



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID973/2024

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Applicant

COLES SUPERMARKETS AUSTRALIA PTY LTD (ACN 004 189 708)

Respondent

ORDER

JUDGE: Justice O'Bryan

DATE OF ORDER: 2 February 2026

WHERE MADE: Melbourne

THE COURT BY CONSENT ORDERS THAT:

Definitions

The following defined terms apply to these orders:

- (a) **Coles** means Coles Supermarkets Australia Pty Ltd;
- (b) **Coles Suppressed Material** means:
 - (i) the text highlighted in the documents in Confidential Exhibit TN-2 to the Nitschke Affidavit;
 - (ii) the portions of the Redacted Witness Affidavits that are highlighted;
 - (iii) the text highlighted in the documents exhibited to the Redacted Witness Affidavits and the Unredacted Witness Affidavits;
 - (iv) the text highlighted (via red boxes) in the Edwards Report and the appendices to the Edwards Report, and the whole of appendix D to the Edwards Report;
 - (v) the text highlighted in any documents referred to in either party's tender bundle filed in the proceedings and included in the confidential Court Book provided to the Court on 22 January 2026; and



- (vi) any other text highlighted in the documents exhibited to the Redacted Witness Affidavits, the Unredacted Witness Affidavits and in any documents proposed to be tendered by either party in the proceeding that reveals personal identifying information of Coles' employees or the employees of Coles' suppliers, excluding individuals' names, excluding information which is in, or passes into, the public domain or otherwise loses its character of confidentiality other than because of a breach of these orders.
- (c) **Edwards Report** means the Expert Report of Dr Geoff Edwards dated 4 December 2025;
- (d) **Nitschke Affidavit** means the Affidavit of Timothy Alan Nitschke affirmed on 7 January 2026;
- (e) **Redacted Witness Affidavits** means the following affidavits filed by Coles:
- (i) Affidavit of Paul Francis Carroll sworn 18 November 2025;
 - (ii) Affidavit of Rebecca Thompson affirmed 24 November 2025;
 - (iii) Affidavit of Eleftheria Lavdas sworn 18 November 2025;
 - (iv) Affidavit of Massimo Palmisciano affirmed 24 November 2025;
 - (v) Affidavit of Jack Eugene Jorgensen affirmed 20 November 2025;
 - (vi) Affidavit of James Andrew Cubbon affirmed 20 November 2025;
 - (vii) Affidavit of Edward Matthew McCutchan affirmed 20 November 2025;
 - (viii) Affidavit of Matthew Peter Hankin affirmed 21 November 2025;
- (f) **Unredacted Witness Affidavits** means the following affidavits filed by Coles:
- (i) Affidavit of Katherine Ann Baily affirmed 21 November 2025;
 - (ii) Affidavit of Debra Maree Galle affirmed 21 November 2025.

Confidentiality

1. Subject to orders 3 to 5 below, pursuant to s 37AF of the *Federal Court of Australia Act 1976 (Cth)* (**Act**), and on the ground specified in s 37AG(1)(a) of the Act, publication or disclosure of the Coles Suppressed Material (except for the material



- referred to in paragraph (b)(vi) of Coles Suppressed Material) is prohibited and to be treated as confidential on the Court file (and not capable of inspection pursuant to r 2.32 of the *Federal Court Rules 2011* (Cth) (**Rules**) by a person who is not a party to the proceeding).
2. Subject to orders 3 to 5 below, pursuant to s 37AF of the Act, and on the grounds specified in s 37AG(1)(a) and (c) of the Act, publication or disclosure of the material referred to in paragraph (b)(vi) of the definition of Coles Suppressed Material is prohibited and to be treated as confidential on the Court file (and not capable of inspection pursuant to r 2.32 of the Rules by a person who is not a party to the proceeding).
 3. Access to any information falling within orders 1 and 2 is to be limited to the following persons (and no other persons):
 - (a) the Court, staff and any other person assisting the Court;
 - (b) the parties to this proceeding and their legal representatives, for the purposes of this proceeding (or any appeal);
 - (c) independent experts retained by the parties for the purposes of this proceeding;
 - (d) the parties to the proceeding *Demery v Coles Supermarkets Australia Pty Ltd* (VID1247/2024) (**Class Action**) and their legal representatives, for the purposes of the Class Action (or any appeal);
 - (e) independent experts retained by the parties for the purposes of the Class Action; and
 - (f) any person authorised by Coles or to whom the information is disclosed by Coles.
 4. Nothing in order 3 restricts the right of Coles to deal with any information falling within orders 1 and 2.
 5. Orders 1 and 2 will have effect for a period of 5 years from the date of these orders, or such time specified in any further order.

Date orders authenticated: 2 February 2026



Sia Lagos
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.