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File Title: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v
WOOLWORTHS GROUP LIMITED (ACN 000 014 675)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59
Rule 29.02(1)

Affidavit

No VID 974 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Competition and Consumer Commission
Applicant

Woolworths Group Limited (ACN 000 014 675)
Respondent

Affidavit of: **Callum Michael Davies**
Address: 1 Woolworths Way Bella Vista NSW 2153
Occupation: Commercial Manager - Pricing, Woolworths Group Limited
Date: 15 December 2025

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Signed:  Taken by: 

Filed on behalf of Woolworths Group Limited, the Respondent

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I, CALLUM MICHAEL DAVIES, of 1 Woolworths Way, Bella Vista NSW 2153 affirm:

- 1 I am a Commercial Pricing Manager at Woolworths Group Limited (**Woolworths**), the Respondent in this Proceeding.
- 2 In this affidavit, I address events relating to Woolworths' cost price increase (**CPI**) negotiations with Henkel Australia Pty Ltd (**Henkel**), the supplier of Fab Laundry Powder Fresh Blossoms 2kg (657424-EA) (**Fab Sample Product**), in the period between December 2021 and October 2022.
- 3 In preparing this my affidavit, I have been provided with a copy of the Affected Product Pricing and Sales Data (Annexure C to the Statement of Agreed Facts filed 13 June 2025, referred to as the '**Annexure C**') and the Agreed Sample List (dated 13 June 2025). Based on my review of these documents, I have identified that the Fab Sample Product is referred to at item 80 of the APS and item 80 of Annexure C and is referred to at item 6 of the Agreed Sample List.
- 4 Unless otherwise stated, this affidavit is based on my own knowledge.
- 5 Shown to me at the time of affirming this affidavit is an electronic bundle of documents marked '**Confidential Exhibit CMD-1**.' The documents are sourced from Woolworths' books and records. References to document identifier numbers in this affidavit are references to documents by that number in 'Confidential Exhibit CMD-1'.

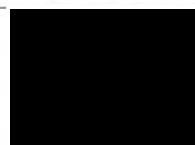
Role at Woolworths

- 6 On or about 19 August 2013, I commenced employment at Woolworths as a Category Assistant (**CA**) in Household Petcare and Electronics. I held that role until around 9 February 2014. Since that time, I held various roles at Woolworths, including:
 - (a) between 10 February 2014 and 31 July 2016, I was a Business Leadership Graduate;
 - (b) between 1 August 2016 and 14 July 2017, I was Assistant Category Manager (**ACM**) in Health Foods;
 - (c) between 17 July 2017 and 3 May 2019, I was ACM in Toiletries;
 - (d) between 23 March 2020 and 20 June 2021, I was ACM in Grocery Foods; and
 - (e) between 21 June 2021 and 10 November 2024, I was Category Manager (**CM**) – Laundry.

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7 On or about 11 November 2024, I commenced my current role as Commercial Pricing Manager for Woolworths Supermarkets. In this role, I oversee a team of analysts whose primary function is the analysis of supplier cost price requests, and supporting the commercial buying team. As Commercial Pricing Manager for Woolworths Supermarkets, I report to Sam Woodcock.

My role as CM – Laundry

8 During the period in which I was CM – Laundry, the Laundry category consisted of five subcategories, being Liquids, Powders, Capsules, Soakers & Bleach and Fabric Care. In my role as CM – Laundry, I was responsible for the management of products across all subcategories, including the Fab Sample Product, which fell within the Powders subcategory.

9 My day-to-day duties as CM – Laundry typically included:

- (a) managing the financials of the category, including sales and profit of products within the category;
- (b) determining the range of products offered for sale to consumers at Woolworths Supermarkets and Woolworths Online, including the management of range reviews and product forecasting;
- (c) managing relationships with suppliers, including fulfilling obligations under the *Food and Grocery Code of Conduct*, negotiating cost price and promotional plans for products and overseeing the implementation of the outcomes of those negotiations;
- (d) setting retail prices for products within the category; and
- (e) supervising members of the Laundry category, including ACMs and CAs (discussed further below).

10 During the Relevant Period, as CM – Laundry, I supervised ACMs including Lauren Kerr, then Gabriela Pioli and Renata Jelisivac. I also supervised Nathan Connor, who was an ACM in training, as well as a CA named James Goudie, whose role was primarily administrative.

