

NOTICE OF FILING

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 21/11/2025 4:58:00 PM AEDT
Date Accepted for Filing: 13/02/2026 5:00:28 PM AEDT
File Number: VID973/2024
File Title: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v
COLES SUPERMARKETS AUSTRALIA PTY LTD (ACN 004 189 708)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

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.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59

Rule 29.02(1)

Affidavit

No. VID 973 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Commercial and Corporations National Practice Area (Regulator and Consumer Protection)

Australian Competition and Consumer Commission

Applicant

Coles Supermarkets Australia Pty Ltd (ACN 004 189 708)

Respondent

Affidavit of: Debra Maree Galle

Address: 800 Toorak Road, Hawthorn East, Victoria

Occupation: General Manager, Own Brand at Coles

Date: 21 November 2025

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Debra Maree Galle affirmed on 21 November 2025.	[1]-[60]	2-11
2	Exhibit 'DG-1', being a consolidated set of documents.	[3]-[60]	2-11

Filed on behalf of (name & role of party)	Coles Supermarkets Australia Pty Ltd (ACN 004 189 708), the Respondent
Prepared by (name of person/lawyer)	Belinda Thompson
Law firm (if applicable)	Allens
Tel	(03) 9613 8667
Fax	(03) 9614 4661
Email	Belinda.Thompson@allens.com.au
Address for service (include state and postcode)	Allens, 101 Collins Street, Melbourne VIC 3000 Email: Belinda.Thompson@allens.com.au; Rosannah.Healy@allens.com.au; Kelly.Roberts@allens.com.au

[Version 3 form approved 02/05/2019]

REDACTED - PII

REDACTED - PII

I, Debra Maree Galle of 800 Toorak Road, Hawthorn East, Victoria, General Manager Own Brand at Coles, affirm:

A. INTRODUCTION

- 1 I am the General Manager, Own Brand 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 affirming this affidavit and exhibited to this affidavit and marked **Exhibit DG-1** is a consolidated set of documents. In this affidavit, I refer to each document by reference to the relevant tab number in **Exhibit DG-1** and where convenient, by the document's identification number, stamped on the top right-hand corner of the first page.
- 4 Nothing in this affidavit is intended to waive any legal professional privilege held by the Respondent in this proceeding. To the extent anything in this affidavit may be construed as a waiver of privilege, I withdraw and do not rely on that part of the affidavit.

B. EMPLOYMENT HISTORY

- 5 I have been employed by Coles since July 2019. Since then, I have held the following roles:
- (a) Business Category Manager, Breakfast and Health Foods from July 2019 to March 2022: In this role I managed a team that was responsible for a portfolio of categories including hot beverages, cereal and nutritional snacks, health foods and spreads, ambient dairy and dried fruit and nut. I managed a team of around 11 team members (including four Category Managers) and was responsible for overseeing ranging, pricing and overall financial performance for those categories.
 - (b) General Manager, Business Unit Strategy & Commercial Excellence from April 2022 to October 2022: In this role, I reported to the Chief Commercial Officer and was responsible for supporting the delivery of Coles' overall commercial strategy. I had oversight of the following teams:
 - (i) Pricing and Value – which developed Coles' overall pricing and value strategy, monitored competitors' prices and implemented Coles' promotional guardrails;
 - (ii) Supplier Relations – which developed Coles' framework for engaging with suppliers, managed centralised aspects of the cost price alteration (**CPA**) process and monitored compliance with the Food and Grocery Code;
 - (iii) Range and Space – which developed Coles' strategy in relation to in-store space management; and
 - (iv) Strategic Category Planning – which managed and rolled out the category planning process across the business.
 - (c) General Manager, Health and Home from October 2022 to December 2024: In this role, I was responsible for the end-to-end customer and commercial outcomes for the relevant categories, including delivering a compelling product offer that customers would be satisfied with and accountability for financial performance of the relevant categories. In this role, I led a team of more than 150 Coles team members across all functions, including merchandise, ranging, category management, financial performance, supply chain, marketing, Own Brand product development and strategy.

