

NOTICE OF FILING

Details of Filing

Document Lodged: Statement of Agreed Facts
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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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.



Third Statement of Agreed Facts

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

1. This statement of agreed facts (**Third SOAF**) is made for the purposes of s 191 of the *Evidence Act 1995* (Cth) jointly by the applicant, the Australian Competition and Consumer Commission (**ACCC**), and the respondent, Coles Supermarkets Australia Pty Ltd (**Coles**).
2. The Third SOAF is made further to the first statement of agreed facts filed on 13 June 2025 (**First SOAF**) and second statement of agreed facts filed on 21 August 2025 (**Second SOAF**). The Third SOAF adopts defined terms in the First SOAF and Second SOAF, and in particular supplements and should be read with paragraphs 23 to 26 of the First SOAF.
3. The annexures to this Third SOAF contain representative examples of Down Down Tickets that were used by Coles throughout the Relevant Period for the Particularised Promotions in respect of the Sample Products (**Example Tickets**). Example Tickets for Coles' physical stores are at **Annexure 1** and those for Coles Online and the Coles App are at **Annexure 2**. The Example Tickets were recreated by Coles.
4. The Down Down Tickets displayed in respect of the Relevant Products during the Relevant Period were materially the same as the Example Tickets.

Handwritten signature of James Love in black ink.

.....
Signed by: James Love
Solicitor for the Applicant

Handwritten signature of Belinda Thompson in black ink.


.....
Signed by: Belinda Thompson
Solicitor for the Respondent

Annexure 1 – Example Tickets (Coles' physical stores)

\$5⁵⁰
WAS \$6.50
JUN 2022

DOWN DOWN

Arnotts Shapes Variety
Crackers 15 Pack
375gram 1427

\$1.47 per 100g 299 2180 
0 0 0

\$16⁵⁰
WAS \$19
OCT 2022

DOWN DOWN

Bragg Seasoning
Nutritional Yeast
127gram 1939

\$12.99 per 100g 313 9426 
0 0 0

\$3⁵⁰
WAS \$4.40
MAR 2022

DOWN DOWN

Coca-Cola Classic
Soft Drink Bottle
2Litre 1359

\$1.75 per 1L 191 736 
0 0 0

\$3¹⁵
WAS \$4.50
JUL 2022

DOWN DOWN

Coles Finest
Quince Paste
100gram 3063

\$3.15 per 100g 360 9315 
0 0 0

Annexure 1 – Example Tickets (Coles' physical stores)

\$6
WAS \$7
APR 2022

DOWN DOWN

Colgate Total Active
Original Toothpaste
200gram 1014

\$3.00 per 100g

340 1074 0 0 0

\$6⁷⁰
WAS \$7.80
OCT 2022

DOWN DOWN

Danone Yopro Yoghurt
Vanilla
700gram 1533

\$0.96 per 100g

324 6914 0 0 0

\$21
WAS \$24
MAR 2023

DOWN DOWN

Karicare Follow On
Formula
900gram 1190

\$2.33 per 100g

102 3271 0 0 0

\$5⁵⁰
WAS \$6
JUL 2022

DOWN DOWN

Lurpak Butter Spreadable
Slightly Salted
250gram 1946

\$2.20 per 100g

539 3910 0 0 0

Annexure 1 – Example Tickets (Coles' physical stores)

\$4
WAS \$5.50
APR 2022

DOWN DOWN

Nature's Gift Dog Food
Meal Time Lf Chckn Rc Veg
1.2Kg 1298

\$3.33 per 1kg 358 9976 0 0 0

\$4⁵⁰

DOWN DOWN

Nature's Gift Dog Food
Meal Time Lf Chckn Rc Veg
1.2Kg 1298

\$3.75 per 1kg 358 9976 0 0 0

\$4⁵⁰
WAS \$5.50
OCT 2022

DOWN DOWN

Pedigree Wet Dog Food
Loaf Five Kinds
1.2Kg 1298

\$3.75 per 1kg 255 409 0 0 0

\$6
WAS \$6.50
MAY 2022

DOWN DOWN

Rexona Anti Persp
Deodorant Aero Classic
250mL 1045

\$2.40 per 100mL 507 9187 0 0 0

Annexure 1 – Example Tickets (Coles' physical stores)