11 In my time as CM – Laundry, I reported to the Merchandise Manager for Personal Care & Household Care (who I generally refer to as my '**Line Manager**'). From the time that I

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commenced in the role until around early May 2023, my Line Manager was John Loader. From around mid May 2023, my Line Manager was Richard Jones.


Negotiating CPI requests with suppliers in the Laundry Category

- 12 During my time as CM - Laundry, suppliers of products in the category would provide me with formal, written notice of a proposed CPI either via email correspondence or through a notification in **Partner Hub** (a Woolworths system used by suppliers to notify me of proposed pricing and product changes, which I either approved or rejected in that system). On occasion, I also received a call from the supplier to informally notify me of the CPI before they formally provided the details of the request in writing.
- 13 From my experience as CM – Laundry, I was aware that under the Grocery Code Woolworths had 30 days to provide an initial response to a supplier in respect of their proposed CPI upon receipt of a CPI request. In order to comply with this timeframe, I typically asked suppliers to provide me with details of the proposed cost increase, their new recommended retail price (**RRP**) and proposed promotion plan. I then met with my Line Manager to discuss and align (or agree) on the initial response. If the initial response was not a full acceptance of the CPI, I then proceeded to negotiate the CPI with the supplier. While not mandated under the Grocery Code, throughout my time as CM – Laundry, Woolworths' policy obliged me to complete negotiations on CPI requests within 12 weeks of receipt of the formal request from a supplier.
- 14 In the period from about 2021, I had delegation to negotiate and ultimately accept CPI requests with a total annualised impact on cost price of up to \$50,000 for all products in a supplier's CPI request. If the total annualised impact of the CPI request was in the range of \$50,000 to \$500,000, I was required to obtain approval from my Line Manager. If the net impact of the CPI request exceeded \$500,000, I was required to obtain approval from my Commercial Director, James Hepworth. On some occasions, to accommodate calendars and streamline meetings, these approvals would be sought by my Line Manager on my behalf.
- 15 In assessing the cost pricing proposals for each product in a CPI request submitted to me by a supplier, I typically had regard to:
- (a) the cost price information provided by the supplier (including the cost structure and whether the CPI was the result of input or cost inflation);

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- (b) the information received from the COGS team. The COGS team was an internal Woolworths support team who provided me with information to assist in my assessment of all the financial metrics associated with a supplier's CPI;
- (c) the supplier's proposed promotional plan for the products, including any request to place products on a pricing program, such as the Prices Dropped Program; and
- (d) the supplier's RRP, which generally assisted me in independently evaluating and setting the appropriate sell price for the product to ensure sales, profitability, competitiveness and overall performance of products in the category.

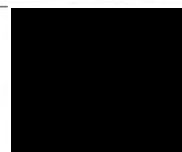
Fab Sample Product and the Prices Dropped Program before the CPI

- 16 From my review of Annexure C, I am aware that, from the time I commenced in my role as CM - Laundry in June 2021 until 9 March 2022, the Fab Sample Product was offered for sale to customers at Woolworths Supermarkets and Woolworths Online as part of the Prices Dropped Program. In this period, a red ticket with a Dropped Price of \$7.00 was applied to the Fab Sample Product, except when the product was on promotion (as described below).
- 17 While on the Prices Dropped Program, the Fab Sample Product was frequently promoted at a price below the Dropped Price, as a short-term promotional discount. During the time the product was placed on these Specials, the promotional price would be shown on a yellow ticket.
- 18 Also from my review of Annexure C, I am aware that:
- (a) on 9 March 2022, the Fab Sample Product was removed from the Prices Dropped Program, and offered for sale to customers at Woolworths Supermarkets and Woolworths Online with a white ticket applied and the shelf price increased to \$14.00. This was, in effect, the new retail price of the product that reflected Henkel's CPI and the price at which Woolworths would sell the product in the absence of any discount or promotional campaign;
 - (b) between 16 March 2022 to 22 March 2022 and 30 March 2022 to 5 April 2022, the Fab Sample Product was placed on short-term Specials and offered for sale to customers at Woolworths Supermarkets and Woolworths Online with a yellow ticket which displayed a promotional price of \$7.00;

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- (c) on 11 April 2022, pursuant to the promotional plan negotiated between Woolworths and Henkel, the Fab Sample Product was placed on the Prices Dropped Program and offered for sale to customers at Woolworths Supermarkets and Woolworths Online at the Dropped Price of \$8.00, with a red ticket applied to the product.