(d) General Manager, Own Brand from January 2025 to present: In this role, I report to the Chief Commercial Officer and am responsible for the end-to-end customer and commercial outcomes for Coles' Own Brand portfolio.

6 Prior to commencing at Coles, I held the following roles:

- (a) Customer Account Director at Mars Petcare Australia from August 2017 to April 2019;
- (b) Head of Strategic Innovation and National Sales Manager (Non-Grocery) at SPC Ardmona from April 2011 to August 2016; and
- (c) several roles at Coca-Cola-Amatil from December 2002 to March 2011, including National Business Manager (Immediate Consumption) and National Group Business Manager (Petrol & Convenience).

7 I hold a Bachelor's degree in Commerce, specialising in marketing and management from the University of Auckland, which I completed between 1999 and 2001.

C. COLES' SUPERMARKETS BUSINESS

8 During the Relevant Period, Coles offered for sale fresh food, groceries and general merchandise to customers across Australia. In the year ending 30 June 2023, it processed approximately 17 million transactions each week respectively.

9 Coles stores each typically ranged between around 18,000 to 24,000 different products at any given time. The products offered for sale by Coles comprised:

- (a) **Proprietary or 'branded' products:** These were products with brands that were owned by Coles' suppliers, such as Coke and Pepsi. Some proprietary brands were exclusively available in Coles supermarkets and were known as 'exclusive proprietary brands', for example La Espanola olive oil.
- (b) **Coles Own Brand:** These were products with brands that were owned by Coles. Coles sold Own Brand products under brands such as Coles Finest and Coles Nature's Kitchen.

10 The 'Merchandise' division within Coles was primarily responsible for sourcing the products that Coles supplied to customers and determining the prices at which they were offered. The Merchandise division was broken down into smaller units as follows (from broadest to narrowest):

- (a) **Business Unit:** Each Business Unit was led by a General Manager. The Coles Business Units during the Relevant Period were (i) Grocery, (ii) Produce, (iii) Bakery, (iv) Dairy, Frozen & Convenience, (v) Meat Deli & Seafood and (vi) Health & Home. In around August 2022, Coles introduced an Executive General Manager position for the 'Fresh' Business Units (being Bakery, Meat Deli & Seafood and Produce) and the 'Packaged' Business Units (being Health & Home, Grocery and Dairy, Frozen & Convenience). In each case the General Manager for the relevant Business Units reported to the Executive General Manager, who in turn reported to the Chief Commercial Officer.
- (b) **Business Category:** Each Business Unit was divided into a number of Business Categories that were each led by a Business Category Manager. For example, Health, Beauty and Baby was a Business Category within the Health & Home Business Unit.
- (c) **Product Category:** Each Business Category was divided into a number of Product Categories (also referred to as 'categories') that were each led by a Category Manager. For example, Soaps and Body Wash was a Product Category within the Health, Beauty and Baby Business Category. Product Categories were then further divided into product sub-categories (e.g. Handwash).

