

NOTICE OF FILING

Details of Filing

Document Lodged: Non-Prescribed Report
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 4/09/2025 2:36:51 PM AEST
Date Accepted for Filing: 4/09/2025 2:36:51 PM AEST
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.



3 September 2025

Australian Competition and Consumer Commission v Coles Supermarkets Australia Pty Ltd

Specialist Field	Forensic Accounting
Instructing Law Firm	Johnson Winter Slattery
On behalf of	Australian Competition and Consumer Commission
Subject of Report	Analysis of pricing data

— Table of Contents

1. INTRODUCTION	4
2. BACKGROUND AND INSTRUCTIONS	7
3. ANALYSIS OF PRICING DATA.....	9
4. EXPERT’S DECLARATION.....	12
5. LIST OF ANNEXURES.....	13

Glossary

Term	Definition
ACCC, the Applicant	Australian Competition and Consumer Commission
Coles, the Respondent	Coles Supermarkets Australia Pty Ltd
JWS	Johnson Winter Slattery
Letters of Instructions	Letters dated 15 March 2024, 30 August 2024, 8 July 2025 and 22 August 2025 (attached at Annexures A1 to A4 , respectively)
Proceeding	Federal Court of Australia proceeding No VID973/2024 brought by the ACCC against Coles
Relevant Period	1 January 2021 to 4 May 2023
Sample Products	12 products agreed upon by the ACCC and Coles, listed in Table 1 on page 7 of this report
Second SOAF	Second Statement of Agreed Facts dated 21 August 2025

1. INTRODUCTION

1.1 BACKGROUND

- 1.1.1. I am instructed by Johnson Winter Slattery (**JWS**) to act as an independent expert in the Federal Court of Australia proceeding number VID973/2024 involving the Australian Competition and Consumer Commission (**ACCC**) and Coles Supermarkets Australia Pty Ltd (**Coles**) (the **Proceeding**).
- 1.1.2. JWS act for the ACCC, the Applicant in the Proceeding.
- 1.1.3. I have been provided with the following letters of instructions by JWS relevant to this report¹ (collectively, **Letters of Instructions**):
- (a) Letter dated 15 March 2024 (attached at **Annexure A1**);
 - (b) Letter dated 30 August 2024, and a subsequent email dated 11 September 2024, which corrected a typographical error in footnote 2 of the letter (both attached at **Annexure A2**);
 - (c) Letter dated 8 July 2025 (attached at **Annexure A3**); and
 - (d) Letter dated 22 August 2025, and a subsequent email also dated 22 August 2025, which corrected the wording of the first paragraph of the letter (both attached at **Annexure A4**).
- 1.1.4. Per my Letter of Instructions dated 15 March 2024, the Proceeding relates to an investigation into Coles conducted by the ACCC, concerning alleged misrepresentations in the conduct of its pricing promotion known as “*Down Down*”.²
- 1.1.5. Further detail about my understanding of the background to the matter, and my instructions are set out in Section 2 of this report.

1.2 QUALIFICATIONS AND EXPERIENCE

- 1.2.1. My name is Dawna Wright. I am a qualified Chartered Accountant and a Senior Managing Director and leader for Australia of the Forensic and Litigation Consulting practice at FTI Consulting. In this role, I provide forensic accounting, valuation and financial investigation services. My office is located at Level 50, 600 Bourke Street, Melbourne, Victoria, Australia. My Curriculum Vitae is attached at **Annexure B**. Relevantly, my training, study and experience includes:
- (a) Completion of a Bachelor of Commerce (Honours) degree at the University of Manitoba in Canada. Completion of that degree included, inter alia, study in accounting, finance and economics;
 - (b) Completion of the Canadian Institute of Chartered Accountants courses and examinations, including further study in accounting, auditing and finance;
 - (c) Completion of conversion courses and procedures to gain membership to the American Institute of Certified Public Accountants and the Institute of Chartered Accountants in Australia;
 - (d) Recognition as a Business Valuation specialist, Forensic Accounting Specialist and as a ‘Fellow’ by Chartered Accountants Australia and New Zealand;
 - (e) Chair of the Forensic Accounting Committee for Chartered Accountants Australia and New Zealand from 2015 to 2019;
 - (f) Completion of the Certified Fraud Examiner courses and examinations;

¹ I have also been provided with letters dated 24 May 2024, 19 September 2024 and 29 October 2024, which included briefs of documents (listed at **Annexure C**) and other engagement instructions not related to the instructions, analysis, or opinions the subject of this report.

² Letter of Instructions dated 15 March 2024 (**Annexure A1**, p.1; para. 1.1)

- (g) Five roles as Director and Chair of Audit & Risk Committees, four being not-for-profit organisations and one of which is current (Director/Chair of the Finance & Audit Committee for the global movement of Amnesty International);
- (h) Frequent lecturing and publishing articles on financial and forensic accounting topics; and
- (i) More than 30 years of training and experience in firms of chartered accountants, of which more than 25 years have included providing forensic services. This training and experience includes:
 - (i) Undertaking financial statement audits of private and public entities, both local and multinational;
 - (ii) Preparing financial statements in accordance with Accounting Standards;
 - (iii) Preparing due diligence reports for the purposes of acquisitions;
 - (iv) Performing valuations of businesses;
 - (v) Using databases and software tools to analyse financial and other electronic data;
 - (vi) Preparing financial models to identify key sales, cost and profit drivers and cash flows for use in business planning and for the preparation of projections of future sales, costs, profits and cash flows; and
 - (vii) Provision of forensic accounting advice and evidence on a wide variety of matters involving financial investigation and the preparation or assessment of economic loss or loss of profit claims.

1.2.2. My opinions are based upon the specialised skills, knowledge and experience described above.

1.3 ASSISTANCE FROM FTI CONSULTING EMPLOYEES

1.3.1. The following FTI Consulting employees assisted me in preparing this report, under my direct supervision and review:

- (a) Marcin Smalec – Senior Director – Mr Smalec is a qualified Chartered Accountant and has 12 years of experience in undertaking financial analysis for the purpose of litigation and other dispute matters. Mr Smalec is accredited as a Forensic Accounting Specialist by the Chartered Accountants Australia and New Zealand.
- (b) Joanna Yeung – Senior Director – Mrs Yeung has over 15 years of experience in forensic accounting and dispute advisory roles, working both on independent expert reports and investigation matters. Mrs Yeung has a Bachelor of Commerce degree from the University of New South Wales and is a Member of Chartered Accountants Australia and New Zealand.

1.3.2. I have reviewed the work undertaken by the staff that have assisted me with the preparation of this report and am satisfied as to its accuracy. The opinions expressed in this report are mine.

1.4 DISCLOSURE OF INTERESTS

1.4.1. I am independent of the parties. FTI Consulting may also undertake work from time to time on instructions from JWS in relation to other matters. Each professional engagement undertaken for JWS in relation to other matters is conducted separately and has no bearing on my capacity to act as an independent expert in this Proceeding.

1.4.2. I have made all enquiries that I believe are desirable and appropriate.

1.4.3. My professional fees are not contingent upon the final outcome in this matter.

1.5 DOCUMENTS REVIEWED

- 1.5.1. In preparing this report I have relied upon the materials supplied by JWS. A list of the documents provided to me is set out at **Annexure C**.
- 1.5.2. My comments are based on the information contained in the documents.

1.6 VERIFICATIONS

- 1.6.1. In compiling my report, I have not conducted an independent audit or verification of the information or documents provided to me.

1.7 DISCLAIMERS

- 1.7.1. I do not profess to give opinions of law. The opinions expressed in this report are based on the information and documents provided, and on my knowledge, skills and experience as described above.
- 1.7.2. In the event that new facts or information are made available, I reserve the right to review the additional data and, if necessary, revisit my conclusions and opinions as may be appropriate.
- 1.7.3. This report has been prepared in connection with the Proceeding. I understand that this report will be used in the Proceeding and that it will be provided to the Respondent and its advisers. In all other respects, this report is confidential. It should not be used, reproduced, or circulated for any other purposes, in whole or in part, without my prior written consent.
- 1.7.4. Figures in the tables presented in this report are rounded. However, it is the unrounded figure that is used in the calculations. Accordingly, minor variances may exist in table totals when recalculated manually.

1.8 STRUCTURE OF THIS REPORT

- 1.8.1. The remainder of this report is set out as follows:

<i>Section 2</i>	BACKGROUND AND INSTRUCTIONS
<i>Section 3</i>	ANALYSIS OF PRICING DATA
<i>Section 4</i>	EXPERT'S DECLARATION
<i>Section 5</i>	LIST OF ANNEXURES

2. BACKGROUND AND INSTRUCTIONS

2.1 INTRODUCTION

2.1.1. A brief background of the case is provided at Section 1.1 above. Further background information and instructions below are sourced from my Letters of Instructions.

2.2 SAMPLE PRODUCTS

2.2.1. Per the orders made in the Proceeding on 23 May 2025.³

- (a) paragraph 2 provides that a trial on all issues of liability will be conducted with respect to a sample of Affected Products (as defined in the Concise Statement) as agreed between the parties or determined by the Court (**Sample Products**); and
- (b) paragraph 3 provides that all discovery required to be given, and all evidence required to be filed and served, is to be limited to discovery and evidence relevant to the issues of liability with respect to the Sample Products.

2.2.2. I am instructed that the ACCC and Coles have agreed upon the Sample Products set out in the following table.

Table 1. Sample Products⁴

No.	Product Number	Sample Product
1	1023271	KARICARE FOLLOW ON FORMULA:900 GRAM
2	191736	CCA SOFT DRINK:COLA:::2 LITRE
3	255409	PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT LOAF 1.2KG CAN:FIVE KINDS MEAT:::1.2 KG
4	2992180	ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375 GRAM
5	3139426	BRAGG SEASONING NUTRITIONAL YEAST PREMIUM QUALITY:127 GRAM
6	3246914	DANONE YOPRO YOGHURT:VANILLA:::700 GRAM
7	3401074	COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM
8	3609315	COLES FINEST QUINCE PASTE 100G:100 GRAM
9	5079187	REXONA ANTI PERSP DEODORANT:250 ML
10	5393910	LURPAK SLIGHTLY SALTED SPREADABLE TUB 250 GRAM:BUTTER:::250 GRAM
11	3589976	NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE AND RICE:::1.2 KG
12	3823600	VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3 PACK

2.3 COLES' PRICING DATA

2.3.1. I have been provided with a copy of a statement of agreed facts filed in the Proceeding dated 21 August 2025 (**Second SOAF**).⁵

2.3.2. I am instructed that the Second SOAF identifies, at Annexure 1, the following in respect of each Sample Product between 1 January 2021 to 4 May 2023 (**Relevant Period**):⁶

- (a) pricing information and the period during which those prices applied (or states "No data" where data has not been retained);
- (b) the volume of the Sample Product that Coles sold during each of those periods (or states "No data" where data has not been retained); and

³ Letter of Instructions dated 8 July 2025 (**Annexure A3**, p. 1; para. 3(a))

⁴ Annexure to the Letter of Instructions dated 8 July 2025 (**Annexure A3**, p. 3)

⁵ Letter of Instructions dated 22 August 2025 (**Annexure A4**, p. 1; para. 2)

⁶ Letter of Instructions dated 22 August 2025 (**Annexure A4**, p. 1; para. 3)

- (c) the “*Status*” of each Sample Product during each of those periods, namely whether it was supplied:
- (i) as part of a particular promotion (i.e. “*Down Down*”, “*Locked*”, “*Special*” or “*Everyday Value*”);
or
 - (ii) at a “*Non-Promotional Price*” (i.e. “*White ticket*”),
(or states “*No data*” where data has not been retained).

2.4 INSTRUCTIONS

- 2.4.1. Per my Letter of Instructions dated 22 August 2025, I am instructed to use the data in Annexure 1 of the Second SOAF and prepare spreadsheets, graphs and tables for each of the Sample Products.⁷

⁷ Letter of Instructions dated 22 August 2025 (**Annexure A4**, p. 2; para. 4)

3. ANALYSIS OF PRICING DATA

3.1 INTRODUCTION

- 3.1.1. In Section 3.2 below, I describe my methodology for preparing the relevant data and undertaking the required analysis of the pricing and status data for each of the Sample Products.
- 3.1.2. In Section 3.3, I then describe my findings and present the graphs of pricing and status data for each of the Sample Products.

3.2 METHODOLOGY

- 3.2.1. The pricing and sales data contained in Annexure 1 of the Second SOAF is provided in a tabular format in the following form.

Table 2. Format of pricing and sales data contained in Annexure 1 of the Second SOAF⁸

Sample Product	Start Date	End Date	Price	Status	Days	Volume
----------------	------------	----------	-------	--------	------	--------

- 3.2.2. Based on my instructions at paragraph 2.3.2 above and my review of the Second SOAF, I proceed on the basis that it is reasonable to assume the following definitions of each field:

- (a) “Sample Product” contains the name of the product and the product code;
- (b) “Start Date” and “End Date” contain the effective start and end dates for the “Price” and “Status” data in each line item;⁹
- (c) “Price” contains the effective product price in dollars for the period from “Start Date” to “End Date” or “No data” where data has not been retained;¹⁰
- (d) “Status” contains the name of the effective price status in place in the period from “Start Date” to “End Date”, which is either:¹¹
 - (i) “White ticket”;
 - (ii) “Down Down”;
 - (iii) “Locked”;
 - (iv) “Special”;
 - (v) “Everyday Value”;
 - (vi) “No data”;
- (e) “Days” contains the number of days in the period from “Start Date” to “End Date”; and
- (f) “Volume” contains the number of units of the “Sample Product” sold at the “Price” in the period from “Start Date” to “End Date”¹².

⁸ ‘VID 973 of 2024 - Second SOAF - 21 August 2025 (sealed).pdf’ (Doc:100)

⁹ Letter of Instructions dated 22 August 2025 (Annexure A4, p. 1; para. 3a)

¹⁰ Letter of Instructions dated 22 August 2025 (Annexure A4, p. 1; para. 3a)

¹¹ Letter of Instructions dated 22 August 2025 (Annexure A4, p. 1; para. 3c)

¹² Letter of Instructions dated 22 August 2025 (Annexure A4, p. 1; para. 3b)

3.2.3. To prepare the data for analysis, I have first converted the pricing and sales data contained in Annexure 1 of the Second SOAF into an electronic format. I then adopted the following steps to convert the data into an analysis of daily pricing, for charting over the Relevant Period:

- (a) Prepare a schedule of days in the Relevant Period;
- (b) For each day in the Relevant Period and for each of the Sample Products, look up the “Price” and “Status” information from the data at Annexure 1 of the Second SOAF.

3.3 MY ANALYSIS

Daily price and status data

3.3.1. Adopting the methodology described in paragraph 3.2.3 above, I prepared a table for each of the Sample Products, containing daily pricing and status data in the following form:

Table 3.

ProductNumber	ProductDescription	Date	Price	Status
---------------	--------------------	------	-------	--------

3.3.2. With respect to the above columns (that I have created):

- (a) “ProductNumber” contains the product number of the Sample Product;
- (b) “ProductDescription” contains the name of the Sample Product;
- (c) “Date” contains a date of each day in the Relevant Period;
- (d) “Price” contains the price effective at the “Date”, which is as per the data extracted from the Annexure 1 to the Second SOAF;
- (e) “Status” contains the name of the effective price status in place in the period, which is as per the data extracted from the Annexure 1 to the Second SOAF.

3.3.3. I provide the daily price and status data prepared by me for the Sample Products at **Annexure D** to this report (enclosed as an electronic Microsoft Excel file).

Graphs and data tables

3.3.4. I have summarised the pricing and promotional data for each Sample Product during the Relevant Period. To achieve this, I undertook the following steps:

- (a) Plotted the column “Date” on the X-axis and the column “Price” on the Y-axis;
- (b) Charted a line graph for the price on each date;
- (c) Applied background colours to represent the “Promotion Type” status as at each date, as follows:
 - (i) Light blue for “White ticket” status;
 - (ii) Light pink for the “Down Down” status;
 - (iii) Green for “Locked” status;
 - (iv) Yellow for “Special” status; and
 - (v) Light red for “Everyday Value” status; and
- (d) Applied a grey background, with no price line, for dates in the Relevant Period for which the price and status data has not been retained.

- 3.3.5. I have verified the graphs against the source sales data contained in Annexure 1 of the Second SOAF to ensure the graph visualisation and the summary tables accurately reflect the source dataset, prepared using the methodology described above.
- 3.3.6. I provide the price and status graph and the summary table for each of the Sample Products at the following annexures:
- (a) KARICARE FOLLOW ON FORMULA:900 GRAM (1023271) at **Annexure E1**;
 - (b) CCA SOFT DRINK:COLA::2 LITRE (191736) at **Annexure E2**;
 - (c) PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT LOAF 1.2KG CAN:FIVE KINDS MEAT::1.2 KG (255409) at **Annexure E3**;
 - (d) ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375 GRAM (2992180) at **Annexure E4**;
 - (e) BRAGG SEASONING NUTRITIONAL YEAST PREMIUM QUALITY:127 GRAM (3139426) at **Annexure E5**;
 - (f) DANONE YOPRO YOGHURT:VANILLA::700 GRAM (3246914) at **Annexure E6**;
 - (g) COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM (3401074) at **Annexure E7**;
 - (h) COLES FINEST QUINCE PASTE 100G:100 GRAM (3609315) at **Annexure E8**;
 - (i) REXONA ANTI PERSP DEODORANT:250 ML (5079187) at **Annexure E9**;
 - (j) LURPAK SLIGHTLY SALTED SPREADABLE TUB 250 GRAM:BUTTER::250 GRAM (5393910) at **Annexure E10**;
 - (k) NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE AND RICE::1.2 KG (3589976) at **Annexure E11**; and
 - (l) VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3 PACK (3823600) at **Annexure E12**.

4. EXPERT’S DECLARATION

I, Dawna Kathleen Wright DECLARE THAT:

- 4.1.1. I understand that my duty in providing written reports and giving evidence is to help the Court, and that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied and will continue to comply with my duty.
- 4.1.2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
- 4.1.3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my independence.
- 4.1.4. I have shown the sources of all information I have used. I reserve the right to review and alter the conclusions reached in this report, should information that is relevant to my conclusions come to my attention after the date of this report. I will notify those instructing me immediately and confirm in writing if, for any reason, my existing report requires any correction or qualification.
- 4.1.5. This report has been prepared solely for the purpose set out in Section 1. It should not be used for any other purpose without my or my firm’s prior written consent. Neither I nor FTI Consulting accepts any liability or responsibility for loss suffered by any party as a result of the circulation, publication, reproduction or other use of this report contrary to the provisions of this paragraph.
- 4.1.6. I have read, understood and complied with and agree to be bound by the Federal Court of Australia’s Practice Note GPN-EXPT, titled ‘Expert Evidence Practice Note’ dated 25 October 2016, as supplied by JWS in their Letter of Instructions dated 15 March 2024.
- 4.1.7. I have also prepared my report in accordance with APES 215 – *Forensic Accounting Services*, as issued by the Accounting Professional and Ethical Standards Board, an independent, national body that sets the code of ethics and professional standards by which members of Chartered Accountants Australia and New Zealand must abide.
- 4.1.8. I have made all inquiries that I believe are desirable and appropriate, and no matter of significance that I regard as relevant has, to my knowledge, been withheld from the Court.
- 4.1.9. I declare that Generative AI was not used in generating:
 - (a) Any part of the content of this report (including by way of alternating, embellishing, strengthening or diluting or rephrasing my witness evidence); or
 - (b) The content of any annexure or exhibit prepared by me for the purpose of my evidence.

Signature 

Dawna Wright
 Senior Managing Director
 3 September 2025

5. LIST OF ANNEXURES

- A. My Letters of Instructions:
 - A1. Letter dated 15 March 2024
 - A2. Letter dated 30 August 2024 (including a subsequent email dated 11 September 2024, which corrected a typographical error in footnote 2 of the letter)
 - A3. Letter dated 8 July 2025
 - A4. Letter dated 22 August 2025 (including a subsequent email also dated 22 August 2025, which corrected the wording of the first paragraph of the letter)
- B. Curriculum Vitae of Dawna Kathleen Wright
- C. List of documents provided
- D. Daily price and status data for the Sample Products
- E. Graphs and tables
 - E1. KARICARE FOLLOW ON FORMULA:900 GRAM (1023271)
 - E2. CCA SOFT DRINK:COLA::2 LITRE (191736)
 - E3. PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT LOAF 1.2KG CAN:FIVE KINDS MEAT::1.2 KG (255409)
 - E4. ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375 GRAM (2992180)
 - E5. BRAGG SEASONING NUTRITIONAL YEAST PREMIUM QUALITY:127 GRAM (3139426)
 - E6. DANONE YOPRO YOGHURT:VANILLA::700 GRAM (3246914)
 - E7. COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM (3401074)
 - E8. COLES FINEST QUINCE PASTE 100G:100 GRAM (3609315)
 - E9. REXONA ANTI PERSP DEODORANT:250 ML (5079187)
 - E10. LURPAK SLIGHTLY SALTED SPREADABLE TUB 250 GRAM:BUTTER::250 GRAM (5393910)
 - E11. NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE AND RICE::1.2 KG (3589976)
 - E12. VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3 PACK (3823600)

ANNEXURE A1

JOHNSON | WINTER | SLATTERY

Partner: James Love +61 3 8611 1339
Email: james.love@jws.com.au
Our Ref: D2522
Doc ID: 303929911.1

15 March 2024

Privileged & Confidential

Ms Dawna Wright
Senior Managing Director
FTI Consulting (Australia) Pty Ltd
Bourke Place
Level 50/600 Bourke Street
MELBOURNE VIC 3000

BY EMAIL Dawna.Wright@fticonsulting.com

Dear Ms Wright

Terms of Engagement for Provision of Independent Expert Advice - Australian Competition and Consumer Commission in the matter of Coles Supermarkets Australia Pty Ltd

We confirm that we act for the Australian Competition and Consumer Commission (the **ACCC**) in relation to its investigation into Coles Supermarkets Australia Pty Ltd (**Coles**).

1 Background

- 1.1 The ACCC is conducting an investigation into Coles concerning alleged misrepresentations in the conduct of its pricing promotion known as 'Down Down'. The ACCC is of the view that there is a possibility that the investigation will lead to the ACCC bringing Federal Court proceedings against Coles (the **Proceedings**).
- 1.2 The ACCC has instructed us to engage FTI Consulting (Australia) Pty Ltd (**FTI Consulting**) to provide independent expert advice services on behalf of the ACCC in relation to this matter (the **Services**).

2 Contract of engagement

- 2.1 This letter constitutes a contract between Johnson Winter Slattery and FTI Consulting.
- 2.2 Unless expressly approved by us in writing, all work required by this engagement is to be undertaken personally by Ms Dawna Wright, with support from employees or officers of FTI Consulting under Ms Wright's supervision.

3 Expert Witness Code of Conduct

- 3.1 We have enclosed as **Annexure 1** a copy of the Federal Court of Australia's Practice Note GPN-EXPT, titled 'Expert Evidence Practice Note' dated 25 October 2016 (**Practice Note**).
- 3.2 You should read the Practice Note, and in particular, Annexure A to it, 'Harmonised Expert Code of Conduct' (the **Code of Conduct**), carefully, as these documents set out the duties of expert witnesses and indicate the form that expert reports are to take.
- 3.3 In performing the Services, FTI Consulting and Ms Wright will:
 - (a) do so to a high professional standard;

- (b) act impartially and not conduct itself as an advocate for the case of the ACCC; and
- (c) be familiar with, and at all times act in accordance with the Practice Note, Code of Conduct and any other guidelines relevant to independent expert evidence that Johnson Winter Slattery advise are applicable.

4 Scope of Services

- 4.1 FTI Consulting is engaged to provide the services of Ms Wright, who will act as an independent expert witness for the ACCC in the Proceedings, including to prepare any written reports required setting out an independent expert opinion in respect of certain questions at the appropriate time.
- 4.2 If Ms Wright does provide a written report, Ms Wright may be required to give evidence as an independent expert witness at the trial of the Proceedings, including cross-examination, on the contents of that report.

5 Cost and Fees

- 5.1 We note the fees will be calculated at the following hourly rates (exclusive of GST), up to a maximum of 8 hours per day:

Individual	Hourly Rate (AUD)	Daily Maximum (AUD)
Ms Dawna Wright	\$725	\$5,800
FTI Consulting Managing Director	\$675	\$5,400
FTI Consulting Senior Director	\$625	\$5,000
FTI Consulting Director	\$575	\$4,600
FTI Consulting Senior Consultant	\$530	\$4,240
FTI Consulting Consultant	\$450	\$3,600
FTI Consulting Associate	\$330	\$2,640
FTI Consulting Administration	\$160	\$1,280

- 5.2 Following receipt of signed acceptance of these engagement terms, we will correspond with you regarding an estimate for your anticipated fees for the engagement.
- 5.3 If further funding is required, the ACCC will need to approve a further cost estimate in advance of the work being undertaken. Work is not to be commenced until we have provided written approval, on behalf of the ACCC, of an estimate for the applicable tasks. If at any stage you consider that the level of approved funding is insufficient, please let us know.
- 5.4 Fees and disbursements will only be payable in relation to services actually provided by you within an approved written fee estimate, before the date of any notice of termination (if applicable) or, otherwise, before the completion of your engagement. Johnson Winter Slattery does not accept liability for any fees or disbursements that may be incurred by you in the course of your engagement in excess, or outside the scope of, an approved written fee estimate.
- 5.5 You will submit your invoices by email to me at james.love@jws.com.au. Johnson Winter Slattery will pay your invoices duly rendered by the 25th of the month by electronic transfer within 45 days of receipt.

6 Ownership and copyright

- 6.1 You agree that, except in respect of Existing material as described in clause 6.4 below, title to and ownership of intellectual property (including copyright) in the final version of all reports, and other work product prepared by you in connection with this agreement (the **Contract material**) shall vest in the ACCC, conditional upon Johnson Winter Slattery having paid in full FTI Consulting's fees and expenses in respect of the Services.
- 6.2 You shall ensure that the Contract material, and all materials supplied to you by the ACCC or Johnson Winter Slattery for the purposes of this agreement or copied or derived from material so provided (the **ACCC material**) is used, copied supplied or reproduced only for the purposes of this agreement.
- 6.3 On the expiration or earlier termination of this agreement, you shall deliver to Johnson Winter Slattery all the Contract material and the ACCC material, provided that (subject to any confidentiality obligations) you shall be entitled to retain a copy of such documents that you require to maintain a professional record of your involvement in this agreement.
- 6.4 Paragraph 6.1 does not affect ownership of intellectual property in any material in existence at the commencement of this agreement and developed by you independently of the performance of this agreement (**Existing material**).
- 6.5 FTI Consulting grants to (or will procure for) the ACCC and Johnson Winter Slattery a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, and adapt any Existing material referred to in clause 6.4 in conjunction with the Contract material solely for the purposes associated with the Services provided under this agreement or expressly agreed to by FTI Consulting in writing.
- 6.6 Johnson Winter Slattery and ACCC agree that any advice given or report issued by FTI Consulting is provided solely for use by the ACCC and its agents/contractors and only in connection with the ACCC's role and functions. If, other than in connection with the proceeding, the ACCC is required, or proposes, to disclose the report or any part of it, to any third party other than an agent or contractor of the ACCC, or refer publicly to FTI Consulting's involvement, the ACCC will endeavour to provide FTI with reasonable prior notice whenever possible.

7 Confidentiality

- 7.1 You must keep confidential all information provided to you in connection with this agreement and all advice and reports, memoranda (including drafts, notes and working papers) and other work product prepared by you, provided however, you may disclose confidential or privileged information:
- (a) to your employees, affiliates, contractors, vendors or agents who provide services in connection with this agreement (unless otherwise restrained by a court-ordered confidentiality regime from doing so);
 - (b) with Johnson Winter Slattery's and the ACCC's written consent; or
 - (c) when legally required to do so.
- 7.2 In addition to the above, if requested, employees, affiliates, contractors, vendors or agents of FTI Consulting involved in providing the Services must sign a confidentiality agreement or undertaking in the terms set out in **Annexure 2** to this agreement prior to any disclosure of information to that person.
- 7.3 You shall not object to the disclosure of any confidential information as required by the ACCC for any administrative or statutory review, audit or inquiry (whether within or external

to the ACCC), and any requests for information directed to the ACCC by Parliament or a committee of Parliament of the Commonwealth of Australia.

7.4 In the event of the ACCC receiving a request under the *Freedom of Information Act 1982*, and upon request by the ACCC, you must promptly provide to the ACCC copies of all documents created by you or in your possession that relate to the performance of this agreement.

7.5 Clauses 7.1 to 7.4 survive the expiration or termination of this contract.

8 Legal professional privilege

8.1 All communications between you and Johnson Winter Slattery, the ACCC, or barristers engaged to represent the ACCC, including any written materials, may be subject to legal professional privilege, and must be treated as confidential.

