

# CMA Review of price marking in the groceries sector

8 May 2024



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# 1. Executive summary

- 1.1 This report sets out the findings of a review conducted by the Competition and Markets Authority (CMA) of the price marking practices of 139 grocery stores in England and Wales, including:
- Supermarket chains<sup>1</sup>
  - Symbol convenience stores<sup>2</sup> – small independent retailers that operate under a symbol brand name.
  - Variety stores – large retailers that sell general merchandise such as hardware, toys, furniture and seasonal goods alongside a selection of groceries.
  - Independent food stores – independent supermarkets and larger grocery stores.
- 1.2 Our review of price marking practices involved inspecting a range of different types of grocery retailers – from large supermarkets to small symbol convenience stores - to assess whether retailers were displaying clear and accurate price information in-store, and whether the indicated selling price matched the price charged at the till, as required under consumer law.<sup>3</sup>
- 1.3 This work builds on the CMA’s wider programme of work in the groceries sector, which has included: a review of unit pricing practices, the findings of which were published in July 2023<sup>4</sup>; an assessment of how competition is working overall in the grocery retail market<sup>5</sup>; in January 2024 the CMA commenced a review of loyalty pricing by supermarkets<sup>6</sup>; and in February 2024 the CMA announced that it was undertaking a market study into infant formula and follow-on formula in the United Kingdom<sup>7</sup>.

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<sup>1</sup> This included a mix of large supermarkets and smaller convenience store versions of the supermarkets, including stores located on petrol station forecourts.

<sup>2</sup> The symbol group typically acts as a supplier to the independent shop but do not own or operate the store.

<sup>3</sup> The Price Marking Order 2004 (the PMO), in Northern Ireland the Price Marking Order (Northern Ireland) 2004 (NI PMO), and the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). The NI PMO essentially replicates the PMO. References to the PMO in this report should be read as including the NI PMO unless otherwise indicated.

<sup>4</sup> [Unit pricing - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>5</sup> [Competition, choice and rising prices in groceries - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>6</sup> [Loyalty pricing in the groceries sector - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>7</sup> [Infant formula and follow-on formula market study - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- 1.4 The review of price marking practices was prompted by similar action taken by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS)<sup>8</sup> and Trading Standards Northern Ireland (TSNI) (across their respective nations). They highlighted to us, during our review of unit pricing practices last year, the work they were carrying out on price marking and price accuracy. The SCOTSS and TSNI projects identified that some grocery retailers, particularly smaller independent convenience stores, often failed to display price information for grocery products<sup>9</sup>. Or where a price was displayed, shoppers were charged a different amount at the till, with the discrepancy often in favour of the retailer. The purpose of the CMA's review was to assess whether these concerns were also a problem for consumers based in England and Wales.
- 1.5 The CMA identified a lack of compliance with consumer law by some retailers in relation to the display of clear and accurate pricing information. These findings were reinforced by separate work carried out by some regional and local Trading Standards (TS) across England and Wales.
- 1.6 Whilst instances of non-compliance were found across each category of retailer, we identified significantly more concerns with the symbol convenience stores and the independent food stores, compared to supermarkets and all but one of the variety retailers. Compliance at the symbol convenience stores and the independent food stores ranged from very good at some stores, to very poor at others, where entire shelves or sections of the store failed to display selling prices for a wide range of goods.
- 1.7 The supermarket inspections identified few concerns in relation to price marking. When checking prices at the till, again compliance was very good for the majority of the supermarkets, with no errors recorded at 57% of the stores we inspected, and a single error at 20% of the stores.
- 1.8 Similarly, we identified few issues with the variety stores, with one retailer accounting for the majority of concerns in relation to both price accuracy and price marking practices.
- 1.9 The CMA is concerned that the findings from our inspections, and those of TS, appear to indicate that some retailers are either not aware of their legal obligations or view compliance with the relevant consumer law as optional rather than mandatory, and do not therefore prioritise action to ensure they

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<sup>8</sup> [www.scotss.org/press/pricing.pdf](http://www.scotss.org/press/pricing.pdf)

<sup>9</sup> The 2022 SCOTSS project examined 13,195 products at convenience stores and found 1889 did not exhibit a price (14.3% of total products exhibited)

comply with their obligations. All retailers must ensure they comply with the law at all times, or risk enforcement action being taken against them.

- 1.10 The role of TS in monitoring and advising businesses on their obligations under consumer law is crucial to addressing these concerns. We will be sharing the intelligence collected via our inspections with the relevant local and Primary Authority<sup>10</sup> TS. The CMA appreciates the considerable resourcing pressures local TS services face across the UK and that they face a number of competing priorities. However, we strongly encourage TS to use the intelligence to help shape future enforcement and compliance work at a local and/or regional level. Furthermore, where possible, we would encourage TS to factor in reviewing pricing practices when conducting visits on priority issues, such as the sale of illegal vapes or underage sales.
- 1.11 As a result of the findings from this review, the CMA, in conjunction with TS<sup>11</sup>, has produced some compliance materials aimed at helping independent retailers understand what they need to do to comply with the law.
- 1.12 We will be sharing our findings with the relevant trade associations, and will be asking them to share our compliance materials with their members.
- 1.13 We will also be writing to the symbol store group owners to ask them to distribute our materials to the stores that operate under their banner to help ensure compliance.
- 1.14 Retailers should read these materials and, where necessary, take steps to amend their practices.
- 1.15 We set out the background to our work in section 2, the methodology in section 3, our key findings at section 4, and provide our conclusions and next steps in section 5.