\$4⁵⁰
WAS \$5.50
MAY 2022

DOWN DOWN

Viva Paper Towel
White Select A Size
3pack 1230

\$1.67 per 100ea 382 3600 0 0 0



\$5⁵⁰
WAS \$6.50
MAR 2023

DOWN DOWN

Viva Paper Towel
White Select A Size
3pack 1230

\$2.04 per 100ea 382 3600 0 0 0

Annexure 2 – Example Tickets (Coles Online and the Coles App)

Annexure 2 – Example Tickets (Coles Online and the Coles App)

Note that the top two images on each page relate to Coles Online and the bottom two images relate to the Coles App.

DOWN DOWN

Arnotts Shapes Variety | Crackers 15 Pack

\$5.50 Was \$6.50 Jun 2022

375g | \$1.47 per 100G

Add 1 for \$5.50

DOWN DOWN

Arnotts Shapes Variety
| Crackers 15 Pack | 375g

\$5.50

\$1.47 per 100g | Was \$6.50 on Jun 2022

★ ★ ★ ★ ★ 0.0 (0)

Add

< Home Arnotts Shapes Variety...

DOWN DOWN

\$5.50 ea

\$1.47 per 100g | Was \$6.50 on Jun 2022

Arnotts Shapes Variety | Crackers 15 Pack | 375g

Add to trolley

Home Favourites Lists Trolley More

DOWN DOWN

Located in aisle
Arnotts Shapes Variety
| Crackers 15 Pack | 375g


\$5.50 ea

\$1.47 per 100g | Was \$6.50 on Jun 2022

Add to list Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Bragg Seasoning | Nutritional Yeast

\$16.50 Was \$19.00 Oct 2022

127g | \$12.99 per 100g

Add 1 for \$16.50



Bragg Seasoning
| Nutritional Yeast | 127g

\$16.50

\$12.99 per 100g | Was \$19.00 on Oct 2022

★★★★★ 0.0 (0)

  Add

< Home Bragg Seasoning | Nutr ...  



\$16.50 ea

\$12.99 per 100g | Was \$19.00 on Oct 2022

Bragg Seasoning | Nutritional Yeast | 127g

   Add to trolley

 Home  Favourites  Lists  Trolley  More



Located in aisle
Bragg Seasoning
| Nutritional Yeast | 127g




\$16.50 ea

\$12.99 per 100g | Was \$19.00 on Oct 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Coca-Cola Classic | Soft Drink Bottle

\$3.50 Was \$4.40 Mar 2022

2Litre | \$1.75 per 1L

Add 1 for \$3.50



Coca-Cola Classic
| Soft Drink Bottle | 2Litre

\$3.50

\$1.75 per 1L | Was \$4.40 on
Mar 2022

★ ★ ★ ★ ★ 0.0 (0)

  Add

< Home Coca-Cola Classic | S...  










\$3.50 ea

\$1.75 per 1L | Was \$4.40 on Mar 2022

Coca-Cola Classic | Soft Drink Bottle | 2Litre



   Add to trolley

 Home  Favourites  Lists  Trolley  More

 Located in aisle 
Coca-Cola Classic
| Soft Drink Bottle | 2Litre


\$3.50 ea

\$1.75 per 1L | Was \$4.40
on Mar 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Coles Finest | Quince Paste

\$3.15 Was \$4.50 Jul 2022

100g | \$3.15 per 100G

Add 1 for \$3.15



Coles Finest
| Quince Paste | 100g

\$3.15
\$3.15 per 100g | Was \$4.50 on
Jul 2022
★★★★★ 0.0 (0)

  Add

[Home](#) Coles Finest | Quince P...  