8.2 It is a further condition of your engagement that, on its termination, you will return to us or destroy all materials provided to you for the purpose of forming your opinion and preparing your report, provided that (subject to any confidentiality obligations) you shall be entitled to retain one copy of such documents that you require to maintain a professional record of your involvement in the performance of this agreement.

8.3 You are not authorised to use any information provided to you, this letter or any enclosures other than for the purpose of your engagement.

9 Conflict of interest

9.1 We confirm your advice that to the best of your knowledge after making diligent inquiry, no conflicts of interest exist in the performance of the Services.

9.2 You agree to notify Johnson Winter Slattery promptly should a conflict of interest arise in the future. Johnson Winter Slattery acknowledges that the extent of such notice may be circumscribed by FTI Consulting's confidentiality obligations to its other clients.

10 Professional indemnity insurance

10.1 You must have in place as at the date of the signing this agreement and maintain thereafter for the required period stated below, professional indemnity insurance covering work performed in connection with this matter, with an indemnity of not less than AUD \$1 million.

10.2 The required period is until three years after the conclusion of the provision of services under this agreement.

10.3 On request, you must provide or cause to be provided to Johnson Winter Slattery proof that the required insurance has been taken out and a copy of the relevant certificate of coverage.

11 Scope of legal liability

11.1 FTI Consulting's liability for losses, damages, liabilities, suits and claims suffered by any person in connection with the provision of Services under this agreement shall not exceed, in aggregate, the amount of the fees paid to FTI Consulting by Johnson Winter Slattery for the Services, with the exception of liability covered by the indemnity in clause 11.3.

11.2 In no event shall FTI be liable for any incidental, indirect, special or consequential damages whatsoever that may be suffered or incurred by ACCC or Johnson Winter Slattery or any person or entity affiliated or associated with such person.

11.3 You agree to indemnify Johnson Winter Slattery for any loss or expense incurred by Johnson Winter Slattery or the ACCC in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or

disbursements paid by Johnson Winter Slattery or the ACCC arising from an act or omission involving fault on the part of you or your officers or employees in connection with this agreement.

- 11.4 Your liability to indemnify Johnson Winter Slattery under clause 11.3 will be reduced proportionately to the extent that any act or omission involving fault on the part of Johnson Winter Slattery or its officers or employees, or the ACCC or its officers or employees contributed to the relevant loss, damage, cost or liability.
- 11.5 The right of Johnson Winter Slattery to be indemnified under clause 11.3 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but Johnson Winter Slattery is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, or expense.
- 11.6 To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against Johnson Winter Slattery or the ACCC under or in connection with this agreement.
- 11.7 Paragraphs 11.1 to 11.6 survive the expiration or termination of this agreement.

12 Termination

- 12.1 Johnson Winter Slattery may, by notice in writing, at any time and in its absolute discretion, terminate FTI Consulting's engagement or reduce the scope of the Services. Fees will only be payable in relation to services provided before the date of notice of termination.

13 Applicable law

- 13.1 This agreement is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory. The parties submit to the jurisdiction of the courts of the Australian Capital Territory.

14 Acceptance of terms

- 14.1 If the above terms are accepted, please sign and date a copy of this letter below and return it to us by email. If you have any queries, please contact me on +61 (0)409 288 531 or by email at james.love@jws.com.au.

Yours faithfully

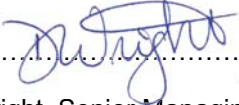


James Love

Partner

Date: 15 March 2024

I agree to accept engagement on the above terms

.....


Dawna Wright, Senior Managing Director of FTI Consulting Pty Ltd

Date: 15 March 2024

JOHNSON | WINTER | SLATTERY

ANNEXURE 1

GPN-EXPT – EXPERT EVIDENCE PRACTICE NOTE

Expert Evidence Practice Note (GPN-EXPT)

J L B Allsop, Chief Justice 25 October 2016

General Practice Note

1. Introduction

1.1 This practice note, including the *Harmonised Expert Witness Code of Conduct* ("**Code**") (see **Annexure A**) and the *Concurrent Expert Evidence Guidelines* ("**Concurrent Evidence Guidelines**") (see **Annexure B**), applies to any proceeding involving the use of expert evidence and must be read together with:

- (a) the Central Practice Note (CPN-1), which sets out the fundamental principles concerning the National Court Framework ("**NCF**") of the Federal Court and key principles of case management procedure;
- (b) the Federal Court of Australia Act 1976 (Cth) ("**Federal Court Act**");
- (c) the Evidence Act 1995 (Cth) ("**Evidence Act**"), including Part 3.3 of the Evidence Act;
- (d) Part 23 of the Federal Court Rules 2011 (Cth) ("**Federal Court Rules**"); and
- (e) where applicable, the Survey Evidence Practice Note (GPN-SURV).

1.2 This practice note takes effect from the date it is issued and, to the extent practicable, applies to proceedings whether filed before, or after, the date of issuing.

2. Approach to Expert Evidence

2.1 An expert witness may be retained to give opinion evidence in the proceeding, or, in certain circumstances, to express an opinion that may be relied upon in alternative dispute resolution procedures such as mediation or a conference of experts. In some circumstances an expert may be appointed as an independent adviser to the Court.

2.2 The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience - see generally s 79 of the Evidence Act).

2.3 However, the use or admissibility of expert evidence remains subject to the overriding requirements that:

(a) to be admissible in a proceeding, any such evidence must be relevant (s 56 of the Evidence Act); and

(b) even if relevant, any such evidence, may be refused to be admitted by the Court if its probative value is outweighed by other considerations such as the evidence being unfairly prejudicial, misleading or will result in an undue waste of time (s 135 of the Evidence Act).

2.4 An expert witness' opinion evidence may have little or no value unless the assumptions adopted by the expert (ie. the facts or grounds relied upon) and his or her reasoning are expressly stated in any written report or oral evidence given.

2.5 The Court will ensure that, in the interests of justice, parties are given a reasonable opportunity to adduce and test relevant expert opinion evidence. However, the Court expects parties and any legal representatives acting on their behalf, when dealing with expert witnesses and expert evidence, to at all times comply with their duties associated with the overarching purpose in the Federal Court Act (see ss 37M and 37N).

3. Interaction with Expert Witnesses

3.1 Parties and their legal representatives should never view an expert witness retained (or partly retained) by them as that party's advocate or "hired gun". Equally, they should never attempt to pressure or influence an expert into conforming his or her views with the party's interests.

3.2 A party or legal representative should be cautious not to have inappropriate communications when retaining or instructing an independent expert, or assisting an independent expert in the preparation of his or her evidence. However, it is important to note that there is no principle of law or practice and there is nothing in this practice note that obliges a party to embark on the costly task of engaging a "consulting expert" in order to avoid "contamination" of the expert who will give evidence. Indeed the Court would generally discourage such costly duplication.

3.3 Any witness retained by a party for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based in the specialised knowledge of the witness^[1] should, at the earliest opportunity, be provided with:

(a) a copy of this practice note, including the Code (see Annexure A); and

(b) all relevant information (whether helpful or harmful to that party's case) so as to enable the expert to prepare a report of a truly independent nature.

3.4 Any questions or assumptions provided to an expert should be provided in an unbiased manner and in such a way that the expert is not confined to addressing selective, irrelevant or immaterial issues.

4. Role and Duties of the Expert Witness

4.1 The role of the expert witness is to provide relevant and impartial evidence in his or her area of expertise. An expert should never mislead the Court or become an advocate for the cause of the party that has retained the expert.

4.2 It should be emphasised that there is nothing inherently wrong with experts disagreeing or failing to reach the same conclusion. The Court will, with the assistance of the evidence of the experts, reach its own conclusion.

4.3 However, experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.

Harmonised Expert Witness Code of Conduct

4.4 Every expert witness giving evidence in this Court must read the *Harmonised Expert Witness Code of Conduct* (attached in [Annexure A](#)) and agree to be bound by it.

4.5 The Code is not intended to address all aspects of an expert witness' duties, but is intended to facilitate the admission of opinion evidence, and to assist experts to understand in general terms what the Court expects of them. Additionally, it is expected that compliance with the Code will assist individual expert witnesses to avoid criticism (rightly or wrongly) that they lack objectivity or are partisan.

5. Contents of an Expert's Report and Related Material

5.1 The contents of an expert's report must conform with the requirements set out in the Code (including clauses 3 to 5 of the Code).

5.2 In addition, the contents of such a report must also comply with r 23.13 of the [Federal Court Rules](#). Given that the requirements of that rule significantly overlap with the requirements in the Code, an expert, unless otherwise directed by the Court, will be taken to have complied with the requirements of r 23.13 if that expert has complied with the requirements in the Code and has complied with the additional following requirements. The expert shall:

(a) acknowledge in the report that:

(i) the expert has read and complied with this practice note and agrees to be bound by it; and

(ii) the expert's opinions are based wholly or substantially on specialised knowledge arising from the expert's training, study or experience;

(b) identify in the report the questions that the expert was asked to address;

(c) sign the report and attach or exhibit to it copies of:

(i) documents that record any instructions given to the expert; and

(ii) documents and other materials that the expert has been instructed to consider.

5.3 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the other parties at the same time as the expert's report.

6. Case Management Considerations

6.1 Parties intending to rely on expert evidence at trial are expected to consider between them and inform the Court at the earliest opportunity of their views on the following:

- (a) whether a party should adduce evidence from more than one expert in any single discipline;
- (b) whether a common expert is appropriate for all or any part of the evidence;
- (c) the nature and extent of expert reports, including any in reply;
- (d) the identity of each expert witness that a party intends to call, their area(s) of expertise and availability during the proposed hearing;
- (e) the issues that it is proposed each expert will address;
- (f) the arrangements for a conference of experts to prepare a joint-report (see Part 7 of this practice note);
- (g) whether the evidence is to be given concurrently and, if so, how (see Part 8 of this practice note); and
- (h) whether any of the evidence in chief can be given orally.

6.2 It will often be desirable, before any expert is retained, for the parties to attempt to agree on the question or questions proposed to be the subject of expert evidence as well as the relevant facts and assumptions. The Court may make orders to that effect where it considers it appropriate to do so.

7. Conference of Experts and Joint-report

7.1 Parties, their legal representatives and experts should be familiar with aspects of the Code relating to conferences of experts and joint-reports (see clauses 6 and 7 of the Code attached in Annexure A).

7.2 In order to facilitate the proper understanding of issues arising in expert evidence and to manage expert evidence in accordance with the overarching purpose, the Court may require experts who are to give evidence or who have produced reports to meet for the purpose of identifying and addressing the issues not agreed between them with a view to reaching agreement where this is possible ("conference of experts"). In an appropriate case, the Court may appoint a registrar of the Court or some other suitably qualified person ("Conference Facilitator") to act as a facilitator at the conference of experts.

7.3 It is expected that where expert evidence may be relied on in any proceeding, at the earliest opportunity, parties will discuss and then inform the Court whether a conference of experts and/or a joint-report by the experts may be desirable to assist with or simplify the giving of expert evidence in the proceeding. The parties should discuss the necessary arrangements for any conference and/or joint-report. The arrangements discussed between the parties should address:

- (a) who should prepare any joint-report;

(b) whether a list of issues is needed to assist the experts in the conference and, if so, whether the Court, the parties or the experts should assist in preparing such a list;

(c) the agenda for the conference of experts; and

(d) arrangements for the provision, to the parties and the Court, of any joint-report or any other report as to the outcomes of the conference ("**conference report**").

Conference of Experts

7.4 The purpose of the conference of experts is for the experts to have a comprehensive discussion of issues relating to their field of expertise, with a view to identifying matters and issues in a proceeding about which the experts agree, partly agree or disagree and why. For this reason the conference is attended only by the experts and any Conference Facilitator. Unless the Court orders otherwise, the parties' lawyers will not attend the conference but will be provided with a copy of any conference report.

7.5 The Court may order that a conference of experts occur in a variety of circumstances, depending on the views of the judge and the parties and the needs of the case, including:

(a) while a case is in mediation. When this occurs the Court may also order that the outcome of the conference or any document disclosing or summarising the experts' opinions be confidential to the parties while the mediation is occurring;

(b) before the experts have reached a final opinion on a relevant question or the facts involved in a case. When this occurs the Court may order that the parties exchange draft expert reports and that a conference report be prepared for the use of the experts in finalising their reports;

(c) after the experts' reports have been provided to the Court but before the hearing of the experts' evidence. When this occurs the Court may also order that a conference report be prepared (jointly or otherwise) to ensure the efficient hearing of the experts' evidence.

7.6 Subject to any other order or direction of the Court, the parties and their lawyers must not involve themselves in the conference of experts process. In particular, they must not seek to encourage an expert not to agree with another expert or otherwise seek to influence the outcome of the conference of experts. The experts should raise any queries they may have in relation to the process with the Conference Facilitator (if one has been appointed) or in accordance with a protocol agreed between the lawyers prior to the conference of experts taking place (if no Conference Facilitator has been appointed).

7.7 Any list of issues prepared for the consideration of the experts as part of the conference of experts process should be prepared using non-tendentious language.

7.8 The timing and location of the conference of experts will be decided by the judge or a registrar who will take into account the location and availability of the experts and the Court's case management timetable. The conference may take place at the Court and will usually be conducted in-person. However, if not considered a hindrance to the process, the conference may also be conducted with the assistance of visual or audio technology (such as via the internet, video link and/or by telephone).

7.9 Experts should prepare for a conference of experts by ensuring that they are familiar with all of the material upon which they base their opinions. Where expert reports in draft or final form have been exchanged prior to the conference, experts should attend the conference familiar with the reports of the other experts. Prior to the conference, experts should also consider where they believe the differences of opinion lie between them and what processes and discussions may assist to identify and refine those areas of difference.

Joint-report

7.10 At the conclusion of the conference of experts, unless the Court considers it unnecessary to do so, it is expected that the experts will have narrowed the issues in respect of which they agree, partly agree or disagree in a joint-report. The joint-report should be clear, plain and concise and should summarise the views of the experts on the identified issues, including a succinct explanation for any differences of opinion, and otherwise be structured in the manner requested by the judge or registrar.

7.11 In some cases (and most particularly in some native title cases), depending on the nature, volume and complexity of the expert evidence a judge may direct a registrar to draft part, or all, of a conference report. If so, the registrar will usually provide the draft conference report to the relevant experts and seek their confirmation that the conference report accurately reflects the opinions of the experts expressed at the conference. Once that confirmation has been received the registrar will finalise the conference report and provide it to the intended recipient(s).

8. Concurrent Expert Evidence

8.1 The Court may determine that it is appropriate, depending on the nature of the expert evidence and the proceeding generally, for experts to give some or all of their evidence concurrently at the final (or other) hearing.

8.2 Parties should familiarise themselves with the *Concurrent Expert Evidence Guidelines* (attached in [Annexure B](#)). The Concurrent Evidence Guidelines are not intended to be exhaustive but indicate the circumstances when the Court might consider it appropriate for concurrent expert evidence to take place, outline how that process may be undertaken, and assist experts to understand in general terms what the Court expects of them.

8.3 If an order is made for concurrent expert evidence to be given at a hearing, any expert to give such evidence should be provided with the Concurrent Evidence Guidelines well in advance of the hearing and should be familiar with those guidelines before giving evidence.

9. Further Practice Information and Resources

9.1 Further information regarding [Expert Evidence and Expert Witnesses](#) is available on the Court's website.

9.2 Further [information to assist litigants](#), including a range of helpful [guides](#), is also available on the Court's website. This information may be particularly helpful for litigants who are representing themselves.

J L B ALLSOP
Chief Justice
25 October 2016

Annexure A

Harmonised Expert Witness Code of Conduct^[2]

Application of Code

1. This Code of Conduct applies to any expert witness engaged or appointed:

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings; or
- (b) to give opinion evidence in proceedings or proposed proceedings.

General Duties to the Court

2. An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Court impartially on matters relevant to the area of expertise of the witness.

Content of Report

3. Every report prepared by an expert witness for use in Court shall clearly state the opinion or opinions of the expert and shall state, specify or provide:

- (a) the name and address of the expert;
- (b) an acknowledgment that the expert has read this code and agrees to be bound by it;
- (c) the qualifications of the expert to prepare the report;
- (d) the assumptions and material facts on which each opinion expressed in the report is based [a letter of instructions may be annexed];
- (e) the reasons for and any literature or other materials utilised in support of such opinion;
- (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that

no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the Court;

(j) any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;

(k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and

(l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

Supplementary Report Following Change of Opinion

4. Where an expert witness has provided to a party (or that party's legal representative) a report for use in Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i), (j), (k) and (l) of clause 3 of this code and, if applicable, paragraph (f) of that clause.

5. In any subsequent report (whether prepared in accordance with clause 4 or not) the expert may refer to material contained in the earlier report without repeating it.

Duty to Comply with the Court's Directions

6. If directed to do so by the Court, an expert witness shall:

(a) confer with any other expert witness;

(b) provide the Court with a joint-report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing; and

(c) abide in a timely way by any direction of the Court.

Conference of Experts

7. Each expert witness shall:

(a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement; and

(b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.

Annexure B

Concurrent Expert Evidence Guidelines

Application of the Court's Guidelines

1. The Court's Concurrent Expert Evidence Guidelines ("**Concurrent Evidence Guidelines**") are intended to inform parties, practitioners and experts of the Court's general approach to concurrent expert evidence, the circumstances in which the Court might consider expert witnesses giving evidence concurrently and, if so, the procedures by which their evidence may be taken.

Objectives of Concurrent Expert Evidence Technique

2. The use of concurrent evidence for the giving of expert evidence at hearings as a case management technique^[3] will be utilised by the Court in appropriate circumstances (see r 23.15 of the Federal Court Rules 2011 (Cth)). Not all cases will suit the process. For instance, in some patent cases, where the entire case revolves around conflicts within fields of expertise, concurrent evidence may not assist a judge. However, patent cases should not be excluded from concurrent expert evidence processes.

3. In many cases the use of concurrent expert evidence is a technique that can reduce the partisan or confrontational nature of conventional hearing processes and minimises the risk that experts become "opposing experts" rather than independent experts assisting the Court. It can elicit more precise and accurate expert evidence with greater input and assistance from the experts themselves.

4. When properly and flexibly applied, with efficiency and discipline during the hearing process, the technique may also allow the experts to more effectively focus on the critical points of disagreement between them, identify or resolve those issues more quickly, and narrow the issues in dispute. This can also allow for the key evidence to be given at the same time (rather than being spread across many days of hearing); permit the judge to assess an expert more readily, whilst allowing each party a genuine opportunity to put and test expert evidence. This can reduce the chance of the experts, lawyers and the judge misunderstanding the opinions being expressed by the experts.

5. It is essential that such a process has the full cooperation and support of all of the individuals involved, including the experts and counsel involved in the questioning process. Without that cooperation and support the process may fail in its objectives and even hinder the case management process.

Case Management

6. Parties should expect that, the Court will give careful consideration to whether concurrent evidence is appropriate in circumstances where there is more than one expert witness having the same expertise who is to give evidence on the same or related topics. Whether experts should give evidence concurrently is a matter for the Court, and will depend on the circumstances of each individual case, including the character of the proceeding, the nature of the expert evidence, and the views of the parties.

7. Although this consideration may take place at any time, including the commencement of the hearing, if not raised earlier, parties should raise the issue of concurrent evidence at the first appropriate case management hearing, and no later than any pre-trial case management hearing,

so that orders can be made in advance, if necessary. To that end, prior to the hearing at which expert evidence may be given concurrently, parties and their lawyers should confer and give general consideration as to:

- (a) the agenda;
- (b) the order and manner in which questions will be asked; and
- (c) whether cross-examination will take place within the context of the concurrent evidence or after its conclusion.

8. At the same time, and before any hearing date is fixed, the identity of all experts proposed to be called and their areas of expertise is to be notified to the Court by all parties.

9. The lack of any concurrent evidence orders does not mean that the Court will not consider using concurrent evidence without prior notice to the parties, if appropriate.

Conference of Experts & Joint-report or List of Issues

10. The process of giving concurrent evidence at hearings may be assisted by the preparation of a joint-report or list of issues prepared as part of a conference of experts.

11. Parties should expect that, where concurrent evidence is appropriate, the Court may make orders requiring a conference of experts to take place or for documents such as a joint-report to be prepared to facilitate the concurrent expert evidence process at a hearing (see Part 7 of the Expert Evidence Practice Note).

Procedure at Hearing

12. Concurrent expert evidence may be taken at any convenient time during the hearing, although it will often occur at the conclusion of both parties' lay evidence.

13. At the hearing itself, the way in which concurrent expert evidence is taken must be applied flexibly and having regard to the characteristics of the case and the nature of the evidence to be given.

14. Without intending to be prescriptive of the procedure, parties should expect that, when evidence is given by experts in concurrent session:

- (a) the judge will explain to the experts the procedure that will be followed and that the nature of the process may be different to their previous experiences of giving expert evidence;
- (b) the experts will be grouped and called to give evidence together in their respective fields of expertise;
- (c) the experts will take the oath or affirmation together, as appropriate;

(d) the experts will sit together with convenient access to their materials for their ease of reference, either in the witness box or in some other location in the courtroom, including (if necessary) at the bar table;

(e) each expert may be given the opportunity to provide a summary overview of their current opinions and explain what they consider to be the principal issues of disagreement between the experts, as they see them, in their own words;

(f) the judge will guide the process by which evidence is given, including, where appropriate:

(i) using any joint-report or list of issues as a guide for all the experts to be asked questions by the judge and counsel, about each issue on an issue-by-issue basis;

(ii) ensuring that each expert is given an adequate opportunity to deal with each issue and the exposition given by other experts including, where considered appropriate, each expert asking questions of other experts or supplementing the evidence given by other experts;

(iii) inviting legal representatives to identify the topics upon which they will cross-examine;

(iv) ensuring that legal representatives have an adequate opportunity to ask all experts questions about each issue. Legal representatives may also seek responses or contributions from one or more experts in response to the evidence given by a different expert; and

(v) allowing the experts an opportunity to summarise their views at the end of the process where opinions may have been changed or clarifications are needed.

15. The fact that the experts may have been provided with a list of issues for consideration does not confine the scope of any cross-examination of any expert. The process of cross-examination remains subject to the overall control of the judge.

16. The concurrent session should allow for a sensible and orderly series of exchanges between expert and expert, and between expert and lawyer. Where appropriate, the judge may allow for more traditional cross-examination to be pursued by a legal representative on a particular issue exclusively with one expert. Where that occurs, other experts may be asked to comment on the evidence given.

17. Where any issue involves only one expert, the party wishing to ask questions about that issue should let the judge know in advance so that consideration can be given to whether arrangements should be made for that issue to be dealt with after the completion of the concurrent session. Otherwise, as far as practicable, questions (including in the form of cross-examination) will usually be dealt with in the concurrent session.

18. Throughout the concurrent evidence process the judge will ensure that the process is fair and effective (for the parties and the experts), balanced (including not permitting one expert to overwhelm or overshadow any other expert), and does not become a protracted or inefficient process.

[1] Such a witness includes a "Court expert" as defined in r 23.01 of the Federal Court Rules. For the definition of "expert", "expert evidence" and "expert report" see the Dictionary, in Schedule 1 of the Federal Court Rules.

[2] Approved by the Council of Chief Justices' Rules Harmonisation Committee

[3] Also known as the "hot tub" or as "expert panels".

ANNEXURE 2

DEED POLL - CONFIDENTIALITY UNDERTAKING

I, of
[name]

.....
[Company name and address]

- (a) acknowledge that all information and material provided by Johnson Winter Slattery or the Australian Competition and Consumer Commission (the **ACCC**) for the purposes of the provision of independent expert services by FTI Consulting pursuant to their engagement as an expert was provided by Johnson Winter Slattery or the ACCC in confidence;
- (b) undertake to Johnson Winter Slattery and the ACCC:
 - (i) to use such information only for the purposes of the services; and
 - (ii) not to disclose, publish or communicate to any other person or otherwise make public:
 - (A) any such information or material provided by Johnson Winter Slattery or the ACCC; and
 - (B) any information produced in connection with or by the performance of the services;

except as permitted by the terms of the Engagement for Provision of Independent Expert Services or otherwise with the prior approval in writing of the ACCC.

Executed as a Deed Poll:

Signed, Sealed and Delivered by:

Name:

Signature:

Witnessed by:

Witness Name:

Witness Signature:

ANNEXURE A2

JOHNSON | WINTER | SLATTERY

Partner: James Love +61 3 8611 1339
Email: james.love@jws.com.au
Our Ref: D2522
Doc ID: 304695472.9

30 August 2024

Privileged & Confidential

Ms Dawna Wright
Senior Managing Director
FTI Consulting
Bourke Place
Level 50/600 Bourke Street
MELBOURNE VIC 3000

BY EMAIL Dawna.Wright@fticonsulting.com

Dear Ms Wright

Australian Competition and Consumer Commission (ACCC) in the matter of Coles Supermarkets Australia Pty Ltd (Coles)

- 1 We refer to your letter of engagement dated 15 March 2024, and to your initial brief in this matter dated 24 May 2024 (**Initial Brief**).
- 2 Unless defined in this document, capitalised words have the meaning described in the December 2023 Notice (as varied on 21 February 2024) as defined and provided at tab 13 of your Initial Brief.

Further materials

- 3 Enclosed is a further brief of documents (**Further Brief**), as set out in the index appearing at **Annexure 1** to this letter.
- 4 The documents referred to in Annexure 1 may be downloaded at the following link:
<https://www.imanageshare-au.com/pd/Ald0lh5fpwZ>

Instructions

- 5 You are instructed to analyse the datasets identified at **Annexure 1** to identify, for each Relevant Product¹ and each day of the Relevant Period² (**Relevant Day**):
 - (a) the daily national Ticket Price (GST inclusive) for each Relevant Product on each Relevant Day, or your best estimate thereof (the **Daily Ticket Price**); and

¹ As identified at Tab (a) of the Further Brief.

² Being 1 January 2021 to 4 May 2024.

(b) whether the product was on promotion and the nature of that promotion,

in order to prepare a spreadsheet containing the result of that analysis, and graphs and tables for each of the Relevant Products which set out your findings in respect of subparagraphs (a) and (b) above.

6 In respect of the spreadsheet containing the results of the analysis, you are instructed to prepare it in the following form:

Product ID	Product Description	Date	Price	Normal or Promotion	Promotion Type	Source of Price	Price (BiW rounded)	Promotion Type (simplified)
------------	---------------------	------	-------	---------------------	----------------	-----------------	---------------------	-----------------------------

7 The column entitled:

- (a) "Price" will identify the Daily Ticket Price for the Relevant Product;
- (b) "Source of Price" will identify the source for the values in the "Price" column and corresponding "Promotion Type" column (for example, "State Representative R10 data"³); and
- (c) "Price (BiW rounded)" will where the value in the "Source of Price" column comprises:
 - (i) a BiW dataset, contain the value in the "Price" column rounded to the nearest 5 cents; and
 - (ii) an R10 dataset, contain the (non-rounded) value in the "Price" column; and
- (d) "Promotion Type (simplified)" will, if the value in the "Promotion Type" column is:
 - (i) "Value (Excl FP)", "Value Ring" or "Simple", contain the value "Special"; and
 - (ii) "Every Day" or "Everyday", contain the value "Everyday Value".

Otherwise, the "Promotion Type (simplified)" column will contain the value in the "Promotion Type" column.

8 In preparing your "best estimate" of the Daily Ticket Price for each Relevant Product on each Relevant Day, you are instructed to:

- (a) rely upon the datasets briefed in the Further Brief (and listed in **Annexure 1**) as your only sources of data;
- (b) assume that:
 - (i) where R10 data is available, the R10 data accurately records the actual Ticket Price of products sold; and
 - (ii) where R10 data is *not* available, but BiW data *is* available, the Daily Ticket Price is expected to be the price at which each Relevant Product was most commonly sold on each Relevant Day, as recorded in the BiW data; and

³ See Annexure 1 below.

- (c) consider the example methodology set out at **Annexure 2** to this letter (the **Example Methodology**).

9 In respect of the tables and graphs, you are instructed to:

- (a) for all prices, tabulate and depict the values in the “Price (BiW rounded)” column; and
- (b) for promotions and the nature of promotions, tabulate and depict the values in the “Promotion Type (simplified)” column.

10 The ACCC understands from Coles that the detailed Example Methodology is a methodology which has previously been applied for the purposes of conducting analysis of the kind you are now instructed to conduct. You are instructed to consider whether it is appropriate to follow that methodology, and if you consider it is, to do so. If, however, you consider it is appropriate to deviate from that detailed methodology in any way, please identify the nature of such deviation(s) and also provide an explanation for why you have done so.

11 Of course, please let us know if you have any questions or concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Love', written in a cursive style.