- 11 Coles competed with a range of retailers. Woolworths, Aldi and independent supermarkets (including IGA) offered the same or similar products as Coles across a number of categories, although Aldi did not offer many branded products. In some categories, Coles had additional competitors, such as Chemist Warehouse and Priceline in relation to health and beauty products, Amazon in relation to non-food products (such as toilet paper and nappies) and Bunnings in relation to cleaning products.
- 12 Each year Coles prepared a budget for each Product Category (**category budgets**) for the next financial year, which included a sales and margin target for each Product Category. Budgets were based on an accounting calendar, which meant that each year, quarter or month was divided into a whole number of weeks (e.g. a month could comprise of either four or five weeks).
- 13 The category budget setting process was primarily managed by the Finance team and occurred as follows.
- (a) Around November of each year, the Finance team began to prepare the next financial year's budget for the whole of Coles' Supermarkets business (**overall financial budget**). The overall financial budget was usually finalised by about May of each year and was ultimately signed off by Coles' Board of Directors and the Chief Executive Officer.
 - (b) Once an indicative overall financial budget was prepared, budgets were then prepared for each of the Business Units, Business Categories and then Product Categories. This process was facilitated by the Finance team in consultation between the Business Unit Strategy & Commercial Excellence team, the relevant Business Unit General Manager(s), the relevant Business Category Manager(s) and the relevant Category Manager(s).
 - (c) After the category budgets were finalised, the Chief Commercial Officer generally signed off on the budgets for each Business Unit, and the Business Unit General Managers usually signed off on budgets for each Business Category and Product Category that fell within their Business Unit. By about May of each year, category budgets for the upcoming financial year were usually finalised.
- 14 The margin targets that were included in the category budgets were applied to the category as a whole, rather than to individual products within the category. Category Managers were responsible for delivering an overall revenue and margin target for their category and had discretion as to how they set prices to achieve those targets. This required them to strike a balance between growing sales and achieving profitability at the category level. This meant that there could be considerable variation in margins across individual products within a category, with lower margins being accepted on some products to drive sales growth and volumes.

D. RETAIL PRICING AND PRODUCT RANGING

- 15 Category Managers were responsible for making decisions about the products to be ranged by Coles in their category and for setting the retail prices of those products. Product ranging was generally determined through Coles' annual range review process, which involved a review and evaluation of each product in the range by the Category Manager.
- 16 Category Managers received guidance, including on-the-job support and supervision, from the relevant Business Category Manager and General Manager in the course of carrying out their roles, to facilitate consistency in decision making across different categories. Category Managers also received regular reporting on the pricing of products in their category compared to key competitors, as described in paragraphs 23 to 25 below.

- 17 Category Managers were also made aware of Coles' promotional guardrails (described further in Section G below), which set out the pricing rules that applied to promotions.
- 18 When I was Business Category Manager of the Breakfast and Health Foods category, I had oversight of the pricing decisions for the Category Managers who reported to me. From time to time, I provided guidance to those Category Managers on pricing decisions where they sought my input (for example, in relation to the pricing of key staple products like milk). The matters on which I placed most weight when overseeing and providing guidance in relation to those decisions were the following.

D.1 The supplier's recommended retail price

- 19 In almost all cases, suppliers of proprietary products provided a recommended retail price (RRP) to Coles for each of their proprietary products, being the 'shelf edge' (or 'white ticket') undiscounted price that the supplier suggested Coles should adopt (I discuss 'shelf edge' prices further below in paragraph 29). Ultimately, however, it was Coles that made the decision about what prices to adopt.
- 20 My previous roles at Mars, SPC Ardmona and Coca Cola Amatil required me to be broadly familiar with the process by which RRPs were set. In each case, the relevant supplier conducted what I considered to be careful and detailed product research and analysis, which included assessing the pricing of other products within the supplier's portfolio, the pricing of competitor products and the potential impact of setting the RRP at a given level on sales volumes. For example, if the relevant product was made with premium ingredients, the supplier would take into consideration the retail pricing of products with similar ingredients or characteristics when setting the RRP. This would inform the supplier's assessment of whether their RRP would enable their products to be competitive across the market. In light of my experience with those businesses, I place considerable weight on suppliers' RRPs. Since joining Coles, I have also found suppliers' RRPs to generally be appropriate and competitive prices. For these reasons, I usually considered it appropriate for Coles' shelf edge (or white ticket) prices to be at or around suppliers' RRPs.
- 21 As far as I am aware, suppliers set a single RRP for each of their products, regardless of the retailer to which they are supplied. For example, the RRP is the same whether the product is supplied to Coles, Woolworths or IGA. I have not heard of a supplier setting different RRPs for its product, depending on the retailer to which it supplied the product.

