

NOTICE OF FILING

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COLES SUPERMARKETS AUSTRALIA PTY LTD (ACN 004 189 708)
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Sia Lagos

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Important Information

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Form 59

Rule 29.02(1)

Affidavit

No. VID 973 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Australian Competition and Consumer Commission

Applicant

Coles Supermarkets Australia Pty Ltd (ACN 004 189 708)

Respondent

Affidavit of: Eleftheria (Via) Lavdas
 Address: 800 Toorak Road, Hawthorn East, Victoria
 Occupation: Head of Commercial Trade Activation
 Date: 18 November 2025

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Eleftheria Lavdas sworn on 18 November 2025.	[1]-[52]	2-9
2	Annexure "EL-1", being a consolidated set of documents.	[3]-[50]	2-8

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I, Via Lavdas of 800 Toorak Road, Hawthorn East, Victoria, Head of Commercial Trade Activation at Coles, say on oath:

A. INTRODUCTION

- 1 I am the Head of Commercial Trade Activation at Coles Supermarkets Australia Pty Ltd (**Coles**).
- 2 The matters set out in this affidavit concern the period February 2022 to May 2023 (**Relevant Period**), unless otherwise stated.
- 3 Shown to me at the time of swearing this affidavit and exhibited to this affidavit and marked **Exhibit EL-1** is a consolidated set of documents. In this affidavit, I refer to each document by reference to the relevant tab number in Exhibit EL-1 and, where convenient, by the document's identification number, stamped on the top right-hand corner of the first page. Where documents in Exhibit EL-1 have attachments, the host document is numbered, for example, tab 1, with each of the attachments numbered tab 1.1 and tab 1.2 accordingly.

B. MY PROFESSIONAL BACKGROUND AND ROLES AT COLES

- 4 I first started at Coles in 2002. My early roles at Coles were:
 - (a) Merchandise Assistant Own Brand from March 2002 to April 2003;
 - (b) Product Technologist Fresh (Deli, Poultry, Seafood) from April 2003 to December 2006, which included leading product development and conducting factory audits; and
 - (c) Promotions Manager Delicatessen from December 2006 to February 2008.
- 5 Following this initial period at Coles, I moved to Franklins Supermarkets. I held the following roles at Franklins:
 - (a) Brand Manager Own Label from February 2008 to April 2012; and
 - (b) Buyer Health & Beauty from February 2011 to April 2012, which involved managing the Health & Beauty category.
- 6 In April 2012, I moved to Woolworths as the Own Brand Buyer Long Life Foods. In December 2012, I was promoted to the position of Own Brand Product Development Manager for Packaged Grocery Essentials. In this role I led the product development team and was responsible for the creation and execution of Own Brand Packaged Grocery. I held this role until November 2013.
- 7 I moved back to Coles in December 2013 and, aside from three maternity leave periods, have worked at Coles since this time, in the following roles:
 - (a) Category Manager for Seasonal Impulse and Boxed Chocolates from December 2013 to December 2014;
 - (b) Category Manager for Kitchenware from January 2016 to July 2016, noting I was on maternity leave from December 2014 to January 2016;
 - (c) Acting Business Category Manager (**BCM**) for General Merchandise from July 2016 to October 2016;
 - (d) Merchandise Strategy Manager – Merchandise Transformation from November 2017 to November 2018, noting I was on maternity leave from October 2016 to November 2017;
 - (e) Own Brand Manager Health & Home from February 2020 to March 2021, noting I was on maternity leave from November 2018 to February 2020;
 - (f) BCM of Impulse from March 2021 to July 2024 (which I discuss below). For part of that period (December 2023 to February 2024) I was Acting General Manager of Grocery; and