James Love
Partner

Annexure 1 – Further brief of documents

Data type	Description	Is GST included or excluded	File name	Document ID
(a) List of Relevant Products	A list of 284 SKUs that comprise the Relevant Products, including their SKU ID and description.	N/A	Coles Supermarkets Australia Pty Ltd - Annexure A to s 155(1)(a) and (b) Notice - December 2023.xlsx	COL.500.040.0041
(b) GST table	A table outlining the GST applicable to the Relevant Products at the Berwick store.	N/A	Attachment 6 - GST applicable to Down Down items.xlsx	COL.500.040.0036
(c) State Representative R10 data	State level ticket price information including the price and promotion details (where relevant) for the representative store in each of TAS, VIC, SA, NSW, QLD and WA.	Inclusive	Attachment 2 - Data for Relevant Products from R10 (State Rep Stores).xlsx	COL.500.040.0019
(d) Eden Rise R10 data	Ticket price information including price and promotion details (where relevant) in respect of the Eden Rise store in Berwick, Victoria. This is denoted in the final spreadsheet as 'Berwick ticket prices (R10)'.	Inclusive	Attachment 7 - 20230705_DownDownProducts_AllHistory 9.21am R10 (Berwick).xlsx	COL.500.040.0042

Data type	Description	Is GST included or excluded	File name	Document ID
(e) State level BiW data	State level transaction data from Coles' Business Information Warehouse (BiW) (for each state), including the actual price at which products were sold, whether there was a promotion, the promotion type, and quantity sold on any given day.	Inclusive	acc_c_ful_extrct_20240517.csv	COL.500.040.0008
(f) BiW data from six Victorian stores	Store level transaction data from BiW in respect of the Eden Rise, Moonee Ponds, Southland, Elsternwick, Taylors Hill and Coburg North stores.	Exclusive	Attachment 2 - Item_Information_08JUN2021_31DEC2021 (Berwick).csv	COL.500.040.0020
			Attachment 3 - Item_Information_01JAN2022_30JUN2022 (Berwick).csv	COL.500.040.0031
			Attachment 4 - Item_Information_01JUL2022_31DEC2022 (Berwick).csv	COL.500.040.0034
			Attachment 5 - Item_Information_01JAN2023_07JUN2023 (Berwick).csv	COL.500.040.0035

Data type	Description	Is GST included or excluded	File name	Document ID
			Attachment 6 - Item_Information_06JUL2021_04JUL2023_Additional items (Berwick).xlsx	COL.500.040.0037
			Attachment 7 - store 667 (Moonee Ponds)_01JAN21- 07JUN21.csv	COL.500.040.0038
			Attachment 8 - store 667 (Moonee Ponds)_01JAN22- 30JUN22.csv	COL.500.040.0039
			Attachment 9 - store 667 (Moonee Ponds)_01JAN23- 04MAY23.csv	COL.500.040.0040
			Attachment 10 - store 667 (Moonee Ponds)_01JUL22- 31DEC22.csv	COL.500.040.0009
			Attachment 11 - store 667 (Moonee Ponds)_08JUN21- 31DEC21.csv	COL.500.040.0010
			Attachment 12 - store 669 (Southland)_01JAN21- 07JUN21.csv	COL.500.040.0011
			Attachment 13 - store 669 (Southland)_01JAN22- 30JUN22.csv	COL.500.040.0012
			Attachment 14 - store 669 (Southland)_01JAN23- 04MAY23.csv	COL.500.040.0013
			Attachment 15 - store 669 (Southland)_01JUL22- 31DEC22.csv	COL.500.040.0014
			Attachment 16 - store 669 (Southland)_08JUN21- 31DEC21.csv	COL.500.040.0015

Data type	Description	Is GST included or excluded	File name	Document ID
			Attachment 17 - store 7757 (Elsternwick)_01JAN21- 07JUN21.csv	COL.500.040.0016
			Attachment 18 - store 7757 (Elsternwick)_01JAN22- 30JUN22.csv	COL.500.040.0017
			Attachment 19 - store 7757 (Elsternwick)_01JAN23- 04MAY23.csv	COL.500.040.0018
			Attachment 20 - store 7757 (Elsternwick)_01JUL22- 31DEC22.csv	COL.500.040.0021
			Attachment 21 - store 7757 (Elsternwick)_08JUN21- 31DEC21.csv	COL.500.040.0022
			Attachment 22 - store 7841 (Taylors Hill)_01JAN21- 07JUN21.csv	COL.500.040.0023
			Attachment 23 - store 7841 (Taylors Hill)_01JAN22- 30JUN22.csv	COL.500.040.0024
			Attachment 24 - store 7841 (Taylors Hill)_01JAN23- 04MAY23.csv	COL.500.040.0025
			Attachment 25 - store 7841 (Taylors Hill)_01JUL22- 31DEC22.csv	COL.500.040.0026
			Attachment 26 - store 7841 (Taylors Hill)_08JUN21- 31DEC21.csv	COL.500.040.0027
			Attachment 27 - store 7919 (Coburg North)_01JAN21- 07JUN21.csv	COL.500.040.0028

Data type	Description	Is GST included or excluded	File name	Document ID
			Attachment 28 - store 7919 (Coburg North)_01JAN22- 30JUN22.csv	COL.500.040.0029
			Attachment 29 - store 7919 (Coburg North)_01JAN23- 04MAY23.csv	COL.500.040.0030
			Attachment 30 - store 7919 (Coburg North)_01JUL22- 31DEC22.csv	COL.500.040.0032
			Attachment 31 - store 7919 (Coburg North)_08JUN21- 31DEC21.csv	COL.500.040.0033

Annexure 2 – Methodology

A possible methodology to prepare each dataset, which includes consideration of the assumptions and instructions referred to at **Annexure 3**, is as follows.

Note that:

1. **Annexure 3** identifies assumptions and instructions that may be applied in relation to certain observations provided by Coles about the data;
2. **Annexure 4** lists the sale types to be excluded from the BiW data provided;
3. **Annexure 5** lists the products considered as relevant for state-based pricing due to Container Deposit Scheme, and is used to assist with analysing selling prices above the highest quantity selling prices from the BiW sales data; and
4. **Annexure 6** contains explanations of the relevant fields and unique values in each dataset.

Data hierarchy

Given there is no single data source that provides all the required data, the following data hierarchy is used when populating the results for each of the Relevant Products across each day in the Relevant Period:

1. State representative ticket prices (R10) (inclusive of GST) – filtered for VIC prices only.
2. Berwick ticket prices (R10) (inclusive of GST).
3. State level sales data from BiW (inclusive of GST) - filtered for VIC prices only and selecting the price with the highest quantity sold for a given product and day after filtering for relevant sale types.
4. Six VIC store level sales data from BiW (exclusive of GST) with GST applied and selecting the price with the highest quantity sold for a given product and day after filtering for relevant sale types.
5. If date gaps remain after applying the data hierarchy above, and the date gap is less than 7 days with the price immediately before and after the gap being within \$0.05 (exclusive), then estimate the missing price based on the price of the same product on the date immediately before the gap.
6. Any remaining gaps (after applying step 1 to 5 above) will be labelled as “Not available”.

State representative ticket prices (R10)

1. Filter for VIC state prices (where the [Store Name] data column is "Vic SRS").
2. Filter for the Relevant Products based on the [Product] data column.
3. Determine date based on the [Price Start] and [Price End] data columns. Note that only the date is considered in this analysis and prices are assumed to be updated at the start of the day (i.e. time is ignored).
4. Create the [Source of Price] result column and set it to "VIC representative ticket prices (R10)"
5. Create the [R10 – Selling Price] result column and set it equal to the [Selling Price] data column.
6. Create the [R10 – Sale Type] result column and set it to the following:

- “Normal Sales” if [Price Type] equals “N”
 - “Promotional Sales” if [Price Type] equals “P”
 - “Reduced to Clear” if [Price Type] equals “R” No other values exist in this field.
7. Create the [R10 - Promotion type] result column and set it equal to the [Prom Type] data column.
 8. Create the “VIC representative ticket prices (R10)” price summary table showing each product and date combination with the relevant sale type, promotion type and selling price as determined by the logic above.

Example extract shown below:

Product	Date	R10 – Sale Type	R10 – Promotion Type	R10 – Selling Price	Source of Price
XXXXXXX	DD-MM-YYYY	Normal Sales	Not on Prom	\$X.XX	VIC representative ticket prices (R10)
XXXXXXX	DD-MM-YYYY	Promotional Sales	Down Down	\$X.XX	VIC representative ticket prices (R10)

Note: no filter is applied to the sale or promotion type in the R10 data.

Berwick ticket prices (R10)

1. Filter for the Relevant Products based on the [ProductId] data column.
2. Determine date based on the [Start Date] and [End Date] column. Note that only the date is considered in this analysis and prices are assumed to be updated at the start of the day (i.e. time is ignored).
3. Create the [Source of Price] result column and set it to “Berwick ticket prices (R10)”.
4. Create the [R10 – Selling Price] result column and set it equal to the [Sell Price] data column.
5. Set the [R10 – Sale Type] result column and set it to the following:
 - “Normal Sales” if [Prom Type] equals “Not on Prom”
 - “Reduced to Clear” if [Prom Type] equals “Clearance”
 - Otherwise set as “Promotional Sales”
6. Create the [R10 - Promotion type] result column and set it equal to the [Prom Type] data column.
7. Create the “Berwick ticket prices (R10)” price summary table showing each product and date combination with the relevant sale type, promotion type and selling price as determined by the logic above.

Example extract shown below:

Product	Date	R10 – Sale Type	R10 – Promotion Type	R10 – Selling Price	Source of Price
XXXXXXX	DD-MM-YYYY	Normal Sales		\$X.XX	Berwick ticket prices (R10)
XXXXXXX	DD-MM-YYYY	Promotional Sales	Down Down	\$X.XX	Berwick ticket prices (R10)

Note: no filter is applied to the sale or promotion type in the R10 data.

State level sales data (from BiW)

1. Filter for VIC store sales (where the [State] data column is “CS VIC”).
2. Determine date based on the [DAY_DT] data column.
3. Filter for sale types “Normal Sales” and “Promotional Sales” within the [CML_SALE_TYPE_DESC] data column. Excluded sale types are listed in **Annexure 4**.
4. Filter for promotion types “Every Day”, “Locked”, “Down Down”, “Dropped & Locked”, “Flybuys”, “NEW”, “Value (Excl FP)” or where the promotion type is blank within the [PRMTN_TACTIC_TICKETING_DESC] data column. Promotion types “Fresh Produce Super Special – Multi Save”, “Get one Free”, “Mix Match and Save – Multi Save” and “MULTI SAVE” are excluded.
5. Filter for “BM” (Brick and Mortar) within the [Channel] data column. Records with the channel “CO” (Coles Online) are excluded.
6. Filter for the Relevant Products based on the [ITEM_IDNT] data column.
7. Filter for positive quantities within the [F_SLS_QTY] data column to remove any negative quantities which may be returns or refunds.
8. Determine the records with the highest quantity ([F_SLS_QTY] data column) for each Relevant Product ([ITEM_IDNT] data column) and date ([DAY_DT] data column) combinations.
9. If there are multiple prices with the same highest quantity for a product and date combination, select the record with the highest price.
10. Create the [Highest Quantity – Selling Price] result column using the [SELL_PRICE_BEFORE_DISCOUNT_INC_GST] data column.
11. Create the [Highest Quantity – Sale Type] result column using the [CML_SALE_TYPE_DESC] data column.
12. Create the [Highest Quantity - Promotion type] result column using the [PRMTN_TACTIC_TICKETING_DESC] data column.
13. Create the [Source of Price] result column and set it equal to "State level sales (BiW)".
14. Create the “State level sales (BiW)” price summary table showing each product and date combination with the relevant sale type, promotion type and selling price as determined by the logic above.

Example extract shown below:

Product	Date	Highest Quantity – Sale Type	Highest Quantity – Promotion Type	Highest Quantity – Selling Price	Source of Price
XXXXXXX	DD-MM-YYYY	Normal Sales		\$X.XX	State level sales (BiW)
XXXXXXX	DD-MM-YYYY	Promotional Sales	Down Down	\$X.XX	State level sales (BiW)

Six VIC store level sales data (from BiW)

1. Filter for sale types “Normal Sales” and “Promotional Sales” within the [CML_SALE_TYPE_DESC] data column. Excluded sale types are listed in **Annexure 4**.
2. Determine date based on the [DAY_DT] data column.
3. Filter for promotion types “Every Day”, “Locked”, “Down Down”, “Dropped & Locked”, “Flybuys”, “NEW”, “Value (Excl FP)” or where the promotion type is blank within the [PRMTN_TACTIC_TICKETING_DESC] data column. Promotion types “Fresh Produce Super Special – Multi Save”, “Get one Free”, “Mix Match and Save – Multi Save” and “MULTI SAVE” are excluded.
4. Filter for “BM” (Brick and Mortar) within the [Channel] data column. Records with the channel “CO” (Coles Online) are excluded.
5. Filter for the Relevant Products based on the [ITEM_IDNT] data column.
6. Filter for positive quantities within the [F_SLS_QTY] data column to remove any negative quantities which may be returns or refunds.
7. Apply GST to the product prices using the GST percentage ([GST] column) provided in the GST mapping table i.e. $[F_ACTUAL_SELL_PRC_AMT] \times (1 + [GST]/100)$.
8. Round the price (with GST) to the nearest \$0.01.
9. Determine the records with the highest quantity ([F_SLS_QTY] data column) for each Relevant Product ([ITEM_IDNT] data column) and date ([DAY_DT] data column) combinations.
10. If there are multiple prices with the same highest quantity for a product and date combination, select the record with the highest price.
11. Create the [Highest Quantity – Selling Price] result column using the [F_ACTUAL_SELL_PRC_AMT] data column.
12. Create the [Highest Quantity – Sale Type] result column using the [CML_SALE_TYPE_DESC] data column.
13. Create the [Highest Quantity - Promotion type] result column using the [PRMTN_TACTIC_TICKETING_DESC] data column.
14. Set [Source of Price] result column as “Six store sales (BiW) – GST added”.
15. Create the “Six store sales (BiW) – GST added” price summary table showing each product and date combination with the relevant sale type, promotion type and selling price as determined by the logic above.

Example extract shown below:

Product	Date	Highest Quantity – Sale Type	Highest Quantity – Promotion Type	Highest Quantity – Selling Price	Source of Price
XXXXXXX	DD-MM-YYYY	Normal Sales		\$X.XX	Six store sales (BiW) – GST added
XXXXXXX	DD-MM-YYYY	Promotional Sales	Down Down	\$X.XX	Six store sales (BiW) – GST added

Apply data source hierarchy⁴ and populate remaining data gaps

1. Prepare a table summarising product, date, sale type, promotion type, price and source of price by applying the data source hierarchy as listed on page 9 above.
2. Standardise field names from each of the four data sources to be [Product], [Date], [Price], [Normal or Promotion] (Sale Type), [Promotion Type] and [Source of Price].
3. Create a list of product-date combinations for all in-scope SKUs within the review period. Use this list to identify data gaps (product-date combinations with no price information) within the summary table created above.
4. For gaps less than 7 days with the selling price either side being within \$0.05, populate the gap with the selling price, sale type and promotion type before the gap. Set the [Source of Price] result column to “Estimated based on prior and future prices being the same price within \$0.05 either side of a gap of less than 7 days”.
5. For any remaining data gaps (where the gap was 7 days or more, or the gap was less than 7 days but the selling price either side was not within \$0.05), set the [Source of Price] result column to “Not available”.
6. A field is then added to the table called “Product Description” based on the field “ITEM_DESC” from the Relevant Products dataset.

⁴ See “Data hierarchy” at page 9 above.

Annexure 3 – Observations about data and related assumptions / instructions

Coles has provided the following observations about the data and possible assumptions and instructions that may be applied in relation to those observations.

Observation type	Description	Instructions/assumptions
Data gaps	As data is not complete for each source, price data per product date combination needs to be collated from a number of different available sources.	<p>For each product and each day, apply a hierarchical approach by taking the price in the following order of available information:</p> <ol style="list-style-type: none"> 1. VIC representative store ticket prices (R10); If null then 2. Berwick ticket prices (R10); if null then 3. State level sales data from BiW - filtered for VIC prices only as this ignores the impact of state based price variances such as Container Deposit Scheme; If null then 4. Six VIC store level sales data from BiW (exclusive of GST) with GST applied. <p>After step 4, the remaining null values for any product / days are completed using the remaining instructions in the order presented.</p>
R10 Sale Types	R10 data contains the sale type "Reduced to Clear" in addition to "Normal Sales" and "Promotional Sales".	Records with the sale type "Reduced to Clear" will be retained in order to avoid presenting missing prices where price information is available.
GST rounding	Applying GST on prices exclusive of GST in the data provided can result in rounding differences.	Do not apply rounding to prices where GST was added other than rounding to the nearest \$0.01.
Timing of a price change (R10 data)	<p>Timestamps have been included in the date fields of the R10 data, meaning that price changes are shown to take effect part way through a day.</p> <p>Note that this is only relevant for Berwick R10 data as the State representative R10 ticket price data all had a price end time of 23:59 and a price start date the following date.</p>	Only the date is considered in this analysis and prices are assumed to be updated at the start of the day of a price change (time is ignored).

Observation type	Description	Instructions/assumptions
State representative R10 data	There can be multiple different selling prices across the different states on the same day.	Filter the State representative R10 data so that the data only contains data relevant for Victoria, as follows: State ([Store Name]): "VIC SRS"
BiW Data (State and six stores)	N/A	Filter the BiW data to include only the following: <ul style="list-style-type: none"> - State ([STATE]): "CS VIC" - Sale types ([CML_SALE_TYPE_DESC]): "Normal Sales", "Promotional Sales" - Channel ([CHANNEL]): "BM" - Promotion types ([PRMTN_TACTIC_TICKETING_DESC]): Everything except "Fresh Produce Super Special - Multi Save", "Get one Free", "Mix Match and Save - Multi Save", "MULTI SAVE". Quantity sold ([F_SLS_QTY]): Positive values only
Multiple prices and sale type on the same day in BiW data	There can be multiple different selling prices, sale types and promotion types sold on a day.	Present the price with the highest quantity sold in the results. Where there is more than one selling price with the highest quantity sold, take the highest selling price.
Rounding differences in BiW data	Due to the way the BiW is stored, small rounding variances can occur as compared to R10	No rounding (other than rounding the \$0.01 where GST has been added) should be applied to the selling prices as presented in BiW data.
Price estimate logic where no price information is available	Missing price information still exists even after applying the data source hierarchy.	Where missing price information still exists, gaps of less than 7 days (where the price before and after the missing date side is within \$0.05 (<\$0.05)) will be populated with the price at the start of the data gap (preceding the missing date). All remaining price date gaps will be presented as "Not available".

Annexure 4 – Excluded sale types

The below table lists the sale types to be excluded from the BiW data provided.

Sale Type ([CML_SALE_TYPE_DESC] ⁵)
Loyalty sale at head office
Loyalty sale at head office & IX price override at store
Loyalty sale at head office IE price override at store
Loyalty sale at head office IS price override at store
Loyalty sale at head office IX price override at store
Normal sale at head office
Normal sale at head office & IE price override at store
Normal sale at head office & IS price override at store
Normal sale at head office & IX price override at store
Normal sale at head office IC price override at store
Normal sale at head office IE price override at store
Normal sale at head office IM price override at store
Normal sale at head office IN price override at store
Normal sale at head office IS price override at store
Normal sale at head office IX price override at store
Promotional and Loyalty sale at head office
Promotional and Loyalty sale at head office & IE price override at store
Promotional and Loyalty sale at head office IA price override at store
Promotional and Loyalty sale at head office IE price override at store
Promotional and Loyalty sale at head office IP price override at store
Promotional and Loyalty sale at head office IS price override at store
Promotional sale at head office
Promotional sale at head office & IA price override at store
Promotional sale at head office & IE price override at store
Promotional sale at head office & IS price override at store
Promotional sale at head office IA price override at store
Promotional sale at head office IC price override at store
Promotional sale at head office IE price override at store
Promotional sale at head office IM price override at store
Promotional sale at head office IP price override at store
Promotional sale at head office IS price override at store
Promotional sale at head office IX price override at store

⁵ See further item 1.2 of Annexure 6 – Terms.

Annexure 5 – Container Deposit Scheme Products

Below are the products considered relevant for state-based pricing due to Container Deposit Scheme. This list may assist with analysing selling prices above the highest quantity selling prices from the BiW sales data.

Product ID	Product Description
438894	SPRITE LEMONADE SOFT DRINK BOTTLE 2L:LEMON LIME:::2 LITRE
7837402	SOLO LEMON SOFT DRINK 30 PACK:SOLO LEMON:::30 PACK
7837388	SCHWEPPE LEMONADE SOFT DRINK 30 PACK:LEMONADE:::30 PACK
6631875	PRIMA DRINK 200 ML:TROPICAL:::200 ML
6631831	PRIMA DRINK 200 ML:APPLE RASPBERRY:::200 ML
6631820	PRIMA DRINK 200 ML:APPLE:::200 ML
3530306	PRIMA REDUCED SUGAR APPLE RASPBERRY 6X200ML:6 PACK
3530292	PRIMA REDUCED SUGAR TROPICAL 6X200ML:6 PACK
3529792	PRIMA REDUCED SUGAR APPLE 6X200ML:6 PACK
7837424	PEPSI COLA SOFT DRINK 30 PACK:PEPSI COLA:::30 PACK
7837413	PEPSI MAX SOFT DRINK 30 PACK:PEPSI MAX:::30 PACK
7837399	PEPSI/SCHWEPPE LEMONADE SOFT DRINK 30 PACK:ORANGE SUNKIST:::30 PACK
224857	CCA SOFT DRINK:FANTA ORANGE:::2 LITRE
418503	CCA SOFT DRINK:COLA DIET:::2 LITRE
3029790	COCA-COLA ZERO SUGAR SOFT DRINK BOTTLE 2L:COKE NO SUGAR:::2 LITRE
191736	CCA SOFT DRINK:COLA:::2 LITRE
4165498	PAULS BLUEY CHOCOLATE FLAVOURED MILK 250ML:250 ML
4165501	PAULS BLUEY STRAWBERRY FLAVOURED MILK 250ML:250 ML

Annexure 6 – Terms

Below are explanations of the relevant fields and unique values in each dataset.

1 Terms used in BiW data

1.1 Table 1: Column headings used in BiW data

Column Heading	Meaning	Explanation
LOC_IDNT	Location Identification	The relevant store number
STATE	State	The state the relevant store is located in
ITEM_IDNT	Item Identification	The unique item identification code
ITEM_DESC / ITEM_DESCRIPTION	Item Description	The product description
CML_SALE_TYPE_DESC	Coles Myer Limited Sale Type Description	The type of sale (eg, promotional, normal sales etc)
PRMTN_TACTIC_TICKETING_DESC	Promotion Tactic Ticketing Description	The type of promotion
F_ACTUAL_SELL_PRC_AMT	Fact Actual Sell Price Amount	The price the item was sold for
SELL_PRICE_EXCLUDING_DISCOUNT	Sell Price Excluding Discount	The price the item was sold for, excluding any discounts
SELL_PRICE_EXCLUDING_DISCOUNT_INC_GST	Sell Price Excluding Discount Including GST	The price the item was sold for, excluding any discounts, but including GST
REGULAR_SELL_PRICE_INC_GST	Regular Sell Price Including GST	This field reflects the total daily sales for an item, including markdowns, divided by sales quantity
F_SLS_QTY	Fact Sales Quantity	Number of units sold
UNIT_COST	Unit Cost	The cost price for each unit of product
NET_INVOICE_COST	Net Invoice Cost	The invoice cost of the product, less any off-invoice deals (ie, deals made with the supplier which apply to the purchase order cost)

Column Heading	Meaning	Explanation
F_SLS_1_MARGIN_CHGC_AMT	Fact Sales 1 st Margin Charged Out Cost Amount	1 st margin based on the difference between the sell price and the charged out cost. The charged out cost represents the cost that each store pays to receive the product, excluding any scan deals or trading terms.
F_SLS_1_MARGIN_STDC_AMT	Fact Sales 1 st Margin Standard Cost Amount	1 st margin based on the different between the sell price and the standard unit cost. The standard unit cost is the supplier's listed cost of an item for all retailers (including Coles).
F_SLS_1_MARGIN_WAC_AMT	Fact Sales 1 st Margin Weighted Average Cost Amount	1 st margin based on the difference between the sell price and the weighted average cost (WAC) on the item charged to the store. As the WAC is calculated recursively, this cost can vary daily.
DAY_DT	Day Date	Date of the customer transaction
CHANNEL	Channel	The channel where the transaction occurred, either BM (bricks and mortar) or COL (Coles Online)
CML_CHANNEL_TYPE_CDE	Coles Myer Limited Channel Type Code	As above, the channel where the transaction occurred, either BM (bricks and mortar) or COL (Coles Online)

1.2 Table 2: Unique values that appear in 'CML_SALE_TYPE_DESC' column

Value	Explanation
Normal Sales	Sale without a discount
Promotional Sales	Sale with a discount.
Loyalty Sale at head office	Sale with a Flybuys member discount or a promotion that has been entered into the loyalty system (LMS)
Promotional and Loyalty sale at head office	Sale with both a promotional discount and a promotion entered into the LMS (eg, a Flybuys member discount)

In relation to each of these unique values for the column 'CML_SALE_TYPE_DESC, instore clearance or markdown codes may also be used (eg, 'Promotional Sales and IA price override at store'). These instore clearance and markdown codes are listed in Table 4 below.

1.3 Table 3: Unique values that appear in 'PRMTN_TACTIC_TICKETING_DESC' column

Value	Explanation
Big Pack Value	Big Value Pack (ie, a special bulk size)
Down Down	Down Down
Dropped & Locked	Dropped & Locked
Every Day	Everyday Value (EDV)
Flybuys	Flybuys bonus point offer
Fresh Produce Super Special – Multi Save	Multi Save, used for Fresh Produce
Get One Free	A promotional type where a customer buys an item or from a list of items and gets another item for free
Linked Save	A promotion used to link products from different categories, for example 'Buy Any Selected Magazine, Get Minion Story Book for \$2.99 (SAVE \$7.00)'
Locked	Locked
Mix Match and Save – Multi Save	Mix 'N Save. This promotional tactic operated in a similar way to a Multi Save
Multi Save	Multi Save
NEW	Indicates that the item is newly ranged at Coles
No Change to Ticket	Flags an item on promotion but with no ticket change in store (rarely used promotional type)
Produce Super Special	Specials, used for Fresh Produce
Value (Excl FP)	Specials, excluding Fresh Produce
Value SELF Suppressed	Used to suppress ticket printing in circumstances where there would be too many promo tickets in one location; a 'barker card' would be printed instead

In relation to the column 'CML_SALE_TYPE_DESC, instore clearance or markdown codes may also be used as unique values (see Table 4 below).

1.4 Table 4: Unique values that appear in either 'CML_SALE_TYPE_DESC' or 'PRMTN_TACTIC_TICKETING_DESC' column

Value	Meaning	Explanation
IA price override at store	In Store Promotion	Used when stores have been advised by the Store Support Centre (SSC) to: <ul style="list-style-type: none"> add items into a promotion that have missed being keyed in the batch; or program additional authorised promotions
IC price override at store	Instore Competition	Used to meet a competitor's lower price
IE price override at store	Instore Override	Used to honour a raincheck presented by a customer, or to process a product substitution or price match
IM price override at store	Instore Clearance	Used to clear overstock or excess stock from a previous promotion, allocation or over forecast
IN price override at store	Instore Normal Price Correction	Used when the normal sell price of an item is not scanning correctly at the register
IP price override at store	In store promotion correction	Used when the promotional sell price of an item is not scanning correctly at the register
IS price override at store	Instore Short of Code	Used to clear items that have been identified with short shelf life via markdown labels
IX price override at store	In Store discontinued	Used where a product has been discontinued

2 Terms used in R10 data

2.1 Table 5: Column Headings used in R10 data

Column Heading	Explanation
Store No	The unique store identification code
Store Name	The name of the Coles store that records are related to
R10 Store	Store number as recorded in R10
Product / ProductId	The unique item identification code
Cat. No	The identification code for the product category responsible for the product
Product Desc.	The product description
Product Size	The retail pack size of the product
Price Start / Start Date	The start date of the relevant sell price
Price End / End Date	The end date of the relevant sell price
Selling Price / Sell Price	The sell price of the product in a particular store on that relevant date

Column Heading	Explanation
Price Type	The type of sale (ie, whether the product was on promotion)
Layout	The layout ID of the physical Ticket in Coles stores (eg, the layout ID CS18 refers to the Down Down Ticket being applied)
Prom Type	Whether the product was on promotion and the nature of that promotion
Was Price	The 'was' price displayed on the Ticket (if any)
Was Date	The date of the 'was' price displayed on the Ticket (if any)
Save Amount	Any savings or price reduction statements made on the Ticket

2.2 Table 6: Unique values that appear in 'Price Type' column

Value	Explanation
P	Promotion (short or long term). Used where a discount is offered.
N	Not on Promotion. Used where a product is sold at its regular price.

