
From: Eimear O'Sullivan [REDACTED] mallesons.com]
Sent: Thur 02/04/2026 9:56:47 AM (UTC+11:00)
To: Madison [REDACTED] jws.com.au]; Brendan Donohue [REDACTED] jws.com.au]; James Love [James.Love@jws.com.au]
Cc: JW [REDACTED] jws.com.au]; Laura Kis [REDACTED] mallesons.com]; Peta Stev [REDACTED]@mallesons.com]; WOW VID 974-202 [REDACTED]@mallesons.com]
Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts [JWSDOCS-DOCUMENTS.FID753311] [KWM-DOCUMENTS.FID5754122]
Attachment: 20260224 Letter to JWS (Amended SOAF) (2).pdf

Dear colleagues

We are yet to receive a response to our 24 February 2026 letter (re-**attached**). The ACCC's response is necessary to resolve the ACCC's objections to evidence and to enable our client to prepare its written opening. If the ACCC does not agree to the amendments, our client may adduce further evidence and bring an interlocutory application seeking leave to rely on that evidence at trial. Please let us know whether the ACCC consents to the proposed amendments by **Wednesday, 8 April 2026**.

Kind regards
Eimear

Eimear O'Sullivan

Solicitor

T: [REDACTED] Level 61, Governor Phillip Tower
M: [REDACTED] 1 Farrer Place
E: [REDACTED]@mallesons.com SydneyNSW2000

MALLESONS



mallesons.com

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From: O'Sullivan, Eimear (AU) [REDACTED]@au.kwm.com>
Sent: Friday, 20 March 2026 6:59 PM
To: Madison Lardner [REDACTED]@jws.com.au>; Brendan Donohue [REDACTED]@jws.com.au>; James Love <James.Love@jws.com.au>

Cc: JWS Woolworths [REDACTED]@jws.com.au>; Kiss, Laura (AU) [REDACTED]@au.kwm.com>; Stevenson, Peta (AU) <Peta.Stevenson@au.kwm.com>; WOW VID 974-2024 [REDACTED]@au.kwm.com>

Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts [JWSDOCS-DOCUMENTS.FID753311] [KWM-DOCUMENTS.FID5754122]

Dear colleagues

We refer to your email dated 3 March 2026 in response to our 24 February 2026 letter regarding proposed amendments to the statement of agreed facts filed on 13 June 2025 (SOAF).

In respect of the Sakata Sample Product, Woolworths' position is that its evidence:

- is consistent with the pricing and promotional data agreed in Annexures B and C of the SOAF; and
- does not necessitate any further amendment to the SOAF.

Woolworths considers that the differences between the SOAF and events evidenced in MPL.0002.0002.5580 and the affidavit of Barry O'Leary at [84] fall within the parameters of the agreed caveat included at the outset of Annexures B and C of the SOAF regarding the potential for 'some inconsistencies' to arise with the agreed data as:

- (1) While MPL.0002.0002.5580 records that an issue with the Sakata Sample Product tickets had been identified by the supplier in respect of two specific Woolworths Supermarket stores (being the Glenrose and Macquarie Park stores):
 - a. An exchange between Zoe Pipan and Stefanie Chiddo recorded in MPL.0002.0002.5192 evidences that the shelf price registered in Woolworths' internal ticketing systems at this time was \$2.75 and that it had not been updated since 28 July 2022 (being the agreed start date of the P2 Price).
 - b. As per the email sent by Zoe Pipan at 4:18PM on 15 August 2022 recorded in MPL.0002.0002.5580, Zoe Pipan subsequently informed the supplier that the shelf price should not have moved and attributed the change in the two stores to a ticketing issue which she confirmed would be rectified.
- (2) In respect of [84] of Barry O'Leary's affidavit, Woolworths notes that:
 - a. As outlined in Woolworths response to schedule 1 of the s 155 Notice issued by your client on 4 May 2023 (as varied on 9 June 2023), ticketing changes typically occur in accordance with Woolworths' weekly promotional calendar that is set on a Wednesday to Tuesday basis. While the Prices Dropped tickets for the Sakata Sample Products were erroneously sent to Woolworths Supermarket stores for printing on 22 August 2022 (per the Google Chat at MPL.0071.0001.2805, exhibited at [84]), Woolworths anticipates that tickets in Woolworths Supermarket stores would not have been updated until the following day on 23 August 2022.

This is consistent with preceding exchanges between Zoe Pipan and the supplier that refer to a plan to place the Sakata Sample Product on a Prices Dropped ticket on 23 August 2022 (see the 4:18PM, 15 August 2022 email in MPL.0002.0002.5580).

