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File Number: VID974/2024
File Title: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v
WOOLWORTHS GROUP LIMITED (ACN 000 014 675)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

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

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Form 59
Rule 29.02(1)

Affidavit

No VID 974 of 2024

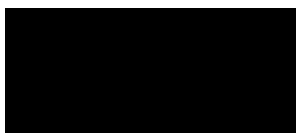
Federal Court of Australia
District Registry: Victoria
Division: General

Australian Competition and Consumer Commission
Applicant

Woolworths Group Limited (ACN 000 014 675)
Respondent

Affidavit of: **Martin John McCaig**
Address: 1 Woolworths Way Bella Vista NSW 2153
Occupation: Category Manager – Woolworths Group Limited
Date: 21 November 2025

Signed:



Taken by:



Filed on behalf of Woolworths Group Limited, the Respondent

Prepared by Peta Stevenson
Law firm **KING & WOOD MALLESONS**
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I, MARTIN JOHN MCCAIG, of 1 Woolworths Way, Bella Vista NSW 2153, say on oath:

- 1 I am currently Category Manager (**CM**) for Ready Meals & Food to Go at Woolworths Group Limited (**Woolworths**), the Respondent in this Proceeding.
- 2 In this affidavit, I address the cost price and retail price journey of Lucky Dog Bones Original 800g (433643-EA) (**Lucky Dog Sample Product**) sold in Woolworths Supermarkets and Woolworths Online between at least September 2021 and November 2022. During this period, I was CM for Pet Needs.
- 3 In preparing this affidavit, I have been provided with a copy of the Affected Product pricing and sales data (Annexure C to the Statement of Agreed Facts (**Annexure C**)) and the Agreed Sample List (filed 13 June 2025). Based on my review of those documents, I have identified that Lucky Dog Sample Product is referred to at item 108 of Annexure C and is referred to at item 8 of the Agreed Sample List.
- 4 Unless otherwise stated, this affidavit is based on my own knowledge.
- 5 Shown to me at the time of swearing this affidavit is an electronic bundle of documents marked '**Confidential Exhibit MJM-1**'. The documents are sourced from Woolworths' books and records. References to document identifier numbers in this affidavit are references to documents by that number in Confidential Exhibit MJM-1.

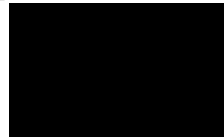
Experience as CM and role at Woolworths

- 6 Prior to working at Woolworths, in the period between around December 2012 to December 2019, I worked in various roles at Coles Supermarkets Australia Pty Limited (**Coles**), including as a Business Category Coordinator, Junior CM (in categories including Pantry and Confectionary), CM for Freezer and, ultimately, CM for Chilled Convenience.
- 7 On or about 11 May 2020, I commenced employment at Woolworths as a CM for Bakery. I continued in that role until around August 2021.

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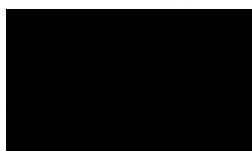
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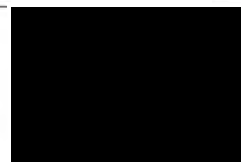
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- (a) Between August 2021 to July 2024, I was CM for Pet Needs.
- (b) I commenced my current role as CM for Ready Meals & Food to Go in July 2024.
- 8 As CM for Pet Needs, I was responsible for the management of the pet care and pet food products ranged within Woolworths Supermarkets and Woolworths Online, including the Lucky Dog Sample Product.
- 9 My day-to-day duties in that role principally included:
- (a) the management of products in the category, including improving product profitability and performance, the setting of retail pricing for products, negotiating product promotional strategies with suppliers, approving new product launches and determining product offerings as part of range reviews;
- (b) the management of relationships with suppliers, including being suppliers' central point of contact for the products they sell to Woolworths within the Pet Needs category and leading commercial negotiations with suppliers, including cost price increase (**CPI**) requests and promotional planning for each product; and
- (c) collaborating with other Woolworths' teams, including finance, logistics and pricing teams, who supported me in the management of supplier relationships.
- 10 I was assisted in performing the role of CM for Pet Needs by:
- (a) Assistant Category Managers (**ACMs**). The ACMs' role was primarily dedicated to the coordination and implementation of promotions of products in the category, determining volume forecasting and managing the replenishment of stock. In my time as CM for Pet Needs, I had dedicated ACMs for each of the Cat Foods and Dog Foods subcategories. In the period between at least November 2021 and May 2023, those ACMs were Claire Drummond, then Georgia White for Cat Foods, and Tyler O'Neill, then Jason Gerondis for Dog Foods; and
- (b) Category Assistants (**CA**). The role of a CA is to provide administrative support to both me, as the CM, as well as the ACMs, in the execution of our respective roles. In the period between at least November 2021 and May 2023, my CAs were Benjamin Tang for Dog Foods and Smriti Rana for Cat Foods.