- (g) Head of Commercial Trade Activation since July 2024. In this role, I oversee the planning and execution of Coles' customer trade plan across the supermarkets business, including the execution of the offers represented on secondary space locations in Coles stores (that is, off location displays (or 'OFDs') and shelf ends) and the offers showcased in Coles' catalogue.
- 8 As BCM of the Impulse business category I reported to the General Manager of Grocery, Leanne White. My responsibilities included:
- (a) setting an overall strategy for the Impulse business category (which I discuss further below), with a view to achieving the budget that had been set for the category;
 - (b) working with teams within Coles to execute that strategy. This involved considering and overseeing the product range and promotional program for all product categories in Impulse. It also involved analysing sales and other financial reports to assess performance against the Impulse business category budget and considering whether any adjustments to the strategy were required. When analysing sales performance, I considered and assessed how customers responded to the product range and promotional mechanics that had been implemented (as evidenced by sales volume);
 - (c) the performance of the business category including in respect of sales volumes, profitability, market share, growth and product availability;
 - (d) managing and supporting the team members who reported to me, namely Category Managers and Senior Category Managers of the categories for which I was responsible. I also had indirect responsibility for the wider Impulse team, including Assistant Category Managers (ACMs), Business Category Coordinators and the Supply Chain and Own Brand teams that worked within the business category; and
 - (e) working collaboratively with suppliers.
- 9 The various roles I've held at Coles, Woolworths and Franklins Supermarkets have involved me reviewing sales and financial reports and assessing the outcomes of decisions regarding product ranging, pricing and promotional offerings. From this I have developed an understanding as to how different retail pricing and promotional pricing strategies impact sales performance.

C. THE IMPULSE BUSINESS CATEGORY

- 10 The Impulse business category comprised six product categories: Biscuits & Cookies; Snacks, Confectionary; Bars & Gums; Boxed Chocolates; and Seasonal (that is, products sold in relation to seasonal events such as Christmas-themed foods).
- 11 Products in these categories tended to be "impulse" products, meaning that customers often purchased them impulsively upon seeing them in Coles' physical stores or online, rather than planning to buy them in advance of visiting a store (in person or online).
- 12 As noted above, as BCM of Impulse, I was responsible for setting the strategy for the business category. By setting the strategy I mean I determined the long term goal for the Impulse business category, our customer purpose and vision, what our growth drivers were and how we were going to win in the market. This strategy was reflected in an annual strategy and category plan.
- 13 An important consideration when setting the business category strategy was Coles' value proposition. I understood Coles' value proposition to be to offer a great range of quality products at attractive prices and for those products to be available in store or online when customers want them. My view was that Coles did not deliver on this proposition unless each element of Coles' value proposition was present. For example, it was not enough to offer a great range of products

if those products were not sold for attractive prices or if there was no stock available for Coles' customers to buy.

- 14 I aimed to deliver on Coles' value proposition by setting a strategy that I considered would, if executed well, result in the Impulse business category:
- (a) developing our product range so as to offer a range of products that suited different customer needs and desires throughout the year, including historically popular products, new and innovative products, and seasonal products like Christmas-themed products in the lead up to Christmas;
 - (b) developing our product range and pricing strategy so as to include products of different quality levels at a range of prices so that there was a choice available for every customer; and
 - (c) engaging in promotional planning well in advance of a promotion's go-live date to enable Coles to execute that plan and avoid product availability issues.

D. PRICING AND PROMOTIONS

- 15 Coles' retail prices were set by Coles. Category Managers, with assistance from their team, were primarily responsible for setting prices and planning promotions, however, as BCM of Impulse, I had oversight of, and generally had the opportunity to provide feedback on, my Category Managers' proposed pricing decisions and promotional plans.
- 16 Coles offered products for sale to customers at both non-promotional prices and promotional prices. When I refer to a 'non-promotional price' I am referring to undiscounted prices or "white ticket" prices. They were called white ticket prices because the tickets that accompanied such products were white with black text. White ticket prices were first set when a supplier's product was first ranged at Coles and usually only changed when the supplier increased or decreased the price it charged for the product, or one of Coles' competitors changed the price it charged for the product.
- 17 When I refer to 'promotional prices' I am referring to pricing 'mechanics' that involve a discount, such as a Special or Down Down.
- 18 When Coles sold products using promotional pricing mechanics, the tickets that accompanied them were different to white tickets. They were larger (they overhung the shelf edge) and incorporated either yellow or red colours and information about the nature of the relevant pricing mechanic.
- 19 A benefit to Coles and suppliers of promotions was that, when a product was sold on promotion, sales of the product typically increased. In addition, products sold on promotion were often included in Coles' weekly catalogues and other advertising material (including television and radio). Promotions could therefore also benefit suppliers by increasing awareness of the suppliers' brands and products.
- 20 In that context, when a product was on promotion, the promotional discount on the product was usually 'funded' (that is, the cost of the discount was borne) by Coles, the supplier or both. Suppliers provided funding by paying to Coles an amount for each unit of the product that Coles sold. Coles provided funding by accepting a lower margin on the product compared to the margin it would have received if it did not fund the promotion.