D.2 Competitor pricing

- 22 A further factor that I considered to be important was the pricing for the same or similar products ranged by Coles' competitors. It was important to me that Coles' prices (both promotional and non-promotional) were also competitive with other retailers (particularly Woolworths).
- 23 The Coles Pricing and Value team, which I supervised from April to October 2022, was responsible for monitoring and reporting to the business (including Category Managers) on Coles' competitiveness in the market. This was done through the creation and tracking of pricing indices that benchmarked a large selection of products in Coles' portfolio to Woolworths and Aldi on a weekly basis in respect of both undiscounted and promotional prices.
- 24 There was consideration at both the category level and product level of how competitive Coles' pricing was compared to Woolworths and Aldi. Where the Pricing and Value team identified that Coles was more expensive on a given product than a competitor based on the pricing indices, it often recommended to the category team that the pricing for those products be reviewed, which usually resulted in Coles' retail prices being reduced.

25 Coles also tracked its price competitiveness against independent supermarkets (such as IGA), and other retailers such as Amazon and Chemist Warehouse, on an ad hoc basis (typically based on catalogue information or web-scraping of pricing data).

D.3 The role of product hierarchies

26 Coles adopted a 'good, better, best' ranking system within most categories. The products within the 'best' tier were usually premium offerings with higher prices, while the 'better' tier comprised mid-range products and the 'good' tier reflected more entry-level offerings with lower prices.

27 Category Managers were instructed to apply this product classification system when making ranging and pricing decisions, to ensure customers generally had choice across all tiers and at a range of price points. In doing so, they were instructed to avoid pricing hierarchies that would be regarded by Coles' customers as illogical. For example, as customers considered coffee pods to be a premium product compared to instant coffee (an entry-level product), it would be illogical to set the retail price for instant coffee above coffee pods (per serve of coffee). The tiering system also assisted Category Managers with deciding which pricing mechanic would be most appropriate for a given product (as described further in paragraph 53 below).

E. TICKETS AND PRICING MECHANICS

28 Products that Coles offered for sale, both in-store and online, were accompanied by 'tickets' that included details of the product including its name, price and other information. In physical stores, tickets were pieces of paper placed at the shelf-edge and positioned under or near the relevant product. On the Coles website or app, tickets took the form of a product 'tile' which displayed a photograph of the product alongside its name, price and other product information.

29 Coles had different types of prices that it used. The most commonly used type of pricing was 'shelf edge' or 'white ticket' pricing. I usually referred to this type of pricing as 'shelf edge' but many in the business referred to it as 'white ticket'. For convenience, in this affidavit I will use the expression 'white ticket'. The name 'white ticket' was used to describe white ticket prices because the tickets that were used to accompany products sold using white ticket pricing were white (with black text). White ticket prices were undiscounted prices and were usually set at or around the suppliers' RRP.

30 During the Relevant Period, the majority of products that Coles ranged at any given point were sold at their white ticket prices.

31 The other types of prices that Coles used were often referred to as pricing 'mechanics'. The mechanics that Coles used during the Relevant Period most often were:

- (a) **Special:** which involved offering products for sale at discount, expressed in dollar terms (e.g. \$2), a percentage (e.g. 40%) or a fraction (e.g. 1/2 price). Specials were sometimes also referred to as 'simple' promotions. The discount that customers received when products were on a Special was to the price charged immediately before the start of the Special. During the Relevant Period, that could either be the product's white ticket price or a Down Down price.
- (b) **Down Down:** a promotion by which Coles offered products at a discount to its white ticket price for a period of at least 12 weeks (and often longer).
- (c) **Multi-buy:** a promotion by which Coles offered a discount to white ticket prices if two or more of a product or product category were purchased.