19 In the paragraphs below, I explain the evolution of the pricing for the Fab Sample Product referred to in paragraph 18 above.

Henkel's CPI Proposal and Woolworths' initial response

20 On 6 December 2021, I received an email from David Taylor, the National Business Manager (Laundry & Home Care AU) at Henkel, formally notifying Woolworths of a CPI that would take effect on 28 February 2022. A copy of David's email is at **[MPL.0018.0003.9134] of Confidential Exhibit CMD-1.**

21 David's email dated 6 December 2021 attached a letter from Petros Kalligas, the Sales Director – ANZ for Henkel Laundry & Home Care. A copy of Petros Kalligas' letter is at **[MPL.0018.0003.9135] of Confidential Exhibit CMD-1.** In Petros' letter, he stated that the CPI was the result of "*increases in raw materials and logistics costs*" and detailed **Henkel's CPI Proposal.** The Fab Sample Product was one of the articles included in Henkel's CPI Proposal (appearing on page 2 of Petros' letter). In respect of the Fab Sample Product, Henkel:

- (a) requested an increase in the List Price from \$ [REDACTED] to \$ [REDACTED] per unit (an increase of [REDACTED]%). I generally refer to the List Price as the **First Cost**, being the proposed cost price offered by Henkel to Woolworths before any rebates, allowances, volume discounts or other deductions are made to reach the actual price paid by Woolworths for the product. I refer to the cost per unit after rebates, allowances, volume discounts or other deductions as the **Net Cost**;
- (b) indicated that Henkel would increase the RRP from \$11.99 to \$13.99 per unit (an increase of 16.7%); and
- (c) requested the product be placed on the Prices Dropped Program at a new price of \$8.00 per unit (increased from the previous Dropped Price of \$7.00 per unit) (an increase of 14.3%).

22 The cost price increase proposed in Henkel's CPI Proposal in respect of the Fab Sample Product was similar in magnitude to other increases in the First Cost price I was seeing

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from other suppliers in the category at that time. Before the CPI, the Fab Sample Product was sold in Woolworths at prices below the RRP, but this reflected the supplier funding arrangement at the time and the promotions and pricing program that applied to the product. The Laundry category is one of the most heavily promoted categories in the supermarket, with the majority of the volume in the category being sold while products are on promotion.

- 23 On the same day, I forwarded the email from David Taylor dated 6 December 2021 (including Henkel's CPI Proposal) to my ACMs, Lauren Kerr and Nathan Connor, as well as my Line Manager, John Loader. A copy of my email is at **[MPL.0018.0003.9130] of Confidential Exhibit CMD-1**. A copy of the attachment to my email is at **[MPL.0018.0003.9131] of Confidential Exhibit CMD-1**.
- 24 On 12 January 2022, I sent an email to David Taylor and Andrew Drivas, containing Woolworths' initial response to Henkel's CPI Proposal. A copy of my email is at **[MPL.0021.0007.2646] of Confidential Exhibit CMD-1**. In my email:
- (a) I confirmed that, in relation to the Fab Sample Product, Woolworths' initial response was "*Accepted – Amount Not Agreed*". By this statement, I was conveying that Woolworths had accepted Henkel's proposal to increase the cost price of the Fab Sample Product, but did not accept the amount of the CPI, as proposed by Henkel on 6 December 2021; and
 - (b) I stated that "*I do not believe I'm able to submit individual initial responses within a case (only one per case), so please leave that with me while I investigate the best way to move forward from an administrative perspective.*" By this statement, I meant that I did not believe Partner Hub had the functionality to differentiate between Woolworths' initial responses on a product-by-product basis. In my time as CM – Laundry, if I did not accept an increase on the cost price of all products in a CPI proposal, then my practice was to reject the full proposal in the system (through the notification "Non-Acceptance"), even where the requested increase in cost price for some articles were agreed. After rejecting the proposal, my practice was to follow up with the supplier on the proposed CPI by email. In this instance, I wanted to investigate if there was another way to deal with each initial response at that administrative level.
- 25 At around 1.14pm on 13 January 2022, I sent an email to David and Andrew confirming that I would shortly submit an initial response of "Non-Acceptance" of Henkel's CPI Proposal in Partner Hub. A copy of my email is at **[MPL.0018.0002.8849] of Confidential**

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Exhibit CMD-1. In my email, and as explained above, I indicated that this initial response was provided because Henkel had submitted all articles in the Henkel's CPI Proposal via the same Partner Hub request and I did not agree on the cost price increases for some of the articles in Henkel's CPI Proposal but Partner Hub did not support a functionality of responding on a product-by-product (or SKU by SKU) basis.