E. PROMOTIONAL PLANNING

- 21 The promotional planning process commenced approximately six months before the start of the proposed promotions. This six month lead time was required due to the complexities involved in both planning and executing promotions.
- 22 Part of executing a promotion was ensuring sufficient stock was available for purchase in stores and online during the promotional period. As discussed above, promotions typically resulted in an increase in sales. In light of this, before promotions started:
- (a) Coles and its suppliers prepared volume forecasts to predict the scale of the increase in sales volumes of promoted products;
 - (b) Coles worked with its suppliers to ensure that they had sufficient stock to meet any forecast increase in sales and that sufficient time had been factored in for transporting stock to Coles' distribution centres and from these centres to individual stores. The required planning took into account factors such as whether the product's supply chain was slow moving or fast moving and if the product was stocked in all states or only some; and
 - (c) Coles often agreed with its suppliers to allocate additional space in stores to promoted products. It was not usually possible to allocate additional space on the product's normal shelf position. Instead, Coles typically allocated additional space to a product by featuring it on a shelf end or OFD (displays or 'towers' containing products that were located in various positions in stores such as at a store's entry).
- 23 Executing a promotion also involved a number of other important steps such as ensuring the relevant promotional ticket was applied to the product's shelf position or online tile. I have observed Coles fall short of its expected sales results where a promotional ticket was not applied to the relevant product position in stores or product tile online.
- 24 The promotional planning process commenced with suppliers providing promotional plans (also referred to as 'trade plans') to Coles. Trade plans typically covered the products the supplier proposed be promoted, the promotional mechanics to be used, the funding the supplier proposed to provide, the supplier's promotional recommended retail price (**PRRP**) and the scheduling of the promotions. Sometimes trade plans also covered the supplier's recommended retail price (**RRP**) for the product when it was not on promotion.
- 25 Category Managers usually had primary responsibility for negotiating and agreeing promotional plans with suppliers. When I was BCM of Impulse I provided guidance to the Category Managers that reported to me (typically in weekly meetings that we held). From time to time I also became personally involved in negotiations.
- 26 An instruction I often gave my team was that it was Coles' job to review each suppliers' proposed promotional plan having regard to the best interests of the category as a whole. By this I meant ensuring the promotions proposed by all of its suppliers could be executed alongside each other in an impactful way (that is, in a way that would result in greater sales and in a way that delivered customers a range of great offers). When suppliers presented their plans to Coles they only had visibility over their own product range.
- 27 When providing input on trade plans, or participating in negotiations, I sought to ensure that:
- (a) promotional plans offered very attractive prices for a variety of products in each category in any given week (for example, rather than having multiple chip products on promotion in one week, chocolate products on promotion the next and lolly products on promotion the following week, I sought to have promotions for each of those product types in any given

week). In addition, I often advised my team to negotiate deeper discounts with suppliers in an attempt to generate customer excitement in the value being delivered at Coles and because, in my experience, deeper discounts (such as 50% off Specials) resulted in larger increases in sales than shallower discounts (such as 20% off) which indicated to me that they resonated more with our customers. I also recommended my Category Managers include relatively new products in their range on a promotion to increase the likelihood customers would try the product;