2.3 Table 7: Unique values that appear in 'Prom Type' column

Value	Explanation
Clearance	Clearance / Reduced to Clear
Down Down	Down Down
Dropped & Locked	Dropped & Locked
Everyday	Everyday Value
Flybuys	Flybuys bonus point offer
Locked	Locked
New	Indicates that the item is new to Coles
Not on Prom	Not on promotion
Produce Special	Special, used for Fresh Produce
Reduced to Clear	Clearance / Reduced to Clear
Simple	Special
Value Ring	Special

2.4 Table 8: Unique values that appear in 'Layout' column

Value	Explanation
CS02	Value Ring
CS05	Reduced to Clear
CS07	New
CS16	Everyday / EDV
CS18	Down Down
CS23	Locked
CS24	Dropped & Locked

Value	Explanation
CS52	Flybuys
CS62	Value Ring

3 Terms used in GST data

3.1 Table 9: Column Headings in GST data

Column Heading	Explanation
Item Code	The unique item identification code
GST	The applicable rate of GST on that item
Item Description	The product description

From: Marc Eastmure <Marc.Eastmure@jws.com.au>
Sent: Wednesday, 11 September 2024 6:35 PM
To: Wright, Dawna
Cc: Smalec, Marcin; James Love; Sophie Wade
Subject: [EXTERNAL] RE: Privileged and Confidential - ACCC re Coles [JWSDOCS-DOCUMENTS.FID753281] [AUSFOR500001.1785-S]

Categories: Saved to SharePoint,
https://fticonsultingaus.sharepoint.com/sites/IMSAusForConfid_500001_1785_ACCC-Coles/Shared Documents/General/500001.1785 ACCC - Coles/Engagement Files/Email Archive

Privileged and Confidential

Dear Dawna

We refer to the further brief provided to you on 30 August 2024.

We have noted a typographical error in footnote 2 of the further brief, which sets out the meaning of “Relevant Period”. It should read:

Being 1 January 2021 to 4 May 2023

We would be grateful if you would please use this definition of “Relevant Period”.

Kind regards
Marc

Marc Eastmure

Associate | Johnson Winter Slattery

D +61 3 8611 1316
E Marc.Eastmure@jws.com.au

[Website](#) | [LinkedIn](#) | [vCard](#)

IMPORTANT NOTICE

This email and any attachments are confidential material and may be subject to legal or other professional privilege. If you are not the intended recipient, please tell us immediately by return email and delete it. Confidentiality and privilege are not waived and you must not disclose or use any of the material. Unauthorised access, use or reproduction in any form by any person other than the intended recipient is prohibited. We do not warrant that this email or any files transmitted with it are free of viruses or any other electronic defect. Liability limited by a scheme approved under Professional Standards Legislation.

From: James Love <James.Love@jws.com.au>
Sent: Friday, 30 August 2024 1:10 PM
To: Dawna Wright (dawna.wright@fticonsulting.com) <dawna.wright@fticonsulting.com>
Cc: Smalec, Marcin <Marcin.Smalec@fticonsulting.com>; Sophie Wade <Sophie.Wade@jws.com.au>; Marc Eastmure <Marc.Eastmure@jws.com.au>
Subject: Privileged and Confidential - ACCC re Coles [JWSDOCS-DOCUMENTS.FID753281]

Privileged and confidential

Dear Dawna

Please see the **attached** letter.

Kind regards

James

James Love

Partner | Johnson Winter Slattery

D +61 3 8611 1339

M +61 409 288 531

E James.Love@jws.com.au

[Website](#) | [LinkedIn](#)

Johnson Winter Slattery pays respect to Elders past and present of our nation's Aboriginal and Torres Strait Islander communities. We honour the deep spiritual, cultural and customary connections of Traditional Owners to the Australian landscape, including Australia's waterways, land, and sea country.

IMPORTANT NOTICE

This email and any attachments are confidential material and may be subject to legal or other professional privilege. If you are not the intended recipient, please tell us immediately by return email and delete it. Confidentiality and privilege are not waived and you must not disclose or use any of the material. Unauthorised access, use or reproduction in any form by any person other than the intended recipient is prohibited. We do not warrant that this email or any files transmitted with it are free of viruses or any other electronic defect. Liability limited by a scheme approved under Professional Standards Legislation.

ANNEXURE A3

JOHNSON | WINTER | SLATTERY

Partner: James Love +61 3 8611 1339
Email: james.love@jws.com.au
Our Ref: D2522
Doc ID: 500416336.4

8 July 2025

Privileged & Confidential

Ms Dawna Wright
Senior Managing Director
FTI Consulting
Bourke Place
Level 50/600 Bourke Street
MELBOURNE VIC 3000

BY EMAIL Dawna.Wright@fticonsulting.com

Dear Ms Wright

Australian Competition & Consumer Commission (ACCC) v Coles Supermarkets Australia Pty Ltd (Coles) – Federal Court of Australia Proceeding VID973/2024 (the Proceeding)

1 We refer to your:

- (a) letter of engagement dated 15 March 2024;
- (b) initial brief in this matter dated 24 May 2024;
- (c) further brief in this matter dated 30 August 2024 (**Further Brief**);
- (d) our letter dated 19 September 2024; and
- (e) our letter dated 29 October 2024.

2 **Enclosed** is a copy of the orders made in the Proceeding on 23 May 2025 (**Orders**).

3 We note that:

- (a) in relation to the Orders:
 - (i) paragraph 2 provides that a trial on all issues of liability will be conducted with respect to a sample of Affected Products (as defined in the Concise Statement) as agreed between the parties or determined by the Court (**Sample Products**);
 - (ii) paragraph 3 provides that all discovery required to be given and all evidence required to be filed and served is to be limited to discovery and evidence relevant to the issues of liability with respect to the Sample Products; and

Level 34, 55 Collins Street
MELBOURNE VIC 3000
T +61 3 8611 1333 | F +61 3 8611 1300
www.jws.com.au

- (iii) paragraph 6 provides that, by 22 August 2025, the ACCC is to file and serve its affidavit and documentary evidence upon which it intends to rely at trial;
 - (b) the ACCC and Coles have agreed upon the Sample Products, which are set out in the **Annexure** to this letter;
 - (c) in footnote 1 of paragraph 5 of the Further Brief, the term “Relevant Product” was defined to comprise all of the 284 products identified at tab (a) of the Further Brief; and
 - (d) by our letter dated 29 October 2024, you were instructed to instead read any references to “Relevant Product” or “Relevant Products” in the Further Brief as a reference to the 245 products in the list enclosed with that letter.
- 4 Having regard to paragraph 6 of the Orders, your report is due to be filed with the Court on **Friday 22 August 2025**.

Instructions

- 5 You are instructed to instead read any references to “Relevant Product” or “Relevant Products” in the Further Brief as a reference to the Sample Products (as set out in the Annexure to this letter), and accordingly prepare versions of the spreadsheets, graphs and tables which you were instructed to prepare in your Further Brief for the Sample Products only.
- 6 We remind you that your role is that of an independent expert and your duties are governed by the Federal Court General Practice Note GPN-EXPT (Expert Evidence), a copy of which was enclosed with your engagement letter dated 15 March 2024. Please ensure that your answers to the questions in this letter also conform to the requirements set out in the Practice Note.
- 7 Of course, please let us know if you have any questions in relation to any of the above.

Yours sincerely



James Love
Partner

Annexure

No	Product Number	Sample Product
1.	1023271	KARICARE FOLLOW ON FORMULA:900 GRAM
2.	191736	CCA SOFT DRINK:COLA:::2 LITRE
3.	255409	PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT LOAF 1.2KG CAN:FIVE KINDS MEAT:::1.2 KG
4.	2992180	ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375 GRAM
5.	3139426	BRAGG SEASONING NUTRITIONAL YEAST PREMIUM QUALITY:127 GRAM
6.	3246914	DANONE YOPRO YOGHURT:VANILLA:::700 GRAM
7.	3401074	COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM
8.	3609315	COLES FINEST QUINCE PASTE 100G:100 GRAM
9.	5079187	REXONA ANTI PERSP DEODORANT:250 ML
10.	5393910	LURPAK SLIGHTLY SALTED SPREADABLE TUB 250 GRAM:BUTTER:::250 GRAM
11.	3589976	NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE AND RICE:::1.2 KG
12.	3823600	VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3 PACK

ANNEXURE A4

JOHNSON | WINTER | SLATTERY

Partner: James Love +61 3 8611 1339
Email: james.love@jws.com.au
Our Ref: D2522
Doc ID: 500763554.2

22 August 2025

Privileged & Confidential

Ms Dawna Wright
Senior Managing Director
FTI Consulting
Bourke Place
Level 50/600 Bourke Street
MELBOURNE VIC 3000

BY EMAIL Dawna.Wright@fticonsulting.com

Dear Ms Wright

Australian Competition and Consumer Commission (ACCC) in the matter of Coles Supermarkets Australia Pty Ltd (Coles)

- 1 We refer to your letter of engagement dated 15 March 2024, and to our subsequent correspondence dated 24 May 2024, 8 July 2024, 30 August 2024, 11 September 2024, 19 September 2024, 29 October 2024 and 8 July 2025.
- 2 Enclosed with this letter is a copy of a statement of agreed facts (**August SOAF**) filed in this Proceeding dated 21 August 2025.
- 3 The enclosed August SOAF, at Annexure 1, identifies in respect of each Sample Product between 1 January 2021 and 4 May 2023:
 - a) pricing information and the period during which those prices applied (or states 'No data' where data has not been retained);
 - b) the volume of the Sample Product that Coles sold during each of those periods (or states 'No data' where data has not been retained); and
 - c) the "Status" of each Sample Product during each of those periods, namely whether it was supplied:
 - i. as part of a particular promotion (i.e. 'Down Down', 'Locked', 'Special' or 'Everyday Value'); or
 - ii. at a Non-Promotional Price (i.e. 'White ticket'),(or states 'No data' where data has not been retained).

Level 34, 55 Collins Street
MELBOURNE VIC 3000
T +61 3 8611 1333 | F +61 3 8611 1300
www.jws.com.au

Instructions

- 4 Our letter dated 8 July 2025 instructed you to prepare a report containing spreadsheets, graphs and tables of the Sample Products. Given data has now been agreed in Annexure 1 of the August SOAF, please use this data for the purposes of preparing your report.
- 5 Of course, please let us know if you have any questions in relation to the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Love', written in a cursive style.

James Love
Partner

From: James Love <James.Love@jws.com.au>
Sent: Friday, 22 August 2025 4:28 PM
To: Wright, Dawna
Cc: Smalec, Marcin; Sophie Wade; Marc Eastmure; Madison Lardner
Subject: [EXTERNAL] RE: Privileged and Confidential - ACCC re Coles [JWSDOCS-DOCUMENTS.FID753281]

Follow Up Flag: Follow up
Flag Status: Flagged

Privileged and Confidential

Dear Dawna

Further to the below, we have noticed that there is an incorrect reference to 8 July 2024 in the first paragraph of the letter (the reference should have just been to 8 July 2025 as also mentioned in paragraph 1).

Kind regards

James

James Love

Partner | Johnson Winter Slattery

D +61 3 8611 1339

M +61 409 288 531

E James.Love@jws.com.au

[Website](#) | [LinkedIn](#)

Johnson Winter Slattery pays respect to Elders past and present of our nation's Aboriginal and Torres Strait Islander communities. We honour the deep spiritual, cultural and customary connections of Traditional Owners to the Australian landscape, including Australia's waterways, land, and sea country.

IMPORTANT NOTICE

This email and any attachments are confidential material and may be subject to legal or other professional privilege. If you are not the intended recipient, please tell us immediately by return email and delete it. Confidentiality and privilege are not waived and you must not disclose or use any of the material. Unauthorised access, use or reproduction in any form by any person other than the intended recipient is prohibited. We do not warrant that this email or any files transmitted with it are free of viruses or any other electronic defect. Liability limited by a scheme approved under Professional Standards Legislation.

From: James Love
Sent: Friday, 22 August 2025 11:59 AM
To: Wright, Dawna <dawna.wright@fticonsulting.com>
Cc: Smalec, Marcin <marcin.smalec@fticonsulting.com>; Sophie Wade <Sophie.Wade@jws.com.au>; Marc Eastmure <Marc.Eastmure@jws.com.au>; Madison Lardner <Madison.Lardner@jws.com.au>
Subject: Privileged and Confidential - ACCC re Coles [JWSDOCS-DOCUMENTS.FID753281]

Privileged and Confidential

Dear Dawna

Please see the **attached** letter and enclosure.

Kind regards

James

James Love

Partner | Johnson Winter Slattery

D +61 3 8611 1339

M +61 409 288 531

E James.Love@jws.com.au

[Website](#) | [LinkedIn](#)

Johnson Winter Slattery pays respect to Elders past and present of our nation's Aboriginal and Torres Strait Islander communities. We honour the deep spiritual, cultural and customary connections of Traditional Owners to the Australian landscape, including Australia's waterways, land, and sea country.

IMPORTANT NOTICE

This email and any attachments are confidential material and may be subject to legal or other professional privilege. If you are not the intended recipient, please tell us immediately by return email and delete it. Confidentiality and privilege are not waived and you must not disclose or use any of the material. Unauthorised access, use or reproduction in any form by any person other than the intended recipient is prohibited. We do not warrant that this email or any files transmitted with it are free of viruses or any other electronic defect. Liability limited by a scheme approved under Professional Standards Legislation.

ANNEXURE B



Dawna Wright, FCA

Senior Managing Director

Head of Forensic and Litigation Consulting, Australia

Level 50, Bourke Place, 600 Bourke Street, Melbourne, VIC 3000

T +61 3 9604 0604 | M +61 439 107 459

dawna.wright@fticonsulting.com

Education

B.Comm.(Hons), University of Manitoba

Certifications

FCA (Business Valuation Specialist, Forensic Accounting Specialist)
Certified Fraud Examiner
Accredited Expert Determiner (Resolution Institute)

Professional Affiliations

Fellow of Chartered Accountants Australia and New Zealand
Chartered Professional Accountants, Canada
Australian Institute of Company Directors

Other Roles

Director and Chair of Finance and Audit Committee (of the International Board), Amnesty International
Director, Chair Audit & Risk Committee, Angle Auto Finance (2022 to 2024)
Chair, National Forensic Accounting Committee, Chartered Accountants Australia & New Zealand (2015 to 2019)

Dawna Wright is a Chartered Accountant with more than 30 years of experience, Dawna has worked in Canada, the United States, France and Australia, including as a Partner in 'Big Four' and boutique firms. Dawna has led a wide range of matters as an independent expert witness, a consulting expert and an expert determiner.

Dawna has testified more than 50 times on behalf of corporates, governments and regulators. She has provided expert testimony in the Federal Court of Australia, the Supreme Court of Victoria, the Supreme Court of Queensland, the Supreme Court of New South Wales, the Supreme Court of Western Australia, the Supreme Court of Bermuda, and Australian Administrative Tribunals, as well as arbitrations in Australia, Singapore and Hong Kong.

Before specialising in forensic accounting, Dawna worked as an auditor for 8 years in Canada and France. Dawna's audit experience includes clients across most industry sectors including manufacturing, mining, health care, pharmaceuticals, agriculture, telecommunications and financial services. She also acts as Chair of audit & risk committees to oversee audits and assist boards/stakeholders in monitoring the financial position of the company.

Dawna has been recognised by Who's Who Legal (WWL) each year since 2016, and is ranked as a 'global elite' expert in Forensic Accounting and in Quantum of Damages, and a leading Arbitration Expert Witness. Dawna was named by WWL as the "Forensic Accountant of the Year" for 2021 and 2024.

'Dawna Wright is 'exceptionally bright' and has extensive experience in auditing and forensic accounting; clients praise her 'dedication' and her 'highly detailed approach'. She 'never fails to take into account the full picture when providing her opinions, which makes her very effective in negotiations'. 'Dawna is a focused, even-keeled, knowledgeable and calm expert.' – Who's Who Legal, 2016, 2017, 2022

Selected representative examples - Transaction analysis

— Appointed by the defendant in an alleged fraud to give an opinion as to whether there was also inappropriate or misleading accounting for the conduct. We were not granted access to, or an extract of, the general ledger. Rather, we were provided with tens of millions of rows of 'raw data' from various systems. In order to answer the questions asked, we were required to work with our data analytics specialists to reconstruct the accounts, in order to assess the accounting treatment.

— Appointed as a forensic accounting expert for the Australian Taxation Office in a matter related to the GST treatment of gold bullion transactions, involving the analysis of tens of thousands of documents, creation of a database and identifying trends, patterns and anomalies across general ledgers, invoices, bank statements, and operational documents. Gave evidence before the Administrative Appeals Tribunal. The Tribunal found that "The material provided by Ms Wright allows large quantities of material from

multiple sources to be understood and implications and inferences to be drawn from it... The Tribunal accepts and receives Ms Wright's material as a useful, and thoughtfully and thoroughly prepared summary of vast volumes of financial data form multiple sources..."

- Appointed by the supplier (plaintiff) in a contractual dispute to identify purchases by its customer (the defendant) of relevant services from other suppliers. Interviewed the defendant's employees to identify relevant data, worked with technology experts to interrogate the defendant's accounting systems and extract relevant data from several systems, and worked with data scientists to combine and analyse the disparate data sets in one database to identify relevant purchase transactions.
- Appointed as an expert by ASIC in relation to administrative proceedings brought against the Directors of an ASX-listed company in the education sector. We analysed thousands of transactions from bank statements and created a robust database used to write an expert report providing an opinion of the operational cash flows. Our database and report withstood the scrutiny of an opposing expert and of cross-examination in Court. The case was decided in ASIC's favour.
- Appointed as an expert witness by the clients of a financial planner seeking recovery of \$18 million that they allege was misappropriated. Our role was to trace the funds from receipt by the financial planner through several bank accounts to their ultimate destination to assets from which funds could be recovered.
- Acted as an expert on behalf of the Australian Taxation Office to reconstruct the financial records of a retail business based on handwritten notebooks and analyse discrepancies in financial information submitted in relation to a GST dispute.
- Acted as an expert to provide an opinion as to whether the balance of certain trust accounts fell below the regulated minimum balance (for an insurance broking business), identify the extent to which withdrawals were made from the trust accounts for lawful purposes, and trace transfers between the trust account and the 'corporate entity' accounts.
- Appointed by a global pharmaceutical company to investigate a material discrepancy in accounts and amounts owing between the company, its distributor and its customer pursuant to a complex 3-party distribution agreement.
- Investigated a significant volume of trust account transaction anomalies over an extended time period, including recalculating over one hundred trust account balances.

Court appointment / Government or regulators

- Appointed as an expert witness by ASIC to provide an opinion about the correct accounting treatment for intercompany transactions and profits in relation to superannuation products offered by a big 4 bank to its customers.
- Appointed as an expert by the Australian Government Solicitor on behalf of the Commonwealth Government in relation to class action claims brought by manufacturers and installers following the government's cancellation of the 'pink batts' insulation program of 2009. Our role was to critique the assessment of loss by the plaintiffs' expert. The Court found that the plaintiffs did not suffer any loss.
- Accounting member of an independent three-person Senior Review Panel appointed by the Court to assess losses from the destruction of a timber plantation pursuant to a class action related to the Black Saturday bushfires.
- Appointed as an expert on behalf of the Melbourne Market Authority to assist in defending a class action claim brought by the market participants in relation to the decision to relocate the market. Our role was to assess the impact on the financial position of various market participants.
- Engaged by a legal firm to assist a major telecommunications company in preparing a robust pricing model to respond to enquiries by the regulator with respect to granting competitors access to infrastructure.
- Acted as an expert on behalf of a Victorian government department to assess the value of an alpine resort business destroyed by fire.

- Jointly appointed by the parties, at the direction of the Court, to act as a Referee to determine the profit made by an entity in accounting for carbon credits, losses suffered, and the current value of the company.
- Jointly engaged, at the direction of the Court, by three parties in dispute (foreign parent, local shareholder, and local company) to value a company that distributes products in Australia that are manufactured by the foreign parent.
- Jointly appointed by the shareholders in a café and restaurant business pursuant to a Court order to provide an opinion of the market value of the business in relation to a minority oppression claim. Required to analyse a complex corporate structure and adopt a valuation date ten years earlier than the report date.
- Appointed by VCAT to undertake an assessment of bank transactions and provide a determination pursuant to a 'power of attorney' arrangement.
- Pursuant to a Court Order, jointly engaged by the parties to a shareholder dispute to provide an independent valuation of a property development business to enable the Court to make a decision about the division of assets of the company.

Retail / loss of opportunity

- Acted as an expert for a global retailer just entering the Australian market to quantify losses arising from a delay in the development of the shopping centre where the first store would be opened.
- Engaged by Woolworths to act as an expert and give concurrent evidence in Court in proceedings brought against a Council related to the loss of opportunity to develop a site in a shopping centre development that was awarded to a competitor.
- Acted as an expert and gave concurrent evidence in Court on behalf of Woolworths in relation to a claim brought against it by a developer who lost the opportunity to develop a Masters site.
- Acted as an expert to quantify losses to a major retail chain franchisor as well as to the franchisee in relation to a dispute with the developer of the property concerning problems with the premises.
- Jointly appointed by the lessor and lessee (referred by the Resolution Institute) to value the cash flows under an agricultural lease agreement.
- Appointed as an expert by one of the Big Four Banks to critique a claim made by a property developer alleging that the bank should have lent additional funds and that the developer suffered loss as a result.
- Acted as an expert and gave evidence in Court on behalf of Retirement Care Australia in relation to the profit earned from the development of an apartment complex, including dissecting the general ledger per the accounting system to determine true cash flows related to the development project.
- Acted as an expert witness to assess claims made by restaurants in relation to the impact on local tourism related to delays in the construction of the 'Melbourne Wheel', including impact of broader tourism sector.
- Appointed by one of the shareholders in a claim against an independent valuer in relation to buy-out of shares pursuant to a shareholders' agreement. The business was a start-up making and distributing alcoholic beverages. The exiting shareholder claims that the original valuation did not meet professional standards and thereby understated the value. Our role is to provide a valuation opinion on the basis of the process that should have been undertaken by a reasonable accountant undertaken the original valuation.
- Acted as an expert and gave evidence to a Tribunal on behalf of Crown Limited in relation to a dispute with a tenant, responding to losses claimed by a restaurant chain in relation to redevelopment of the retail space.

Other franchise and retail disputes

- Appointed by Mercedes Australia as a testifying expert in a class action brought by dealers in relation to issues arising from a switch to an agency model. Undertook complex modelling compiling datasets from Mercedes Australia and from across the dealership network, taking into account multiple scenarios. Gave evidence in Court.

DAWNA WRIGHT

- Appointed by a supply chain consulting firm to assist to defend a claim for lost profits made by a retailer related to an alleged failure to supply a digital marketing solution.
- Appointed by the purchaser of a business in the retail sector to quantify loss based on alleged misrepresentations during the sale process. Our role is to quantify the loss of value of the business to the purchaser due to the difference in the business model from that represented.
- Jointly appointed by the parties, at the direction of the Court, to give an opinion of loss and damage suffered by a franchisor in relation to a breach of a franchise agreement, including of a non-compete clause, by a terminated franchisee.
- Engaged by the global purchaser of an Australian electronics business to investigate potential claims of misleading and deceptive conduct in relation to the disclosures made in due diligence, including assessing the impact of potentially misleading disclosures to the forecast, and impact on valuation of the business.
- Engaged by the owners of the Australian operations of a global convenience store chain to assist in defending class action claims brought by franchisees alleging misleading and deceptive conduct in relation to wage underpayments / ongoing wage costs required to operate the franchises, and the value of goodwill. Our role is to quantify potential exposure to the franchisor by calculating the potential losses to each franchisee based on aggregating various disparate data sets.
- Engaged by the liquidator of an online retail business that is the subject of shareholder class action proceedings. Our role is to assess the validity of the financial forecast ('earnings guidance') given at points in time, and to calculate losses per share under various methodologies.
- Appointed by the majority shareholder of a major restaurant chain to provide business valuation advice over the course of a high-profile shareholder dispute.
- Acted as an expert and gave evidence in Court in proceedings related to a franchising dispute pursuant to an asset sale and purchase agreement. Her Honour noted that I gave my evidence "in a clear and forthright manner" and "was prepared to make concessions and answered each question directly". The opposing expert was found to be "an unreliable witness".
- Engaged by a popular restaurant chain franchisor to assist in defending claims brought by restaurant franchisees disputing the value of undertaking capital improvements required by the franchisor.
- Acted as a consulting expert to a major pharmacy chain in relation to a dispute with a franchisee concerning alleged representations made upon entering into the franchise agreement.

Jointly appointed

- Jointly appointed by the majority and minority shareholders in a national autobody repair business to undertake the valuation of the business on a market value and fair value basis, each at two different valuation dates, for use by the Court in legal proceedings.
- Jointly appointed by the potential purchaser and potential vendor of an autobody repairs business pursuant to a Court order to provide an opinion of the market value of the business in relation to a proposed transaction that failed to complete. Required to provide opinions of market value at different dates (including during COVID-19 affected periods) and consideration that would have been received (including consideration of possible earnout payments) by the vendor assuming the transaction was either delayed by one year or, alternatively, never completes. Was cross-examined by both parties.
- Jointly appointed by the parties to a supply agreement to undertake an expert determination to resolve a contractual dispute about unreconciled variances between alleged deliveries of goods and the payments for such deliveries.
- Jointly appointed by two parties to a supply agreement to provide an opinion of the correct accounting for unreconciled balances of deliveries and payments.

- Jointly appointed by the shareholders to provide an expert determination of the value of a financial planning business pursuant to a Trust Deed.

Analysis of financial position / investigations

- Investigated the misappropriation of funds through EFT transfers and subsequent manipulation of suspense accounts and journal entries for a major listed steel company.
- Appointed by the defendants in class action litigation to provide an opinion about the financial position of the plaintiff law firm in the context of assessing the risk of non-payment of any adverse cost order that may be made against the plaintiffs, to assist the Court in assessing the appropriate 'security for costs' (several different cases).
- Engaged by the liquidators of a communications company to provide an independent opinion about the date of insolvency. We considered the balance sheet test, the cash flow test, and other indicators of insolvency. We also considered specific transactions related to the restructuring of the company.
- Led a team supporting the Special Manager for the Melbourne Casino Operator. We worked directly with the Special Manager for approximately 2 years to monitor Crown's reforms and efforts to return to suitability following the Finkelstein Royal Commission. We were responsible for work streams (including stakeholder management) related to financial crime, responsible service of gambling, governance, risk management and compliance, and cultural change. We prepared 6-monthly interim reports and a final report to the VGCCC and the Minister for Casino, Gaming and Liquor Regulation. The VGCCC announced its decision in March 2024 and published our report online in April 2024.
- Appointed by the ACCC to assess, and provide an opinion of, the financial position of parties to a potential merger to assist the regulator in determining whether the entities were sustainable on a 'stand alone basis' in the current market, in the absence of the proposed merger.
- Appointed by a contractor in a construction dispute to provide an opinion of its financial position in the context of whether it was likely to be able to repay an interim payment, if an adjudication in its favour was reversed.
- Prepared an expert report detailing the allocation of payments between 'principal' and 'interest' on behalf of Fosters Group, which was uncontested during the trial.
- Undertook a royalty audit of the Australian business on behalf of a global retail fashion brand. Our findings were used to inform the renegotiation of the licencing agreement.
- Assisted the Canadian licensor of the Anne of Green Gables series to ensure royalties were appropriately calculated and reported by the Australian distributor.
- Investigated the misappropriation of approximately AU\$19 million by an employee of a publicly-listed major Australian retailer.
- Investigated suspense account discrepancies for the Private Equity owner of an Australian retail chain and provided recommendations for improvements in controls.
- Engaged by a New York law firm representing a publicly-listed global brokerage firm to defend a claim from an investor who had lost over US\$100 million. We undertook a detailed analysis of the omnibus account to trace transactions, trades and the market to determine whether the loss was due to misappropriation by the broker or due to poor investments.

Shareholder / JV disputes

- Appointed by a company claiming a breach of director's duties with respect to a transaction undertaken to transfer assets into a trust, merge the assets with other investments, and then sell the merged assets back to the company. Our role is to quantify the loss suffered following impairment write-downs. We are instructed to assess loss based on alternative methodologies, including the value of assets dissipated / contributed, the 'true value' of the interest in the trust compared with the 'price paid', the value of assets assuming the merger had not occurred, and the value of alternative investments.