- (d) **Mix 'N Save:** a promotion by which Coles offered to customers a discount to white ticket prices when they purchased multiple items in the same range. For example, Mix 'N Save promotions could include 'buy 1 get 1 free', 'buy 2 get the third free' and 'any 2 for \$4.50'.
- (e) **Dropped & Locked:** a promotion introduced in October 2022 which involved discounting a product from its white ticket price and 'locking in' the reduced price until a date that was specified on the ticket. During the Relevant Period, if a product was placed on the Dropped & Locked program, it was required to remain on the program for a minimum of 12 weeks.
- (f) **Every Day Value (EDV):** a mechanic which involved selling products at a consistent price for a period of at least six months.
- 32 Coles also used other pricing mechanics during the Relevant Period, for example, the 'Locked' or 'Reduced to Clear' mechanics. However, these were used far less frequently.
- 33 When products were sold using these mechanics Coles used tickets that included either yellow or red colours and information about the relevant mechanic. For all mechanics other than EDV, the tickets were larger in size compared to white tickets and overhung the shelf edge (described within Coles as being 'flappy').
- 34 Specials were the most common mechanic that Coles used. When a product was sold using the Special mechanic, it was usually sold on Special at regular intervals, often around one out of every four weeks. Coles and its suppliers often referred to this as a 'Hi-Lo' pricing strategy.
- 35 In my experience, the shape of customer trade shifted in line with the weekly cadence of the promotional cycle. A new set of Specials was offered by Coles each week, commencing on Wednesdays. For many products on Special, sales rose sharply on the Wednesday that the Special started (as compared to volumes on the prior day) and then continued to increase through to the weekend when they peaked, before starting to drop down across Monday and Tuesday.
- 36 Before trade opened on Wednesday each week, Coles team members took down the in-store tickets for the products that had been on promotion during the prior week, and put up new tickets for products that were to be offered on a new or different promotion in the coming week (noting that tickets were not replaced if the price of the product had not changed and the product had not been placed on a new pricing mechanic, such as where a product was continuing on an existing Down Down promotion). This involved changing tickets for around 5,500 products per store each week during the Relevant Period (of the approximately 18,000 to 24,000 products that a typical Coles store offered for sale in any given week). Each week Coles' in-store team members also made changes to physical store layouts so that certain new weekly Specials were displayed prominently – e.g., placing products on displays at the end of a supermarket aisle (known as 'gondolas').
- 37 Coles also made available online a catalogue each week that featured various products that were on promotion in the coming week.
- 38 In my experience at Coles, the business operated (including making decisions about the duration and advertising of Specials) on the basis that consumers typically shopped at a major grocery retailer (such as Coles or Woolworths) at least once each week.

F. PROMOTIONS

- 39 The expression 'promotions' was used to describe a pricing mechanic by which Coles offered a price discount on a product. The discount was usually from the product's white ticket price

(although, as noted in paragraph 31 above, for Specials it could also be a discount off a product's Down Down price). At times the expression was also used more broadly (by at least some people within Coles and suppliers), to describe any pricing or promotional mechanic including those that did not involve a price discount.

- 40 Promotions have been used by supermarkets in Australia (including Coles, Woolworths and IGA) since at least the time I have been working in the fast-moving consumer goods and retail industries.
- 41 Customers benefited from promotions because they enabled customers to purchase products at a discount. Sometimes customers would purchase products on promotion in bulk or try more premium products that they had not purchased before because the price had been reduced. Coles and suppliers benefitted from promotions because they drove additional sales volumes. For suppliers, placing products on promotion was also an effective way for their brand and their products to be drawn to the attention of customers due to the use of prominent tickets and (in some instances) displays in high visibility locations in-store. Products on promotion were also often featured in Coles' catalogues and advertisements.
- 42 The expression 'funding' was used by Coles and its suppliers to describe bearing the 'cost' of a promotional discount – that is, the difference between the product's white ticket price and its promotional price. From time to time, either Coles or a supplier funded promotions itself, but in the context of the benefits I referred to in paragraph 41 above, the vast majority of promotions were jointly funded by the supplier and Coles.
- 43 In my experience, joint funding usually resulted in a larger discount for the customer than Coles would be able to provide if it funded a promotion on its own. Funding was provided for an agreed period, after which it needed to be re-negotiated.
- 44 Suppliers provided funding by paying an agreed amount to Coles for each unit of the product that Coles sold (which was known as a 'scan deal'). Coles provided funding by receiving a lower dollar-value margin on the product (compared to the dollar-value margin Coles received when the product was sold at its undiscounted price).
- 45 For example, if you had a product sold at a white ticket price of \$10 with a cost price of \$5, Coles' gross margin per unit would be \$5. If the retail price of the product is then reduced to \$5 on promotion, and the supplier contributes promotional funding of \$2.50 per unit, Coles' gross margin per unit is reduced to \$2.50. In this scenario, the supplier has contributed \$2.50 per unit sold on promotion (through a scan deal) and Coles has also contributed \$2.50 per unit sold (through a reduction in its gross margin per unit). This is summarised in the table below:

Retail price	Cost price	Promotional funding	Net cost per unit	Coles' gross margin per unit
\$10 (white ticket)	\$5	NA	\$5	\$5
\$5 (promotional price)	\$5	\$2.50	\$2.50	\$2.50

- 46 In the example provided above, Coles' dollar value gross margin per unit decreases due to its promotional funding contribution. However, by running promotions which customers value, Coles' sales volumes often substantially increase which is why Coles is prepared to invest in promotions in this way.
- 47 In my experience, when Coles negotiated and agreed funding with a supplier, it usually did so on the basis that the product the subject of the promotion would be sold with a promotional ticket, so as to advertise and draw customers' attention to the promotion.
- 48 Promotions were usually proposed by suppliers in 'promotional plans' (or 'trade plans'). Promotional plans usually identified: the products that suppliers proposed Coles sell on promotion; the promotional mechanic they proposed that Coles use; funding they proposed to provide; proposed promotional prices; and the margin Coles would earn if the plan were implemented.
- 49 When suppliers' costs increased, they could seek to increase the prices that they charged to Coles by completing and submitting to Coles a CPA request. When suppliers submitted CPA requests they usually also proposed amended promotional plans. That was because list prices were a key input into promotional plans. They informed matters such as suppliers' RRP's and proposed promotional prices, as well as Coles' margins. This meant that when list prices changed, any promotional plans that were in place for the products concerned also had to change.
- 50 Promotional plans specified a supplier's proposed funding as an absolute amount and on a per unit basis. If a supplier sought to increase its prices for products without a commensurate increase in promotional funding, the supplier's existing promotional funding would constitute a smaller share of the product's price. This would mean that Coles would not be able to offer the same percentage discount (and therefore, the same level of value) to the customer without contributing a greater proportion of the funding.
- 51 Typically, the plans covered a three to six month period. Usually, suppliers proposed promotional plans at least six months before the start of that period, to allow time for the plan to be negotiated and agreed and then implementation of the plan to occur. Implementation involved various steps including forecasting and planning for changes in demand for the product, preparing and publishing any advertising and making any adjustments to in-store layout (as described at paragraph 36 above).
- 52 Coles' Category Managers had primary responsibility for negotiating and agreeing promotional plans with suppliers. In considering the appropriate promotional mechanic for a product, it was necessary to consider matters such as whether the product was sold on promotion by Coles' competitors (and, if so, the mechanic(s) they used); the amount of any funding the supplier was willing to provide; and nature of the product.
- 53 Category Managers were provided with guidance on the mechanic that was most appropriate for different types of products by the Pricing and Value team. Examples of the guidance that was provided to Category Managers when I was responsible for the Pricing and Value team included the following:
- (a) premium products (e.g. in the 'best' tier, described at paragraph 26 above) were often better suited to the Specials mechanic that offered shorter-term steeper discounts, to incentivise customers to trial or 'trade up' to that product;
 - (b) products that consumers tended to purchase impulsively (known as 'impulse' products), such as chocolates and snacks, also tended to be better suited to the Specials mechanic,

because it drew customers' attention to products when shopping in-store or online that they may not have planned in advance to purchase;

- (c) the Mix 'N Save mechanic was best suited to products that customers often purchased different variations or flavours of (e.g. yoghurt or petfood), because customers were more likely to buy multiples of those products; and
- (d) the Down Down program was best suited to frequently purchased staple products as well as those in larger pack sizes because it gave customers discounted prices for a longer period.