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<sup>10</sup> Primary Authority is a means for businesses to receive assured and tailored advice – including on trading standards matters - through a single point of contact. Further information is available here [www.gov.uk/government/primary-authority-overview](http://www.gov.uk/government/primary-authority-overview)

<sup>11</sup> Chartered Trading Standards Institute (CTSI), SCOTSS and TSNI

## 2. Background

- 2.1 The CMA's purpose is to promote competitive markets and tackle unfair practices. We are particularly focused on areas where people spend the most time and money, and those who need help the most.<sup>12</sup> As a result of cost-of-living pressures the CMA identified the groceries sector as a priority.<sup>13</sup>
- 2.2 The groceries retail market within the UK is estimated to be worth £217 billion in 2023. Supermarkets and discounters account for approximately 60% of total grocery retail sales, with convenience stores accounting for approximately 20% of sales.<sup>14</sup> It is reported that there are approximately 50,000 convenience stores in Great Britain.<sup>15</sup> The convenience sector has expanded considerably in the last 10 to 15 years, primarily due to supermarket entry and expansion in this sector, but the majority (around 70%) of convenience stores are independently owned, including where they operate under a symbol group name. Whilst these stores represent a lower share of sales volume overall, they are still a significant part of the groceries market and some shoppers may be particularly reliant on them.
- 2.3 Separate work undertaken at the end of 2022 by SCOTSS and TSNI (across their respective nations), identified that some grocery retailers, particularly smaller independent convenience stores, were not always displaying price information for grocery products. Or where a price was displayed, shoppers were charged a different amount at the till, with the discrepancy often in favour of the retailer.
- 2.4 SCOTSS carried out a further compliance review in the second half of 2023. They recently published their latest findings<sup>16</sup>, which demonstrated ongoing concerns in this area.
- 2.5 To assess the degree to which the issues identified by SCOTSS and TSNI are also a problem in England and Wales, the CMA conducted a review of the in-store price marking practices of 139 grocery stores – including supermarkets, symbol convenience stores, variety stores and independent food stores based

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<sup>12</sup> [CMA Annual Plan 2024 to 2025 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/cma-annual-plan-2024-to-2025.pdf)

<sup>13</sup> [Action to help contain cost of living pressures \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/cma-annual-plan-2024-to-2025.pdf)

<sup>14</sup> The groceries retail market within the UK was estimated to be worth almost £217.2 billion in 2023, and to grow to £241.3 billion in 2028. Supermarket in-store distribution is estimated to claim 47.6% of total grocery sales, convenience stores claim 23.5%, discounters claim 13.1%, online claim 11.2% and specialist/ others claim 4.7%. Mintel, Supermarkets-UK, 2023, December 2023. [Mintel.com/report/uk-supermarkets-market-report](https://www.mintel.com/reports/uk-supermarkets-market-report)

<sup>15</sup> [www.acs.org.uk/research/local-shop-report](https://www.acs.org.uk/research/local-shop-report)

<sup>16</sup> [Scottish Trading Standards puts spotlight on pricing and short-weight issues affecting consumers | Chartered Trading Standards Institute | Official Press Release \(wired-gov.net\)](https://www.wired-gov.net/news/scottish-trading-standards-puts-spotlight-on-pricing-and-short-weight-issues-affecting-consumers)

in England and Wales. This report sets out the findings of our review, conclusions and our next steps.

- 2.6 The focus of our price marking inspections involved checking whether grocery stores were complying with their consumer law obligations as set out in the Price Marking Order 2004 (the PMO) and the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) - in relation to:
- Price Marking - Are retailers consistently displaying selling prices for grocery goods as required under consumer law?
  - Price Accuracy - Does the indicated selling price match the price charged at the till?
- 2.7 Price marking is largely regulated by the PMO in Great Britain, and in Northern Ireland (NI) by the NI PMO.<sup>17</sup> The PMO requires traders to display the total selling price of goods (and, unless exempt, the unit price<sup>18</sup>) in a way that is unambiguous, easily identifiable, and clearly legible.<sup>19</sup>
- 2.8 This information must be available and given in proximity to the goods so that consumers do not have to seek it from the trader.
- 2.9 Breach of the provisions of the PMO could result in criminal proceedings. The maximum penalty on conviction in a magistrate's court is a fine of £5,000 and the maximum penalty on conviction in a crown court is an unlimited fine. Alternatively, civil enforcement proceedings brought against a retailer under the Enterprise Act 2002 (EA02)<sup>20</sup> could result in an enforcement order being granted by the court requiring a retailer to stop (and not repeat) the breaches. Failure to comply would amount to a contempt of court which could result in a fine and/or a term of imprisonment.
- 2.10 The CPRs require traders give customers the material information they need – which will include the price of goods - to make an informed decision about whether to buy the goods. If pricing information is missing, incorrect or confusing such that it affects whether the consumer would or would not have

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<sup>17</sup> The PMO came into force on 22 July 2004 in Great Britain. The NI PMO came into force on 1 March 2005 in Northern Ireland and sets out the same obligations as the PMO.

<sup>18</sup> Stores with a floor area or display of less than 280m<sup>2</sup> do not need to provide unit pricing information, which is typically the price per one kilogram, per one litre, per one metre, per one square/cubic metre, or for some products per 10 or 100 grams or millilitres, or for goods sold by number per individual item of that product.

