The Grocery Industry Dispute Resolution Scheme

ANNUAL REPORT I PŪRONGO Ā-TAU

June 2026 I Hune 2026

NEW ZEALAND DISPUTE RESOLUTION CENTRE

Te Pokapū Whakatau Tautohe o Aotearoa

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Foreword I He tīmitanga kōrero

We are pleased to present this second annual report on the Grocery Industry Dispute Resolution Scheme (the **scheme**) provided for under subpart 5 of Part 4 of the Grocery Industry Competition Act 2023 (the **Act**).

This report covers the first full financial year of the scheme's operation from 1 April 2025 to 31 March 2026. The first annual report was for the period from the scheme's launch on 5 September 2024 to 31 March 2025.

The New Zealand Dispute Resolution Centre | Te Pokapū Whakatau Tautohe o Aotearoa (**NZDRC**) is privileged to have been appointed to launch and administer the scheme. NZDRC administers the scheme independently, in accordance with the Act and the scheme rules.

The scheme offers mediation and adjudication services to grocery suppliers and wholesale customers of regulated grocery retailers (**RGRs**) under the Act, at no cost to the applicant, other than their own legal and other adviser fees, unless otherwise determined. Only a supplier or a wholesale customer (not an RGR) may refer a dispute to the scheme.

The RGRs fund the scheme through a levy proportionate to the number of their retail stores. NZDRC acknowledges each RGR's professional engagement with NZDRC and payment of the scheme funding costs.

We received the scheme's first adjudication application during the financial year and progressed it through to the issue of a determination under the Act and the scheme rules. We received a second application after the financial year-end.

Awareness of and familiarity with the scheme is growing, but a key challenge remains its relatively low uptake. We are aware that some anecdotal feedback indicates that grocery suppliers are reluctant to raise disputes with the RGRs or engage with the scheme due to fear of retaliation. We hope that the new express prohibition on retaliation in clause 30 of the Grocery Supply Code 2025, which came into effect on 1 May 2026, will help suppliers engage with the scheme with greater confidence. Mediation, with its more collaborative nature, may help address this concern.

We will continue to advertise and promote the scheme and look forward to working with the grocery industry, representative bodies, RGRs, the Commerce Commission (the **Commission**), the Ministry of Business, Innovation and Employment (the **Ministry**) and other stakeholders to improve the scheme's profile and attract users.

Ngā mihi,

John Green | Director

Michael Jamieson | Commercial Manager

Background to the Scheme

On 8 March 2022, the Commission published its final report on the market study into the retail grocery sector in New Zealand. The study found that competition in the retail grocery sector was not working well for consumers and recommended changes to increase competition and help improve the price, quality and range of groceries available to New Zealanders.

One of the report's recommendations was to provide a dispute resolution mechanism that is independent, affordable, timely, confidential, and informed by specialist expertise.

The Grocery Industry Competition Act 2023 came into force in July 2023. It established a Dispute Resolution Scheme framework for disputes between RGRs and their suppliers or wholesale customers (subpart 5 of Part 4 of the Act, and Schedule 2 to the Act). The Act also provides for the appointment of a Grocery Commissioner within the Commission, who has a range of functions, powers and duties. The first Grocery Commissioner, Pierre van Heerden, was appointed on 13 July 2023.

On 11 October 2023, the then Minister of Commerce and Consumer Affairs approved NZDRC as the scheme's provider under the Act.

Background to the Scheme (continued)

The Grocery Supply Code 2023 came into full force on 28 March 2024. This code was replaced with the Grocery Supply Code 2025 with effect from 1 May 2026.

The then Minister of Commerce and Consumer Affairs approved the scheme rules on 4 September 2024, and the scheme came into force on 5 September 2024. The scheme rules are published on our website: Grocery Industry Dispute Resolution Scheme Rules - New Zealand Dispute Resolution Centre, at www.grocerydispute.co.nz.

The current RGRs are:

- Foodstuffs North Island Limited (**FSNI**)
- Foodstuffs South Island Limited (**FSSI**), and
- Woolworths New Zealand Limited (**WWNZ**), (including their related parties and franchisees).

The Governor-General may designate other grocery retailers as RGRs by Order in Council, on the recommendation of the Minister.

Importance of the scheme and industry engagement with it

The scheme is one tool to help achieve the Act's purpose of promoting competition and efficiency in the grocery industry for the long-term benefit of consumers. It enables suppliers of groceries to and wholesale customers of RGRs to access a mechanism to resolve disputes regarding compliance with the Grocery Supply Code and the Act's wholesale supply provisions. The scheme is intended to promote competition by helping level the playing field between suppliers and RGRs and assisting new entrants to enter the retail grocery market.