- b. To the extent that any particular Woolworths Supermarkets had applied the Prices Dropped ticket on the Sakata Sample Product by the time the instructions to remove the ticket were issued, Woolworths' position is that the Prices Dropped ticket would likely only have been shown to customers for a brief period on 23 August 2022. Although Woolworths' systems do not retain historical ticketing information, Woolworths refers to the email chain at MPL.0002.0015.2519 (previously produced to your client in response to the s 155 Notice issued on 19 December 2023 (as varied on 29 February 2024)) which records that in respect of Woolworths Online:
- i. as at 9:44AM, the Sakata Sample Product had been moved to a Prices Dropped ticket with a 'Prices Dropped' price of \$2.30, a 'Range Was' price of \$2.75 and a 'Range Was' date of 22/08/2022;
 - ii. as at 10:41AM, Zoe Pipan issued the direction to remove it from Prices Dropped and return it to the white ticket price of \$2.75;
 - iii. at 1:00PM, Stefanie Chiddo confirmed that the removal had been actioned; and
 - iv. at 4:43PM, Stefanie Chiddo circulated a snip of Woolworths Online pricing which records that the Sakata Sample Product was listed at a white ticket price of \$2.75.
- c. Therefore, since the Sakata Sample Product was not on the Prices Dropped Program when Woolworths' system typically captured the weekly 'PriceFocusCode' data (at around approximately 8PM), this brief change was not captured in the data that was produced by Woolworths to the ACCC which was ultimately relied upon to agree Annexures B and C of the SOAF.

In respect of the balance of Woolworths' evidence, Woolworths' position is that it is the responsibility of the ACCC to identify and object to any aspects of Woolworths' evidence that it alleges are inconsistent with the SOAF. However, in the interests of the efficient resolution of the issues in dispute in the proceeding, Woolworths confirms that it is not currently aware of any other potential discrepancies other than those identified in our 24 February 2026 letter.

Kind regards

Eimear

Eimear O'Sullivan | Solicitor
King & Wood Mallesons



E [REDACTED]@au.kwm.com

Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000
kwm.com

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From: Kiss, Laura (AU) [REDACTED]@au.kwm.com>

Sent: Monday, 16 March 2026 9:47 PM

To: Madison Lardner [REDACTED]@jws.com.au>; Ste
 <Peta.Stevenson@au.kwm.com>; O'Sullivan, Eimear (AU) [REDACTED]@au.kwm.com>; KWM
 WOW VID 974-2024 [REDACTED]@au.kwm.c
Cc: James Love <James.Love@jws.com.au>; Brendan Donohue [REDACTED]@jws.com.au>;
 JWS Woolworths [REDACTED]@jws.com.au>
Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts
 [JWSDOCS-DOCUMENTS.FID753311]

Dear Madie

We confirm receipt of your email. We are seeking instructions.

Kind regards

Laura

Laura Kiss | Senior Associate
 King & Wood Mallesons

T [REDACTED]

E [REDACTED]@au.kwm.com

Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000
 kwm.com

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From: Madison Lardner [REDACTED]@jws.com.au>
Sent: Monday, 16 March 2026 1:20 PM
To: Stevenson, Peta (AU) <peta.stevenson@au.kwm.com>; O'Sullivan, Eimear (AU)
 [REDACTED]@au.kwm.com>; KWM WOW VID 974-2024 <[REDACTED]
 [REDACTED]@au.kwm.com>
Cc: James Love <James.Love@jws.com.au>; Brendan Donohue [REDACTED]@jws.com.au>;
 JWS Woolworths [REDACTED]@jws.com.au>
Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts
 [KWM-DOCUMENTS.FID5754121] [JWSDOCS-DOCUMENTS.FID753311]

EXTERNAL

Dear colleagues

We would be grateful for a response to our 3 March 2026 email below, so that we can consider
 Woolworths' proposed amendments to the statement of agreed facts.

Kind regards

Madison Lardner

Associate | Johnson Winter Slattery

D [REDACTED]
M [REDACTED]
E [REDACTED]@jws.com.au

[Website](#) | [LinkedIn](#)

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From: Madison Lardner [REDACTED]@jws.com.au>
Sent: Tuesday, 3 March 2026 2:10 PM
To: Stevenson, Peta (AU) <peta.stevenson@au.kwm.com>; O'Sullivan, Eimear (AU) [REDACTED]@au.kwm.com>; KWM WOW VID 974-2024 [REDACTED]@au.kwm.com>
Cc: James Love <James.Love@jws.com.au>; Brendan Donohue [REDACTED]@jws.com.au>; JWS Woolworths [REDACTED]@jws.com.au>
Subject: RE: ACCC [REDACTED] Group Limited (VID974/2024) - Amended Statement of Agreed Facts [KWM-DOCUMENTS.FID5754121] [JWSDOCS-DOCUMENTS.FID753311]

Dear colleagues

We refer to your letter dated 24 February 2026, and our letter in response dated 2 March 2026.

We have identified additional examples of evidence filed by Woolworths which contradict the facts that Woolworths agreed to in the statement of agreed facts filed on 13 June 2025 (**SOAF**). In the SOAF at [1], Woolworths agreed that the SOAF contains facts that the ACCC and Woolworths have agreed are not, for the purposes of the proceeding, to be disputed.

Annexures B and C of the SOAF state, in respect of Sakata Rice Cracker Plain 100g (41814-EA) (the **Sakata Sample Product**) that the product was sold:

1. at a white ticket price of \$2.75 from 28 July 2022 – 31 August 2022; and
2. at a Prices Dropped price of \$2.30 from 1 September 2022.