- 26 At around 2.27pm on 13 January 2022, I received an email from David in response to my email dated 13 January 2022. A copy of David's email response is at **[MPL.0018.0002.8846] of Confidential Exhibit CMD-1.**





Negotiating Henkel's CPI proposal in respect of the Fab Sample Product

- 27 At around 10.30am on 16 February 2022, I sent an email to David and Andrew containing Woolworths' counterproposal on Henkel's CPI Proposal. I attached a deal sheet to my email (containing **Woolworths' Counterproposal**). A copy of my email is at **[MPL.0015.0006.3191] of Confidential Exhibit CMD-1** and a copy of Woolworths' Counterproposal is at **[MPL.0015.0006.3192] of Confidential Exhibit CMD-1.**
- 28 In Woolworths' Counterproposal, I included the following for the Fab Sample Product

- (a) the following cost price structure:

Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances %		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend %		
Deferred deal %		
Net Cost \$ per unit		

- (b) this cost structure included:

- (i) an increase in the First Cost from \$  to \$  which was consistent with Henkel's CPI Proposal;
- (ii) an increase in the deferred deal from  % to  %. A deferred deal is a pre-determined amount of supplier funding in respect of a product. Deferred deals are frequently used as a means by which suppliers can support the inclusion of products on the Prices Dropped Program; and

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(iii) an overall increase to the Net Cost from \$ [REDACTED] to \$ [REDACTED] per unit; and

(c) the following promotional plan:

Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$8.00	42	17,900	[REDACTED]	[REDACTED]
Promo Level 1	\$7.00	10	37,000	[REDACTED]	[REDACTED]
Promo Level 2				[REDACTED]	[REDACTED]
Promo Level 3				[REDACTED]	[REDACTED]
Promo Level 4				[REDACTED]	[REDACTED]
	Annual Forecasted Quantity		1,121,800	Total GP %	[REDACTED]

(d) this promotional plan included:

- (i) the placement of the Fab Sample Product on the Prices Dropped Program at the Dropped Price of \$8.00 for 42 weeks (recorded as the "Shelf" price as it would be the consistent price for 42 weeks of the 52 week proposal); and
- (ii) the suggestion of partially supplier-funded Specials (or "pulses") from the Dropped Price at the lower sell price of \$7.00, with a total of 10 weeks proposed over the course of the year.

29 It was my standard practice with Woolworths at this time to negotiate promotional plans with a supplier in tandem with the negotiations on the proposed cost price structure arising from a CPI request. This was because, in assessing the full commercials of the deal, it was important for me to have regard to the total cost of the product to Woolworths, which was impacted by the level of supplier funding provided in respect of the product. The Laundry category has historically been a heavily promoted category in Australian supermarkets, with frequent high/low promotions (i.e., the regular sale of the product at the white ticket shelf price coupled with frequent promotions at a price that was lower than the white ticket shelf price). Given the heavily promoted nature of the Laundry category, it was particularly important to understand the proposed promotion or pricing plan for a product in order to understand the cost impact of a proposed CPI on Woolworths.

30 At this time, it was my understanding of Woolworths' policy requirements that the Fab Sample Product could not be offered for sale at the Dropped Price of \$8.00 immediately after a CPI for the product. I understood that, given the product was currently on the Prices Dropped Program, it could not move immediately to a new and higher Prices

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Dropped Price without first re-establishing the shelf price. In addition, I did not consider it appropriate to immediately place the product on a new and higher Prices Dropped Price. Instead, following any approved CPI, the product had to be removed from the Prices Dropped Program and offered for sale at the new white ticket shelf price for an uninterrupted period of time before a pricing claim like 'Was' or 'Save' could be made. I generally refer to this period as the **Establishment Period**. I knew at the time of the Henkel CPI that the Fab Sample Product could not be included on the Prices Dropped Program until the end of the Establishment Period. It was always my intention to comply with that requirement.