- Engaged as an expert witness to value a professional services firm in the construction industry on behalf of a minority shareholder in relation to a minority oppression claim.
- Appointed by one of the shareholders in a shareholder dispute to critique the valuation report prepared by the ‘independent valuer’ and prepare our own valuation opinion that corrects issues identified and provides a ‘fair value’ opinion rather than a ‘market value’ opinion, including the consideration and valuation of different assumptions related to intellectual property.
- Acted as a consulting expert to value one of WA’s largest, vertically integrated meat processing operation pursuant to a shareholder dispute. Worked closely with FTI Consulting’s agribusiness specialists.
- Appointed by four parties in a multi-party dispute involving a complex structure of individuals, family trusts and businesses located in Australia and China, including detailed analysis of the flow of funds between various entities and loan accounts to determine the destination and use of contested funds, and gave concurrent evidence in Court.
- Investigated the sources and uses of funds based on bank statements and general ledgers to identify suspicious transactions on behalf of a minority shareholder alleging its funds were used for non-commercial purposes. Several recent (separate) engagements have involved a range of businesses such as equipment hire, restaurants, and the steel industry.
- Engaged by a large Australian ecommerce company to value the business pursuant to a “drag along” clause in the shareholder’s agreement, and to prepare a report that would stand up to the scrutiny of minority shareholders. We also undertook a valuation of each of the divisions for the purposes of presenting a robust and defensible report to the Australian Taxation Office in the context of a restructure of the business and an employee share plan.
- Appointed as a testifying expert to provide a valuation opinion in relation to an ASX-listed copper mining company that had recently lodged an Initial Public Offering (IPO). Our role was to provide an opinion of the value of the company in a ‘non-IPO’ scenario, in the context of a dispute over whether the IPO was a liquidity event that triggered an earnout payment.
- Engaged as an independent expert witness by the vendor of an infrastructure asset in the energy sector in relation to economic loss and damage on a cash flow basis and assessing the ‘true value’ for a ‘diminution in value’ claim pursuant to claims of misleading and deceptive conduct by the purchaser following a \$1.7 billion acquisition.
- Appointed as a testifying expert by a Perth lawyer acting for a group of shareholders bringing ‘fair value’ proceedings against a company registered in Bermuda, listed on the Australian Stock Exchange and engaged in exploration and development of a platinum project in South African. The company accepted an offer to be acquired. The shareholders did not vote in favour of the transaction and have applied to the Court for an independent assessment of the fair value of the shares. Gave evidence in the Supreme Court of Bermuda.
- Investigated the sources and uses of funds based on bank statements and general ledgers to identify suspicious transactions on behalf of a minority shareholder alleging its funds were used for non-commercial purposes. Several recent (separate) engagements have involved a range of businesses such as equipment hire, restaurants, and the steel industry.
- Engaged as a consulting expert in a dispute related to a complex pricing formula in a contract-manufacturing agreement in the dairy industry. Our role is to assess whether the supplier has complied with calculations set out in the agreement.
- Appointed in several other shareholder and family law disputes to provide an opinion on the value of the business. Our role is either as an independent expert appointed by the Court or acting for one of the parties to make submissions to an independent expert.

Valuation opinions - Misleading and deceptive conduct / breach of warranty claims

- Engaged by the vendor of business to assist in defending a claim for ‘material adverse change’ by the purchaser.

- Appointed by an auto dealership group as a testifying expert to assess loss in a claim brought against a global manufacturer arising from alleged misleading disclosures in relation to an acquisition of the dealership in the context of the manufacturer ceasing to supply vehicles in Australia.
- Engaged by the liquidator of the purchaser of a business in the dairy industry to give an independent expert opinion in relation to the quantification of customer overcharging, breaches of warranties and material adverse change after a finding of fraud against the vendor. Gave evidence in an arbitration hearing, and also in Court in relation to a 'breach of warranty' insurance claim.
- Appointed by the purchaser of a global infrastructure maintenance company to quantify the loss due to misleading disclosure about the profitability of a material contract for a warranty & indemnity insurance claim.
- Appointed as a consulting expert for the defendants in a case alleging a loss of opportunity by a third party to acquire a mining asset that was in 'care and maintenance', after the defendants acquired, developed and subsequently sold the asset.
- Appointed by the insurer to assess the validity of a warranty and indemnity claim in relation to the purchase of a manufacturing company in the food & beverage sector.
- Engaged by the purchaser of a financial services company to quantify losses under a warranty & indemnity insurance policy due to a financial statement misstatement. The client was successful in obtaining a benefit from the insurer.
- Engaged as a consulting expert by the purchaser to assist the legal team identify and quantify potential warranty claims following the acquisition of an Australian business by its UK parent company, including valuation of the business (of running global conferences).
- Engaged as a consulting expert in relation to a \$400 million acquisition in the agribusiness sector. We are assisting the former executive team, joined as third parties, to assess the "true value" of the business at the time of the acquisition.
- Engaged as an independent expert to quantify the loss suffered by the vendor of a furniture business in relation to a claim against legal advisors for negligent legal advice. The legal claim was a 'no transaction' claim, which involved 'unwinding' the impact of the transaction to the vendor and quantifying the cash flows that would have been retained had the business not been sold.

Class actions

- Engaged as a testifying expert by each of the New Zealand and Australian subsidiaries of a global office equipment company pursuant to allegations of fraud and accounting irregularities by the New Zealand executives, to give an opinion on the correct accounting treatment for revenue recognition, quantify economic loss suffered by the company, and assess potential claims against the auditors.
- Engaged as a consulting expert by multiple defendants to assess loss in multiple claims against the company by regulators, shareholders and liquidators pursuant to the collapse of a New Zealand-based provider of builders' warranty insurance and re-insurance.
- Appointed as an expert for the applicants in a class action in the retail sector to quantify an alleged underpayment of wages for tens of thousands of employees. Undertook system walk throughs to identify relevant data from multiple systems. Worked closely with our data scientists to build a model to combine the relevant data from various disparate systems and build a calculation model to calculate the underpayment over several years by employee and in total.
- Engaged by the applicants as a loss and damage expert in several class actions brought by customers of superfunds and investment companies. The roles involve quantifying losses to customers and/or gains to the companies from excess premiums charged for insurance products.

- Engaged by the owners of the Australian operations of a global convenience store chain to assist in defending class action claims brought by franchisees, to quantify potential exposure to the franchisor and calculate potential losses to each franchisee based on aggregating various disparate data sets.
- Engaged as a consulting expert to the applicants in a class action related to a listed company in the education sector. Assisted with the analysis of forecasts and the impact of inconsistencies in the underlying data and assessed the impact on the IPO valuation. Advised on loss methodology, estimated overall losses under various scenarios, and assessed claims against the auditors and members of the due diligence committee.
- Currently engaged as a testifying expert by the applicants in a class action brought by retail consumers to provide an opinion as to whether certain service fees charged represent costs incurred in undertaking the activity.
- Engaged as a testifying expert by the respondents in a shareholder class action to provide an opinion on the appropriateness of the forecasting methodology employed by the expert for the applicants.
- Acted as a consulting expert to Myer in a class action brought by shareholders to quantify losses per shareholder under various shareholder inflation scenarios, adopting the inflation opinions of our event-study economist who was a testifying expert.
- Member of the team engaged as the independent expert in the Timbercorp class action, involving analysis of the financial position and cash flow forecasts of the group at various points in time, to successfully defend the Non-Exec Directors.
- Engaged to quantify damages for representative applicants and group members in a class action related to Synthetic Collateralised Debt Obligations (SCDOs).
- Engaged to undertake a very early stage assessment of ‘aggregate’ losses in a shareholder class action for the purpose of applications to the Court in relation to multiple ‘competing’ class actions.
- Acted as an independent expert by the plaintiffs in the Arasor/Caason class action, including quantification of losses by group member under various scenarios, with a settlement ultimately approved by the Court. FTI Consulting then assisted the ‘scheme administrator’ with the subsequent quantification of final distributions and communications to each group member.
- Consulting expert to Amcor assisting in defending customer and class action claims for allegations of anti-competitive pricing, including high-level financial exposure estimates and creating complex models of costs and prices.
- Engaged by a New York law firm on behalf of IKON Office Products in a shareholder class action litigation. Reviewed financial records and other documents to assess the accuracy and timeliness of disclosures to the market regarding financial performance and earnings forecasts. Main area of misstatement related to the accounting for equipment leasing.
- Currently engaged as a consulting expert or expert witness in several shareholder class action matters, on behalf of applicants and respondents (separately), to investigate and assess accounting irregularities, assess the “true value” of the business, and quantify losses to group members under various ‘inflation’ or ‘no transaction’ scenarios, including working closely with our event-study economists.

Loss of opportunity / account of profits

- Engaged as an expert for the plaintiff in a dispute related to an alleged breach of competitive restraint and misuse of confidential information to provide opinions on loss & damage, value of the business, and an account of profits in relation to two businesses that produce pelleted feed for livestock.
- Engaged as an expert for the defendant in a dispute relating to an alleged breach of licensing agreement / expired patent to provide an opinion of loss & damage and an account of profits in relation to a patent licensed for the purpose of developing and selling hybrid crop seeds that are tolerant to a specific herbicide.

- Engaged as an expert witness on behalf of Aristocrat, a global leisure and gaming company, to assist in assessing whether it should elect an account of profits or damages in relation to a patent infringement matter by a competitor. Undertook the account of profits and gave concurrent evidence in court.
- Acted as an expert and give evidence in Court on behalf of Lifeplan Australia in relation to an account of profits earned and to be earned in relation to a pre-paid funeral bond business pursuant to an alleged theft of IP / breach of a non-compete clause. The engagement involved undertaking a valuation of the business based on expected funds under management incorporating actuarial data and opinions, as well as calculating the present value of cash flows under various “run-off” scenarios. Our preferred methodology was to value the ‘loss of goodwill’, being the loss of the value of the business. The matter was heard in the High Court where our valuation was accepted as the correct methodology for assessing loss.
- Assisted the expert in assessing economic loss in arbitration proceedings brought by one of the largest global e-commerce groups against their Indian joint venture partner related to a loss of opportunity pursuant to an alleged breach of the agreements related to their entry into the Indian market.
- Acted as a consulting expert for an Australian biotechnology company to quantify losses suffered from loss of its ‘first mover advantage’ due to breaches of contract, unauthorized use of confidential information and unauthorized filing of a patent application pursuant to a breach of a master research agreement and licensing agreement to develop and commercialise a new formulation.
- Instructed by a legal firm to respond to an independent expert accountants report quantifying the loss and damage allegedly suffered due to a theft of intellectual property. The analysis determined that the plaintiff appeared to be claiming elements of both an account of profits and a damages methodology.
- Assisted a major publicly-listed Australian steel company quantify losses suffered following an alleged breach of a non-compete clause by several former employees.

Contractual disputes / economic loss and damage

- Acted as an expert witness in relation to a dispute between an inventory financing business and its insurer. Critiqued the report of an opposing expert, whose report was subsequently withdrawn by the plaintiffs on the first day of the trial.
- Engaged by the applicants as a loss and damage expert in a class action brought by customers of one of Australia’s largest banks. The role involves quantifying profits earned from alleged overcharging for insurance services.
- Engaged by a large Australian ecommerce company to value the business pursuant to a “drag along” clause in the shareholder’s agreement, and to prepare a report that would stand up to the scrutiny of minority shareholders. We also undertook a valuation of each of the divisions for the purposes of presenting a robust and defensible report to the Australian Taxation Office in the context of a restructure of the business and an employee share plan.
- Appointed as an independent expert on behalf of the majority shareholders to provide a valuation opinion of the fair value and market value of an online share trading business pursuant to a minority oppression claim, including giving evidence in Court.
- Engaged by the founder of a media advisory firm to value the business for the purposes of exiting an executive and shareholder from the business.
- Jointly appointed by the buyer and seller of a software vendor to undertake an expert determination of the completion accounts on issues related to accrued revenue and employee entitlements, including obtaining legal advice on certain interpretation issues.
- Assisted with the assessment of damages in an IT dispute, in which the client was unsatisfied with the software implementation performed by a third party. Worked with an IT systems implementation expert to assess the claim based on the nature of the issues and likely costs involved with the implementation of a new system.

- Engaged to provide advice to a large telecommunications company to identify the risks associated with terminating a major technology supply contract, including assisting legal counsel and the client to assess the financial consequences of a termination, estimated damages, cash flows and sensitivity analysis.
- Engaged by the legal advisors for Telstra to respond to a claim for economic loss made by ProLearn, a customer that operated a call centre in the vocational education sector. We analysed Telstra call data as well as the customer's financial and CRM data. We also took into account the report of an expert in the education sector. Prepared an expert report and a joint report and gave evidence in Court.
- Engaged by Kingspan, a manufacturer of thermal insulation for use in commercial and residential buildings to respond to the expert report on behalf of a competitor alleging that it had lost customers due to Kingspan's conduct, including giving evidence in a hearing. My opinion, which was ultimately accepted by the Court, was that the opposing expert had not demonstrated any loss resulting from any conduct of Kingspan.
- Engaged by a manufacturer of gelcoats used in the construction of fiberglass swimming pool shells, a defendant in proceedings brought by an installer of pools. The installer claimed that a product defect has caused loss to the installer. Our role was to critique the opposing expert report, opining that the installer had not demonstrated any loss suffered from a loss of customers due to any defect.
- Appointed by Telstra to assist in critiquing an opposing expert report and participating in a mediation process for a dispute involving a quantification of financial impact related to the alleged inappropriate use of confidential information over a 10-year period.
- Acted as an expert witness, including concurrent evidence in Court, on behalf of Polytrade in proceedings brought against GRS (Glass Recovery Services) to assess loss claimed by GRS and counterclaims made by Polytrade due to GRS not accepting glass collected by Polytrade.
- Acting as an expert to quantify losses to a specialty packaging business in relation to the breach of an exclusive licensing agreement by a competitor.
- Instructed by a legal firm on behalf of an insurer to respond to an independent expert accountants report quantifying the loss and damage allegedly suffered due to a fire in a printing business.
- Acted as an expert and gave evidence in Court on behalf of a global parts supplier in relation to an alleged breach of fiduciary duty by the general manager of the Australian business.
- Prepared an expert report to quantify losses to a consulting business pursuant to an allegation of defamation regarding an article published in a leading business magazine.
- Acted as a consulting expert to an Australian Top 100 listed packaging company to quantify losses claimable under a fidelity insurance policy pursuant to the fraudulent sale of a business by an employee to a related party.
- Acted as a consulting expert to a global food, beverage and packaging conglomerate in relation to a dispute over dividends owing to the vendors following an acquisition.
- Prepared an expert report quantifying losses on share trading, and the opportunity cost associated with an alternative portfolio pursuant to allegations against a stock broker.
- Instructed by a legal firm acting on behalf of an investor to provide expert evidence related to the accounting for transactions in the financing of a stage production by Capital Finance Corporation, as compared with the prospectus for the project.
- Engaged by a New York law firm to value a mortgage origination business pursuant to its claim for the loss of profits and goodwill.

Accounting and auditing opinions

- Appointed as a consulting expert by the Directors of a major plantation company in relation to claims against the auditors. Our role was to examine company records and audit files to restate the balance sheet of the company pursuant to allegations of incorrect accounting and insolvent trading, in claims against the Directors and auditors.
- Engaged as an expert witness to quantify losses suffered by the group members in a shareholder class action related to alleged insufficient disclosure in the IPO prospectus and subsequent announcements of a national electronics retail chain now in liquidation. Investigated and assessed impact of accounting irregularities, considered the restatement of financial statements and possible claims against the auditors. Material accounting issues included inventory obsolescence and supplier rebates. We then quantified losses under several different methodologies and scenarios. Our model was built to withstand the scrutiny of not only the defendants' advisors, but also multiple groups of plaintiffs competing for the same pool of funds in parallel proceedings.
- Engaged as a consulting expert by the defendants in relation to a shareholder class action filed against a food manufacturer. Our role was to assess compliance with accounting standards, quantify the potential restatement of the financial accounts, identify the counterfactual market disclosures, work with our event-study economists to quantify possible inflation per share over the relevant period, and calculate a range of exposure for the Board.
- Engaged as an expert witness by the overseas shareholders in a local investment to quantify claims of misappropriation by the local managing director, and to provide an opinion about whether the auditors complied with Australian Auditing Standards.
- Appointed by a global alcoholic beverage manufacturer to assist with the quantification of insurance and damages claims pursuant to the 1.5 billion acquisition of an Australian business. Identified accounting irregularities, restated financial statements, and considered claims against the vendors (multiple PE funds), management, and the auditors. Issues in dispute related to the accounting treatment for revenue recognition, valuation of inventory, recording of provisions.
- Appointed by the purchaser of a manufacturing business to identify and quantify misleading financial statement misstatements and other misleading disclosures, assess the true value of the business acquired, and assess the loss suffered by the purchaser.
- Appointed by a private equity firm purchaser to quantify the impact of an accounting misstatement on the 'true value' of a company acquired for the purposes of making a warranty insurance claim.
- Engaged by a New York law firm to investigate a financial statement misstatement at Rite Aid, a publicly-listed retail pharmacy company resulting in a U.S. Securities and Exchange Commission (SEC) investigation and a shareholder class action. The US\$4 billion restatement was the then-largest restatement in SEC history.

Accounting opinions - Expert determinations - Jointly appointed - Acquisition-related

- Jointly appointed by the purchaser and vendor following the sale of a mining asset to provide an expert determination of the correct accounting treatment for several components in the completion balance sheet, including accounting for heavy maintenance and low production periods.
- Jointly appointed by the purchaser and vendor following the sale of a business in the technology and defence industry to provide an expert determination of the correct accounting for slow moving parts and components of inventory.
- Jointly appointed by two global pharmaceutical companies to provide an independent valuation of approximately \$75 million of inventory in accordance with Accounting Standards (including agricultural raw materials and work in process, and assessment of net realisable value of highly regulated products) pursuant to a Business Sale Agreement in Australia, including managing a complex dispute resolution process involving two 'Big 4' accounting firms and preparing a reasoned independent expert determination.
- Jointly appointed by the purchaser and vendor of a company providing home care services to undertake an expert determination of the correct accounting for assets and liabilities related to funds owing between clients, service providers and Services Australia (a government body), among other issues.

- Jointly appointed by the parties (via the Resolution Institute) to undertake an expert determination related to a working capital adjustment relating to the valuation of inventory in a gold mining operation as at the date of completion, among other accounting issues.
- Jointly appointed by the purchaser and vendor of a steel supply business to determine an earn-out dispute after a pre-acquisition misappropriation of funds was found post-acquisition.
- Appointed to prepare an independent expert determination in a pricing dispute between two parties in the oil and gas industry.
- Jointly engaged by the purchaser and vendor to provide an independent accountant determination of the working capital balance pursuant to a purchase price adjustment clause in a buy-sell agreement. Requested adjustments by the purchaser represent close to 50% of the purchase price.
- Jointly appointed by two ASX-listed financial services companies to undertake an expert determination of the completion accounts prepared pursuant to the sale of a wealth management business in relation to provisions for remediation issues, including obtaining legal advice on certain issues of contract interpretation.
- Jointly appointed by the purchaser and vendor to undertake an expert determination of disputed items in the calculation of the completion working capital balance pursuant to a share sale agreement related to the sale of a business providing consulting services in the infrastructure industry.
- Jointly appointed by a Big 4 bank and a foreign bank to provide an independent expert determination of an accounting issue in dispute pursuant to the sale of a business by the Australian bank.
- Jointly appointed by the parties (via the Resolution Institute) to undertake an expert determination related to a working capital adjustment pursuant to the sale of a cosmetics company. Issues in dispute included the valuation of inventory and accounting for trade spend.
- Jointly appointed by the parties to a Share Sale Agreement to provide an independent determination of the completion working capital balance. The dispute captured approximately 15 disputed items resulting in a net working capital adjustment payment of \$9 million in relation to a working capital target of \$5 million.
- Jointly appointed by two parties to an asset sale agreement in relation to the sale of alcoholic beverage brands to assist with a dispute in relation to the valuation of inventory and its net realisable value (including consideration of use by dates).
- Jointly appointed by the buyer and the seller and their respective legal advisors to provide an expert determination pursuant to an asset purchase agreement in the pharmaceutical industry. The issues in dispute related to the value of inventory items comprising drugs either discontinued or subject to regulatory restrictions.
- Jointly appointed by the purchaser and vendor to determine an earn-out dispute related the accounting treatment of heavy maintenance events on leased aircraft.

Accounting opinions - Expert determinations – appointed by one of the parties

- Engaged by the publicly-listed vendor of an engineering and construction business to assist with the preparation of submissions to an independent expert determiner. There were a dozen issues in dispute, and the expert decided all issues in favour of our client.
- Engaged by the vendors of an industrial services company to assist with the preparation of submissions to an independent expert in relation to a purchase price adjustment. The main issues in dispute relate to the valuation of inventory and the future economic benefit of a fleet of leased vehicles.
- Appointed by the vendor of a utility services business to prepare submissions to an independent expert for determination in a completion accounts dispute about the net working capital balance pursuant to a completion adjustment clause in a share sale deed. Quantum of disputed matters was nearly 50% of the target working capital balance. The issues in dispute related to the accounting for inventory, onerous contracts, revenue recognition, debtors and provisions.

- Assisted the vendor of a retail electricity business to defend its position with respect to the preparation of completion accounts following the transaction. The purchaser disputed US\$68 million of the US\$350 million purchase price.
- Engaged by the majority shareholders pursuant to a Sale & Purchase Agreement Put & Call Option Deed to give an opinion as to whether the expert determination undertaken by a Big 4 accounting firm contained 'manifest error'.
- Engaged by the UK purchaser of an Australian professional services firm in an earnout dispute with the Australian vendor. Issues in dispute include the treatment of COVID-19 government relief packages that were not anticipated when the Sale & Purchase Agreement was signed.
- Engaged by a U.S. listed company with global operations following its acquisition of an Australian consulting business to defend a claim by the vendor related to an earn-out calculation. The vendor's objection to the purchaser's calculation was attempting to increase the payment tenfold.
- Engaged by a private equity fund to prepare a submission to an independent expert pursuant to a dispute over a AU\$7 million purchase price adjustment related to a business purchased from a major Australian listed hospitality services company. The issues in dispute related mainly to the existence of assets on the fixed asset register.
- Appointed by the founder and vendor of a business in the health and leisure sector to dispute the earnout calculation prepared by the purchaser. Successfully increased the earnout payment by approximately 50%, without having to refer the matter to an independent expert.
- Appointed by the vendor of a leisure business sold to a private equity firm to identify issues and draft a notice of dispute in relation to the buyer's calculation of a deferred payment (earn out payment).
- Engaged by the majority shareholders of a consulting firm in the building and property sector to prepare a submission to an independent valuer in relation to the buy-out of the minority shareholder.
- Assisted the independent expert in performing an expert determination related to the purchase price adjustment in the acquisition of an Australian insurer by a Dutch company.
- Appointed by the vendor of a manufacturing business to assess quantum due under an earnout clause and prepare submissions to an independent expert determiner, mainly relating to revenue recognition.
- Engaged by the global Belgian purchaser of a U.S. electronics business to review the balance sheet, identify 'objections' in relation to the accounting treatment, and assist with negotiations to determine the purchase price adjustment.
- Engaged by a New York law firm to prepare submissions to an independent expert on behalf of the vendor of a business claiming an earn-out payment representing approximately 25% of the purchase price. The analysis involved re-calculating the gross margins earned on sales from raw data to show that the financial information prepared by the purchaser was incorrect.
- Engaged by a New York law firm to prepare submissions to an independent expert on behalf of the purchaser of a high-fashion sunglasses business. The main issue was the value of prior season stock recorded at US\$75 million. Potential adjustments totaled US\$140 million out of the total consideration of US\$350 million.

Energy, mining, construction and major projects

- Engaged as an expert by a mining services company found to have infringed a patent for a mining tool sold to a mineral exploration company, to undertake an account of profits earned and an assessment of damages to the patent owner, including critique of opposing expert's reports.
- Acted as an expert and gave evidence in an arbitration in Singapore for one of the world's largest industrial companies in relation to an 'account of profits' from the alleged breach of a licence agreement through the use of technical designs by the customer licensed to use the technology for specific types of mills in a specific jurisdiction.

- Acted as an independent expert and gave oral testimony in a Dispute Adjudication Board in Singapore to quantify the impact on an iron ore operation in Fiji of the cancellation of a contract with a Chinese company to build a port and a related offtake agreement. The engagement involved calculating the net present value of cash flows of the cancelled project compared with an alternative contract likely to be negotiated with a different party.
- Appointed by a French consortium partner in relation to the Gorgon project to act as a forensic accounting expert, and gave oral testimony in a Singapore arbitration proceeding brought against the company by its consortium partner with claims exceeding \$1 billion.
- Engaged as a forensic accounting expert on behalf of the contractor making a claim in arbitration proceedings in disputes arising from the design, construction and operation of a major Sydney infrastructure project.
- Engaged by the project operator undertaking the design, construction, financing and operations of a 'PPP' (public private partnership) project in South Australia, to act as a forensic accounting expert in relation to the interpretation of complex formulae in a series of PPP contracts in an ACICA arbitration relating to delay claims.
- Appointed by a Korean contractor and gave oral testimony in an arbitration seated in Singapore related to the Roy Hill iron ore project in the Pilbara, dealing with forensic accounting issues and working closely with our Construction Solutions team on the quantum & delay / valuation issues in relation to a \$500 million contract.
- Acted as an expert and gave evidence in Court on behalf of Thyssenkrupp, the defendant, in a dispute involving BHP seeking damages of approximately AU\$50 million following the failure of a significant piece of mining equipment in an open cut coal mine. Analysis involved quantifying the cash flow impact based on its effect on the mining operations.
- Assisted the expert in quantifying the economic loss suffered by an Australian gold mining company in an investor-state arbitration following the non-renewal of the company's mining licence in a foreign jurisdiction. The loss assessment comprised a counterfactual valuation of the mining operation but for the non-renewal of the licence.
- Appointed by an Australian subcontractor in and gave oral testimony in international arbitration proceedings in relation to one of Australia's largest offshore LNG projects to give an opinion about the appropriateness of overhead costs claimed against it, as well as on the reasonableness of its own claim for overheads.
- Appointed by a Thai JV partner as an independent forensic accounting expert in an arbitration seated in Singapore in relation to an offshore oil and gas project in the Gulf of Thailand.
- Currently engaged by the respondents in a shareholder class action in the construction industry, to provide an opinion on whether the applicants have proven that there was any material misstatement of the financial statements and related disclosures.
- Engaged by the plaintiffs in a shareholder class action against a global company supplying building and construction materials to provide an opinion about the obligations under accounting and auditing standards in relation to a financial statement restatement, and to quantify losses suffered by shareholders as a result of the restatement.
- Appointed by one of Australia's largest mining companies to give expert evidence in a dispute with a joint venture partner in relation to losses caused by a fire on a ship meant to transport coal, that interrupted operations at the downstream port and the connected rail service.
- Conducted an anti-bribery and corruption review (in French) for a global mining company at iron ore mines in two different French-speaking countries in Africa.
- Engaged by the respondent to respond to a claim by a supplier of construction supplies that it suffered loss due to the conduct of its competitor. Our analysis identified that there were other factors causing, and contributing to, any decrease in sales by the applicant.
- Provided an expert opinion as to the losses incurred due to significant delays and mismanagement of an offshore oil and gas exploration project.

DAWNA WRIGHT

- Appointed as an expert by a state government infrastructure department to provide an opinion about any loss suffered (including 'diminution in value') in a claim brought against it in relation to a major development project.
- Acted as the expert for the Major Transport Infrastructure Authority in two claims by a major restaurant chain in relation to the Melbourne Metro Tunnel
- Provided expert evidence in the Patrick and Toll closed arbitration involving financial claims of between AU\$300 and AU\$500 million (as quoted in the press). As publicly reported, the dispute centred on a JV arrangement under which Toll provided rail freight services to Pacific National Limited (PNL) in North Queensland. Patrick claimed that Toll benefited from the deal, which would create an AU\$510 million revenue shortfall for PNL over 20 years.
- Acted as an expert witness to quantify damages and insurance claims related to the loss of production caused by the cracking of an industrial waste composter servicing several councils in Western Australia, including the preparation of four separate expert reports and two expert conclaves with several accounting, engineering and delay experts.

Intellectual Property, licensing and distribution disputes

- Engaged as an expert by Pepsi in a dispute with the Australian Taxation Office about the value of IP, and whether certain payments constitute royalty payments. Our analysis included an assessment of the relationship based on the supply agreement and of a 'reasonable royalty', including giving evidence in Court.
- Engaged as a consulting expert to assist a global law firm with its representation of a Chinese manufacturer of white goods in dispute with its Australian distributor.
- Engaged as an expert by a global media company to assess the reasonable fee to be paid for the right to stream music during programming.
- Appointed by a global automotive manufacturer to act as an expert in a class action filed against the Australian subsidiary by the dealerships / franchisees.
- Prepared an expert report discussing the valuation of licences and patents related to the invention of a component of motor vehicle engines.
- Engaged as an expert witness to value a start-up software business in the entertainment industry following allegations of misleading and deceptive conduct by the Australian representative of a Canadian parent company.
- Engaged by a New York law firm representing Ortho Biotech to analyse the terms of hundreds of sales contracts and actual sales of a particular drug to determine whether they complied with the terms of a licensing agreement with a competing company.