<sup>19</sup> Business Advice on providing price information is available here [www.businesscompanion/quick-guides/pricing-and-payment/providing-price-information](http://www.businesscompanion/quick-guides/pricing-and-payment/providing-price-information)

<sup>20</sup> Both the PMO and NI PMO are retained EU law and therefore breach of their provisions would constitute a Schedule 13 EA02 infringement triggering the enforcement provisions contained in Part 8 EA02. Relevant enforcers in respect of Schedule 13 infringements include the CMA and Trading Standards.



bought the goods if they had known the correct price, a breach of the law is likely to have been committed.<sup>21</sup>

- 2.11 Failure by grocery retailers to provide clear and accurate pricing information can result in consumers buying products they would not have otherwise bought. This is especially important given the cost-of-living pressures faced by many consumers, with the Office for National Statistics reporting that 41% of shoppers are spending less on food shopping and essentials.<sup>22</sup> With shoppers looking for the most competitive prices, it is important that they can easily see how much their shopping will cost and are able to shop around and compare prices with confidence. Where this is not the case, shoppers' trust in businesses may be undermined.
- 2.12 As with the PMO, a breach of the CPRs could give rise to enforcement proceedings under EA02. In addition, the CPRs contain specific criminal offences concerning misleading commercial practices.
- 2.13 TS typically have lead enforcement responsibility for breaches of the PMO and CPRs in relation to price marking practices. However, in recognition of the resourcing pressures local TS services face, the CMA was keen to co-ordinate inspections with TS to assess the potential scale of these pricing issues in England and Wales.
- 2.14 As a result, the CMA invited regional and local TS groups from across England and Wales to a meeting where we set out our intention to carry out this work. We also used this meeting to encourage TS to share details of similar pricing work already underway and invited others to carry out inspections in their respective regions over a similar time frame and to share their findings with the CMA.
- 2.15 The CMA held a further two meetings to ensure we remained joined up with those TS that were either already undertaking similar work in this sector, or planned to do so in support of the CMA's work.
- 2.16 Whilst this report focuses on the work of the CMA, it also summarises some of the work undertaken by TS in their respective local and regional areas.

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<sup>21</sup> For more detailed information on the CPRs see [www.businesscompanion/good-practice/consumer-protection-from-unfair-trading](http://www.businesscompanion/good-practice/consumer-protection-from-unfair-trading)

<sup>22</sup> [Public opinions and social trends, Great Britain - Office for National Statistics – 12 November 2023](#)

### 3. Methodology

3.1 The CMA completed 121 store inspections between 15 November and 8 December 2023, and a further 18 inspections were completed in February 2024. The inspections focused on the instore price marking practices of the following categories of retailers:

- **Supermarket chains** – including a mix of large supermarkets, smaller “local” stores and petrol station forecourts (51 inspections in total - 34 large supermarkets and 14 smaller “local” convenience stores, three of which were located at a petrol station forecourt.)
- **Symbol convenience stores** – small independent retailers that operate under a symbol brand name (55 inspections).
- **Variety stores** – large retailers that sell general merchandise such as hardware, toys, furniture and seasonal goods alongside a selection of groceries (18 inspections).
- **Independent food stores** – independent supermarkets and larger grocery stores (15 inspections).

3.2 To ensure that a mix of urban, suburban and rural stores featured in our inspections we focused on the following locations and surrounding areas across England and Wales: Cornwall, Hertfordshire, Newcastle, Newport, South-East London, Swindon and Basingstoke. To the extent possible a similar number and mix of store types were visited in each location.

3.3 Each inspection involved two exercises:

- i. Assessing whether retailers were displaying selling prices for all grocery products as required under consumer law. During the inspections we recorded instances where it was observed that price indications were either absent or otherwise failed to comply with consumer law.
- ii. Testing a sample of products to check if the indicated selling price<sup>23</sup> matched the price charged at the till:
  - a) The number of products tested varied between stores depending on the size of the store and the range of products on offer. Typically, we tested in the region of 20-30 products in the larger supermarkets and

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<sup>23</sup> For example, the price that appears on a shelf edge label in proximity to the product, or in some cases on the product itself.

approximately 10 products in the smaller stores. In total, 2164 products were checked for price accuracy at the till.

b) When deciding which products to check, we focused on the following criteria:

- products that had been on promotion shortly before inspections took place (where possible, online research was carried out pre-inspection to identify relevant products);
- products on promotion at the time of the inspection;
- staple products such as fresh fruit / vegetables and milk, which customers tend to purchase more frequently.

### **CMA collaboration with Trading Standards**

3.4 As explained at paragraphs 2.14 - 2.15 above, the CMA held a series of discussions to encourage TS across England and Wales to share details of similar pricing work already underway and, where no action was planned, invited TS to carry out inspections in their respective regions over a similar time frame and share their findings with the CMA.

3.5 At the first meeting in September 2023, Trading Standards East Midlands (TSEM) advised the CMA that it was undertaking its own pricing project. This resulted in 195 store inspections across seven local authorities<sup>24</sup> during November 2023 to January 2024. The inspections included a mix of national and independent supermarkets, variety stores, and convenience stores. The project focused on a broader set of pricing practices than that covered by the CMA, for example unit prices and pricing promotions more generally were also reviewed.

3.6 London Trading Standards (LTS), which represents the 33 Local Authority Trading Standards services in the London Region, also advised the CMA that, as part of a wider cost of living project, several TS had either already carried out inspections or were planning to do so. These inspections focused mainly on the sale of illegal vapes, tobacco and alcohol, but some local authorities also reviewed weights and measures issues<sup>25</sup> and price marking practices

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<sup>24</sup> Derby City Council, Leicester City Council, Leicestershire County Council, Lincolnshire County Council, North Northamptonshire Council, Nottinghamshire County Council, West Northamptonshire Council

<sup>25</sup> UK weights and measures legislation regulates the way that almost all goods are weighed and measured.

(but did not focus on checking if prices were accurate at the till). LTS will be reporting on its findings separately.

3.7 The following TS conducted a total of 130 inspections between them to check price accuracy and price marking practices and have shared their findings with the CMA. These tended to focus on independent convenience stores but also included some supermarket chains and a very small number of variety stores.

- Trading Standards North West (TSNW) – eight local authorities<sup>26</sup> conducted 38 inspections across their respective areas.
- Bridgend, Cardiff and the Vale of Glamorgan shared regulatory services – 50 inspections.
- Rhondda Cynon Taff Trading Standards - 12 inspections
- Shropshire Council Trading Standards – nine inspections.
- Solihull Trading Standards - 15 inspections.
- Telford and Wrekin Trading Standards – six inspections.