31 I did not record the need for an Establishment Period in Woolworths' Counterproposal for the Fab Sample Product. This was because, in my experience as CM, the yellow deal sheet was used to evaluate the commercial proposal of a CPI (and any associated promotional plan) over a 52 week period. As such, I did not regard the application of an Establishment Period at the start of that timeframe as being likely to be consequential to the overall evaluation of the commercials of the deal.

32 At around 10.52am on 16 February 2022, I sent an email to John Loader with an update on Woolworths' Counterproposal in respect of the Henkel CPI Proposal. A copy of my email is at **[MPL.0018.0002.8750] of Confidential Exhibit CMD-1** and a copy of the attachment to my email is at **[MPL.0018.0002.8751] of Confidential Exhibit CMD-1**.

33 At around 7.48pm on 16 February 2022, I received an email from David Taylor with a response to my email dated 16 February 2022 as well as Woolworths' Counterproposal. A copy of David's email is at **[MPL.0015.0006.1634] of Confidential Exhibit CMD-1**. In David's email, he stated that Henkel has experienced "*continued cost of goods increases for the past 6 months, and they continue to rise each month*" and that there was "*no scope for mitigation on these CPIs*".

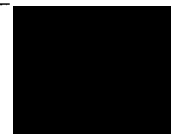
34 Between 21 February 2022 and 24 February 2022, David Taylor and I continued to negotiate on Henkel's CPI proposal in respect of the Fab Sample Product. During this time, the following occurred:

- (a) at around 12.05am on 21 February 2021, I sent an email to David. A copy of my email is at **[MPL.0018.0002.6279] of Confidential Exhibit CMD-1**. In my email, I stated that Henkel's CPI Proposal placed it at a "*distinct disadvantage vs. your competitive set and therefore [is] unlikely to be accepted without adverse changes to either range or promotional depth/frequency*". In particular, in relation to the Fab Sample Product, I stated that Henkel's CPI proposal "*sees a significant*

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increase vs. the existing arrangement, one large enough to put the assortment at odds with other like-products that customers interact with". By these statements, I was conveying that the amount in Henkel's CPI Proposal would likely make its products more expensive for Woolworths to procure, relative to other products in the category. I was flagging that Henkel's proposal would potentially lead me to invest in the promotion of other comparable and lower priced competing products in the category where customer uptake and resulting commercial outcomes would be greater. For those reasons, I requested that Henkel review its proposed costs as per the Woolworths Counterproposal.

- (b) at around 10.37pm on 21 February 2022, David responded to my email described at paragraph 34(a) above by setting out, among other things, further details regarding the historic performance of Henkel products, by reference to an extract of Woolworths' supplier connect scorecards (being an asset Woolworths shares with its suppliers containing analysis of their performance across the categories of products supplied to Woolworths). A copy of David's email is at **[MPL.0018.0002.7725] of Confidential Exhibit CMD-1.**
- (c) at around 9.21am on 24 February 2022, I received a further email from David containing further feedback on Henkel's CPI Proposal. David reiterated that Henkel was "*not passing on near the full extent of the increased costs we have absorbed across all our laundry brands, hence the shape of our proposal*". A copy of David's email is at **[MPL.0018.0002.8051] of Confidential Exhibit CMD-1.**

35 On 27 February 2022, I received an email from David Taylor informing me that he re-submitted the pricing proposals for the Fab Sample Product (among others) in Partner Hub for my approval. A copy of David's email is at **[MPL.0018.0002.7440] of Confidential Exhibit CMD-1.**

36 Also on 27 February 2022, I approved Henkel's cost price proposals in Partner Hub. This included Partner Hub Case No.1305702, which increased the First Cost price of the Fab Sample Product from \$ [REDACTED] to \$ [REDACTED] per 6 units (being a First Cost price of \$ [REDACTED] per unit), which was consistent with Henkel's CPI Proposal. A copy of Henkel's cost price proposal, as submitted in Partner Hub, is at **[MPL.0081.0001.0382] of Confidential Exhibit CMD-1.**

37 On 28 February 2022, I received an email from David Taylor setting out Henkel's "*recommended RRP's to potentially establish a bench price at [sic] on Fab, in order to reflect a save and move to price drop as per the CPI alignment*". A copy of David's email

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is at **[MPL.0018.0002.6921] of Confidential Exhibit CMD-1**. I recall that it was my intention to ensure that the Price Establishment Period was observed before the Fab Sample Product was placed on the Prices Dropped Program.