The scheme will only be effective if grocery suppliers and wholesale customers are prepared to use it to resolve their disputes with RGRs. The mediation option can preserve relationships while disputes are resolved through mediated negotiation. The adjudication option is a prompt, cost-effective alternative to court and other determinative processes that can allow parties to resolve issues quickly and move on.

Scheme use

The first dispute was brought to and adjudicated under the scheme during the financial year. An adjudication for a second dispute commenced after the financial year-end. NZDRC intends to

Background to the Scheme (continued)

publish guidance on its website once this adjudication is completed

The Commerce Commission's Grocery Supplier Survey
The Commission's Grocery Supplier Survey May 2026[1], showed that familiarity with the scheme had increased from 50% in 2024 to 55% in 2026, albeit with a smaller sample size (340 in 2026 versus 500 in 2024).

While the smaller sample size means these changes are not always statistically significant, there were small improvements in four of the five categories:

- 'I'm somewhat familiar with it', increased from 13% to 16%.
- 'I've heard of it but know little about it', increased from 34% to 36%.
- 'I've never heard of it', improved from 45% to 43%.
- No answer, improved from 5% to 2%.

The fifth category, 'I'm very familiar with it', was steady at 3%.

Familiarity by business size was affected by lower sample sizes for larger firms, but showed familiarity with the scheme for:

- Firms with ≥100 full-time equivalents (**FTE**), increased from 67% to 76%.
- Firms with 20-99 FTE, increased from 56% to 70%.
- Firms with <20 FTE, decreased from 47% to 45%.

The survey provides NZDRC with valuable information on where to target promotional activity (see Promotional Activities below).

Grocery Supply Code amendment - retaliation provision
As well as only moderate familiarity, factors for relatively low take-up of the scheme, anecdotally, include grocery suppliers' fear of retaliation from RGRs. This is despite the Grocery Supply Code 2023 provision (clause 6(3)(d)) that retaliatory action is a factor in assessing whether an RGR has breached its obligation of good faith in dealing with suppliers.

From 1 May 2026, the retaliation provision has been strengthened by clause 30 in the Grocery Supply Code 2025, which expressly prohibits retaliation.

We hope that this new provision will help suppliers engage with the scheme with greater confidence.

[1]Available at https://www.comcom.govt.nz/regulated-industries/grocery/information-for-suppliers/. See pages 47, 50 and 51.

About us and how we can help

About us
NZDRC is part of The ADR Centre, a leading nationwide dispute resolution and conflict management service provider. It is external to and independent of the RGRs, the Ministry, the Grocery Commissioner and Commission, and industry bodies. See www.nzdrc.co.nz.

Through NZDRC and our sister companies, The ADR Centre provides independent complaint management and dispute resolution services to individuals, businesses and the Government across various sectors.

These services range from .nz domain name disputes, ACC reviews and mediations, and Fire and Emergency New Zealand complaints, through to statutory adjudication of building and construction disputes under the Construction Contracts Act 2002, Family and Elder mediation, and the full range of commercial, property and relationship property dispute resolution mechanisms.

How we can help
We can use our over 30 years of experience as a neutral, independent expert provider of dispute resolution services to help grocery suppliers,

About us and how we can help (continued)

wholesale customers and RGRs settle their disputes as promptly, cost-effectively, efficiently and amicably as possible in their circumstances. We have access to high-quality mediators, adjudicators and other dispute resolvers, who can provide high-quality services to the disputing parties and high-quality unbiased decision-making.

How we interact with the Commerce Commission

One part of our role is to work collaboratively with the Grocery Commissioner and Commission to promote the scheme. In October 2025, we attended the Food and Grocery Council conference for the first time to raise awareness of the scheme, and we also had an ongoing marketing programme. Further marketing and promotional activities will be carried out in the financial year ending 31 March 2027.

Our service complements other services the Commission offers. The Commission has a secure encrypted anonymous reporting tool WhistleB, Whistleblowing Centre and a complaints service Commerce Commission - Report a concern that enable concerns to be reported. These provide alternative options alongside the scheme and its processes.

We are developing a memorandum of understanding with the Commission to formalise information-sharing arrangements. We consider that grocery suppliers and wholesale customers would benefit from clearer guidance on how to interpret the Grocery Supply Code and the Act in light of decisions, how to use the dispute resolution process, and what options are available for raising disputes, including through the RGRs' own processes. We intend to consult and work with the Commission and other stakeholders on this.

Scheme Overview

Scheme launch

As noted above, the scheme launched on 5 September 2024, immediately after the then Minister of Commerce and Consumer Affairs approved the scheme rules on 4 September 2024, after extensive consultation on the rules with the industry.