3.8 Inspections carried out by TS were independent of the CMA's work. The methodology used by TS, and the number of inspections conducted, varied depending on local and regional priorities and available resource.

3.9 Where we have referred to the findings from the TS inspections in section 4 of this report, this focuses on where TS has shared details of their findings with the CMA on price marking and price accuracy issues.

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<sup>26</sup> Rochdale Metropolitan Borough Council, Salford City Council, Cheshire West and Chester Council, Wirral Metropolitan Borough Council, Tameside Metropolitan Borough Council, Lancashire County Council, Manchester City Council, Warrington Borough Council

## 4. Findings

4.1 In this Chapter we set out the findings from our inspections, including examples of the types of non-compliance identified and the CMA's view on what consumer law requires in respect of each issue. We also provide a high-level summary of the findings from inspections carried out by TS colleagues, where this information has been shared with the CMA.

### **Issue 1 – Price Marking – Are retailers consistently displaying selling prices for grocery products as required under consumer law?**

4.2 At each of the 139 stores we visited, in addition to checking the price of a sample of goods at the till (see Issue 2 below), officers also carried out a general review of price marking practices. For this exercise we recorded instances where price indications were either absent or otherwise failed to comply with consumer law - for example because the price indication was ambiguous or not in proximity to the relevant product.

4.3 In summary, we found a mixed picture. Whilst instances of non-compliance were found across each category of retailer, we identified significantly more concerns with the symbol convenience stores and the independent food stores, compared to supermarkets and all but one of the variety retailers. Compliance at the symbol convenience stores and the independent food stores ranged from very good at some stores, to very poor at others, including within the same symbol group.

4.4 The most common types of non-compliant practices seen were:

- missing prices;
- conflicting prices - instances where prices indicated on products conflicted with those shown on shelf edge labels; and
- prices not being displayed sufficiently close to products.

4.5 Each of these practices are examined in more detail below.

**Issue 1a – Price Marking - Missing Prices**

**What does consumer law require?**

Where goods are offered for sale, an indication of the selling price must be given to consumers in writing. Failure to do so is a breach of the PMO.

Failure to provide the selling price is also likely to be a misleading omission under the CPRs

- 4.6 This was the most commonly observed issue but was not an area of concern for all retailer categories. For example, we did not record any missing prices at 46 out of the 51 supermarkets inspected. Where prices were missing at the supermarkets, these were isolated incidents.
- 4.7 The majority of variety stores - 11 out of 18 stores – also had no missing prices. One variety retailer accounted for nearly all instances of non-compliance. For that retailer we identified several missing prices across a range of product categories at four (out of six) of the stores we inspected.
- 4.8 However, missing prices was a significant problem for several of the symbol convenience stores and a third of the independent food stores that we inspected.
- 4.9 At 11 (out of 55) symbol convenience stores and five (out of 15) independent food stores, we found large numbers of missing prices – with examples of entire shelves or sections of the store with no prices. See example images A and B below:

**Image A** –no price indications given for any of the products on display.



**Image B** – Again, no price indications are given for any of the products on display. The shelf edge labels that are visible in this image are blank.



4.10 We also found examples of missing prices across several different product categories, i.e. not isolated instances and not entire shelves without any pricing, but regular examples of some products across different categories not being priced. This was an issue at 12 symbol convenience stores and one independent food store. See example images C and D

**Image C** – only some products display a selling price.



**Image D** – Again, some products have the price written on them, many others fail to display a selling price.





4.11 Table 1 below is an overview of our findings of the instances of missing prices identified by different category of retailer broken down by the prevalence of the missing prices.

**Table 1** – overview of missing price indications by category of retailer

Category of store	No instances of missing price indications	Isolated instances of missing price indications	Examples of missing price indications across different product categories	Significant number of missing price indications – including across entire shelves / sections of the store
Supermarkets	46	5	0	0
Symbol convenience stores	26	6	12	11
Variety stores	11	3	4	0
Independent Food stores	5	4	1	5

*Issue 1b - Conflicting prices*

**Issue 1b – Price Marking - Conflicting Prices**

**What does consumer law require?**

Where it is not made clear which selling price is applicable, the presence of conflicting selling prices is likely to breach the PMO in that the price of the product is ambiguous and/or a consumer would likely require assistance to find out what the correct price of the product was.

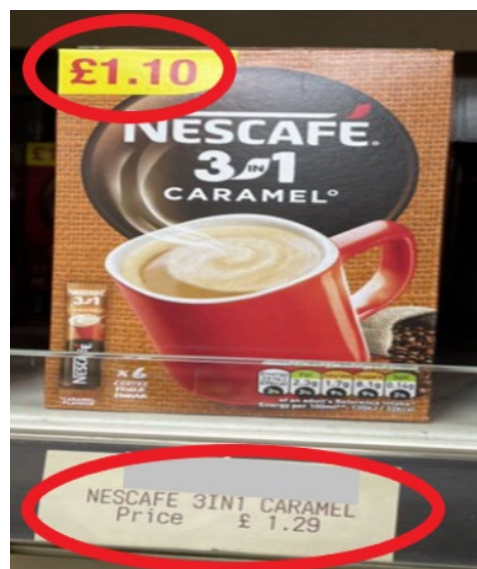
Displaying conflicting prices may also be a misleading action under the CPRs where the price information contains false information and/or its overall presentation is likely to deceive the average consumer in relation to the price of the product, even if some of the information is factually correct.