38 David's email dated 28 February 2022 attached a spreadsheet detailing Henkel's new RRP as well as proposed pricing for the Price Dropped Program, including in respect of the Fab Sample Product. A copy of the attachment to David's email is at **[MPL.0018.0002.6922] of Confidential Exhibit CMD-1**. From my review of the attachment, I understand that Henkel:

- (a) indicated a new "Price Establish RRP" of \$13.99 for the Fab Sample Product. I understood this price to be a reference to Henkel's new recommended retail price for the Fab Sample Product, which was consistent with Henkel's CPI Proposal; and
- (b) proposed a "New Price Drop" of \$8.00, which was also consistent with Henkel's CPI Proposal.

The Fab Sample Product's Price Establishment Period and placement on the Prices Dropped Program

39 As indicated in paragraph 18 above, the Establishment Period for the Fab Sample Product ran from 9 March 2022 to 10 April 2022 (inclusive).

40 At 1:22pm on 1 March 2022, I directed my CA, James Goudie, via email to key a series of sell price changes to a list of products, including the Fab Sample Product, for activation on 9 March 2022. This direction was in effect to commence the Establishment Period. A copy of my email is at **[MPL.0018.0002.5831] of Confidential Exhibit CMD-1**.

41 Minutes earlier, between 1:03pm and 1:08pm on 1 March 2022, and independently of me, Lauren Kerr (ACM) had approved two promotions that Henkel had proposed on the Fab Sample Product to run between 16 March 2022 to 22 March 2022 and 30 March 2022 to 5 April 2022. I do not believe I was aware of these promotions until some weeks later. In preparing this affidavit, I have taken screenshots from Woolworths promotional portal (PMR) for the two promotions approved by Lauren Kerr on 1 March 2022. A copy of these screenshots is at **[MPL.0093.0001.0001]** and **[MPL.0093.0001.0002]** in **Confidential Exhibit CMD-1**.

42 On 8 March 2022, I sent my team a calendar invitation for 11 April 2022 as a reminder to place the Fab Sample Product (and other products) on the Prices Dropped Program on

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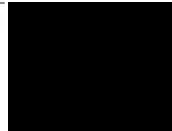
that date. A copy of this calendar invitation is at **[MPL.0018.0002.6962] of Confidential Exhibit CMD-1.**

- 43 On 1 April 2022, I had a discussion using Google Chat with my team commencing at around 11.08am. In that chat, I indicated that I wanted to place the Fab Sample Product on the Prices Dropped Program as soon as possible, and inquired when the existing promotion of that product would end. By this time, it appeared that I was aware that the product had been promoted during the Establishment Period. I refer in the chats to the product needing to “rest” for a week. That was a reference to what I understood at the time to be the Establishment Period for the Fab sample product based on a discussion I had with Jigar Oza, who was a member of the pricing team that my team and I had been consulting with. In the same chat, I refer to the fact that I was “*tossing up between dropped and low price*”. This was a reference to the fact that I was trying to decide which red ticket program was appropriate. One concern I had was that, if the Fab Sample product was placed on a low price program, Woolworths would not easily be able to match a competitor’s lower promotional price, given Woolworths’ internal rule was that products on the Low Price program could not be further discounted by way of promotion. A copy of this chat is at **[MPL.0093.0001.0003] of Confidential Exhibit CMD-1** and a copy of the file James Goudie sent at 11.36am is at **[MPL.0072.0001.1802] of Confidential Exhibit CMD-1.**
- 44 On 6 April 2022, I had a further discussion in relation to the Fab Sample Product via Google Chat with my team. In that chat, I asked Gabriela Pioli whether she had any firm guidance from Richard Lowe and Jigar Oza as to the required “timing”, by which I meant the length of the Establishment Period. I said in that chat that, from memory at the time, Richard and Jigar’s advice was that we should not drop for two weeks after a promotion. In that conversation, I settled upon a plan to move the Fab Sample Product to the Prices Dropped Program on 18 April 2022, which would have been a two week Establishment Period from the date of the last promotion. A copy of this chat is at **[MPL.0093.0001.0004] of Confidential Exhibit CMD-1.**
- 45 On 7 April 2022, I had a further discussion in relation to the Fab Sample Product via Google Chat with my team. On that day, Andrew Drivas of Henkel had rung James Goudie requesting that the Fab Sample Product go on Dropped as soon as possible. Andrew had apparently suggested to James that other competitors may be about to lower their price for the product. It was my understanding that Woolworths could move the product to the Prices Dropped Program sooner if doing so was necessary remain competitive. Having regard to the broader desire to return the product to a more

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competitive price point as indicated in paragraph 43, I decided to launch the product on the Prices Dropped Program on 11 April 2022 (having first confirmed that we had not committed ourselves to any brochure or point of sale marketing for a later date). A copy of this chat is at **[MPL.0093.0001.0005] of Confidential Exhibit CMD-1**.