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- 11 In my role as CM for Pet Needs, I reported to a Merchandise Manager (**MM**). My Merchandise Manager was:
- (a) Matthew Harbich in the period from at least September 2021 to December 2022;
 - (b) Richard Jones in the period from December 2022 to April 2023; and
 - (c) Mark Jones in the period from April 2023 until the end of my time as CM for Pet Needs.
- 12 Each of these MMs reported to Woolworths' Commercial Director, who was James Hepworth throughout the entire time that I was CM for Pet Needs.

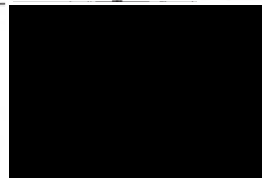
Characteristics of the Pet category

- 13 The suppliers in the Pet Needs category are typically large multinationals or local subsidiaries of such companies. These include Nestle Purina Petcare at Nestle Australia Ltd (**Nestle Purina**) and Mars Petcare Australia. Such suppliers typically supply a large number of retailers, including supermarkets such as Coles, Aldi and IGA, but also other types of retailers such as Bunnings and speciality pet retailers such as Petbarn and Petstock.
- 14 The Pet Needs products sold at Woolworths are typically mainstream brands and entry level products. The Lucky Dog Sample Product is an example of that. While such products are also sold at stores such as specialty pet retailers, specialty retailers typically also sell more premium pet food products at a higher price point.
- 15 The Pet Needs category is a heavily promoted category compared to other supermarket categories. This is, in part, a result of the large and sophisticated suppliers in the category, primarily being Nestle and Mars. These suppliers typically employ promotional strategies to consistently drive high sales volumes for their products. They also have an abundance of choice of the pet retailers through whom they promote their products. I know this from my experience in negotiating promotional plans with these suppliers. In the Pet Needs category, it was typical for suppliers to have their own views as to how, and how often, their products should be promoted in Woolworths supermarkets. I was conscious that, if I did not agree to the supplier's promotional strategy, they had multiple other retail partners available to them to meet their promotional objectives.
- 16 The heavily promoted nature of the Pet Needs category also reflects the nature of the products Woolworths ranges in this category. Given that these products are typically

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mainstream brands and entry level products, sales are heavily impacted by changes in price when compared to premium products that might attract greater brand loyalty.

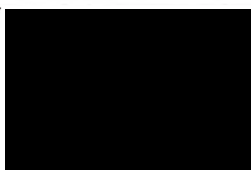
Lucky Dog Sample Product and the Prices Dropped Program

- 17 From my review of item 108 of Annexure C, I understand that:
- (a) in the period from at least 1 January 2021 until 6 March 2022, the Lucky Dog Sample Product was offered for sale to customers at Woolworths Supermarkets and Woolworths Online as part of the Prices Dropped Program. This meant that a red ticket was applied to the product in Woolworths Supermarkets and Woolworths Online, with a Prices Dropped price of \$4.50. During this time, the Lucky Dog Sample Product was not subject to “high / low” pricing (where the product is intermittently offered on yellow ticket Specials);
 - (b) on 7 March 2022, the Lucky Dog Sample Product was removed from the Prices Dropped Program;
 - (c) also on 7 March 2022, the Lucky Dog Sample Product was offered for sale to customers in Woolworths Supermarket and Woolworths Online at a new shelf price of \$6.50, with a white ticket applied to convey that price offering; and
 - (d) between 5 April 2022 and 13 November 2022, the Lucky Dog Sample Product was placed on the Prices Dropped Program and offered for sale to customers in Woolworths Supermarket and Woolworths Online at the price \$6.00, with a red Prices Dropped ticket applied to the product.
- 18 In the paragraphs of my affidavit below, I explain the evolution of the prices for the Lucky Dog Sample Products which are set out immediately above.