\$3.15 ea
\$3.15 per 100g | Was \$4.50 on Jul 2022

Coles Finest | Quince Paste | 100g

   Add to trolley



 Home  Favourites  Lists  Trolley  More

DOWN DOWN

Located in Deli & Seafood 

Coles Finest | Quince Paste
| 100g

\$3.15 ea
\$3.15 per 100g | Was \$4.50
on Jul 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Colgate Total Active | Original Toothpaste

\$6.00 Was \$7.00 Apr 2022

200g | \$3.00 per 100G

Add 1 for \$6.00



Colgate Total Active
| Original Toothpaste
| 200g
\$6.00
\$3.00 per 100g | Was \$7.00 on
Apr 2022
★★★★★ 0.0 (0)

  Add

< Home Colgate Total Active | ...  








\$6.00 ea

\$3.00 per 100g | Was \$7.00 on Apr 2022

Colgate Total Active | Original Toothpaste
| 200g

   Add to trolley

 Home  Favourites  Lists  Trolley  More

DOWN DOWN

Located in aisle 

 Colgate Total Active
| Original Toothpaste | 200g


\$6.00 ea

\$3.00 per 100g | Was \$7.00
on Apr 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Danone Yopro Yoghurt | Vanilla

\$6.70 Was \$7.80 Oct 2022

700g | \$0.96 per 100g

Add 1 for \$6.70



Danone Yopro Yoghurt
| Vanilla | 700g

\$6.70

\$0.96 per 100g | Was \$7.80 on
Oct 2022

★ ★ ★ ★ ★ 0.0 (0)

  Add

[Home](#) Danone Yopro Yoghurt...  




\$6.70 ea


\$0.96 per 100g | Was \$7.80 on Oct 2022

Danone Yopro Yoghurt | Vanilla | 700g

   Add to trolley

 Home  Favourites  Lists  Trolley  More



DOWN DOWN

Located in Dairy 

Danone Yopro Yoghurt
| Vanilla | 700g


\$6.70 ea

\$0.96 per 100g | Was \$7.80
on Oct 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Karicare Follow On | Formula

\$21.00 Was \$24.00 Mar 2022

900g | \$2.33 per 100G

Add 1 for \$21.00



Karicare Follow On
| Formula | 900g

\$21.00

\$2.33 per 100g | Was \$24.00 on
Mar 2022

★★★★★ 0.0 (0)

  Add

[Home](#) Karicare Follow On | F...  



\$21.00 ea

\$2.33 per 100g | Was \$24.00 on Mar 2022

Karicare Follow On | Formula | 900g

   Add to trolley

DOWN DOWN


Located in aisle 



Karicare Follow On
| Formula | 900g

\$21.00 ea


\$2.33 per 100g | Was \$24.00
on Mar 2022

 Add to list  Add to trolley

 Home  Favourites  Lists  Trolley  More

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Lurpak Butter Spreadable
| Slightly Salted

\$5.50 Was \$6.00 Jul 2022

250g | \$2.20 per 100G

Add 1 for \$5.50



Lurpak Butter Spreadable
| Slightly Salted | 250g

\$5.50

\$2.20 per 100g | Was \$6.00 on Jul 2022

★★★★★ 0.0 (0)

  Add

< Home Lurpak Butter Spreadab...  








\$5.50 ea


\$2.20 per 100g | Was \$6.00 on Jul 2022


Lurpak Butter Spreadable | Slightly Salted
| 250g

   Add to trolley

 Home  Favourites  Lists  Trolley  More

DOWN DOWN



Located in Dairy 



Lurpak Butter Spreadable
| Slightly Salted | 250g


\$5.50 ea

\$2.20 per 100g | Was \$6.00 on Jul 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg

\$4.00 Was \$5.50 Apr 2022

1.2Kg | \$3.33 per 1KG

Add 1 for \$4.00



Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg
| 1.2Kg
\$4.00

\$3.33 per 1kg | Was \$5.50 on
Apr 2022

★★★★★ 0.0 (0)

  Add

< Home Nature's Gift Dog Food...  





\$4.00 ea

\$3.33 per 1kg | Was \$5.50 on Apr 2022

Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg | 1.2Kg

   Add to trolley



DOWN DOWN Located in aisle 



Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg | 1.2Kg


\$4.00 ea

\$3.33 per 1kg | Was \$5.50
on Apr 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg

\$4.50
1.2Kg | \$3.75 per 1KG

Add 1 for \$4.50



Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg
| 1.2Kg
\$4.50
\$3.75 per 1kg

★★★★★ 0.0 (0)

  Add

< Home Nature's Gift Dog Food...  