NZDRC maintains a website for the scheme, www.grocerydispute.co.nz. This website contains detailed information about the scheme, including eligibility criteria, scheme processes, scheme rules, a downloadable notice of dispute, and online application forms.

How the scheme is accessed

The scheme is available to grocery suppliers and wholesale customers of an RGR for disputes with claims up to $5 million.

The scheme is designed to be user-focused, accessible, independent, fair, accountable, efficient and effective. Tikanga-based options and other accessibility options are offered.

A potential applicant to the scheme must download, complete, and serve the notice of dispute form on the RGR. The applicant must complete the online application form within five working days of service of the notice of dispute.

Scheme Overview (continued)

NZDRC will assess the application to ensure the dispute is eligible under the scheme. If it is eligible, NZDRC will offer mediation to the parties. If the parties do not agree to mediation, NZDRC will appoint an adjudicator, and the dispute will progress to binding adjudication.

If the dispute goes to mediation and is not settled, the claimant can refer it to binding adjudication.

Process options

Mediation is a less formal, consensual process. Our mediators and facilitators are skilled, experienced, impartial, and independent professionals. They do not advise or advocate for anyone involved in the dispute. They manage the negotiation process and guide and assist the parties in identifying and exploring issues to be resolved and options for resolution. Ultimately, the power to settle the dispute and decide on the settlement terms is in the parties' hands.

Adjudication is a more formal, determinative process. The parties present their case to an independent third party (the adjudicator), who decides the outcome of the dispute in a written determination. The adjudicator's determination is binding: the parties must comply with it (subject to limited review and appeal rights).

We encourage both parties to a dispute to consider the benefits of mediation. These include the opportunity, in a confidential and without prejudice setting, to understand each other's perspectives in more depth, resolve any misunderstandings or miscommunication, explore options and seek solutions. Even if mediation does not result in a settlement, it can narrow the issues and make any subsequent adjudication more efficient and cost-effective for the parties.

NZDRC does not give legal advice or advocate for anyone involved in a dispute, although it provides guidance on the process to both parties. NZDRC's role is neutral and independent, regardless of the chosen process option.

Time to resolve cases

The Act requires determinations to be issued within 25 working days, unless the parties agree to a longer period or the adjudicator allows one. In both disputes received by the scheme to date, the timetable was extended by a reasonable period. This provided additional time within

Scheme Overview (continued)

an otherwise streamlined process without causing undue delay in a decision.

Who may access the scheme?
The scheme is available:

- to suppliers (defined in section 152 of the Act) of groceries (defined in section 5 of the Act) to RGRs, and
- to wholesale customers (defined in section 152 of the Act) of RGRs
- for disputes involving claims up to $5 million (or where no monetary amount is claimed – see 'The nature of the disputes' below).

An RGR may not refer a dispute to the scheme but must engage if a grocery supplier or wholesale customer refers a dispute to the scheme. The RGR may decline mediation but must participate in adjudication.

The nature of the disputes
Disputes may be about the performance or non-performance by an RGR of a requirement or the exercise of a power under the Grocery Supply Code or Part 3 of the Act (wholesale supply of groceries).

Agreements in mediation or determinations in adjudication can address a range of matters, including:

- a sum of money to be paid by or to the RGR, and the conditions and dates for payment
- declarations of rights and obligations (e.g., whether the RGR has breached the Grocery Supply Code or the wholesale terms in Part 3 of the Act)
- an agreement or a direction to act or refrain from acting in a specific way
- general damages, costs and interest

Systemic issues and recommendations
We have received and progressed two adjudications to date, one in the financial year covered by this report and one in the next financial year.

Despite growing awareness and engagement, uptake of the scheme remains relatively low.

We will continue to work with the grocery industry, RGRs, the Commission, and the Ministry to improve the scheme's profile further and attract users.

We are working on potential changes to the scheme's rules, which may include options for multiple parties to bring a joint complaint against an RGR to the scheme, or industry bodies and associations to bring representative complaints on behalf of their members, subject to compliance with the Act and the Commerce Act 1986.

Scheme Overview (continued)

These may more likely comprise applications for declarations of rights and whether the Act and Grocery Supply Code have been complied with, rather than disputes regarding individual supply agreements or monetary claims.

We are also considering other potential changes to the scheme rules based on our experience with the scheme to date. We intend to consult with key stakeholders on any proposed changes.

Promotional Activities

Promotional activities are funded from levies charged to RGRs to cover the scheme's costs.

During the 2024/25 financial year, NZDRC increased its focus on digital promotion and awareness-building activities to improve understanding of the scheme among grocery suppliers and wholesale customers.