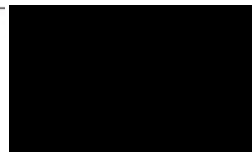
First Notification of a CPI Request for Lucky Dog Sample Product

- 19 At the time I commenced my role as CM for Pet Needs in November 2021, the category was experiencing an unprecedented number of requests for CPIs from suppliers relative to anything I had experienced in any category as CM at Woolworths or Coles. These CPIs were made by multiple suppliers and related to a significant number of products across the entire Pet Needs category. I recall that, in the period between late 2021 and early 2022, the management and negotiation of CPIs with suppliers took up a significant amount of my time, accounting for more than 50% of my work in the CM role at the time.

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Before this time, I estimate that CPIs typically accounted for less than 10% of my work as a CM.

- 20 On 13 December 2021, I received an email from Ryan Hollis, who was the Senior Customer Business Manager for Woolworths at Nestle Purina, the supplier of the Lucky Dog Sample Product. A copy of Ryan's email is at **[MPL.0008.0010.1831] of Confidential Exhibit MJM-1**. In Ryan's email, he notified me of Nestle Purina's cost price changes for a selection of pet care products, including the Lucky Dog Sample Product, with effect from 7 March 2022.
- 21 Ryan's email attached a letter which set out Nestle Purina's proposed cost price increase, including the current and proposed cost pricing and RRP for products including the Lucky Dog Sample Product. A copy of Nestle Purina's letter is at **[MPL.0008.0010.1832] of Confidential Exhibit MJM-1**.
- 22 Ryan's email also attached several deal sheets outlining the proposed cost price structure and promotion plan for the products that were the subject of Nestle Purina's CPI request, including the Lucky Dog Sample Product. The deal sheets attached to Ryan's email were completed versions of Woolworths' template spreadsheets, which were provided to suppliers like Nestle Purina to input their proposed changes to product pricing, together with any consequential changes to the product's promotional plan. A copy of Nestle Purina's deal sheet containing its proposal for the Lucky Dog Sample Product is at **[MPL.0008.0010.1834] of Confidential Exhibit MJM-1**.
- 23 Nestle Purina's deal sheet shows that Nestle Purina was proposing the following in respect of the Lucky Dog Sample Product (**Nestle Purina's First Proposal**):
- (a) in terms of the cost price proposal:
- (i) an increase in the first cost price from \$ [REDACTED] to \$ [REDACTED] per unit. From my experience as CM at Woolworths, I know that a **first cost** price (also known as a standard list price) is the cost price that a supplier provides to Woolworths before specific allowances or rebates negotiated between the supplier and Woolworths;
- (ii) an increase in the invoice cost from \$ [REDACTED] to \$ [REDACTED] per unit, being the first cost price less a [REDACTED] % allowance off the first cost price (reflecting Woolworths' trading terms with Nestle Purina);

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- (iii) the removal of deferred deal funding of ██████%, which amounted to the withdrawal of the supplier funding that had previously funded the inclusion of the Lucky Dog Sample Product (among other products) on the Prices Dropped Program; an
 - (iv) an increase in net cost from \$█████ to \$█████ per unit (where **net cost** is the price paid by Woolworths to Nestle Purina, once all rebates, allowances and deferred deals and scan deals are taken into account).
- (b) in terms of the proposed promotion plan:
- (i) 40 weeks at the standard shelf price of \$6.50 (being the supplier's RRP and an increase of \$0.90 from the previous shelf price of \$5.60);
 - (ii) 8 weeks at a "high/low" promotional price of \$5.50 to be supported by a contribution of \$█████ in scan funding from Nestle Purina; and
 - (iii) 4 weeks at a "high/low" promotional price of \$5.00 to be supported by a contribution of \$█████ in scan funding from Nestle Purina.