\$4.50 ea


\$3.75 per 1kg

Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg | 1.2Kg

   Add to trolley



 Home  Favourites  Lists  Trolley  More

DOWN DOWN

Located in aisle 


Nature's Gift Dog Food
| Meal Time Lf Chckn Rc Veg | 1.2Kg

\$4.50 ea
\$3.75 per 1kg

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Pedigree Wet Dog Food | Loaf Five Kinds

\$4.50 Was \$5.50 Oct 2022

1.2Kg | \$3.75 per 1KG

Add 1 for \$4.50

DOWN DOWN




Pedigree Wet Dog Food
| Loaf Five Kinds | 1.2Kg

\$4.50
\$3.75 per 1kg | Was \$5.50 on
Oct 2022
★★★★★ 0.0 (0)

Add



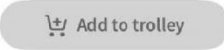
< Home Pedigree Wet Dog Food...  








DOWN DOWN


\$4.50 ea
\$3.75 per 1kg | Was \$5.50 on Oct 2022

Pedigree Wet Dog Food | Loaf Five Kinds
| 1.2Kg



    

DOWN DOWN

Located in aisle 

Pedigree Wet Dog Food
| Loaf Five Kinds | 1.2Kg

\$4.50 ea
\$3.75 per 1kg | Was \$5.50
on Oct 2022

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Rexona Anti Persp | Deodorant Aero Classic

\$6.00 Was \$6.50 May 2022

250mL | \$2.40 per 100mL

Add 1 for \$6.00

DOWN DOWN



Rexona Anti Persp
| Deodorant Aero Classic
| 250mL

\$6.00

\$2.40 per 100mL | Was \$6.50 on May 2022

★★★★★ 0.0 (0)

  Add

[Home](#) Rexona Anti Persp | De...  



DOWN DOWN


\$6.00 ea


\$2.40 per 100mL | Was \$6.50 on May 2022

Rexona Anti Persp
| Deodorant Aero Classic | 250mL

   Add to trolley

DOWN DOWN



Located in aisle 



Rexona Anti Persp
| Deodorant Aero Classic | 250mL

\$6.00 ea

\$2.40 per 100mL | Was \$6.50 on May 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Viva Paper Towel | White Select A Size

\$4.50 Was \$5.50 May 2022

3pack | \$1.67 per 100ea

Add 1 for \$4.50



Viva Paper Towel
| White Select A Size
| 3pack
\$4.50

\$1.67 per 100ea | Was \$5.50 on
May 2022

☆☆☆☆☆ 0.0 (0)

  Add

< Home Viva Paper Towel | Whit...  




\$4.50 ea

\$1.67 per 100ea | Was \$5.50 on May 2022

Viva Paper Towel | White Select A Size
| 3pack

   Add to trolley



DOWN DOWN

Located in aisle 

Viva Paper Towel
| White Select A Size | 3pack


\$4.50 ea

\$1.67 per 100ea | Was \$5.50
on May 2022

 Add to list  Add to trolley

Annexure 2 – Example Tickets (Coles Online and the Coles App)

DOWN DOWN



Viva Paper Towel | White Select A Size

\$5.50 Was \$6.50 Mar 2023

3pack | \$2.04 per 100ea

Add 1 for \$5.50



Viva Paper Towel
| White Select A Size
| 3pack
\$5.50
\$2.04 per 100ea | Was \$6.50 on
Mar 2023
★★★★★ 0.0 (0)



[Home](#) Viva Paper Towel | Whit...  




\$5.50 ea
\$2.04 per 100ea | Was \$6.50 on Mar 2023



Viva Paper Towel | White Select A Size
| 3pack

 Located in aisle 

 Viva Paper Towel
| White Select A Size | 3pack

\$5.50 ea
\$2.04 per 100ea | Was \$6.50
on Mar 2023

 Add to list  Add to trolley