4.12 This was a particular issue with several of the symbol convenience stores we inspected, and some of the independent food stores. We did not observe this issue when inspecting the supermarkets and variety stores. The concern here is where one price was displayed on the shelf edge label and another, different, price (often a Recommended Retail Price), was displayed on the product itself. Whether the price on the product or the shelf edge label was

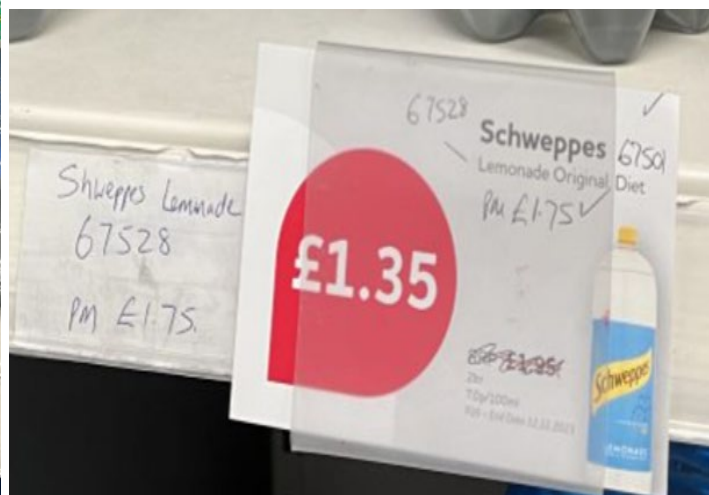
charged at the till varied. What price was charged did not depend on whether the price on the product was higher or lower than the shelf edge price. See example Images E to H below.

**Image E** – price charged = £4.89

**Image F** - price charged = £1.29.



**Image G** – In this example a price of £1.35 appears on the shelf edge label. A price of £1.75 also appears on the same shelf edge label as well as on a second shelf edge label, and on the product itself. A crossed out “RRP” of £1.95 is also visible on the shelf edge label. The product scanned at £1.35 at the till.



**Image H** – The shelf edge label displays two different prices. The price charged at the till = £4.79.



*Issue 1c - Prices not displayed in proximity to the relevant product*

### **Issue 1c – Price Marking - Prices not displayed in proximity to the relevant product.**

#### **What does consumer law require?**

Where the selling price is not sufficiently proximate to the relevant product this is likely to breach the PMO. Where pricing information for other products is displayed in close proximity to the relevant product, the selling price is also likely to be ambiguous and/or not clearly identifiable.

This practice could also be a misleading action under the CPRs if the overall presentation of the pricing information is likely to deceive the average consumer in relation to the price of the product, even if some of the information is factually correct.

Where material information, such as the price, is provided in an unclear or ambiguous manner it also risks being a misleading omission.

4.13 Although not to the same extent as the above two issues, we saw instances where the selling price was displayed but it appeared some distance away from the product, making it difficult for customers to identify what the selling price was or which product it related to. Examples of this practice were found

within each category of retailer. Of particular concern is where a price label for another, unrelated, product is located in close proximity to the relevant product. In one example (pet food) - this would have resulted in the consumer paying £10.50 (the selling price of the product) rather than £5.65 (the price indicated on the shelf edge label but which related to a different product). Other examples are set out at images I and J below.

**Image I** - The price of the Kellogg's variety pack (£2.49) is displayed further along the shelf edge and is partially obscured by other products. The price label immediately underneath the variety pack is for another (cheaper) product (£2.19).



**Image J** – The price for the own brand mayonnaise (£1.59) appears underneath the Hellman’s “real” mayonnaise (which costs £3.29)



### *Other pricing marking issues*

4.14 Further examples of less frequent non-compliant practices identified during our inspections are set out below – these examples are relevant to each category of retailer:

- The selling price being obscured – for example by other shelf edge labels, shop displays, promotional materials or “temporarily unavailable” stickers (where goods were available).
- Multibuy promotion labels where either the single price of an item was not provided, or where it was confusing which products were included in the promotion.
- Prices not being clearly legible – for example because of the size of the labels, price labels being displayed upside down, damaged electronic labels, or the use of handwritten labels where the quality of the handwriting makes it difficult to read the relevant information.

## Issue 2 - Price Accuracy - Did the indicated price match the price charged at the till?

### Issue 2 - Price Accuracy

#### What does consumer law require?

The PMO requires that where goods are offered for sale, the selling price must be given to consumers in writing. Furthermore, all pricing information must be clearly legible, unambiguous and easily identifiable. Pricing information must be available and clearly visible to consumers without them having to ask for assistance in order to see it.

Under the CPRs, indicating one price but charging a different, higher or lower price, is likely to be a misleading action in that the price information contains false information which is likely to deceive the average consumer in relation to the price of the product. Failure to display the correct selling price is also likely to amount to a misleading omission.

- 4.15 The CMA visited 139 stores<sup>27</sup> and checked a total of 2164 products to see if the indicated price matched the price charged at the till. Across all of the stores inspected, a total of 167 pricing errors were observed (7.7% of items checked at the till), with 60% of the errors resulting in a higher price being charged at the till.
- 4.16 Such pricing errors, whether they result in higher or lower prices being charged at the till, can mislead consumers by preventing them from accurately comparing products. Where this is the case, it is likely to result in a breach of consumer law. For example, displaying a price that is lower than the actual selling price could result in consumers buying a product that they would not have otherwise purchased if they were aware of the correct price.
- 4.17 Similarly, displaying a price that is higher than the actual selling price could result in consumers deciding not to buy the product and instead purchase an alternative, possibly less suitable or in reality more expensive, product (either at that store or elsewhere). Where this decision is based on the false impression that the alternative product is cheaper than the original product,

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<sup>27</sup> The inspections were carried out using the CMA's formal powers under Schedule 5 of the Consumer Rights Act 2015 (CRA)

consumers are likely to have been misled and will have been prevented from making an informed decision.