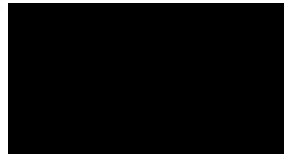
Negotiation of the CPI Request for Lucky Dog Sample Product

24 On 17 January 2022, I sent an email to Ryan and Joshua Sexton, who was the National Customer Business Manager - Woolworths for Nestle Purina, stating that I had submitted an initial response of 'Accept - Amount Not Agreed' in Partner Hub in response to Nestle Purina's CPI request in the email dated 13 December 2021. Partner Hub is a Woolworths system accessible to suppliers and used for managing administrative elements relating to products, including CPI submissions for cost price changes and recording approvals of those changes. A copy of my email is at **[MPL.0002.0005.1158] of Confidential Exhibit MJM-1** and a copy of the attachment to my email is at **[MPL.0002.0005.1159] of Confidential Exhibit MJM-1**. In my email, I requested that Josh review and confirm the numbers in the CPI request before we progress the CPI negotiation. I made this request as I suspected that there were some discrepancies in the pricing information utilised by each Woolworths and Nestle Purina in respect of the CPI request. I suspected this because, from my initial assessment of the CPI request based on Woolworths records, the proposed changes appeared to result in a margin decline for Woolworths on certain products, which was different to what Nestle Purina's deal sheets showed.

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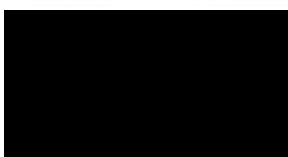


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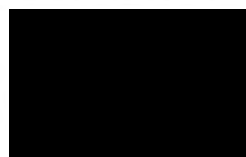


- 25 In the period between 17 and 21 January 2022, I sent emails to, and received emails from, Ryan and Josh in respect of the margin and sales discrepancies between Woolworths and Nestle Purina's numbers in respect of the products included in the CPI request. A copy of those emails are at **[MPL.0002.0005.0798 (email)]**, **[MPL.0002.0005.0801 (native email)]** and **[MPL.0002.0005.0803 (attachment)]** of **Confidential Exhibit MJM-1**.
- 26 On 2 February 2022, I sent an email to Ryan containing my counterproposal to the CPI request I received from Nestle Purina on 13 December 2021. A copy of my email is at **[MPL.0002.0005.1666]** of **Confidential Exhibit MJM-1**. In my email, I stated that Woolworths was prepared to accept Nestle Purina's requested list price increases in full, on certain conditions. These included a specified additional amount in total deferred deals across the products in the CPI request. I also proposed returning the products that were then on the Prices Dropped Program to Woolworths' Everyday Low Price (**EDLP**) program. That was a counter proposal to Nestle Purina's proposal to instead adopt high/low pricing for these products. It was (and is) my view that including products like the Lucky Dog Sample Product on a red ticket program (which involved a consistent "medium / low" price rather than a "high / low" strategy) was better for Woolworths and better for Woolworths' customers. This is because a price that is consistently lower for customers allows them to purchase it when it is convenient for them, rather than having to wait for Special promotions to obtain the benefit of a lower price for the product. For a retailer, this has the added benefit of building trust with customers in terms of product pricing.
- 27 In my email of 2 February 2022, I attached a single consolidated deal sheet which contained my counterproposals on the cost price and promotional plan for each product that was subject to the CPI request, including the Lucky Dog Sample Product. A copy of the consolidated deal sheet is at **[MPL.0002.0005.1667]** of **Confidential Exhibit MJM-1**.
- 28 The consolidated deal sheet contained the following in respect of the Lucky Dog Sample Product (**Woolworths' First Counterproposal**):
- (a) in respect of the proposed cost structure:

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Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice^a deal %		
Invoice Cost \$ per unit		
(BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

(b) In respect of the proposed promotional plan:

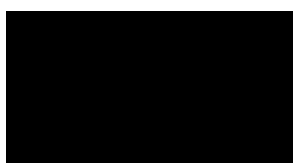
Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.00	52	14,500		
Promo Level 1					
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		754,000	Total GP %	
COOP					%
					Average Scan f
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29 In Woolworths' First Counterproposal, I made the following amendments to Nestle's First Proposal:

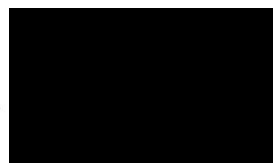
- the introduction of a deferred deal at [REDACTED] % (as compared to Nestle Purina's First Proposal, which did not propose any deferred deal);
- a reduction in the net cost from \$ [REDACTED] to \$ [REDACTED] per unit. This reduction in net cost reflected the application of the proposed [REDACTED] % deferred deal;
- the removal of high/low Special promotions proposed by Nestle Purina; and
- a proposal that the Lucky Dog Bones Sample Product be placed on an EDLP of \$6.00 for the 52-week period of the promotional plan.

30 At around 1:23pm on 3 February 2022, I received an email from Rinita Dasani, who was the In-Store Campaign Lead in the COGS team. Rinita stated that she managed the "Red program POS in-store", which I understood to mean the implementation of pricing changes for products on the Prices Dropped and EDLP red programs. In light of the Nestle Purnia CPI request, Rinita asked me to confirm the date that the Prices Dropped Price for the Lucky Dog Sample Product (among others) would be removed and, if the

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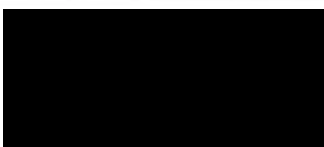
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product was to return to the Prices Dropped Program, the number of weeks before that would be implemented.

- 31 At around 1:54pm, I emailed Rinita confirming that the cost increase for the Lucky Dog Sample Product would take effect on 7 February 2022. I also asked Rinita to provide a full list of any pet care products on red programs to check for '*risks in this space*' and stated, '*I am keen to put a wide range of products onto the programme as soon as possible but we do have to wait for the dust to settle on some of these price increases. I intend to do a full refresh of the red strategy rather than continue with the current products*'. A copy of the email chain between me and Rinita is at **[MPL.0002.0005.0086] of Confidential Exhibit MJM-1**.
- 32 On 8 February 2022, I received an email from Josh providing a revised offer in response to my email of 2 February 2022, with an improvement of \$37.2m in retail sales value ("RSV") and an improvement of [REDACTED] % in Woolworths' gross profit (GP) on an overall basis across the full range of products the subject of Nestle Purina's CPI request. A copy of Josh's email is at **[MPL.0002.0005.1636] of Confidential Exhibit MJM-1**.
- 33 In respect of the Lucky Dog Sample Product, Josh proposed that the Lucky Dog Sample Product be placed onto the Prices Dropped Program at \$6.00 per unit. Josh also stated that Nestle Purina '*want to ensure that [they] have DROPPED exclusivity within the segment to ensure both parties are backing each other*'. By this statement, I understood that Josh was requesting that Woolworths not include any of Nestle Purina's competitors' equivalent products on the Prices Dropped Program.
- 34 Attached to Josh's email of 8 February 2022 was a deal sheet containing Nestle Purina's revised proposal in respect of the products which were the subject of their CPI request, including the Lucky Dog Sample Product. A copy of this deal sheet is at **[MPL.0002.0005.1637] of Confidential Exhibit MJM-1**, which contained the following in respect of the Lucky Dog Sample Product (**Nestle Purina's Second Proposal**):
- (a) in respect of the proposed cost structure:

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Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend % (Sum of Business/National Volume Rebate (BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

(b) in respect of the proposed promotional plan:

Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.50	8	9,059		
Promo Level 1	\$6.00	44	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		710,472	Total GP %	
COOP					\$
					Average ScanI
Additional Information:					
DD once on dropped = [REDACTED]					

35 Comparing Nestle Purina's Second Proposal against Woolworths First Counterproposal, Nestle Purina was proposing the following changes:

- the removal of the proposed deferred deal percentage proposed by Woolworths;
- an increase in the net cost from \$ [REDACTED] to \$ [REDACTED] per unit, which followed from the removal of the deferred deal;
- the re-introduction of a promotion plan of 8 weeks at the new RRP of \$6.50 and 44 weeks at the Prices Dropped price of \$6.00; and
- a proposed contribution of \$ [REDACTED] towards the funding of the Lucky Dog Sample Product on the Prices Dropped Program, as a deferred deal (although the \$ [REDACTED] was listed as a scan deal in the proposed promotional plan, ~~for ease of capturing the proposed amount of the contribution~~).