Inconsistently with these facts:

1. MPL.0002.0002.5580 (included in Woolworths' tender list) contains a 15 August 2022 email from a representative from PepsiCo, enquiring as to the price of the Sakata Sample Product

following their observation that:

1. online, the product was available for sale at a \$2.75 white ticket price (this is consistent with the SOAF); and
 2. in store, the product was displayed with a \$2.30 white ticket (which is inconsistent with the SOAF).
2. The affidavit of Barry O'Leary at [84] states that the Sakata Sample Product was erroneously launched on the Prices Dropped campaign on 22 August 2022, and removed again on 23 August 2022.

Would you please confirm how these matters are to be addressed in light of the SOAF.

We note in relation to the above that these are matters which have become apparent to us but we have not audited (and do not propose to audit) Woolworths' evidence (either affidavit evidence or tender list) for the purpose of testing whether it contains matters which purport (or appear) to be inconsistent with the SOAF. The purpose of a SOAF is to avoid the costs and time of that kind of exercise. In the circumstances, please confirm that there are **no other** Sample Products in respect of which Woolworths has filed evidence which contradicts the facts agreed in the SOAF.

Further to the matters stated in our 2 March 2026 letter, given the issues identified above and until those matters are resolved, it would not be an efficient use of the parties' or the Court's resources for the ACCC to file evidence in reply on 4 March 2026 (as per the current Court orders). As a consequence, the ACCC will not be in a position to finalise and file its evidence in reply tomorrow, and we would respectfully request that you provide a response to our letter dated 2 March 2026 as soon as possible.

Kind regards
Madie

Madison Lardner

Associate | Johnson Winter Slattery

D

M

E

jws.com.au

[Website](#) | [LinkedIn](#)

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From: Stevenson, Peta (AU) <peta.stevenson@au.kwm.com>
Sent: Monday, 2 March 2026 11:01 PM
To: Madison Lardner <[REDACTED]@jws.com.au>; O'Sullivan <[REDACTED]@au.kwm.com>; KWM WOW VID 974-2024 <[REDACTED]@au.kwm.com>
Cc: James Love <James.Love@jws.com.au>; Brendan Donohue <[REDACTED]@jws.com.au>; JWS Woolworths <[REDACTED]@jws.com.au>
Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts [JWSDOCS-DOCUMENTS.FID753311] [KWM-DOCUMENTS.FID5754121]

Dear Madison

Confirming receipt of your letter.

We are seeking instructions.

Kind regards

Peta Stevenson | Partner | LINK Ally (she/her)
King & Wood Mallesons

T +61 2 9296 2492 M [REDACTED]
E peta.stevenson@au.kwm.com
 Partner profile
 Gadigal Country
 Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000
 Join the conversation at www.incompetition.com.au

I acknowledge the Traditional Owners of Country across Australia and pay my respects to their Elders, past, present, and emerging.

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MON	TUES	WED	THU	FRI
•	•	•	•	•

From: Madison Lardner <[REDACTED]@jws.com.au>
Sent: Monday, 2 March 2026 11:40 AM
To: Stevenson, Peta (AU) <peta.stevenson@au.kwm.com>; O'Sullivan, Eimear (AU) <[REDACTED]@au.kwm.com>; KWM WOW VID 974-2024 <[REDACTED]@au.kwm.com>
Cc: James Love <[REDACTED]@jws.com.au>; Brendan Donohue <[REDACTED]@jws.com.au>; JWS Woolworths <[REDACTED]@jws.com.au>

Subject: RE: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts [KWM-DOCUMENTS.FID5754122] [JWSDOCS-DOCUMENTS.FID753311]

EXTERNAL

Dear colleagues

Please see attached correspondence.

Kind regards

Madison Lardner

Associate | Johnson Winter Slattery

D [REDACTED]

M [REDACTED]

E [REDACTED]@jws.com.au

[Website](#) | [LinkedIn](#)

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From: O'Sullivan, Eimear (AU) [REDACTED]@au.kwm.com>
Sent: Tuesday, 24 Feb [REDACTED] M
To: Madison Lardner [REDACTED]@jws.com.au>; James Love <james.love@jws.com.au>;
Brendan Donohue [REDACTED]@jws.com.au>; Marc Eastmure [REDACTED]@jws.com.au>;
JWS Woolworths [REDACTED]
Cc: KWM WOW VID 974-2024 [REDACTED]@au.kwm.com>
Subject: ACCC v Woolworths Group Limited (VID974/2024) - Amended Statement of Agreed Facts [KWM-DOCUMENTS.FID5754122]

Dear colleagues

Please find **attached** correspondence.

The enclosed draft amended Statement of Agreed Facts is contained in the KWM Share folder located here: <https://share.kwm.com/w/f-68a8aaec-1ca7-47df-b531-8e7e7284911b>.

Kind regards

Eimear

Eimear O'Sullivan | Solicitor
King & Wood Mallesons

T [REDACTED]
M [REDACTED]
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