New Zealand grocery retail sector. I'll hand over for questions.

Media: Can you guarantee that this will result in lower prices at the supermarket for consumers?

Hon Dr David Clark: I would observe that we are already seeing some prices lowered by the duopoly right now because they recognise that we are in a position where the findings from the Commerce Commission have been so clear where consumers and the public demand to see cheaper prices, and we know that if we get further competition coming into the sector, that consumers will pay a fairer price at the checkout.

Media: Does it have the teeth required to actually make the supermarkets comply?

Hon Dr David Clark: The mandatory backstop that will come in in terms of wholesale is designed to ensure that the existing duopoly do look favourably upon a voluntary regime. The details of that will still be worked through and will be worked through carefully, but this is signalling a clear attempt to have that mandatory regime finalised by the end of this year.

Media: You say prices are coming down, but they're still pretty high, aren't they, so how much further might they go?

Hon Dr David Clark: Look, it's absolutely clear that prices have been going up. Now, some of that is beyond the grocery sector's control. It goes to supply chains, inflation, the war in the Ukraine, and so on—the effect on fuel prices. The Government obviously acted in Budget 2022 to bring in that cost of living payment. That's part of recognising what's going on and part of recognising that right now some Kiwi families are doing it really tough.

Media: How exactly will the mandatory access regime work?

Hon Dr David Clark: So the mandatory access regime will be finalised by the end of this year. I won't go into detail on it right now, but, essentially, the Commerce Commission laid out a path for a voluntary access regime. That was a good-faith regime. I want to be sure that if access is not granted to competitors—would-be competitors coming into the market on fair terms—that a mechanism is in place for a mandatory backstop regime.

Media: Have all these changes been costed? How much is it likely to cost?

Hon Dr David Clark: Look, most of these things don't have any significant cost attached to them. We do want to do further cost-benefit analysis on retail divestment, which is one of the work areas we are continuing to work on, to understand the cost that that might impose on the industry. Things like mandatory unit pricing are actually about making sure that supermarkets are operating in a consistent way so that consumers can have fair access. Removing covenants—again, there will be no direct cost, I would expect, there. So a lot of these things don't come with cost; they're about improving the conditions for competition in the market.

Hon Grant Robertson: It's also worth noting that the work that we're doing around the creation of a dedicated regulator, that begins within the Commerce Commission framework, so that limits some of the immediate cost there. What cost there may be associated with developing an independent regulator cost for the Government are more than outweighed by the benefits the consumers will get. What this is all about is making sure that we get a more competitive grocery sector that will mean fairer prices. So whatever small cost the Government has to pay in the meantime pales in comparison to the benefits.

Media: On the industry regulator, when exactly will that be in play? Obviously the Commerce Commission takes it over initially, but then when will that industry regulator watchdog—

Hon Dr David Clark: Well, that will be worked through. So until that is finalised, the Commerce Commission is the interim regulator.

Media: A lot of things are worked through—there's a lot of consultation still at play. Is there anything kind of in it for consumers right now that are struggling in winter? Obviously, the cost of living payment—

Hon Grant Robertson: I was going to say, in the Budget, obviously, that's why we did what we did. Because this is a long-term hold that this duopoly have had over supermarkets and grocery prices, so it does take a little bit of time to unwind that. You're already seeing the reaction. The reason why they've done the gestures they've done is because they know that the Government is serious about this. We've provided some interim cost of living support to help people get through this.

The other thing that's also happening is that competitors are now seeing that there is room here, in the introduction of that legislation under urgency on Budget night—that legislation will be passed within the next month or two, and that means that competitors know they can actually get access to land. This is already starting to have an impact. Obviously we're in a very high inflation environment right now, but I think both supermarkets and consumers can see that the Government is taking this seriously.

Media: Minister Clark, you spoke to supermarkets today. What is the tone of that conversation like, and what was their reaction?

Hon Dr David Clark: Well, I mean, it's fair to say that throughout the COVID period I've been talking regularly with supermarkets, both in terms of immediate supply challenges we've had during the lockdowns and beyond that, and then with the market study coming. So we have a robust and frequent exchange. It's fair to say that the supermarkets certainly say to me that they understand the need for change. I'm guessing that that's why they have signalled that they want to get rid of covenants, and have started that process themselves. Why they've signed up for a mandatory code of conduct, but never done that before. Why they've accepted that there needs to be a grocery regulator; why they are issuing right now plus roll-back commitments for a temporary period of time—they've seen that the situation is different to what it was and they are reacting. We are making sure that they live up to their promises, and we are therefore pledging that we will have a regulatory backstop that will hold them to the commitment to open up wholesale access.