36 In relation to Nestle Purina's proposal to sell the Lucky Dog Sample Product at the new RRP of \$6.50 for 8 weeks, I recall that I had discussions with Josh regarding the need for such a period, but I cannot now recall when those discussions occurred. Throughout

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[REDACTED]

my negotiations with Nestle Purina on the CPI request, I intended that any product which was already on the Prices Dropped Program would need to be removed from that program once the cost price was agreed, and sold at a new and increased white ticket shelf price. In addition, I intended that any product which was proposed to be included on the Prices Dropped Program (as agreed in a new promotional plan negotiated as part of the CPI request) would need to be sold at a new and increased white ticket shelf price for a period before being placed on the Prices Dropped Program with a Prices Dropped price.

- 37 Nestle Purina's Second Proposal recorded the proposed funding of the Prices Dropped Program pricing as a scan deal, rather than a deferred deal. A **scan deal** is only provided by a supplier upon the sale of the product by Woolworths to a customer. By contrast, a **deferred deal** was a funding commitment by the supplier over a period of time (albeit one the supplier could withdraw at any time). Although shown as a scan deal in Nestle Purina's Second Proposal, I understood Nestle Purina's proposal in respect of the Lucky Dog Sample Product to be a deferred deal, albeit one that would only operate from the date the product was placed on the Prices Dropped Program.
- 38 At around 1:43pm on 9 February 2022, I sent an email to Josh requesting that he send a revised version of the deal sheet with Nestle Purina's Second Proposal to correct the [REDACTED] % volume rebate which I observed as being entered into the wrong row of the deal sheets. As stated in my email, I understood that this amount should be entered in the 'Volume Spend %' and, by entering it into the 'Allowance %' field, it had the effect of incorrectly stating current costs. At 3:21pm on 9 February 2022, I received an email from Josh with an updated deal sheet rectifying the issue. A copy of the email chain between me and Josh on 9 February 2022 is at **[MPL.0002.0005.1008] of Confidential Exhibit MJM-1** and a copy of the corrected deal sheet attached to Josh's email of 3:21pm on 9 February 2022 is at **[MPL.0002.0005.1009] of Confidential Exhibit MJM-1**. The correction did not have any impact on the numbers contained in Nestle's Purina Second Proposal concerning the Lucky Dog Sample Product.
- 39 At around 11:24am on 14 February 2022, I sent an email to Ryan and Josh containing my counterproposal to the proposal I received from Nestle Purina on 8 February 2022. A copy of my email is at **[MPL.0002.0005.0994] of Confidential Exhibit MJM-1**. In my email, I stated that Woolworths was prepared to accept Nestle Purina's requested list price increases in full on certain conditions, including an increase in the deferred deals totalling \$ [REDACTED], an increase of \$ [REDACTED] in promotional spending by Nestle, a net impact increase of \$ [REDACTED] (or 7.7%) and the return of some products which were on the

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[REDACTED]

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[REDACTED]

Prices Dropped Program to an EDLP programme, rather than proposed high/low Specials. My email also included a table confirming the actions I had taken since receiving Nestle Purina's proposal on 8 February 2022. In respect of the Lucky Dog Sample Product, I stated that the action taken was 'Adjusted'. In making this statement, I was conveying that I had made changes to the proposal concerning the Lucky Dog Sample Product, based on feedback I received from Nestle Purina, including the figures contained in Nestle Purina's Second Proposal.