Insolvency-related disputes

- Engaged by the liquidators of a company providing tertiary education to provide an independent opinion about the date of insolvency following the withdrawal of government funding. We considered the balance sheet test, the cash flow test, and other indicators of insolvency. Gave concurrent evidence in Court.
- Engaged by a group of global banks that were unsecured creditors to Arrium to assess loss arising due to an alleged delay by Directors in appointing a voluntary administrator.
- Engaged by the Director of a company providing asset management services to provide an independent opinion about the date of insolvency pursuant to claims of insolvent trading made by the liquidator. We considered the balance sheet test, the cash flow test, and other indicators of insolvency.
- Acted as an expert on behalf of a Dutch manufacturer in arbitration to assess losses claimed by an Australian company in relation to local licencing and distribution rights.
- Engaged by the auditors of a publicly listed business services company to assist with defending a claim for loss brought by the liquidators of the company.

- Engaged by the liquidators of a communications company to provide an independent opinion about the date of insolvency. We considered the balance sheet test, the cash flow test, and other indicators of insolvency. We also considered specific transactions related to the restructuring of the company.
- Regularly assist insolvency practitioners with financial analysis required to determine the point of insolvency.

Agribusiness

- Appointed as an expert in a shareholder dispute, working closely with our agribusiness experts to provide an opinion of the value of a cattle and sheep farming operation.
- Appointed as a consulting expert by the Directors of a major plantation company in relation to claims against the auditors. Our role was to examine company records and audit files to restate the balance sheet of the company pursuant to allegations of incorrect accounting and insolvent trading, in claims against the Directors and auditors.
- Quantified losses to a family-owned business in the wine industry following the contamination of several vintages by an outsourced service provider.
- Acted as an expert witness to quantify losses in relation to the early termination of a premium wine distribution contract.
- Assisted a producer and supplier of lettuce to Australia's largest supermarkets to quantify losses caused by a salmonella outbreak that resulted in a product recall, and the destruction of crops and subsequent delay in replanting forced by the supermarkets.
- Assisted the independent expert in performing an expert determination related to the purchase price adjustment in the acquisition by a leading Australian grain company of the financial service subsidiary of a diversified corporate.
- Appointed as an expert to quantify losses suffered by the purchaser of a cheese producer that experienced a listeria outbreak resulting in a product recall.

Regulatory and employment matters

- Appointed as an expert for the applicants in a class action in the retail sector to quantify an alleged underpayment of wages for tens of thousands of employees.
- Appointed by an aged care provider to assist the HR team and its legal advisors to undertake a payroll compliance assessment and quantify wage underpayments, including detailed quantification based on roster, timesheets, payroll data and highly complex EBAs, as well as prepare communication and remediation plans.
- Appointed by a provider of disability and family services to assist the HR team and its legal advisors to undertake a payroll compliance assessment, including detailed quantification based on roster, timesheets, payroll data and highly complex EBAs, as well as prepare communication and remediation plans.
- Appointed by a union to calculate the difference between payment under Award rates and payment under EBA rates for a set of hypothetical rosters.
- Appointed by a union to assess the loss (if any) suffered by two logistics company due to industrial action taken by employees found to be 'illegal'.
- Appointed by a union to assess the loss suffered by a company in the construction industry due to a 'ban' on union members undertaking certain activities.
- Appointed by a union to assess the sufficiency of information provided by a company to the union members in bidding for the contract for work that would otherwise have been outsourced.
- Engaged to review the Australian vs overseas gambling proceeds of an online betting company in relation to GST reporting.
- Extracted sales data and constructed a complex financial model to estimate the potential value of claims against Pan Pharmaceuticals by customers and other third parties following regulatory action by the TGA and the largest product

recall in Australia. The analysis was used by the acting directors to make critical decisions regarding the future of the company.

Other investigations

- Conducted a multi-division fraud risk assessment for a major listed steel company, including an employee survey, workshops and data analysis to identify unusual transactions.
- Investigated allegations of corruption in the metal recycling industry, involving company management and site managers allegedly receiving kickbacks from suppliers, who were also potentially related parties, in return for overpayment for goods supplied.
- Investigated a financial statement misstatement made by the Australian subsidiary of a U.S. publicly-listed engineering consulting company that resulted in an investigation by the SEC and the restatement of previously reported results in the U.S. It also resulted in an investigation and prosecution by the Australian Securities and Investments Commission of the Australian Managing Director.

Other Roles

- Director, Chair of Audit and Risk Committee, Angle Auto Finance (March 2022 to Feb 2024)
- Director and Chair of Finance and Audit Committee (of the International Board) (2023 to present), Member, Finance & Audit Committee (global) (2017 to 2023), Amnesty International
- Chair, National Forensic Accounting Committee, Chartered Accountants Australia & New Zealand (2014-2019)
- Director, Deputy Chair, Women's Circus, Chair of Audit & Risk Committee (2009 to 2015)
- Director, Australian Institute of Management Vic & Tas, Chair - Finance Audit & Risk Committee (2011-2013)
- Director, Chair of Audit & Risk Committee, Amnesty International Australia (2006 to 2011)

ANNEXURE C

Annexure C: List of documents provided

Australian Competition and Consumer Commission v Coles Supermarkets Australia Pty Ltd

Confidential and subject to legal professional privilege

Document No.	Document name	Date provided	Provided by	Category
Doc:001	1. Voluntary request - June 2022 Request - 20 June 2022.pdf	24/05/2024	JWS	
Doc:002	2. Voluntary request - June 2022 Request - Attachment - 20 June 2022.xlsx	24/05/2024	JWS	
Doc:003	3. Voluntary response - Response to June 2022 Request - 1 August 2022.pdf	24/05/2024	JWS	
Doc:004	4. Voluntary response - Response to June 2022 Request - Attachment 1 - 1 August 2022.xlsx	24/05/2024	JWS	
Doc:005	5. s155 notice - May 2023 Notice - 4 May 2023.pdf	24/05/2024	JWS	
Doc:006	6. s155 variation - Variation to May 2023 Notice - 8 June 2023.pdf	24/05/2024	JWS	
Doc:007	7. s155 response - Tranche 1 of response to May 2023 Notice - 9 June 2023.pdf	24/05/2024	JWS	
Doc:008	8. s155 response - Tranche 1 of 4 May 2023 Response - Annexure A - 9 June 2023.pdf	24/05/2024	JWS	
Doc:009	9. s155 response - Tranche 2 of response to May 2023 Notice - 7 July 2023.pdf	24/05/2024	JWS	
Doc:010	10. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 1 - 7 July 2023.xlsx	24/05/2024	JWS	
Doc:011	11.1. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 2 - 7 July 2023.csv	24/05/2024	JWS	
Doc:012	11.2. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 3 - 7 July 2023.csv	24/05/2024	JWS	
Doc:013	11.3. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 4 - 7 July 2023.csv	24/05/2024	JWS	
Doc:014	11.4. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 5 - 7 July 2023.csv	24/05/2024	JWS	
Doc:015	11.5. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 6 - 7 July 2023.xlsx	24/05/2024	JWS	
Doc:016	12. s155 response - Tranche 2 of 4 May 2023 Response - Attachment 7 - 7 July 2023.xlsx	24/05/2024	JWS	
Doc:017	13. s155 notice - December 2023 Notice - 15 December 2023.pdf	24/05/2024	JWS	
Doc:018	14. s155 response - December 2023 Notice - Annexure A - 15 December 2023.xlsx	24/05/2024	JWS	
Doc:019	15. s155 variation - Variation to December 2023 Notice - 21 February 2024.pdf	24/05/2024	JWS	
Doc:020	16. s155 variation - Variation to December 2023 Notice - Annexure C - 21 February 2024.xlsx	24/05/2024	JWS	
Doc:021	17. s155 response - Tranche 1 of response to December 2023 Notice - 16 February 2024.pdf	24/05/2024	JWS	
Doc:022	18. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 6 - 16 February 2024.xlsx	24/05/2024	JWS	
Doc:023	19.1. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 7 - 16 February 2024.csv	24/05/2024	JWS	
Doc:024	19.10. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 16 - 16 February 2024.csv	24/05/2024	JWS	
Doc:025	19.11. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 17 - 16 February 2024.csv	24/05/2024	JWS	
Doc:026	19.12. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 18 - 16 February 2024.csv	24/05/2024	JWS	
Doc:027	19.13. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 19 - 16 February 2024.csv	24/05/2024	JWS	
Doc:028	19.14. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 20 - 16 February 2024.csv	24/05/2024	JWS	
Doc:029	19.15. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 21 - 16 February 2024.csv	24/05/2024	JWS	
Doc:030	19.16. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 22 - 16 February 2024.csv	24/05/2024	JWS	
Doc:031	19.17. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 23 - 16 February 2024.csv	24/05/2024	JWS	
Doc:032	19.18. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 24 - 16 February 2024.csv	24/05/2024	JWS	
Doc:033	19.19. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 25 - 16 February 2024.csv	24/05/2024	JWS	
Doc:034	19.2. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 8 - 16 February 2024.csv	24/05/2024	JWS	
Doc:035	19.20. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 26 - 16 February 2024.csv	24/05/2024	JWS	
Doc:036	19.21. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 27 - 16 February 2024.csv	24/05/2024	JWS	
Doc:037	19.22. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 28 - 16 February 2024.csv	24/05/2024	JWS	
Doc:038	19.23. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 29 - 16 February 2024.csv	24/05/2024	JWS	
Doc:039	19.24. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 30 - 16 February 2024.csv	24/05/2024	JWS	
Doc:040	19.25. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 31 - 16 February 2024.csv	24/05/2024	JWS	
Doc:041	19.3. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 9 - 16 February 2024.csv	24/05/2024	JWS	
Doc:042	19.4. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 10 - 16 February 2024.csv	24/05/2024	JWS	
Doc:043	19.5. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 11 - 16 February 2024.csv	24/05/2024	JWS	
Doc:044	19.6. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 12 - 16 February 2024.csv	24/05/2024	JWS	
Doc:045	19.7. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 13 - 16 February 2024.csv	24/05/2024	JWS	
Doc:046	19.8. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 14 - 16 February 2024.csv	24/05/2024	JWS	
Doc:047	19.9. s155 response - Tranche 1 of response to December 2023 Notice - Attachment 15 - 16 February 2024.csv	24/05/2024	JWS	
Doc:048	20. s155 response - Tranche 2 of response to December 2023 Notice - 8 March 2024.pdf	24/05/2024	JWS	
Doc:049	21. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 2 - 8 March 2024.xlsx	24/05/2024	JWS	
Doc:050	22.1. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 3 - 8 March 2024.csv	24/05/2024	JWS	
Doc:051	22.2. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 4 - 8 March 2024.csv	24/05/2024	JWS	
Doc:052	22.3. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 5 - 8 March 2024.csv	24/05/2024	JWS	
Doc:053	22.4. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 6 - 8 March 2024.csv	24/05/2024	JWS	
Doc:054	22.5. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 7 - 8 March 2024.csv	24/05/2024	JWS	
Doc:055	23. s155 response - Tranche 2 of response to December 2023 Notice - Attachment 8 - 8 March 2024.xlsx	24/05/2024	JWS	
Doc:056	24. Letter from ACCC - Queries about data - 31 July 2023.pdf	24/05/2024	JWS	
Doc:057	25. Letter from Coles' solicitors - Response to queries about data - 9 August 2023.pdf	24/05/2024	JWS	
Doc:058	26. Letter from ACCC - Response to Item 14 of Schedule 1 - 20 March 2024.pdf	24/05/2024	JWS	
Doc:059	27. Letter from Coles' solicitors - Coles' proposal - 3 April 2024.pdf	24/05/2024	JWS	
Doc:060	28. Letter from ACCC - Seeking further information about Coles' proposal - 12 April 2024.pdf	24/05/2024	JWS	
Doc:061	29. Letter from Coles' solicitors - Providing further information about Coles' proposal - 12 April 2024.pdf	24/05/2024	JWS	
Doc:062	30. Letter from ACCC - Requesting Coles engage expert - 30 April 2024.pdf	24/05/2024	JWS	
Doc:063	Coles Supermarkets Australia Pty Ltd - Annexure A to s 155(1)(a) and (b) Notice - December 2023.xlsx [COL.500.(30/08/2024	JWS	(a) List of Relevant Products
Doc:064	Attachment 6 - GST applicable to Down Down items.xlsx [COL.500.040.0036].xlsx	30/08/2024	JWS	(b) GST table
Doc:065	Attachment 2 - Data for Relevant Products from R10 (State Rep Stores).xlsx [COL.500.040.0019].xlsx	30/08/2024	JWS	(c) State Representative R10 data
Doc:066	Attachment 7 - 20230705_DownDownProducts_AllHistory 9.21am.xlsx [COL.500.040.0042].xlsx	30/08/2024	JWS	(d) Eden Rise R10 data
Doc:067	acc_ful_extrc_20240517.csv [COL.500.040.0008].csv	30/08/2024	JWS	(e) State level BiW data

Annexure C: List of documents provided

Australian Competition and Consumer Commission v Coles Supermarkets Australia Pty Ltd

Confidential and subject to legal professional privilege

Document No.	Document name	Date provided	Provided by	Category
Doc:068	1. Attachment 2 - Item_Information_08JUN2021_31DEC2021.csv [COL.500.040.0020].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:069	2. Attachment 3 - Item_Information_01JAN2022_30JUN2022.csv [COL.500.040.0031].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:070	3. Attachment 4 - Item_Information_01JUL2022_31DEC2022.csv [COL.500.040.0034].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:071	4. Attachment 5 - Item_Information_01JAN2023_07JUN2023.csv [COL.500.040.0035].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:072	5. Attachment 6 - Item_Information_06JUL2021_04JUL2023_Additional items.xlsx [COL.500.040.0037].xlsx	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:073	6. Attachment 7 - store 667 (Moonee Ponds)_01JAN21-07JUN21.csv [COL.500.040.0038].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:074	7. Attachment 8 - store 667 (Moonee Ponds)_01JAN22-30JUN22.csv [COL.500.040.0039].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:075	8. Attachment 9 - store 667 (Moonee Ponds)_01JAN23-04MAY23.csv [COL.500.040.0040].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:076	9. Attachment 10 - store 667 (Moonee Ponds)_01JUL22-31DEC22.csv [COL.500.040.0009].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:077	10. Attachment 11 - store 667 (Moonee Ponds)_08JUN21-31DEC21.csv [COL.500.040.0010].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:078	11. Attachment 12 - store 669 (Southland)_01JAN21-07JUN21.csv [COL.500.040.0011].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:079	12. Attachment 13 - store 669 (Southland)_01JAN22-30JUN22.csv [COL.500.040.0012].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:080	13. Attachment 14 - store 669 (Southland)_01JAN23-04MAY23.csv [COL.500.040.0013].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:081	14. Attachment 15 - store 669 (Southland)_01JUL22-31DEC22.csv [COL.500.040.0014].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:082	15. Attachment 16 - store 669 (Southland)_08JUN21-31DEC21.csv [COL.500.040.0015].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:083	16. Attachment 17 - store 7757 (Elsternwick)_01JAN21-07JUN21.csv [COL.500.040.0016].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:084	17. Attachment 18 - store 7757 (Elsternwick)_01JAN22-30JUN22.csv [COL.500.040.0017].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:085	18. Attachment 19 - store 7757 (Elsternwick)_01JAN23-04MAY23.csv [COL.500.040.0018].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:086	19. Attachment 20 - store 7757 (Elsternwick)_01JUL22-31DEC22.csv [COL.500.040.0021].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:087	20. Attachment 21 - store 7757 (Elsternwick)_08JUN21-31DEC21.csv [COL.500.040.0022].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:088	21. Attachment 22 - store 7841 (Taylors Hill)_01JAN21-07JUN21.csv [COL.500.040.0023].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:089	22. Attachment 23 - store 7841 (Taylors Hill)_01JAN22-30JUN22.csv [COL.500.040.0024].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:090	23. Attachment 24 - store 7841 (Taylors Hill)_01JAN23-04MAY23.csv [COL.500.040.0025].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:091	24. Attachment 25 - store 7841 (Taylors Hill)_01JUL22-31DEC22.csv [COL.500.040.0026].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:092	25. Attachment 26 - store 7841 (Taylors Hill)_08JUN21-31DEC21.csv [COL.500.040.0027].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:093	26. Attachment 27 - store 7919 (Coburg North)_01JAN21-07JUN21.csv [COL.500.040.0028].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:094	27. Attachment 28 - store 7919 (Coburg North)_01JAN22-30JUN22.csv [COL.500.040.0029].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:095	28. Attachment 29 - store 7919 (Coburg North)_01JAN23-04MAY23.csv [COL.500.040.0030].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:096	29. Attachment 30 - store 7919 (Coburg North)_01JUL22-31DEC22.csv [COL.500.040.0032].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:097	30. Attachment 31 - store 7919 (Coburg North)_08JUN21-31DEC21.csv [COL.500.040.0033].csv	30/08/2024	JWS	(f) BiW data from six Victorian stores
Doc:098	Attachment 1 - Updated list of Relevant Products.xlsx	29/10/2024	JWS	
Doc:099	Enclosure – Order dated 23 May 2025.pdf	8/07/2025	JWS	
Doc:100	VID 973 of 2024 - Second SOAF - 21 August 2025 (sealed).pdf	22/08/2025	JWS	
Doc:101	250822 Order.pdf	22/08/2025	JWS	

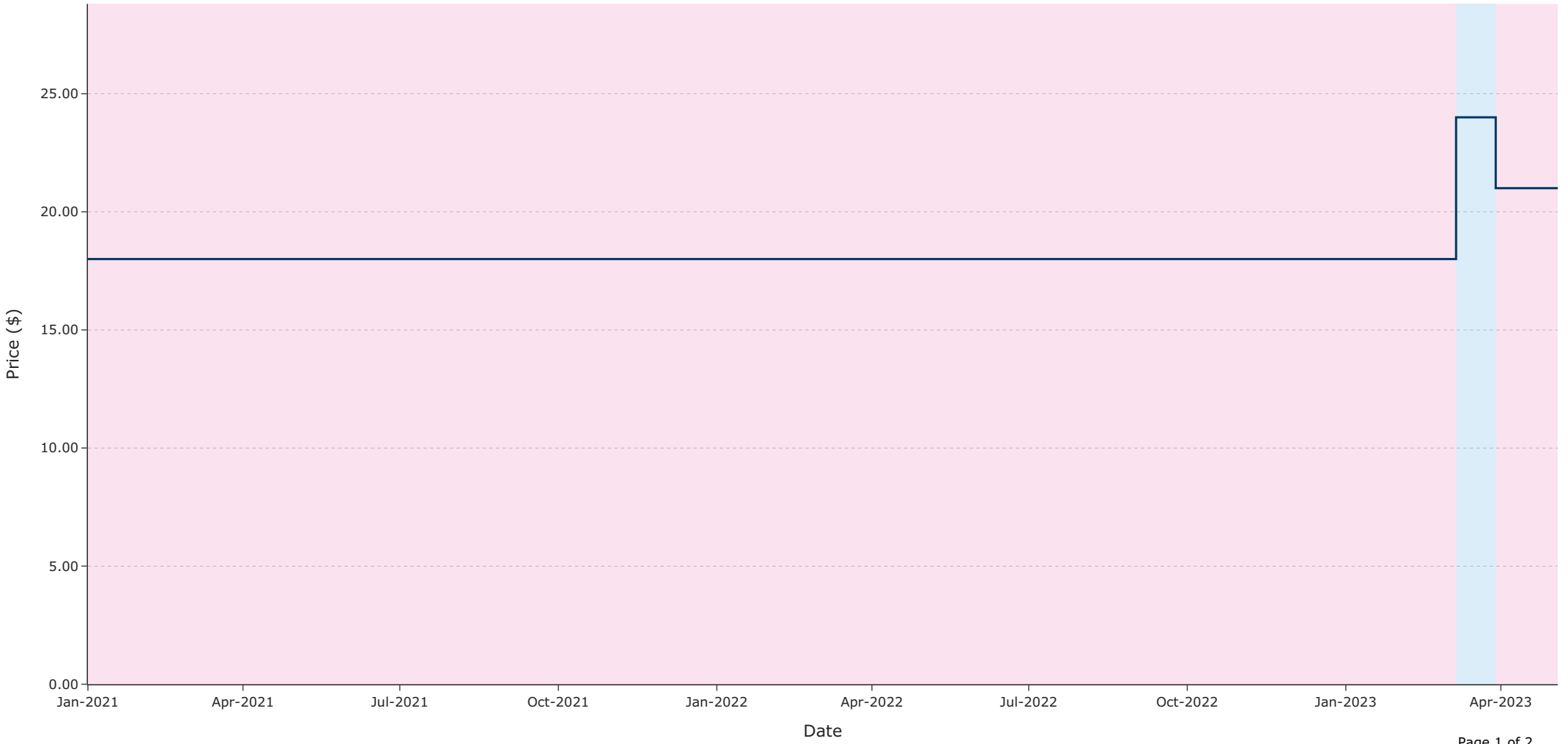
ANNEXURE D

Provided electronically

ANNEXURE E1

1023271 KARICARE FOLLOW ON FORMULA:900 GRAM

Down Down White Ticket



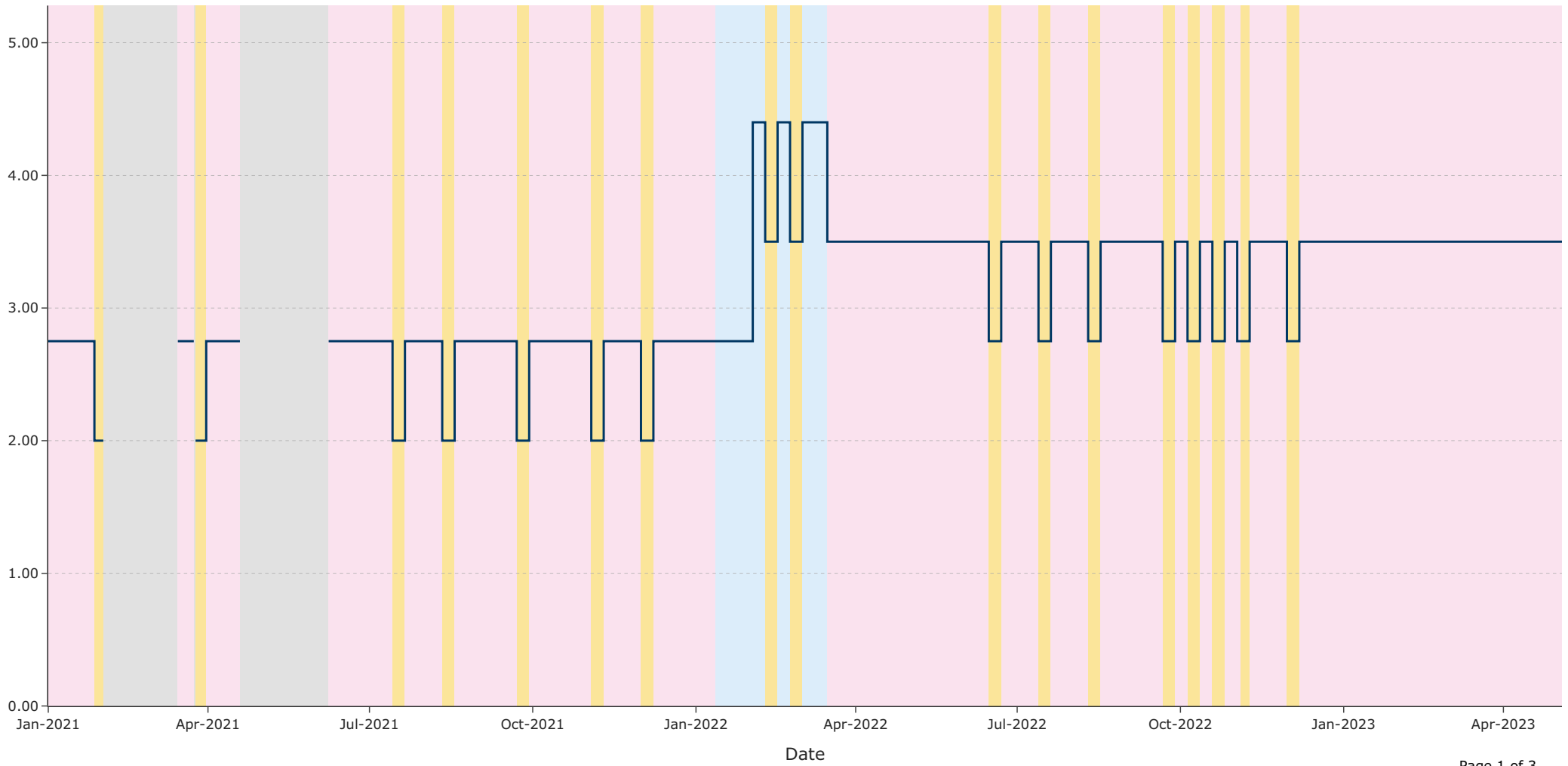
1023271 KARICARE FOLLOW ON FORMULA:900 GRAM

Price	Status	Start Date	End Date	Days
18.00	Down Down	01-01-2021	05-03-2023	794
24.00	White Ticket	06-03-2023	28-03-2023	23
21.00	Down Down	29-03-2023	04-05-2023	37

ANNEXURE E2

191736 CCA SOFT DRINK:COLA:::2 LITRE

Down Down No Data White Ticket Special



191736 CCA SOFT DRINK:COLA:::2 LITRE

Price	Status	Start Date	End Date	Days
2.75	Down Down	01-01-2021	26-01-2021	26
2.00	Special	27-01-2021	31-01-2021	5
No Data	No Data	01-02-2021	14-03-2021	42
2.75	Down Down	15-03-2021	23-03-2021	9
No Data	No Data	24-03-2021	24-03-2021	1
2.00	Special	25-03-2021	30-03-2021	6
2.75	Down Down	31-03-2021	18-04-2021	19
No Data	No Data	19-04-2021	07-06-2021	50
2.75	Down Down	08-06-2021	13-07-2021	36
2.00	Special	14-07-2021	20-07-2021	7
2.75	Down Down	21-07-2021	10-08-2021	21
2.00	Special	11-08-2021	17-08-2021	7
2.75	Down Down	18-08-2021	21-09-2021	35
2.00	Special	22-09-2021	28-09-2021	7
2.75	Down Down	29-09-2021	02-11-2021	35
2.00	Special	03-11-2021	09-11-2021	7
2.75	Down Down	10-11-2021	30-11-2021	21
2.00	Special	01-12-2021	07-12-2021	7
2.75	Down Down	08-12-2021	11-01-2022	35
2.75	White Ticket	12-01-2022	01-02-2022	21
4.40	White Ticket	02-02-2022	08-02-2022	7
3.50	Special	09-02-2022	15-02-2022	7
4.40	White Ticket	16-02-2022	22-02-2022	7
3.50	Special	23-02-2022	01-03-2022	7
4.40	White Ticket	02-03-2022	15-03-2022	14
3.50	Down Down	16-03-2022	14-06-2022	91
2.75	Special	15-06-2022	21-06-2022	7
3.50	Down Down	22-06-2022	12-07-2022	21
2.75	Special	13-07-2022	19-07-2022	7
3.50	Down Down	20-07-2022	09-08-2022	21
2.75	Special	10-08-2022	16-08-2022	7
3.50	Down Down	17-08-2022	20-09-2022	35
2.75	Special	21-09-2022	27-09-2022	7
3.50	Down Down	28-09-2022	04-10-2022	7
2.75	Special	05-10-2022	11-10-2022	7
3.50	Down Down	12-10-2022	18-10-2022	7
2.75	Special	19-10-2022	25-10-2022	7
3.50	Down Down	26-10-2022	01-11-2022	7
2.75	Down Down	02-11-2022	03-11-2022	2
2.75	Special	04-11-2022	08-11-2022	5
3.50	Down Down	09-11-2022	29-11-2022	21
2.75	Special	30-11-2022	06-12-2022	7