Media: With respect to divestment, are you saying that there will be a divestment policy or that you're considering whether to have a divestment policy?

Hon David Clark: No, we're working through the pros and cons of divestment. The reality is, with divestment it is a little bit more complex. You know, it's not clear until we've done the cost-benefit analysis whether it's actually better to have existing small retailers expand in the market. We know that it's not as simple as opening up—freeing up some banners. We've got lots of banners in the market right now. What really matters is access to wholesale.

So solving the access to wholesale piece and putting a regulatory backstop in place, if it's needed, is the critical part of this picture, because without that access to wholesale, divestment doesn't mean anything.

Media: On the Kiwis who are struggling now, can you confidently tell them that the changes that you're announcing today will make an impact to their grocery bills?

Hon Dr David Clark: Oh, this will make an impact for Kiwis. There's no doubt that having a competitive market has altered the landscape in Australia, and—you know, not arguing that Australia is the most competitive in the world, but we know that having bigger players come into their market has changed the landscape. We could expect if we improve competition here, that consumers will pay a fairer price at the checkout.

Hon Grant Robertson: I think it's a fair thing to back up what Dr Clark has said as well: none of the things that people are seeing—like the price rollbacks, like the commitment that we've got now to the code of conduct or unit pricing—were happening before we put in place the market study and we followed through. So what New Zealanders can know is that the Government's taking this seriously. We want them to have fairer grocery prices. The route to that is better competition, and today, competitors can now know that they can actually get access to some land and that there's going to be a wholesale market into which they can

actually get fairly priced goods. They're the two critical elements to making sure that New Zealanders pay less for their groceries.

Media: Are there any international models you're looking towards for the wholesale access?

Hon Dr David Clark: No, we're not specifically looking at any in particular. We are in an unusual situation here: we have been told by the Commerce Commission that our grocery retailers, the duopoly, are unusually profitable. It's \$1 million a day in excess profits—you know, that \$365 million a year is actually their most conservative estimate. But we can look to other markets and see where there is more competition that it has an effect, and so that's why we're focused on increasing competition in the market.

Media: Are you not worried about pouring more money into the supermarkets' coffers, though, with these cost of living payments? Chances are people are just going to go straight to the supermarket and spend it.

Hon Grant Robertson: Well, right now, the most important thing is that we support New Zealanders through the spike in cost of living. We've done that not just through, obviously, what we're doing in terms of the payment but also what we've done around fuel excise duty and public transport in the 1 April package, and so we want to make sure we support people through that. Ultimately, at the moment, when they go out and buy food, they're largely doing that from supermarkets. We're not going to stop people from doing that; what we want to make sure is we're getting the underlying settings right in the medium and long term, and, in the short term, supporting people through this situation.

Media: And, based on your conversations today, how confident are you that they will voluntarily sign up to this wholesale before it becomes mandatory?

Hon Dr David Clark: Oh look, certainly the supermarkets are making the right noises. We want to make it easy for them to live up to their promises, and a mandatory regime will do that.

Media: Have you had any conversations with iwi, and do you think there's potential there for them to be a part of or to enter—

Hon Dr David Clark: I most certainly think there is an opportunity for iwi. We received feedback along the way that certain groups are considering their options. I don't have any concrete proposals that I'm aware of, but I'm aware that conversations are happening. We know that Māori are incredibly involved in primary industries, have a huge investment in the food production sector, and, rightly, want to see the right returns. I'm generally supportive, of course, of the code of conduct that will make sure that suppliers get a fairer deal out of the whole regime, and I would welcome any new competitors into the market, no matter who they are, and I'm excited to hear that some iwi are considering a potential role there, too.

Media: Does this go far enough to protect suppliers?

Hon Dr David Clark: Suppliers, as I understand it, are welcoming the mandatory code of conduct that's being worked through—I mean, this is another example of work that is progressing rapidly. There have been meetings already between suppliers, the major retailers, with consumer representation alongside, and so we're going to be in a position shortly to consult on their findings. This is an area that has been called for for a long time, and they, by all accounts, are pleased that this is progressing.

Hon Grant Robertson: All right, thanks, Dr Clark, very much. Other questions.

Media: So how does this affect our whānau in rural areas, given that transportation is a problem anyway? Is it going to assist the cost for those in those rural areas?

Hon Grant Robertson: Well, obviously—as Dr Clark departs the stage—what I'd say is that the more competition we have, the more providers we have in the market and the more opportunity there is for them to be present in more parts of New Zealand.