- 4.18 Examples of the pricing errors we observed during the inspections are at Annex A. Some of the discrepancies are significant, for example a 250g jar of Marmite advertised at £2.85 came up at £4.19 at the till, and a 350g jar of pasta sauce had a price label of £2 but when scanned at the till cost £3.35. At least one price error was observed at just over half of the stores we visited. See Table 2 below.

**Table 2 – summary of price errors – all retailer categories**

Number of stores inspected	Number of stores where at least one pricing error observed	Number of products checked at the till	Number of pricing errors	Number of errors resulting in a higher price being charged
139	76 (55%)	2164	167 (7.7%)	101 (60%)

- 4.19 Whilst we observed price errors for each category of grocery retailer we inspected, there were significantly more errors at the symbol convenience stores (the price of 14.4% of products checked at these stores was incorrect) compared to the supermarkets (4.2%), variety stores (5.6%) and, to a lesser extent, the independent food stores (7.8%) – See Table 3 below.

**Table 3 – Number of price errors – breakdown by retailer category**

Category of store	Number of stores inspected	Number of stores where at least one pricing error was found when prices were checked at the till	Number of products checked at the till	Number of pricing errors	Number of errors resulting in a higher price being charged
Supermarkets	51	22 (43%)	1050	44 (4.2%)	26 (59%)
Symbol convenience stores	55	38 (69%)	647	93 (14.4%)	53 (57%)

Category of store	Number of stores inspected	Number of stores where at least one pricing error was found when prices were checked at the till	Number of products checked at the till	Number of pricing errors	Number of errors resulting in a higher price being charged
Variety stores	18	8 (44%)	288	16 (5.6%)	14 (88%) <sup>28</sup>
Independent Food stores	15	8 (53%)	179	14 (7.8%)	8 (57%)

### *Supermarkets – Price Accuracy*

- 4.20 Compliance at the majority of the supermarkets was very good. The CMA inspected a total of 51 stores - 34 large supermarkets and 14 smaller “local” convenience stores, three of which were located at a petrol station forecourt. A total of 1050 products were checked at the till for price accuracy, and 44 pricing errors were identified.
- 4.21 Zero errors were observed at 29 (out of 51) of the stores that we inspected, and a single error was found at a further ten stores. Two individual stores accounted for 10 of the price errors. Excluding the results for these two stores reduces the proportion of pricing errors to 3.4% of the total number of products checked at the supermarkets.

### *Symbol convenience stores – Price Accuracy*

- 4.22 A total of 55 stores were inspected, each of which operated under a symbol group name.<sup>29</sup> Compliance was mixed across the retailers, ranging from very good to very poor. It was notable that levels of compliance not only varied significantly between the different convenience stores, but also between stores that operated under the same symbol group name.
- 4.23 Strikingly, when combining the number of pricing errors for convenience store retailers operating under the same symbol group name, the total number of errors ranged between 9 (6.7% of products checked) to 34 (22.5% of products

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<sup>28</sup> Whilst 88% of errors at the variety stores resulted in the customer paying more than the indicated price, it should be noted that this figure is based on a relatively small number of inspections with a single error being recorded at two stores and a third retailer accounting for all of the remaining errors.

<sup>29</sup> The CMA did not inspect independent convenience stores which were not operating under a symbol group name, but TS did (see paragraph 3.7)



checked). At one store we were unable to check price accuracy as so few products displayed a price.

4.24 The percentage of errors that resulted in a higher price being charged at the till also varied significantly between the symbol groups – between 25% to 68%. See Table 4 below.

**Table 4 – Overview of price errors - breakdown by symbol group**

Store	Number of stores reviewed operating under the symbol group name	Number of stores where at least one pricing error was found when prices were checked at the till	Number of products checked at the till	Number of pricing errors	Number of errors that involved conflicting prices <sup>30</sup>	Number of errors that resulted in a higher price being charged <sup>31</sup>
Symbol Group A	11 <sup>32</sup>	9 (81%)	126	18 (14.3%)	7	8 (44%)
Symbol Group B	11	7 (63%)	137	20 (14.6%)	9	13 (65%)
Symbol Group C	12	11 (91%)	151	34 (22.5%)	15	23 (68%)
Symbol Group D	10	6 (60%)	135	9 (6.7%)	2	6 (67%)
Symbol Group E	9 <sup>33</sup>	5 (56%)	90	12 (13.3%)	4	3 (25%)

4.25 To further our understanding of the different symbol convenience store business models and help determine our next steps, we obtained information from some of the symbol group brands.<sup>34</sup> In summary, each symbol group operates its own business model, but typically the convenience store is independently owned and operated, with the individual retailer responsible for ensuring their price marking practices comply with consumer law.

<sup>30</sup> This includes where more than one price was displayed for the same product – see paragraph 4.12.

<sup>31</sup> Where conflicting prices were displayed, this includes where the higher of the prices was charged.

<sup>32</sup> At one store we were unable to check price accuracy as so few products displayed a price – this store has been excluded for the purposes of this exercise (total stores visited = 12).

<sup>33</sup> Pricing not checked at one store as price information displayed via labels on the product and inputted manually at the till.

<sup>34</sup> This information was obtained via our formal information gathering powers under Part 3 of Schedule 5 of the Consumer Rights Act 2015 (CRA).

4.26 This suggests the store owner plays an important role in ensuring compliance with consumer law and that some have a greater focus on ensuring they are complying with their obligations.

*Variety Stores – Price Accuracy*

4.27 The CMA inspected 18 variety stores across five different retailers. A total of 288 products were checked at the till and 16 pricing errors were identified (5.6% of all products checked at the till). However, one retailer accounted for 14 of these errors, with a higher price being charged at the till in 12 instances. See Table 5 below.