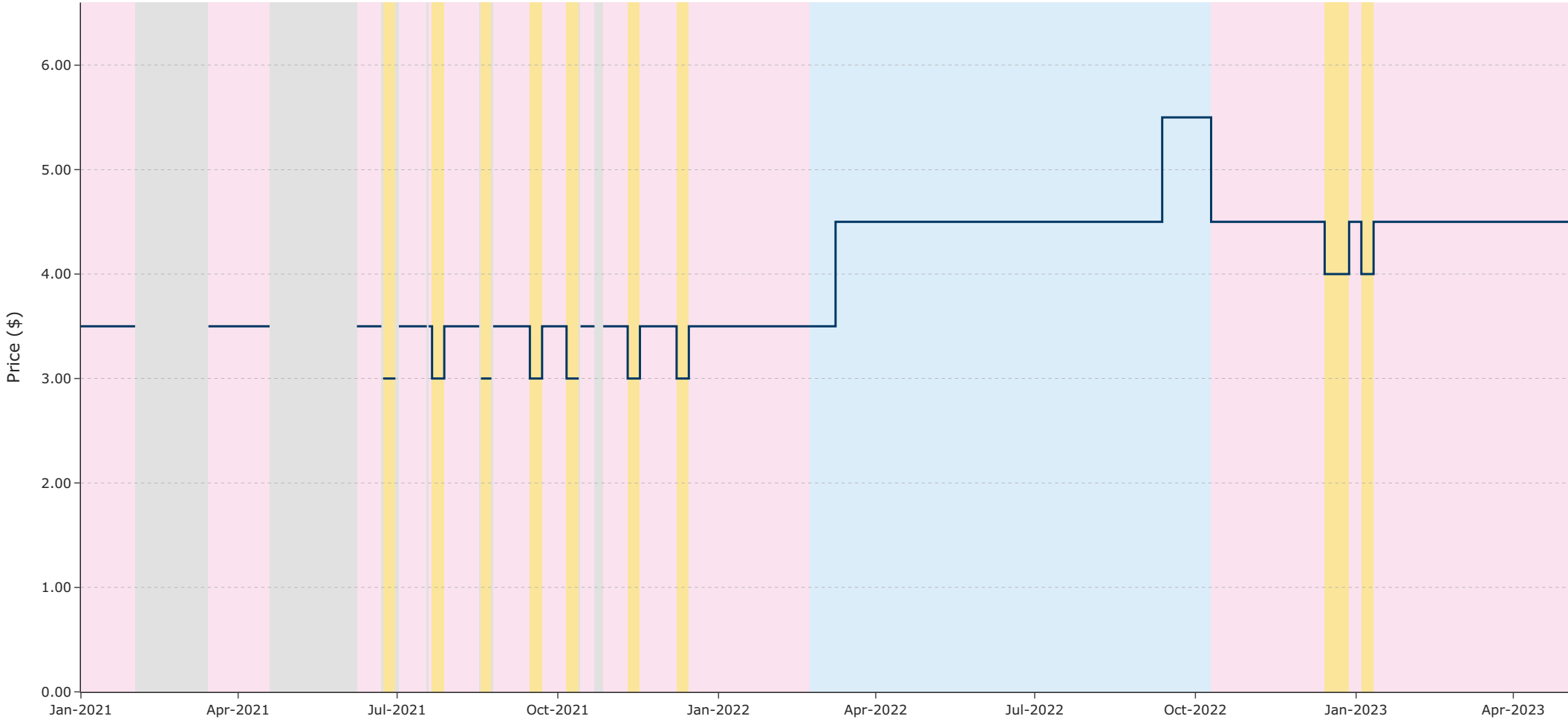
191736 CCA SOFT DRINK:COLA:..:2 LITRE

Price	Status	Start Date	End Date	Days
3.50	Down Down	07-12-2022	04-05-2023	149

ANNEXURE E3

255409 PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT LOAF 1.2KG CAN:FIVE KINDS MEAT:::1.2 KG

Down Down No Data White Ticket Special



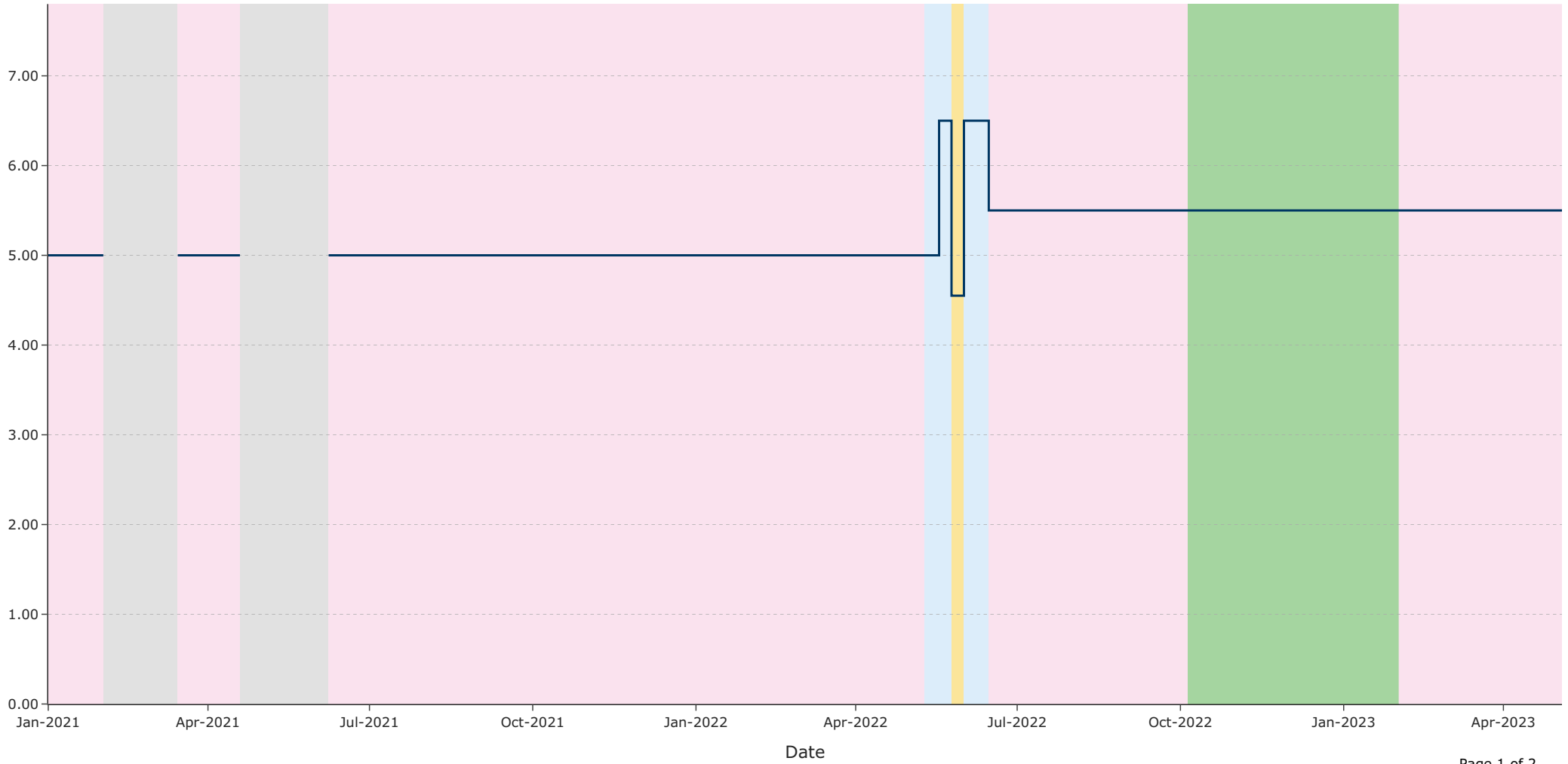
255409 PEDIGREE ADULT WET DOG FOOD WITH 5 KINDS OF MEAT
LOAF 1.2KG CAN:FIVE KINDS MEAT:::1.2 KG

Price	Status	Start Date	End Date	Days
3.50	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	14-03-2021	42
3.50	Down Down	15-03-2021	18-04-2021	35
No Data	No Data	19-04-2021	07-06-2021	50
3.50	Down Down	08-06-2021	21-06-2021	14
No Data	No Data	22-06-2021	22-06-2021	1
3.00	Special	23-06-2021	29-06-2021	7
No Data	No Data	30-06-2021	01-07-2021	2
3.50	Down Down	02-07-2021	17-07-2021	16
No Data	No Data	18-07-2021	18-07-2021	1
3.50	Down Down	19-07-2021	20-07-2021	2
3.00	Special	21-07-2021	27-07-2021	7
3.50	Down Down	28-07-2021	16-08-2021	20
No Data	No Data	17-08-2021	17-08-2021	1
3.00	Special	18-08-2021	23-08-2021	6
No Data	No Data	24-08-2021	24-08-2021	1
3.50	Down Down	25-08-2021	14-09-2021	21
3.00	Special	15-09-2021	21-09-2021	7
3.50	Down Down	22-09-2021	05-10-2021	14
3.00	Special	06-10-2021	12-10-2021	7
No Data	No Data	13-10-2021	13-10-2021	1
3.50	Down Down	14-10-2021	21-10-2021	8
No Data	No Data	22-10-2021	26-10-2021	5
3.50	Down Down	27-10-2021	09-11-2021	14
3.00	Special	10-11-2021	16-11-2021	7
3.50	Down Down	17-11-2021	07-12-2021	21
3.00	Special	08-12-2021	14-12-2021	7
3.50	Down Down	15-12-2021	21-02-2022	69
3.50	White Ticket	22-02-2022	08-03-2022	15
4.50	White Ticket	09-03-2022	11-09-2022	187
5.50	White Ticket	12-09-2022	09-10-2022	28
4.50	Down Down	10-10-2022	13-12-2022	65
4.00	Special	14-12-2022	27-12-2022	14
4.50	Down Down	28-12-2022	03-01-2023	7
4.00	Special	04-01-2023	10-01-2023	7
4.50	Down Down	11-01-2023	04-05-2023	114

ANNEXURE E4

2992180 ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375 GRAM

● No Data ● White Ticket ● Down Down ● Locked ● Special



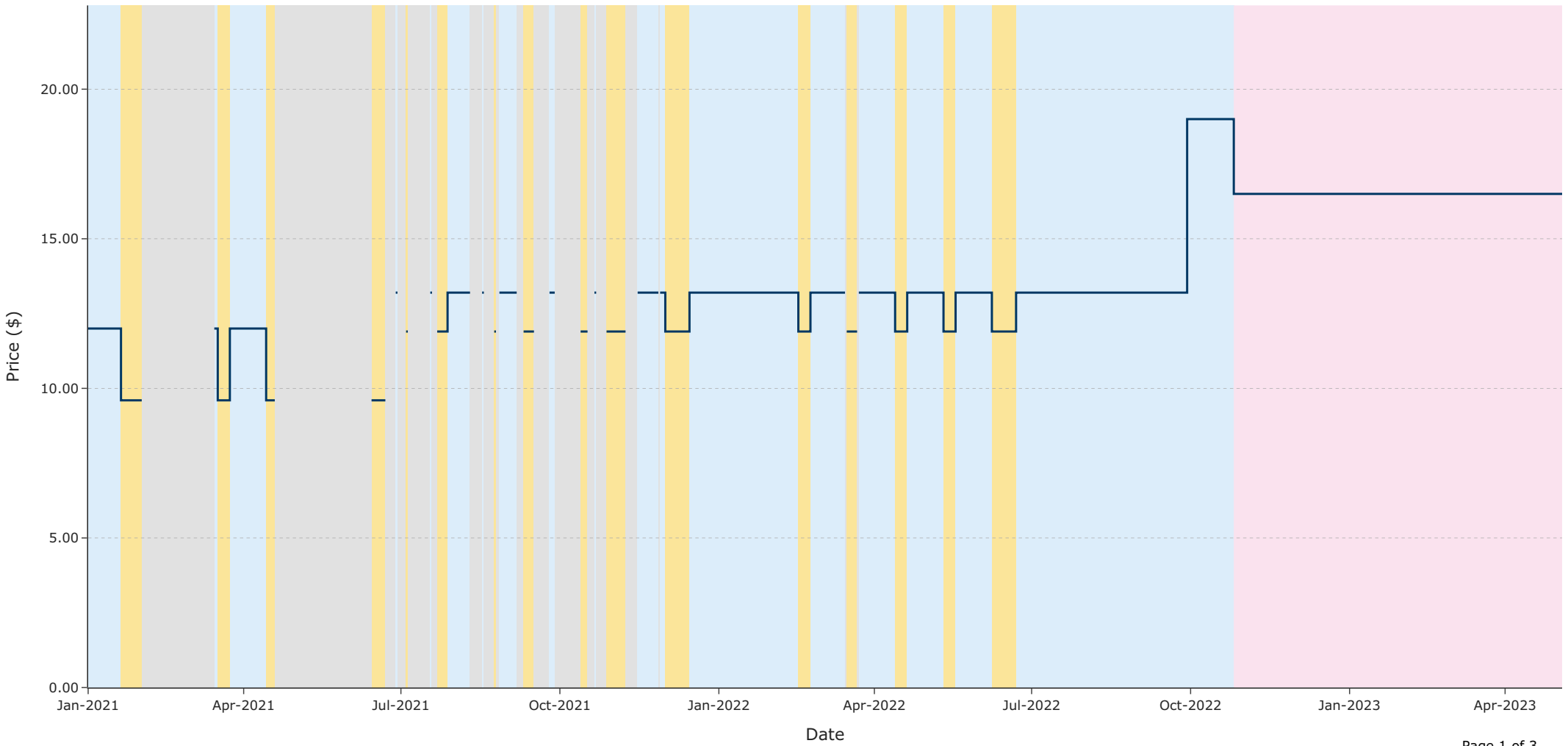
2992180 ARNOTTS SHAPES MULTIPACK VARIETY 15 PACK:375
GRAM

Price	Status	Start Date	End Date	Days
5.00	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	14-03-2021	42
5.00	Down Down	15-03-2021	18-04-2021	35
No Data	No Data	19-04-2021	07-06-2021	50
5.00	Down Down	08-06-2021	09-05-2022	336
5.00	White Ticket	10-05-2022	17-05-2022	8
6.50	White Ticket	18-05-2022	24-05-2022	7
4.55	Special	25-05-2022	31-05-2022	7
6.50	White Ticket	01-06-2022	14-06-2022	14
5.50	Down Down	15-06-2022	04-10-2022	112
5.50	Locked	05-10-2022	31-01-2023	119
5.50	Down Down	01-02-2023	04-05-2023	93

ANNEXURE E5

3139426 BRAGG SEASONING NUTRITIONAL YEAST PREMIUM QUALITY:127 GRAM

● No Data ● Special ● Down Down ● White Ticket



3139426 BRAGG SEASONING NUTRITIONAL YEAST PREMIUM
 QUALITY:127 GRAM

Price	Status	Start Date	End Date	Days
12.00	White Ticket	01-01-2021	19-01-2021	19
9.60	Special	20-01-2021	31-01-2021	12
No Data	No Data	01-02-2021	14-03-2021	42
12.00	White Ticket	15-03-2021	16-03-2021	2
9.60	Special	17-03-2021	23-03-2021	7
12.00	White Ticket	24-03-2021	13-04-2021	21
9.60	Special	14-04-2021	18-04-2021	5
No Data	No Data	19-04-2021	13-06-2021	56
9.60	Special	14-06-2021	21-06-2021	8
No Data	No Data	22-06-2021	27-06-2021	6
13.20	White Ticket	28-06-2021	28-06-2021	1
No Data	No Data	29-06-2021	03-07-2021	5
11.90	Special	04-07-2021	04-07-2021	1
No Data	No Data	05-07-2021	17-07-2021	13
13.20	White Ticket	18-07-2021	18-07-2021	1
No Data	No Data	19-07-2021	21-07-2021	3
11.90	Special	22-07-2021	27-07-2021	6
13.20	White Ticket	28-07-2021	09-08-2021	13
No Data	No Data	10-08-2021	16-08-2021	7
13.20	White Ticket	17-08-2021	17-08-2021	1
No Data	No Data	18-08-2021	23-08-2021	6
11.90	Special	24-08-2021	24-08-2021	1
No Data	No Data	25-08-2021	26-08-2021	2
13.20	White Ticket	27-08-2021	05-09-2021	10
No Data	No Data	06-09-2021	09-09-2021	4
11.90	Special	10-09-2021	15-09-2021	6
No Data	No Data	16-09-2021	24-09-2021	9
13.20	White Ticket	25-09-2021	27-09-2021	3
No Data	No Data	28-09-2021	12-10-2021	15
11.90	Special	13-10-2021	16-10-2021	4
No Data	No Data	17-10-2021	20-10-2021	4
13.20	White Ticket	21-10-2021	21-10-2021	1
No Data	No Data	22-10-2021	27-10-2021	6
11.90	Special	28-10-2021	07-11-2021	11
No Data	No Data	08-11-2021	14-11-2021	7
13.20	White Ticket	15-11-2021	26-11-2021	12
No Data	No Data	27-11-2021	27-11-2021	1
13.20	White Ticket	28-11-2021	30-11-2021	3
11.90	Special	01-12-2021	14-12-2021	14
13.20	White Ticket	15-12-2021	15-02-2022	63
11.90	Special	16-02-2022	22-02-2022	7
13.20	White Ticket	23-02-2022	14-03-2022	20

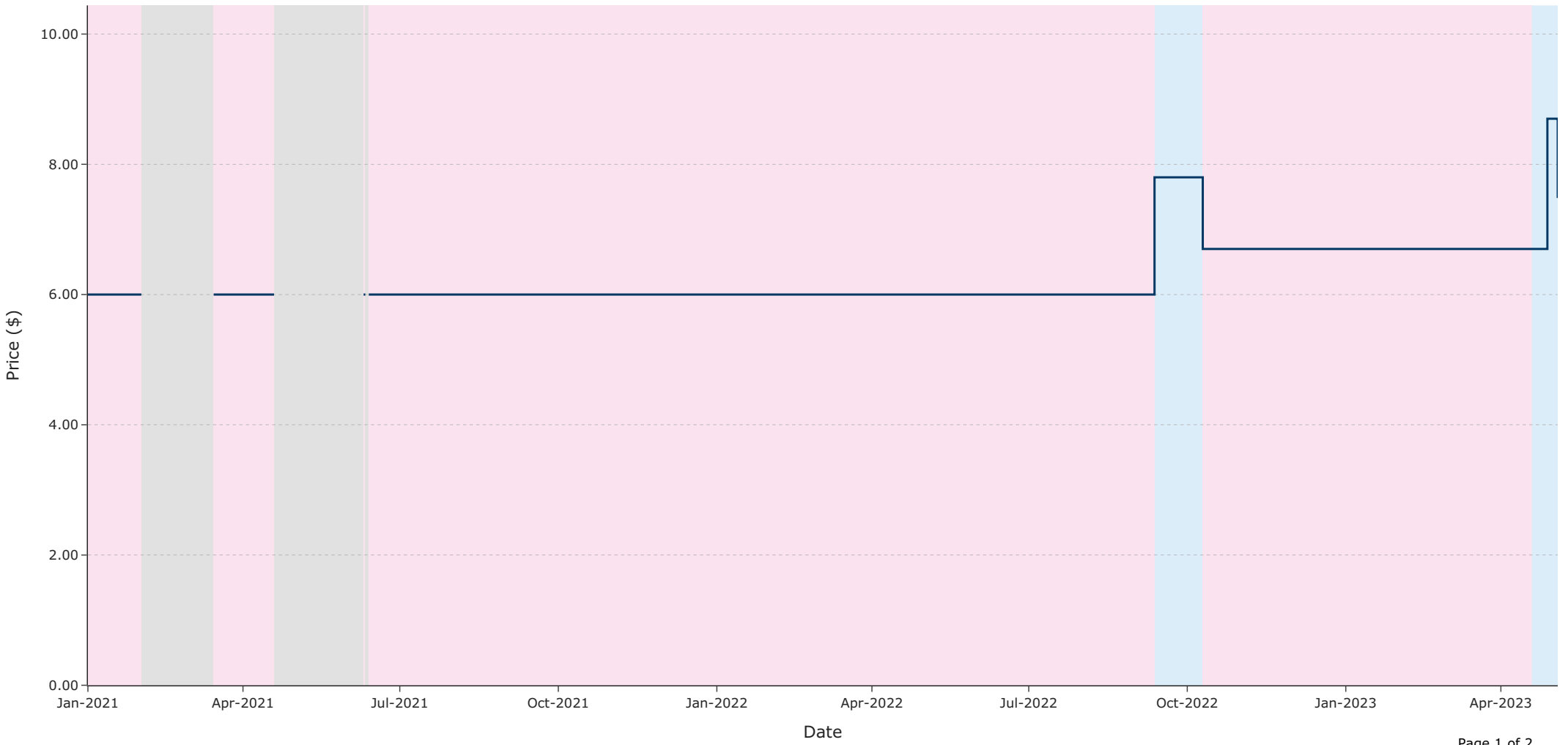
3139426 BRAGG SEASONING NUTRITIONAL YEAST PREMIUM
 QUALITY:127 GRAM

Price	Status	Start Date	End Date	Days
No Data	No Data	15-03-2022	15-03-2022	1
11.90	Special	16-03-2022	21-03-2022	6
No Data	No Data	22-03-2022	22-03-2022	1
13.20	White Ticket	23-03-2022	12-04-2022	21
11.90	Special	13-04-2022	19-04-2022	7
13.20	White Ticket	20-04-2022	10-05-2022	21
11.90	Special	11-05-2022	17-05-2022	7
13.20	White Ticket	18-05-2022	07-06-2022	21
11.90	Special	08-06-2022	21-06-2022	14
13.20	White Ticket	22-06-2022	28-09-2022	99
19.00	White Ticket	29-09-2022	25-10-2022	27
16.50	Down Down	26-10-2022	04-05-2023	191

ANNEXURE E6

3246914 DANONE YOPRO YOGHURT:VANILLA:..:700 GRAM

● Down Down ● No Data ● White Ticket



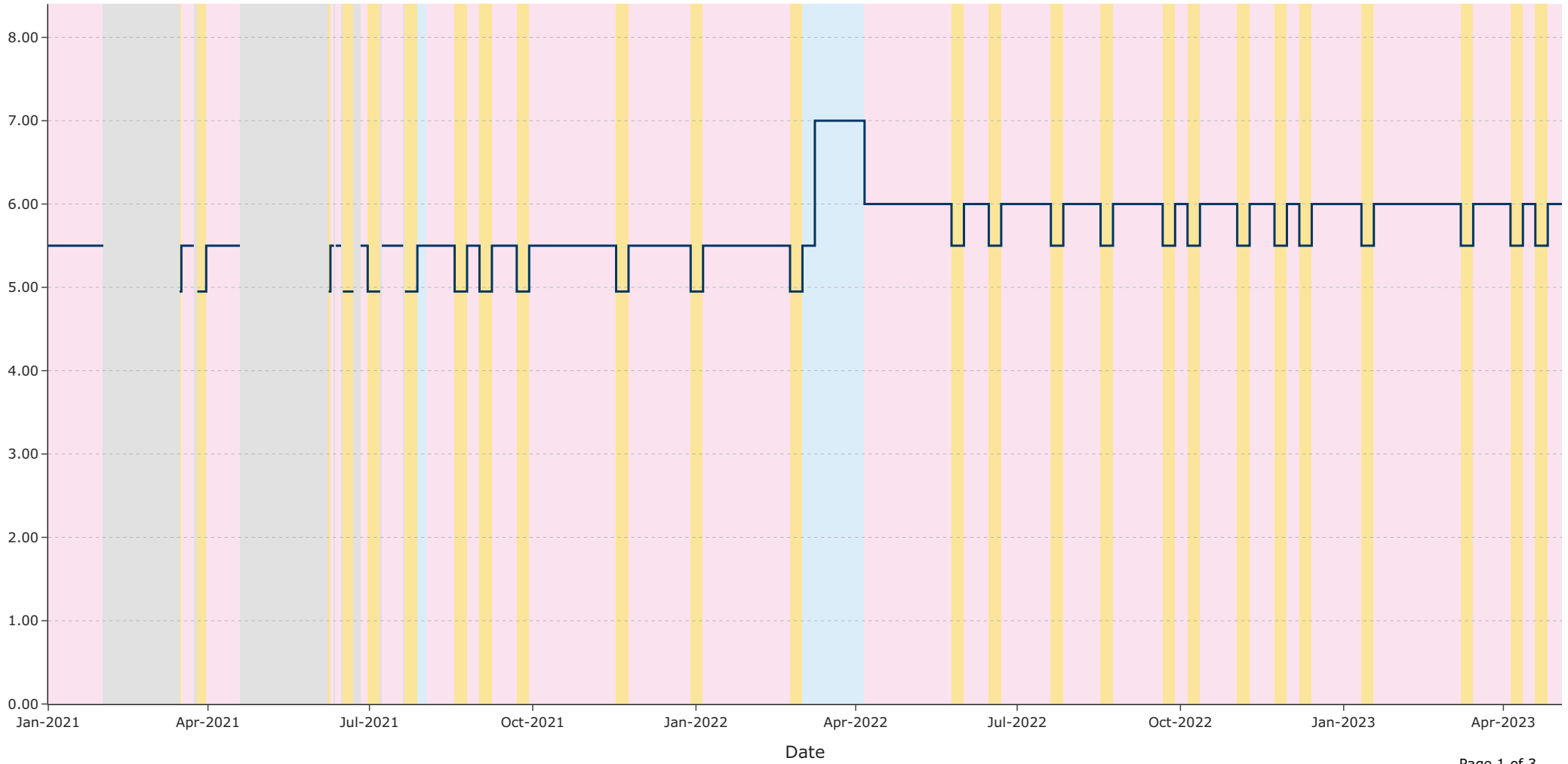
3246914 DANONE YOPRO YOGHURT:VANILLA:.:700 GRAM

Price	Status	Start Date	End Date	Days
6.00	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	14-03-2021	42
6.00	Down Down	15-03-2021	18-04-2021	35
No Data	No Data	19-04-2021	09-06-2021	52
6.00	Down Down	10-06-2021	10-06-2021	1
No Data	No Data	11-06-2021	12-06-2021	2
6.00	Down Down	13-06-2021	11-09-2022	456
7.80	White Ticket	12-09-2022	09-10-2022	28
6.70	Down Down	10-10-2022	18-04-2023	191
6.70	White Ticket	19-04-2023	27-04-2023	9
8.70	White Ticket	28-04-2023	03-05-2023	6
7.50	White Ticket	04-05-2023	04-05-2023	1

ANNEXURE E7

3401074 COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM

Down Down No Data White Ticket Special



3401074 COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM

Price	Status	Start Date	End Date	Days
5.50	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	15-03-2021	43
4.95	Special	16-03-2021	16-03-2021	1
5.50	Down Down	17-03-2021	23-03-2021	7
No Data	No Data	24-03-2021	25-03-2021	2
4.95	Special	26-03-2021	30-03-2021	5
5.50	Down Down	31-03-2021	18-04-2021	19
No Data	No Data	19-04-2021	07-06-2021	50
4.95	Special	08-06-2021	08-06-2021	1
5.50	Down Down	09-06-2021	10-06-2021	2
No Data	No Data	11-06-2021	11-06-2021	1
5.50	Down Down	12-06-2021	14-06-2021	3
No Data	No Data	15-06-2021	15-06-2021	1
4.95	Special	16-06-2021	21-06-2021	6
No Data	No Data	22-06-2021	25-06-2021	4
5.50	Down Down	26-06-2021	29-06-2021	4
4.95	Special	30-06-2021	06-07-2021	7
No Data	No Data	07-07-2021	07-07-2021	1
5.50	Down Down	08-07-2021	19-07-2021	12
No Data	No Data	20-07-2021	20-07-2021	1
4.95	Special	21-07-2021	27-07-2021	7
5.50	White Ticket	28-07-2021	01-08-2021	5
5.50	Down Down	02-08-2021	17-08-2021	16
4.95	Special	18-08-2021	24-08-2021	7
5.50	Down Down	25-08-2021	31-08-2021	7
4.95	Special	01-09-2021	07-09-2021	7
5.50	Down Down	08-09-2021	21-09-2021	14
4.95	Special	22-09-2021	28-09-2021	7
5.50	Down Down	29-09-2021	16-11-2021	49
4.95	Special	17-11-2021	23-11-2021	7
5.50	Down Down	24-11-2021	28-12-2021	35
4.95	Special	29-12-2021	04-01-2022	7
5.50	Down Down	05-01-2022	22-02-2022	49
4.95	Special	23-02-2022	01-03-2022	7
5.50	White Ticket	02-03-2022	08-03-2022	7
7.00	White Ticket	09-03-2022	05-04-2022	28
6.00	Down Down	06-04-2022	24-05-2022	49
5.50	Special	25-05-2022	31-05-2022	7
6.00	Down Down	01-06-2022	14-06-2022	14
5.50	Special	15-06-2022	21-06-2022	7
6.00	Down Down	22-06-2022	19-07-2022	28
5.50	Special	20-07-2022	26-07-2022	7