Promotional activities were undertaken across Google Search, Meta platforms (Facebook, Instagram and Messenger), LinkedIn, and industry publications. We also attended industry events and engaged with stakeholders to raise awareness of the scheme and its services.

Engagement across digital channels was positive and generally exceeded industry benchmark performance measures. We also received good engagement with editorial content and advertising placed in Supermarket News.

The results of these activities are summarised on the following page:

Promotional Activities (continued)

Digital Advertising	Channels	Impressions	Clicks
Google	Search ads	18,578	894
Meta	Facebook, Instagram & Messenger ads	895,068	17,523
LinkedIn	Single image ad	62,571	1,364
Supermarket News Publication	Full page editorial feature + ad	48,733	Not available
	Newsletter	17,824	3,708
	Website article	126,844	Not available
	LinkedIn post	36,100	Not available

In addition, approximately 12,000 users visited NZDRC's Grocery Industry Dispute Resolution Scheme website during the financial year. This demonstrates ongoing interest in information about the scheme and suggests that awareness of the scheme continues to increase.

The Commission's Grocery Supplier Survey (referenced earlier in this report) also showed a modest increase in supplier familiarity with the scheme between 2024 and 2026.

While awareness appears to be improving, familiarity with the scheme and confidence in using it remain important areas of focus. NZDRC will continue to work with the grocery industry, the Commission, industry representative bodies and other stakeholders to promote awareness of the scheme, further understand and

Promotional Activities (continued)

seek to resolve any barriers, and support understanding of the dispute resolution options available to grocery suppliers and wholesale customers.

Promotional activities will continue during the 2026/27 financial year, with a focus on increasing awareness of the scheme, improving accessibility of information, and encouraging confidence in the scheme's independence and effectiveness.

Financials – Scheme Funding Costs

The scheme rules provide for estimated scheme funding costs (**ESFC**) to be levied on RGRs and paid in advance for each financial year ending on 31 March. The scheme funding costs are apportioned between RGRs based on the number of their retail stores advised to us as at specified dates. A reconciliation to actual scheme funding costs (**ASFC**) and store numbers as at 31 March is undertaken after the end of the financial year to determine any underpayment or overpayment of levies for settlement with RGRs.

NZDRC administers the scheme independently, in accordance with the Act and the scheme rules.

The table on the following page summarises the estimated and actual scheme funding costs for the 2025/26 financial year and the estimated scheme funding costs for the 2026/27 financial year.

Financials – Scheme Funding Costs (continued)

Scheme Funding Costs	FY2025/26 ESFC $000	FY2025/26 ASFC $000	FY2026/27 ESFC $000
Operational Costs	227	220	237
Dispute Resolution Costs	100	10	100
Total	**327**	**230**	**337**
Refund to RGRs		97	

Operational Costs are the costs of operating and administering the scheme. They include allowances for marketing and reporting, attendance at conferences and trade shows, and any costs of litigation incurred for or in connection with the performance of NZDRC's functions, duties and powers under the scheme or the exercise of its powers under sections 157 and 159(3) of the Act (regarding enforcement of the scheme rules and enforcement of settlement agreements, respectively).

Dispute Resolution Costs include an allowance for the cost of providing mediation and adjudication services, and an allowance for mediators' fees and adjudicators' fees.

Financials – Scheme Funding Costs (continued)

FY2025/26 estimated scheme funding costs

The estimated scheme funding costs from 1 April 2025 to 31 March 2026 included:

- Operational Costs (including an allowance for scheme promotion and a small allowance for litigation expenses)
- An allowance for Dispute Resolution Costs.

FY2025/26 actual scheme funding costs

Actual scheme funding costs to 31 March 2026 were reconciled in May 2026 and were less than estimated scheme funding costs. The small allowance for litigation costs was unused, and promotional costs were lower than budgeted.

Mediators' fees and adjudicators' fees are directly invoiced to the respondent RGRs and therefore are not included in the ASFC figure for Dispute Resolution Costs.

FY2026/27 estimated scheme funding costs

The estimated scheme funding costs for the financial year ending on 31 March 2027 include a modest increase on FY2025/26 ESFC. This includes a CPI adjustment and recognises the intention to increase promotion in FY2026/27 compared to FY2025/26, in line with the budget.

We acknowledge the RGRs' payment of the FY2026/27 ESFC.

CONCLUSION

NZDRC is grateful for the opportunity to serve as the scheme's independent provider and to submit this second annual report. We look forward to continuing to work with the grocery industry, RGRs, the Commerce Commission, the Ministry of Business, Innovation and Employment and other stakeholders to strengthen awareness, accessibility, and confidence in the scheme.

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