**Table 5 – Price errors - Variety Stores – breakdown by retailer**

Store	Number of stores inspected	Number of stores where at least one pricing error was found when prices were checked at the till	Number of products checked at the till	Number of pricing errors	Percentage of errors that resulted in a higher price being charged
Variety Store A	3	1 (33%)	48	1 (2%)	1 (100%)
Variety Store B	3	0	54	0	n/a
Variety Store C	3	0	38	0	n/a
Variety Store D	3	1 (33%)	35	1 (3%)	1 (100%)
Variety Store E	6	6 (100%)	113	14 (12.4%)	12 (86%)

*Independent Food Stores – Price Accuracy*

4.28 The CMA inspected 15 independent food stores. These stores were either independent supermarkets or larger convenience stores. A total of 179 products were checked at the till and 14 pricing errors were identified (7.8% of all products checked at the till).

4.29 In approximately half of the stores inspected we found no instances of incorrect prices being charged. At four of the stores where errors were identified, a relatively high proportion of the products checked were found to be incorrect – ranging from 18% to 43%, although this was based on a small sample size. See Table 6 below.

**Table 6 – Price Accuracy - overview of independent food stores**

Store	Number of products checked at the till	Number of pricing errors	Number of errors that resulted in a higher price being charged
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Independent Food Store A	7	3	2
Independent Food Store B	10	2	0
Independent Food Store C	15	0	n/a
Independent Food Store D	15	0	n/a
Independent Food Store E	16	1	0
Independent Food Store F	11	0	n/a
Independent Food Store G	11	1	1
Independent Food Store H	9	3	2
Independent Food Store I	11	2	2
Independent Food Store J	15	0	n/a
Independent Food Store K	15	0	n/a
Independent Food Store L	15	0	n/a
Independent Food Store M	9	0	n/a
Independent Food Store N	10	1	0
Independent Food Store O	10	1	1

*What rights do consumers have if a trader advertises or charges an incorrect price in-store?*

- 4.30 Our research shows that shoppers should check that the advertised price matches the price charged at the till. Where there is a difference in price, consumers have certain rights.

#### **Before paying for the item**

- 4.31 Before purchasing the item, if the customer takes an item to the till and are told the advertised price is a mistake, they do not have a right to buy the item at the lower price. They could still try asking the seller to honour the price.

#### **Once the item has been paid for**

- 4.32 If the shop actually sells an item at a lower price than they meant to, the customer does not have to give it back – they are only legally entitled to ask for more money if there had been a conversation about the price (eg £100) and an agreement had been reached about that price, but the retailer ended up charging less instead (eg £10).
- 4.33 In this scenario customers can ask the shop to refund the difference between the advertised price and what they paid at the till. Alternatively, they may have the right to return the product and demand a refund of the full amount paid.
- 4.34 Consumers can get more detailed advice on their rights via [Citizens advice](#) (for consumers based in England and Wales), [Citizens Advice Scotland](#) and [Consumerline](#) (for consumers based in Northern Ireland).

#### **Trading Standards Inspections**

- 4.35 As explained at paragraph 3.4 above, the CMA invited local and regional TS in England and Wales to share details of similar pricing work that was already underway and to also carry out store inspections in their respective areas.
- 4.36 Trading Standards East Midlands (TSEM) has shared some of the high-level findings from the 195 store inspections carried out in their region. The inspections included a mix of national and independent supermarkets, variety stores, and convenience stores, and focused on a broader set of pricing practices than that covered by the CMA.
- 4.37 Across the seven authorities, TS officers:
- Examined price indications of over 8500 products – 5.6% of products were found not to comply with the PMO and / or the CPRs; and
  - Checked the price of over 2000 products at the till – there were 69 instances of an incorrect price being charged (3.3%). In 39 instances a higher price was charged.
- 4.38 The local authorities that took part in the TSEM pricing project will be reporting on their findings separately.

- 4.39 The findings from the 130 inspections carried out by TSNW, Bridgend, Cardiff and the Vale of Glamorgan shared regulatory services, Rhondda Cynon Taff Trading Standards, Shropshire Council Trading Standards, Solihull Trading Standards, Telford and Wrekin Trading Standards have also been shared with the CMA.
- 4.40 These inspections tended to focus on convenience stores more than any other category of retailer – this included convenience stores operating under a symbol group name and those operating under their own name.
- 4.41 The overarching results from these inspections highlight similar themes to the CMA’s findings. Compared to the CMA’s findings (and, where relevant, the findings from the SCOTSS pricing work), the results tended to be slightly more positive for each category of retailer (apart from the independent food stores), although this varied depending on the location. However, it should be noted that the findings in some areas are based on a very small number of inspections and / or only certain categories of retailers were inspected in some areas.

**Tables 6-7 - TS combined findings by retailer category<sup>35</sup>**

**Table 6** - Supermarkets (including smaller convenience store versions of the supermarkets).

Number of inspections	Number of products price tested	Price errors	Number of errors that resulted in a higher price being charged
21	193	6 (3.1%)	4 (66.6%)

**Table 7** - Convenience stores (including both symbol convenience stores and stores operating under their own name).

Number of inspections	Number of products price tested	Price errors	Number of errors that resulted in a higher price being charged
102	971	96 (9.9%)	73 (76%)

- 4.42 The TS inspections also noted similar themes to the CMA in relation to price marking practices, including missing prices and conflicting prices, for example

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<sup>35</sup> We have not included the findings for the variety stores and independent food stores due to the small number of inspections carried out - four variety stores and three independent food stores.

where promotional prices had not been updated at the time of the inspection. When checking price marking practices, the TS inspections typically focused on only those items that they also intended to check for price accuracy, rather than a more general review of products across the store.