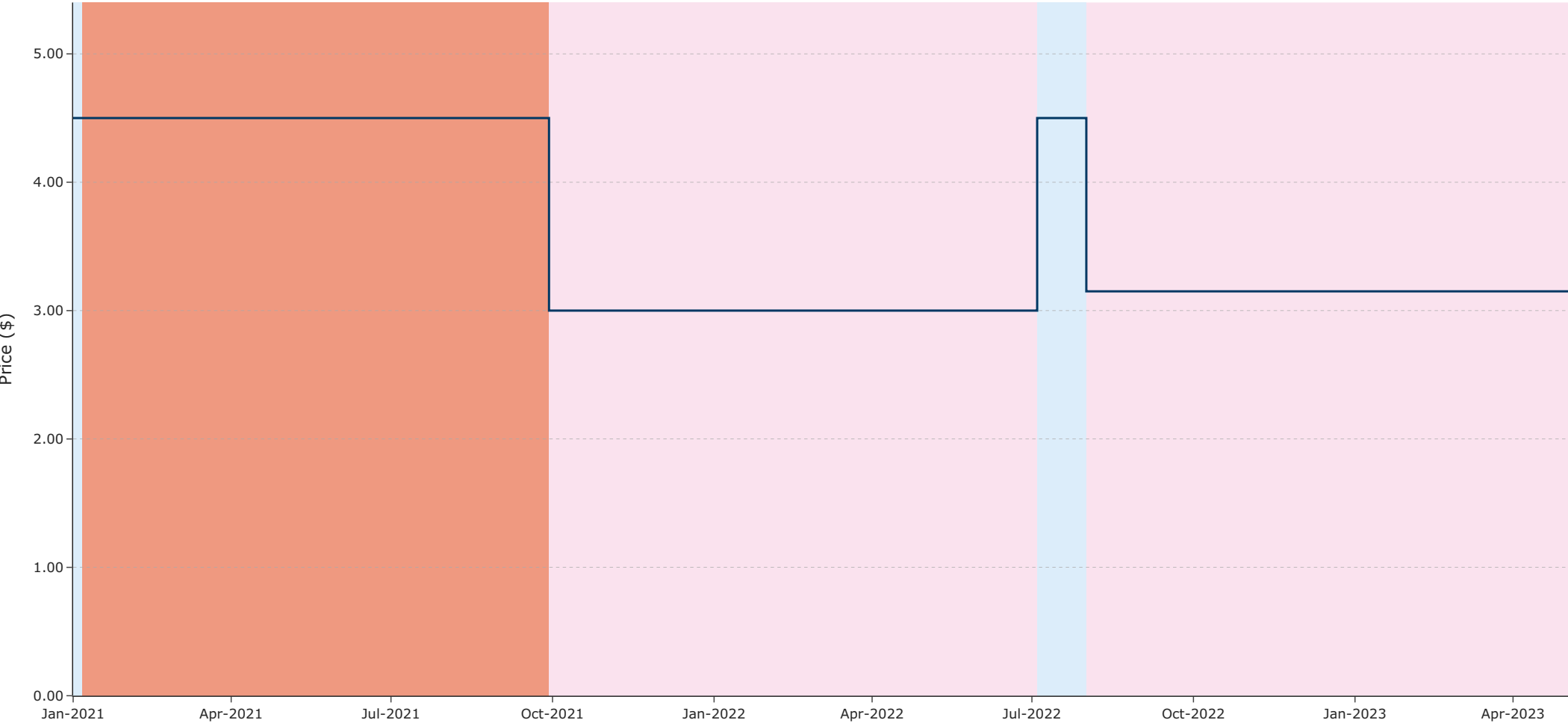
3401074 COLGATE TOTAL ORIGINAL TOOTHPASTE 200G:200 GRAM

Price	Status	Start Date	End Date	Days
6.00	Down Down	27-07-2022	16-08-2022	21
5.50	Special	17-08-2022	23-08-2022	7
6.00	Down Down	24-08-2022	20-09-2022	28
5.50	Special	21-09-2022	27-09-2022	7
6.00	Down Down	28-09-2022	04-10-2022	7
5.50	Special	05-10-2022	11-10-2022	7
6.00	Down Down	12-10-2022	01-11-2022	21
5.50	Special	02-11-2022	08-11-2022	7
6.00	Down Down	09-11-2022	22-11-2022	14
5.50	Special	23-11-2022	29-11-2022	7
6.00	Down Down	30-11-2022	06-12-2022	7
5.50	Special	07-12-2022	13-12-2022	7
6.00	Down Down	14-12-2022	10-01-2023	28
5.50	Special	11-01-2023	17-01-2023	7
6.00	Down Down	18-01-2023	07-03-2023	49
5.50	Special	08-03-2023	14-03-2023	7
6.00	Down Down	15-03-2023	04-04-2023	21
5.50	Special	05-04-2023	11-04-2023	7
6.00	Down Down	12-04-2023	18-04-2023	7
5.50	Special	19-04-2023	25-04-2023	7
6.00	Down Down	26-04-2023	04-05-2023	9

ANNEXURE E8

3609315 COLES FINEST QUINCE PASTE 100G:100 GRAM

Down Down Everyday Value White Ticket



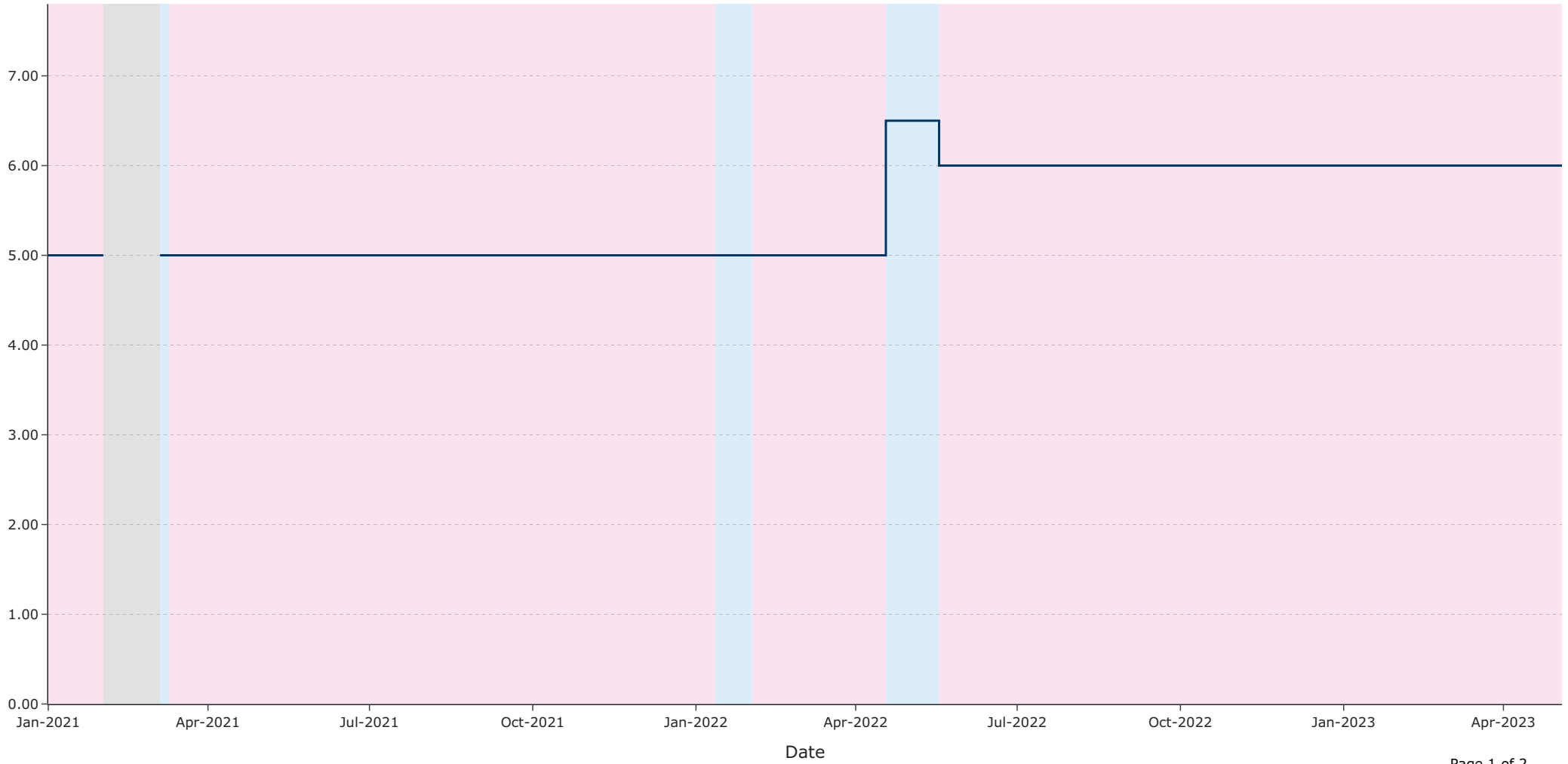
3609315 COLES FINEST QUINCE PASTE 100G:100 GRAM

Price	Status	Start Date	End Date	Days
4.50	White Ticket	01-01-2021	05-01-2021	5
4.50	Everyday Value	06-01-2021	28-09-2021	266
3.00	Down Down	29-09-2021	03-07-2022	278
4.50	White Ticket	04-07-2022	31-07-2022	28
3.15	Down Down	01-08-2022	04-05-2023	277

ANNEXURE E9

5079187 REXONA ANTI PERSP DEODORANT:250 ML

Down Down No Data White Ticket



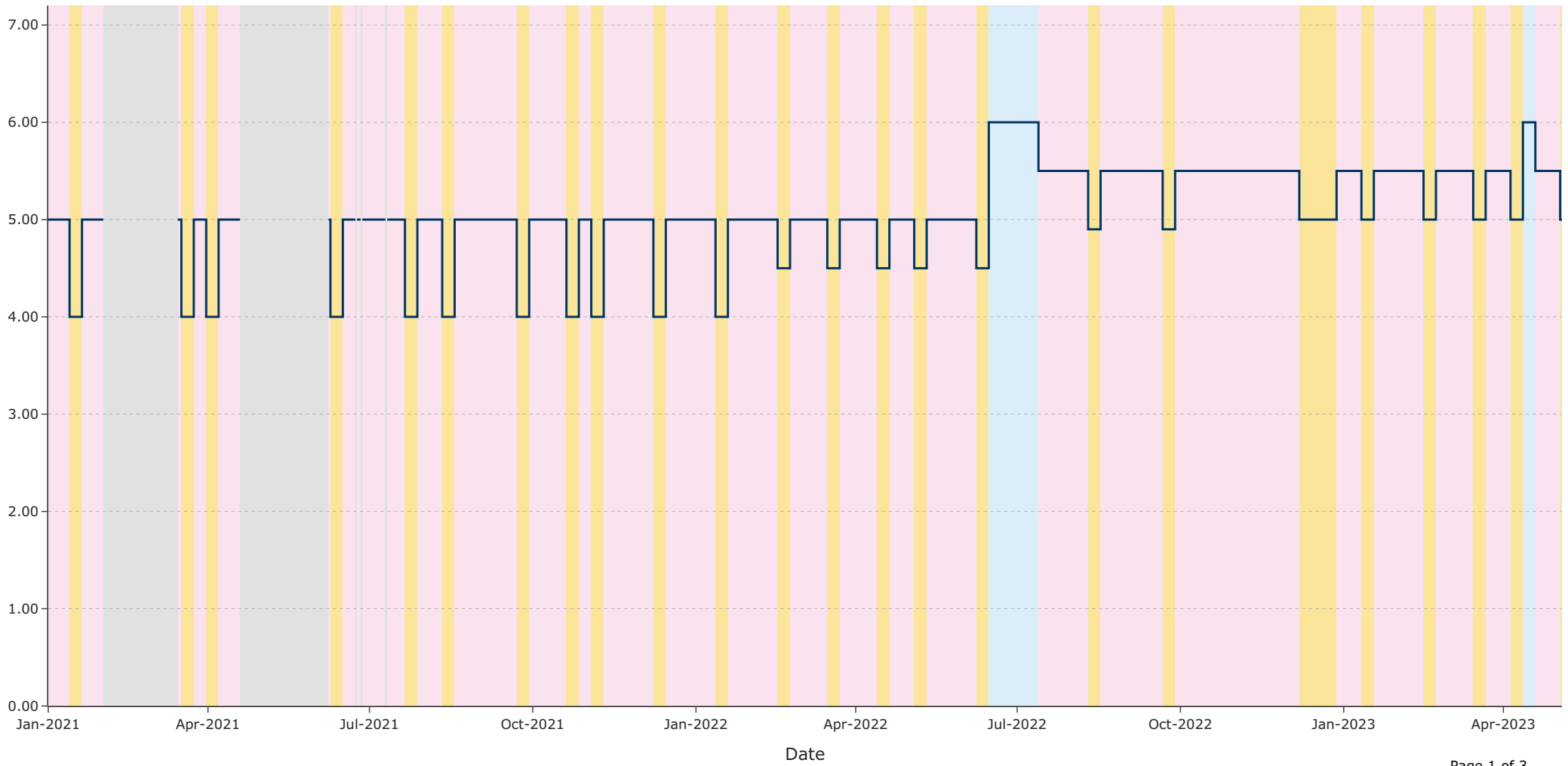
5079187 REXONA ANTI PERSP DEODORANT:250 ML

Price	Status	Start Date	End Date	Days
5.00	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	04-03-2021	32
5.00	White Ticket	05-03-2021	09-03-2021	5
5.00	Down Down	10-03-2021	11-01-2022	308
5.00	White Ticket	12-01-2022	01-02-2022	21
5.00	Down Down	02-02-2022	17-04-2022	75
6.50	White Ticket	18-04-2022	17-05-2022	30
6.00	Down Down	18-05-2022	04-05-2023	352

ANNEXURE E10

5393910 LURPAK SLIGHTLY SALTED SPREADABLE TUB 250 GRAM:BUTTER::250 GRAM

● Down Down ● No Data ● White Ticket ● Special



5393910 LURPAK SLIGHTLY SALTED SPREADABLE TUB 250
GRAM:BUTTER:::250 GRAM

Price	Status	Start Date	End Date	Days
5.00	Down Down	01-01-2021	12-01-2021	12
4.00	Special	13-01-2021	19-01-2021	7
5.00	Down Down	20-01-2021	31-01-2021	12
No Data	No Data	01-02-2021	14-03-2021	42
5.00	Down Down	15-03-2021	16-03-2021	2
4.00	Special	17-03-2021	23-03-2021	7
5.00	Down Down	24-03-2021	30-03-2021	7
4.00	Special	31-03-2021	06-04-2021	7
5.00	Down Down	07-04-2021	18-04-2021	12
No Data	No Data	19-04-2021	07-06-2021	50
5.00	Down Down	08-06-2021	08-06-2021	1
4.00	Special	09-06-2021	15-06-2021	7
5.00	Down Down	16-06-2021	22-06-2021	7
No Data	No Data	23-06-2021	23-06-2021	1
5.00	Down Down	24-06-2021	25-06-2021	2
No Data	No Data	26-06-2021	26-06-2021	1
5.00	Down Down	27-06-2021	09-07-2021	13
No Data	No Data	10-07-2021	10-07-2021	1
5.00	Down Down	11-07-2021	20-07-2021	10
4.00	Special	21-07-2021	27-07-2021	7
5.00	Down Down	28-07-2021	10-08-2021	14
4.00	Special	11-08-2021	17-08-2021	7
5.00	Down Down	18-08-2021	21-09-2021	35
4.00	Special	22-09-2021	28-09-2021	7
5.00	Down Down	29-09-2021	19-10-2021	21
4.00	Special	20-10-2021	26-10-2021	7
5.00	Down Down	27-10-2021	02-11-2021	7
4.00	Special	03-11-2021	09-11-2021	7
5.00	Down Down	10-11-2021	07-12-2021	28
4.00	Special	08-12-2021	14-12-2021	7
5.00	Down Down	15-12-2021	11-01-2022	28
4.00	Special	12-01-2022	18-01-2022	7
5.00	Down Down	19-01-2022	15-02-2022	28
4.50	Special	16-02-2022	22-02-2022	7
5.00	Down Down	23-02-2022	15-03-2022	21
4.50	Special	16-03-2022	22-03-2022	7
5.00	Down Down	23-03-2022	12-04-2022	21
4.50	Special	13-04-2022	19-04-2022	7
5.00	Down Down	20-04-2022	03-05-2022	14
4.50	Special	04-05-2022	10-05-2022	7
5.00	Down Down	11-05-2022	07-06-2022	28
4.50	Special	08-06-2022	14-06-2022	7

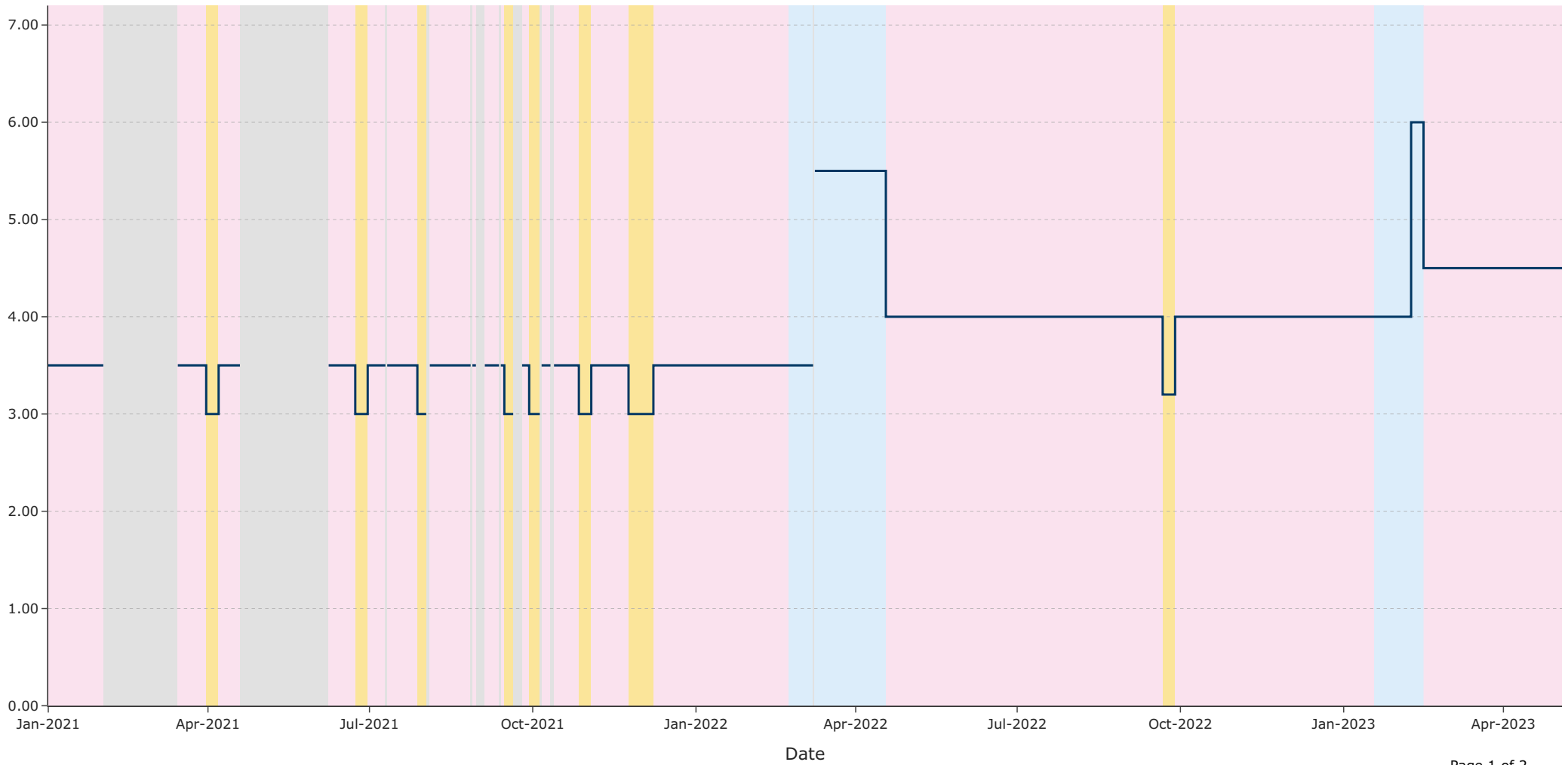
5393910 LURPAK SLIGHTLY SALTED SPREADABLE TUB 250
GRAM:BUTTER::250 GRAM

Price	Status	Start Date	End Date	Days
6.00	White Ticket	15-06-2022	12-07-2022	28
5.50	Down Down	13-07-2022	09-08-2022	28
4.90	Special	10-08-2022	16-08-2022	7
5.50	Down Down	17-08-2022	20-09-2022	35
4.90	Special	21-09-2022	27-09-2022	7
5.50	Down Down	28-09-2022	06-12-2022	70
5.00	Special	07-12-2022	27-12-2022	21
5.50	Down Down	28-12-2022	10-01-2023	14
5.00	Special	11-01-2023	17-01-2023	7
5.50	Down Down	18-01-2023	14-02-2023	28
5.00	Special	15-02-2023	21-02-2023	7
5.50	Down Down	22-02-2023	14-03-2023	21
5.00	Special	15-03-2023	21-03-2023	7
5.50	Down Down	22-03-2023	04-04-2023	14
5.00	Special	05-04-2023	11-04-2023	7
6.00	White Ticket	12-04-2023	18-04-2023	7
5.50	Down Down	19-04-2023	02-05-2023	14
5.00	Special	03-05-2023	04-05-2023	2

ANNEXURE E11

3589976 NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE AND RICE::1.2 KG

● Down Down ● No Data ● White Ticket ● Special



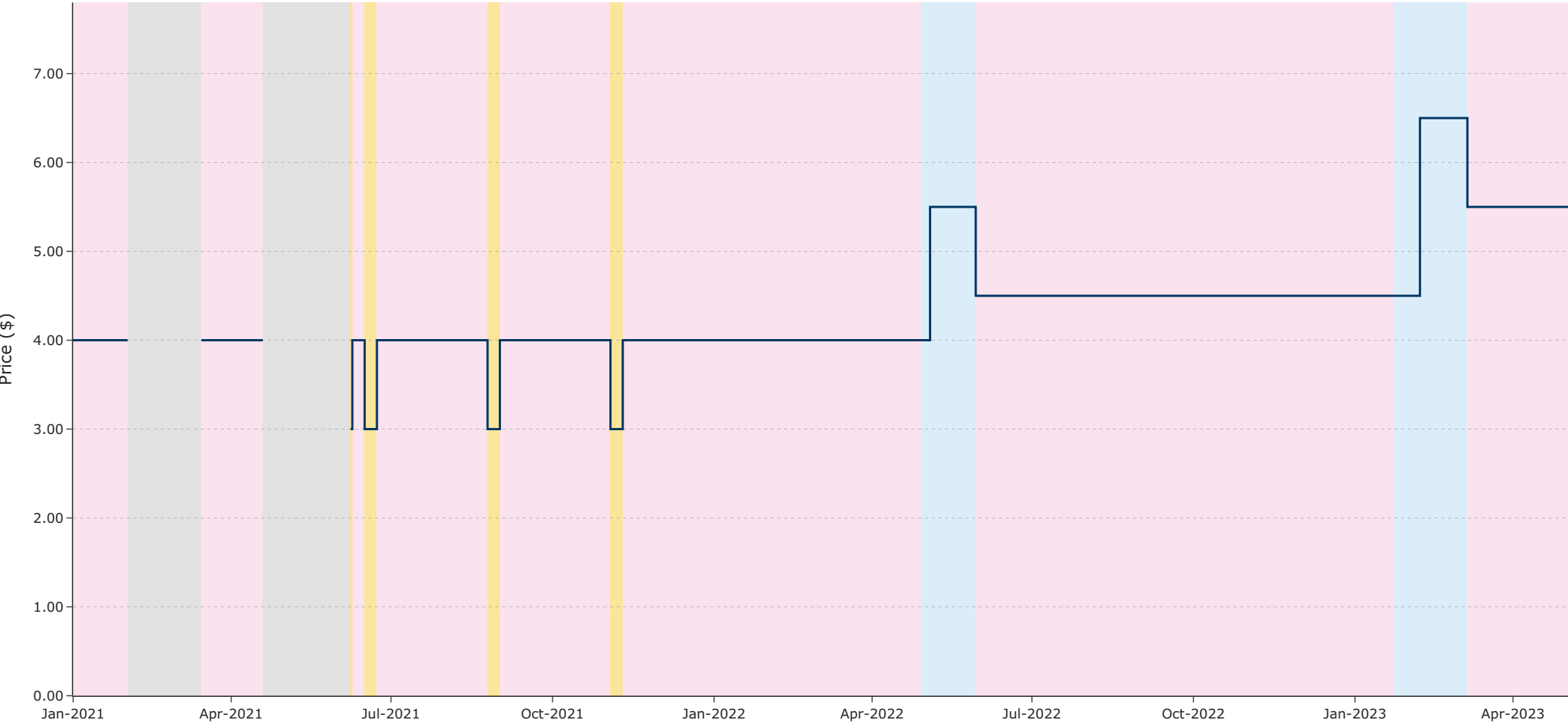
**3589976 NATURE'S GIFT ADULT ALL BREEDS WET DOG FOOD
LOAF CHICKEN- RICE & VEGETABLES 1.2KG:CHICKEN VEGETABLE
AND RICE:.:1.2 KG**

Price	Status	Start Date	End Date	Days
3.50	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	14-03-2021	42
3.50	Down Down	15-03-2021	30-03-2021	16
3.00	Special	31-03-2021	06-04-2021	7
3.50	Down Down	07-04-2021	18-04-2021	12
No Data	No Data	19-04-2021	07-06-2021	50
3.50	Down Down	08-06-2021	22-06-2021	15
3.00	Special	23-06-2021	29-06-2021	7
3.50	Down Down	30-06-2021	09-07-2021	10
No Data	No Data	10-07-2021	10-07-2021	1
3.50	Down Down	11-07-2021	27-07-2021	17
3.00	Special	28-07-2021	01-08-2021	5
No Data	No Data	02-08-2021	03-08-2021	2
3.50	Down Down	04-08-2021	26-08-2021	23
No Data	No Data	27-08-2021	27-08-2021	1
3.50	Down Down	28-08-2021	29-08-2021	2
No Data	No Data	30-08-2021	03-09-2021	5
3.50	Down Down	04-09-2021	11-09-2021	8
No Data	No Data	12-09-2021	12-09-2021	1
3.50	Down Down	13-09-2021	14-09-2021	2
3.00	Special	15-09-2021	19-09-2021	5
No Data	No Data	20-09-2021	24-09-2021	5
3.50	Down Down	25-09-2021	28-09-2021	4
3.00	Special	29-09-2021	04-10-2021	6
No Data	No Data	05-10-2021	05-10-2021	1
3.50	Down Down	06-10-2021	10-10-2021	5
No Data	No Data	11-10-2021	12-10-2021	2
3.50	Down Down	13-10-2021	26-10-2021	14
3.00	Special	27-10-2021	02-11-2021	7
3.50	Down Down	03-11-2021	23-11-2021	21
3.00	Special	24-11-2021	07-12-2021	14
3.50	Down Down	08-12-2021	21-02-2022	76
3.50	White Ticket	22-02-2022	07-03-2022	14
No Data	No Data	08-03-2022	08-03-2022	1
5.50	White Ticket	09-03-2022	17-04-2022	40
4.00	Down Down	18-04-2022	20-09-2022	156
3.20	Special	21-09-2022	27-09-2022	7
4.00	Down Down	28-09-2022	17-01-2023	112
4.00	White Ticket	18-01-2023	07-02-2023	21
6.00	White Ticket	08-02-2023	14-02-2023	7
4.50	Down Down	15-02-2023	04-05-2023	79

ANNEXURE E12

3823600 VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3 PACK

Down Down No Data White Ticket Special



Date

3823600 VIVA PAPER TOWEL WHITE SELECT A SIZE 3 PACK:3
PACK

Price	Status	Start Date	End Date	Days
4.00	Down Down	01-01-2021	31-01-2021	31
No Data	No Data	01-02-2021	14-03-2021	42
4.00	Down Down	15-03-2021	18-04-2021	35
No Data	No Data	19-04-2021	07-06-2021	50
3.00	Special	08-06-2021	08-06-2021	1
4.00	Down Down	09-06-2021	15-06-2021	7
3.00	Special	16-06-2021	22-06-2021	7
4.00	Down Down	23-06-2021	24-08-2021	63
3.00	Special	25-08-2021	31-08-2021	7
4.00	Down Down	01-09-2021	02-11-2021	63
3.00	Special	03-11-2021	09-11-2021	7
4.00	Down Down	10-11-2021	28-04-2022	170
4.00	White Ticket	29-04-2022	03-05-2022	5
5.50	White Ticket	04-05-2022	29-05-2022	26
4.50	Down Down	30-05-2022	22-01-2023	238
4.50	White Ticket	23-01-2023	06-02-2023	15
6.50	White Ticket	07-02-2023	05-03-2023	27
5.50	Down Down	06-03-2023	04-05-2023	60