- (b) promotional plans provided for a (broadly) similar number of promotions from one week to the next;
 - (c) we were able to offer each product being sold on promotion sufficient space in store to cater for the large uplift in sales volume generally associated with promotions (for example, I might have suggested spreading out multiple proposed deep promotions (such as 50% of Specials) across a couple of weeks, rather than having them occur at the same time); and
 - (d) the projected sales for each plan would 'roll up' to achieve my business unit's budget.
- 28 Following my input into proposed trade plans, my Category Managers often engaged in further negotiations with their suppliers and sought to adjust their promotional plans to respond to the feedback I had provided.
- 29 Each week, on Wednesday, Coles published a catalogue that included products on promotion for the coming week. Another step in the promotional planning process was determining which of the products that were to be sold on promotion would be included in the catalogue. This occurred 16 weeks before the promotion's 'go-live' date, although, occasionally changes need to be made to the catalogue after this.
- 30 There were two versions of Coles' catalogue: a longer version available online and a stripped-back version that was printed and available in stores which included a smaller selection of products.
- 31 Category Managers put forward products for inclusion in the catalogue through a nomination process. They could nominate products in their categories that would be sold on promotion in the week following publication of the catalogue. In my current role as Head of Commercial Trade Activation, I oversee this process. The team I lead, Trade Planning, assesses these nominations and determines the products that should be included in the catalogue. My team and I seek to select the best offers across every category, to select offers that will deliver against the 'customer mission' of the week (such as featuring products suitable for school lunches during 'back to school' weeks) and to have a mix of products on promotion from across Coles' various product categories. In making these decisions, our goal is to create a catalogue that encourages customers to choose to shop at Coles first.
- 32 The final stage of promotional planning involved finalising the plan with the supplier and executing it as planned. Throughout my time at Coles, the business has required promotional plans to be finalised eight weeks in advance of a promotion to allow time for both the supplier and Coles to complete the tasks I describe at paragraph 22 above. During the Relevant Period, this deadline continued, however, the enforcement of it was relaxed to respond to supply chain pressures. This eight week 'lockout period' is now being strictly enforced once again.

F. COST PRICE ALTERATION REQUESTS

- 33 Coles had trading terms with each of its suppliers that specified (among other things) a 'list price' for the supplier's products, which was the price the supplier charged to Coles before any discounts, rebates, offsets or other adjustments.
- 34 When suppliers' costs increased, they could seek to increase their list prices by completing and submitting to Coles a 'cost price alteration' (CPA) request (also known as a 'cost price increase' request).
- 35 In discharging my responsibilities as BCM, I acted on the basis (and it was my view) that it was important for Coles to accept appropriate cost increases so that its suppliers' businesses were sustainable in the long term. However, increasing retail prices also impacted Coles' ability to keep retail prices low and to deliver on its overall value proposition for customers. In addition, increasing retail prices risked sales volume decline as customers switched to purchasing other products or simply bought less. As I discuss further below, because of these considerations, I considered it important to understand the impact of the CPA for the product's trade plan when considering a CPA.
- 36 Coles' Category Managers have primary responsibility for negotiating and reaching agreement with suppliers in respect of CPA requests and revised promotional plans. When I was BCM of Impulse I often provided guidance to the Category Managers who reported to me and became personally involved in negotiations from time to time.
- 37 During the Relevant Period, Coles assessed CPA requests in accordance with the CPA policies in place during the time. The Coles CPA Policy that was in force from January 2021 to July 2022 (COL.500.021.0007) is at **tab 1 of Exhibit EL-1**.
- 38 Coles had a Vendor Management Office (VMO) that assisted with assessment of CPA requests. The VMO assessed whether the supplier's input costs had increased by the amount the supplier claimed using publicly available information (such as commodity price movements) and any information the supplier provided. This was referred to within Coles as 'validating' a CPA request.
- 39 When suppliers submitted CPA requests they usually also proposed amended promotional plans. That is because list prices were an input into promotional plans. They informed matters such as suppliers' RRP's and proposed promotional prices and Coles' margins. So, when list prices changed, any promotional plans that were in place for the products concerned also had to change.
- 40 Renegotiating the promotional plan was also important to Coles because increasing retail prices to account for a CPA risked sales volume decline for impacted products. Given this, when assessing CPAs, the general practice within Coles product category teams was to also form a plan for how we (Coles and the supplier) would give value back to the customer. A common way Coles sought to deliver value back to customers was by negotiating an increase (when compared to the existing trade plan) in the level of promotional funding provided by the supplier. In the Impulse business category, my team generally sought to negotiate for the level of promotional funding to be increased proportionate to the CPA. This is because I typically expected all costs to a supplier, including promotional funding costs, to increase at the same rate as the CPA being accepted on the list price of the product.
- 41 In addition to re-negotiating promotional funding levels, Coles also worked with its suppliers to develop plans for navigating customers through the change in retail price such as by running new marketing campaigns which highlighted the product's value. The aim of these types of plans was to keep customers engaged with Coles and to maintain sales and volume growth.