G. PROMOTIONAL GUARDRAILS

54 During the Relevant Period, Coles had business rules in place called 'promotional guardrails' that Category Managers were instructed to follow when setting retail prices.

55 The promotional guardrails formed part of Coles' legal and compliance framework and were the responsibility of the Legal and Compliance teams. The Pricing and Value team were responsible for communicating any changes to the guardrails to the business.

56 To the best of my recollection, at least since around the time I commenced at Coles, the promotional guardrails required that, before a product could be first placed on Down Down, the white ticket price of the product had to be 'established'. To be established, the product had to be sold at that price:

- (a) for four weeks immediately prior to launch of the product on Down Down without any 'simple' promotions (i.e. Specials); or
- (b) for four out of the six weeks immediately prior to the launch of the product on Down Down without any simple promotions, including two out of the last two weeks.

57 The promotional guardrails also stated that there may be a need for Coles to increase the price of products on Down Down if the relevant supplier increased its prices, or in response to market or competitive activities. However, the rules that applied where a supplier increased its prices have changed over time.

58 Prior to 21 January 2022, if a product already on the Down Down program was to have a price increase implemented, the promotional guardrails required that: (i) the product be taken off the Down Down program; (ii) the product be sold on a white ticket at the existing Down Down price for a two week price honour period; and (iii) once removed from Down Down, the product was not to return to the Down Down program for at least nine months. A copy of the relevant promotional guardrail that set out these requirements (COL.500.001.0010) is at **tab 1 of Exhibit DG-1**.

59 In early 2022, I recall that there were substantial increases in the costs of commodities and freight, which gave rise to significant inflationary pressures. At around the same time, I recall that there was a dramatic increase in the number of supplier CPAs that Coles received, which had the effect that Coles increased the retail price of a large number of products. As described in paragraph 56 under the guardrails at the time, Coles could not increase the retail price of those products without first removing them from Down Down and those products could then not be returned to Down Down for nine months. Woolworths had a promotional program similar to Down Down, called 'Prices Dropped'. Around this time, I understood Woolworths was removing products from that program and selling them at a non-promotional price for only four weeks before re-introducing them to the Prices Dropped program.

60 I wanted Coles to be able to do the same with Down Down. When I was first informed of the promotional guardrails after I joined Coles, I considered that needing to rebase a product at an

undiscounted price for a nine month period before it could be placed back onto the Down Down program was an extraordinarily long period of time in circumstances where most customers were engaging with heavily traded categories at least once a week. The existing promotional guardrails made it difficult for Coles to offer lower prices to customers following a CPA. Others within Coles expressed similar concerns. I understand that a request was made for this aspect of the promotional guardrails to be reviewed. In January 2022, then again in March 2022, this aspect of the guardrails changed. This was after advice had been obtained from Legal and Compliance. Following the changes, from March 2022 onwards, if a supplier increased the price it charged for a product sold on Down Down, it was necessary to remove the product from Down Down, increase the white ticket price of the product and offer it for sale at that price four weeks, with no simple promotions. After that, the product could be sold again on Down Down. Copies of the guardrails as amended in January 2022 (COL.500.001.0001) and March 2022 (COL.500.001.0004) are at **tabs 2 and 3 of Exhibit DG-1.**

Affirmed by the deponent)
 at Hawthorn East, Victoria)
 on 21 November 2025)
 Before me:)
)

REDACTED - PII

Signature of deponent

REDACTED - PII

Signature of witness

MILAN ALBERTO FRASSONI KANTOR
 of 101 Collins Street, Melbourne
 Victoria 3000
 An Australian Legal Practitioner
 within the meaning of the
 Legal Profession Uniform Law (Victoria)