- 4.43 Where practices of concern were identified during the TS inspections, they typically gave verbal advice to the retailers. TS colleagues also issued either written advice or written warnings to 32 retailers where they deemed this necessary.
- 4.44 Some retailers provided an explanation to the CMA and/or TS where non-compliance was identified. These echoed some of the reasons reported in the SCOTSS pricing report, and included:
- Regular changes in price meant staff struggled to update shelf edge labels in good time. For the symbol convenience stores, this included where goods were purchased from wholesalers other than their normal suppliers resulting in prices having to be inputted manually before shelf edge labels could be printed.
  - Shortage of staff / staff responsible for updating price information being off sick just prior to the inspections.
  - Equipment failure – for example where the till system failed to register products when scanned resulting in the price being entered manually. One store explained they had run out of ink for the label printer and had a backlog of labels to print.
  - Inadequate systems in place - for example where staff rely on memory to input prices at the till or use price lists that are kept behind the counter and which are not visible to customers. Alternatively, where price changes are updated automatically via the till, failing to amend the shelf edge labels and / or the prices on the product at the same time.
- 4.45 The CMA is concerned that the findings from our inspections and those of TS seem to indicate that some retailers are either not aware of their legal obligations or view compliance with the relevant consumer law as optional rather than mandatory. All retailers must ensure they comply with the law at all times, or risk enforcement action being taken against them.

## 5 Conclusions and Next Steps

- 5.1 The CMA's findings highlight a lack of compliance with consumer law by some grocery retailers in England and Wales, in relation to the display of clear and accurate pricing information. This is also evidenced by the findings from separate inspections carried out by TS.
- 5.2 Compliance levels varied significantly between the different categories of retailers inspected by the CMA, and also between retailers within the same category.
- 5.3 Few concerns were identified with the supermarkets in relation to price marking. When checking prices at the till, again compliance was very good for the majority of the supermarkets, with only a small proportion of the stores accounting for most of the errors.
- 5.4 Similarly, we identified few issues with the variety stores, with one retailer accounting for the majority of concerns in relation to both price accuracy and price marking practices. The CMA has written to this retailer to set out our concerns. We have also referred the evidence from our inspections to the Primary Authority TS which has agreed to work with the retailer to ensure appropriate action is taken to address our concerns.
- 5.5 We found significantly more examples of non-compliance at some of the symbol convenience stores and independent food stores we inspected. However, levels of compliance varied considerably between retailers, from very good at some stores, to very poor at others, including between retailers operating under the same symbol name. This suggests the independent store owner plays an important role in ensuring compliance with consumer law and that some have a greater awareness and / or focus than others on ensuring they are complying with their obligations under consumer law.
- 5.6 To help all store owners comply with their legal obligations the CMA, in conjunction with TS, has produced some compliance materials aimed at helping independent retailers understand what they need to do to comply with the law. This is in addition to the detailed advice that is available to all retailers based in England, Scotland and Wales via [www.businesscompanion](http://www.businesscompanion) and [nibusinessinfo.co.uk](http://nibusinessinfo.co.uk) for retailers based in Northern Ireland.
- 5.7 We will be sharing our findings with the relevant trade associations, and will be encouraging them to share our compliance materials with their members.
- 5.8 We will also be writing to the symbol store group owners to ask them to distribute our materials to those stores that operate under their name to help promote compliance.

- 5.9 Retailers should read these materials and take steps to amend their practices where necessary. This includes ensuring all staff have access to the compliance materials and understand what they need to do to comply with the law.
- 5.10 As highlighted at paragraph 1.10, the role of Trading Standards in monitoring and advising businesses on their obligations under consumer law is crucial to addressing these concerns. We will be sharing the intelligence collected via our inspections with the relevant local and Primary Authority TS.
- 5.11 The CMA appreciates the considerable resourcing pressures local TS services face across the UK and that they face a number of competing priorities. However, we strongly encourage TS to use the intelligence to help shape future enforcement and compliance work at a local and / or regional level. Furthermore, where possible, we would encourage TS to factor in reviewing pricing practices when conducting visits on priority issues, such as the sale of illegal vapes or underage sales. Anecdotal evidence from TS colleagues suggests that non-compliance in relation to these issues is often replicated in pricing practices.
- 5.12 We will also share our findings with consumer facing organisations including Citizens Advice and Which?.



## Annex A

### Examples of incorrect prices

Store	Product	Price Indication	Price charged at point of sale
Symbol convenience store	Fusilli Pasta 500g	£1.20	£1.35
Symbol convenience store	Kellogg's Variety Pack	£2.49	£3.15
Symbol convenience store	Long Grain Rice	£1.99	£1.60
Symbol convenience store	Coconut Milk 400ml	£2.45	£2
Symbol convenience store	Hotdog rolls (pack of 4)	£1.40	£2.09
Symbol convenience store	Marmite 250g	£2.85	£4.19
Symbol convenience store	Onions (pack of 3)	£1.00	£1.09
Symbol convenience store	Crisps 45g	Any Two For £1.80	£2.50
Symbol convenience store	Soft White Medium Bread	£1.59	£1.55
Symbol convenience store	Kellogg's Rice Krispies Squares Chocolate (pack of 4)	Any Two For £3.50	£3.98
Symbol convenience store	Vegetable Cubes	£2.00	£1.79
Symbol convenience store	Maltesers Box 110g	£1.59	£2.75
Independent Food Store	Tea	£2.99	£3.99
Independent Food Store	Chicken Noodles	£0.50	£0.59
Independent Food Store	Crispy Puffs	£1.49	£2.29

Independent Food Store	Pani Puri Balls (pack of 30)	£3.49	£4.79
Supermarket	Crisps 85g	£1.75	£2.20
Supermarket	Tomato and Basil Pasta Sauce 350g	£2.00	£3.35
Supermarket	Satsumas 600g	£1.20	£1.50
Supermarket	British Baking Potatoes (pack of 4)	£0.60	£0.70
Supermarket	Turkey slices 125g	£2.29	£2.75