G. ARNOTT'S CPA REQUEST

- 42 One of the CPA requests I was involved in was a request by Arnott's to increase the list prices of its biscuit range, including the Arnott's Shapes Multipack Variety 15 Pack (**Arnott's Shapes Multipack Product**). I considered this product to be a 'basket staple', by which I mean that it was often included in a customer's weekly shopping list. The individual packets could be easily given to children for their school lunches.
- 43 Arnott's had a large number of products ranged at Coles across a variety of categories.
- 44 Arnott's Shapes Multipack Product was in the Biscuits and Cookies category. Rebecca ('Beccy') Thompson was the Senior Category Manager for that category. She managed the request day-to-day although I provided guidance at various points and attended some meetings with Arnott's.
- 45 Emails that I sent or received in relation to the Arnott's Shapes Multipack Product CPA request include those at **tabs 2 to 6, 12 to 13 (including any attachments, some of which may be confidential) and confidential tabs 7 to 11 of Exhibit EL-1**.
- 46 Arnott's submitted its CPA request on 17 February 2022. A copy of the CPA request (COL.500.029.8000) and its attachments (COL.500.029.8001 and COL.500.029.8002) is at **tabs 2 to 2.2 of Exhibit EL-1**.
- 47 In around early March 2022, I had a conversation with representatives of Arnott's in which I challenged Arnott's in relation to the proposed trade plan. I do not remember the particular words that I said but I recall conveying that, if we were asking the customer to pay more because of the CPA, we needed to develop a different way to deliver and communicate value to them.
- 48 Following this, Arnott's provided Ms Thompson with revised trade plans which sought to address the feedback we had given them by including additional promotional activity to improve the volume forecasts and additional promotional funding. I received copies of the revised trade plans on 24 March 2022 and 5 May 2022. A copy of the correspondence I received on 24 March 2022 (COL.500.029.8065) and its attachments (COL.500.029.8066 and COL.500.029.8077) is at **confidential tabs 7 to 7.2 of Exhibit EL-1**. A copy of the correspondence I received on 5 May 2022 (COL.500.029.8550) and its attachment (COL.500.029.8553) is at **confidential tabs 11 and 11.1 of Exhibit EL-1**.
- 49 Throughout the CPA negotiation, Ms Thompson and I received assistance from Coles' VMO and the Merchandise Strategy & Transformation teams to analyse Arnott's claimed cost increases and Arnott's proposed trade plan. Ultimately, the VMO assessed that, using a 'point-to-point' or 'P2P' analysis which measured the commodity price movements between two points in time, the cost increase requested by Arnott's could be fully validated.
- 50 Ultimately Coles accepted Arnott's CPA request in full. In relation to the Arnott's Shapes Multipack Product, Coles increased the white ticket price to \$6.50 in line with the CPA request and Arnott's RRP. Coles also agreed to Arnott's proposed trade plan, which provided for the product to be sold on Down Down at \$5.50 in line with Arnott's PRRP. A copy of the document showing Arnott's RRP and PRRP (COL.500.029.7889 (at .7911)) is at **confidential tab 6.1 of Exhibit EL-1**.
- 51 I considered it appropriate to accept the Arnott's CPA request and proposed trade plan for a number of reasons including:
- (a) the CPA request was fully validated by the VMO's P2P analysis; and
 - (b) because the proposed trade plan (including returning the Arnott's Shapes Multipack Product to the Down Down program) provided what I considered to be very attractive customer price points supported by promotional funding from Arnott's.

52 In respect of the Arnott's Shapes Multipack Product, I considered the Down Down mechanic to be appropriate, given that it was a 'basket staple' product. Also, my usual practice was to compare the revised white ticket and Down Down price of the product against the white ticket and promotional prices of similar products. For this product, this would have included other multipack products. I do not recall the exact product prices I compared when assessing this CPA but I recall becoming comfortable that the revised pricing strategy made sense from a commercial and customer offer perspective because it was a compelling price for the customer and supported by a strong trade plan agreed with the supplier.

Sworn by the deponent
at Hawthorn East, Victoria
on 18 November 2025
Before me:

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)
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)
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REDACTED - PII

Signature of deponent

REDACTED - PII

Signature of witness

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