I mean, one example we know is that the Warehouse has responded to some of this by stocking more grocery items. They are present in a lot more parts of New Zealand than perhaps some others are. There are many opportunities. And as Dr Clark indicated in his comments, one of the things about looking ahead to the question of divestment is trying to understand what the balance is between new large players coming in and other smaller grocery retailers, who might be more present in rural areas, being able to up their game as well. So both of those are possible. Other questions.

Media: Are you satisfied with TVNZ's appointment process for Kamahl Santamaria?

Hon Grant Robertson: I think you would be rightly concerned if politicians were deeply involved in the employment of those who are involved in news media and journalism at a State sector level. What I can say is that Government has expectations on Television New Zealand as a State-owned company that they will follow the right processes when it comes to recruitment, and I know that Minister Faafoi has sought an assurance from the TVNZ board that the right processes were followed in this case.

Media: And what was the—

Hon Grant Robertson: I think he's awaiting a response on that.

Media: What are you learning from your Budget roadshow? What's the feedback there?

Hon Grant Robertson: Um, I need to make sure I take a packed lunch with me, because there's a few too many trips to bakeries in the middle of it. What I'm learning is that New Zealanders out there are very understanding of the global environment. They're understanding of the fact that there are inflation pressures that are coming from offshore that are impacting on their cost of living. I'm also getting a strong appreciation for the fact that people understand the need for a balance in the Budget, to look after people in the here and now but also invest in those high-wage jobs of the future. The meetings that I've had have been really positive and really good.

I also see out there some anxiety, and I think, you know, the flow-on from COVID, where people have, you know, found it a very stressful period, to then also encounter a period where prices are going up as well—I think you put those two things together and it has increased pressure on households, and I've been making clear we understand that and we're taking action to support New Zealanders.

Media: Is the Government doing enough to keep up with developments in the Pacific and the agreements that are being signed over there?

Hon Grant Robertson: Absolutely. I mean, I think our relationships in the Pacific are extremely strong. New Zealand's not coming from a standing start here. We have, over many decades, developed strong relationships right across the Pacific, and that continues through this Government. The Pacific is definitely a contested space at the moment, and we're obviously seeing both China and the United States be present and perhaps more present than they have been in recent years. But our relationships transcend all of that, and we'll continue to work closely with our neighbours in the Pacific.

Media: Is there a case to be made, though, for an in-person visit relatively soon expediting that? I mean, you've had the new Australian foreign Minister there less than a week after being sworn in, while Yi is obviously travelling around the region. Do we need to have, sort of, a suitably senior Minister on the ground?

Hon Grant Robertson: Yeah, well, obviously in the situation for Australia, there'd been a change of Government and I think the Australian Labor Party thought it was important that they put their credentials out there. As I say, we're not coming from a standing start; we've been in Government for some time. Ministers Henare and Mahuta have both been in Fiji. The Pacific Island Forum is very shortly arising. We've had a lot of contact with our colleagues in the Pacific throughout the last two years—albeit much of it virtually—so we are very much there and we are very much part of the conversations, and I think the relationships that we've had that have long standing are ones that are valued by our partners. The fact that the Pacific

is a contested space, the fact that countries like China and the US go there and are involved is actually not new, albeit that it's been a bit sporadic and up and down, from time to time. So New Zealand's the consistent player and partner here, and we'll build off that.

Media: How is it change, though, with the—because foreign Minister Nanaia Mahuta called the China-Solomons deal “relationship failure”. New Zealand has a lot stronger relationships in Polynesia closer to New Zealand. Does Samoa's signing of the deal with China represent relationship failure? Is that different?

Hon Grant Robertson: Very different deals; that's the first thing. I mean, obviously, our concern in the Solomon Islands was around the militaristic nature of the deal. That is a very different deal than what's been signed. I worked in Samoa about 25 years ago and I was there when the Government building was built by the Chinese Government. So, again, not necessarily a new thing but there is a relationship there. We do have our concerns around when we see what we determine to be things that move more into that military or security area, and we've expressed our concern about that.

But, no, this is a contested space in the Pacific. You've just seen the United States with their Indo-Pacific Framework—China, obviously, expressing a lot of interest. Our view is that New Zealand and Australia can work with our neighbours to make sure that our region is strong and that we're looking after each other.

Media: And relevant to you, as finance Minister, is there any getting away from the fact that New Zealand and Australia are going to have to cut more cheques for the Pacific?

Hon Grant Robertson: Well, the way in which New Zealand has exercised its diplomacy in the Pacific over the years has been in partnership, and of course that will involve some money, but actually it also involves the way we work together, the kinds of areas we work together on, and the support we provide each other both within the region and internationally. Those relationships transcend money. They're about our shared values. They're about our shared histories, about the people movement in our region, and our relationships are very, very strong regardless of any financial issue. All good? Thanks, everybody.

conclusion of press conference