46 The Fab Sample Product was then loaded onto the Prices Dropped program on 11 April 2022.

Subsequent events

47 On a date I cannot now recall, but prior to 8 August 2022, I received a call from John Loader informing me that Woolworths had received an inquiry from the ACCC in relation to the pricing movements of the Fab Sample Product, including its placement on the Prices Dropped Program from April 2022. John asked me to provide Paul Harker with a copy of Henkel's CPI request dated 6 December 2021.

48 On 8 August 2022, I forwarded the email I received from David Taylor, as described in paragraph 20 above, to Paul Harker. A copy of my email is at **[MPL.0002.0027.2203] of Confidential Exhibit CMD-1** and a copy of the attachment to my email is at **[MPL.0002.0027.2204] of Confidential Exhibit CD-1**.

49 On a date I cannot now recall, but on or after 8 August 2022, I had a discussion with John Loader in which he asked me to remove the Fab Sample Product from the Prices Dropped Program. John told me that the Fab Sample Product was to be removed from the Prices Dropped Program because it did not meet Woolworths' price establishment requirement for the product to be offered for sale to customers at the new shelf price over an uninterrupted period before implementing any Specials.

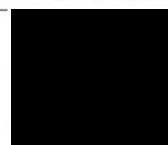
50 On 9 August 2022, I sent an email to David Taylor (copied to Andrew Drivas), to inform Henkel of the removal of the Fab Sample Product from the Prices Dropped Program. A copy of my email is at **[MPL.0018.0001.5264] of Confidential Exhibit CMD-1**. In my email, I referred to an earlier phone call I had with David and stated that the range of Fab products (including the Fab Sample Product) did "*not meet our operating policies and have been removed from the 'Dropped' program*". I confirmed that the Fab Sample Product had been removed from the Prices Dropped Program that day.

51 On 10 August 2022, I sent a further email to David Taylor (copied to Andrew Drivas), stating that I had removed the promotional deals for the Fab Sample Product which were planned for the funding of an upcoming short term promotion due to commence on 24

Signed:



Taken by:



August 2022. A copy of my email is at [MPL.0018.0001.5250] of Confidential Exhibit CMD-1.

52 I did not receive any written response from David Taylor to Andrew Drivas in respect of my emails dated 9 and 10 August 2022.

53 Between 9 August 2022 and 17 October 2022, the Fab Sample Product was sold on a white ticket at a retail price of \$14.00.

54 From my review of Annexure C, I am aware that, on 17 October 2022 (approximately 2 months later), the Fab Sample Product was returned to the Prices Dropped Program, and offered for sale to customers in Woolworths Supermarkets and Woolworths Online with Red Ticket at the Dropped Price of \$8.00.

AFFIRMED by the deponent
at Bella Vista
in New South Wales
on 15 DECEMBER 2025

)
)
)
)
) Signature of deponent

Before me:


.....
Signature of witness

SEZIMA JHER YAN TA
.....
Name of authorised witness (block letters)

1 FARRER PLACE, SYDNEY NSW 2000
.....
Address of authorised witness

SOLICITOR
.....
Capacity (eg Justice of the Peace)

No VID 974 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Competition and Consumer Commission

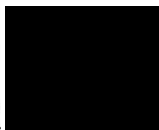
Applicant

Woolworths Group Limited (ACN 000 014 675)

Respondent

Certificate identifying Confidential Exhibit CMD-1

This is **Confidential Exhibit CMD-1** to the affidavit of **Callum Michael Davies** affirmed at 1 Woolworths Way, Bella Vista NSW 2153 on 15 December 2025 before me:



.....
Signature of witness

Australian Legal Practitioner

Filed on behalf of Woolworths Group Limited, the Respondent

Prepared by Peta Stevenson
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