- 40 In my email, I attached a deal sheet containing my counterproposals on the cost price and promotional plan for each product that was subject to Nestle Purina's CPI, including the Lucky Dog Sample Product. A copy of the deal sheet is at [MPL.0002.0005.0995] of **Confidential Exhibit MJM-1**. The deal sheet contained the following in respect of the Lucky Dog Sample Product (**Woolworths' Second Counterproposal**):

- (a) in respect of the proposed cost structure:

Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
(BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

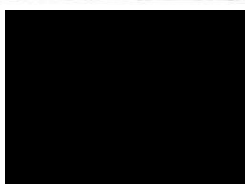
- (b) in respect of the proposed promotional plan:

Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf					
Promo Level 1	\$6.00	52	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		754,000	Total GP %	
COOP					Average Sca
Additional Information:					
DD once on dropped = \$					

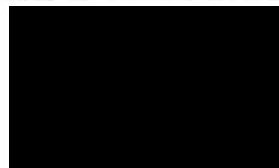
- 41 In Woolworths' Second Counterproposal, I made the following proposed amendments to Nestle's Second Proposal:

- (a) the re-introduction of a deferred deal at a rate of %;

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- (b) a reduction in the net cost from \$ [REDACTED] to \$ [REDACTED] per unit, on application of the proposed [REDACTED] % deferred deal; and
- (c) the removal of the proposed placement of the product on the Prices Dropped Program. Instead, I proposed that the Lucky Dog Sample Product be offered for sale to customers at an EDLP of \$6.00 for the full 52 week period of the promotional plan, with Nestle Purina's contribution to funding the program at \$ [REDACTED] under a scan deal. In making this proposal, I inadvertently retained the "Additional Information" field included in the Nestle Purina Second Proposal, which contained the comment "DD once on dropped = \$ [REDACTED]".
- 42 At around 5:29pm on 14 February 2022, I received an email from Josh with Nestle Purina's proposal in response to my email of 14 February 2022. A copy of the Josh's email is at [MPL.0002.0005.0987] of Confidential Exhibit MJM-1. In respect of the Lucky Dog Sample Product, Josh stated that Nestle Purina's revised proposal offered a GP improvement of [REDACTED] basis points, as compared to Nestle Purina's Second Proposal.
- 43 Attached to Josh's email was a deal sheet containing Nestle Purina's proposals in response to Woolworths' counterproposal which I sent earlier that day, including Nestle Purina's proposal in respect of the Lucky Dog Sample Product. A copy of Nestle Purina's revised deal sheet in response to Woolworths counterproposal of 14 February 2022 is at [MPL.0002.0005.0988] of Confidential Exhibit MJM-1.
- 44 Nestle Purina's revised deal sheet contained the following in respect of the Lucky Dog Sample Product (**Nestle Purina's Third Proposal**):
- (a) in respect of the proposed cost structure:

Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice* deal %		
Invoice Cost \$ per unit		
Volume Spend % (Sum of Business/National Volume Rebate (BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

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[REDACTED]

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[REDACTED]

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(b) in respect of the proposed promotional plan:

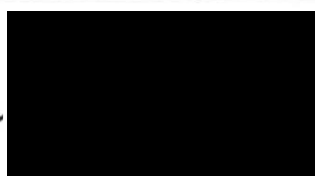
Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.50	8	9,059		
Promo Level 1	\$6.00	44	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
Annual Forecasted Quantity			710,472	Total GP %	
COOP					Average Scan
Additional Information:					
DD once on dropped = \$ [REDACTED]					

45 Compared to Woolworths' Second Counterproposal, Nestle Purina was proposing the following changes:

- (a) a removal of Woolworths' proposed [REDACTED]% deferred deal;
- (b) an increase in the net cost from \$ [REDACTED] to \$ [REDACTED] per unit, following the removal of the [REDACTED]% deferred deal;
- (c) an 8 week period at the new RRP of \$6.50 and 44 weeks on the Prices Dropped Program at the price of \$6.00 with scan funding of \$ [REDACTED] (being an improvement on the previous proposed scan funding of \$ [REDACTED]); and
- (d) an amendment to the comment in the additional information field, to note 'DD once on dropped = \$ [REDACTED]'.

46 At around 8:10am on 15 February 2022, I forwarded Josh's email of 14 February 2022, including the attachment to Josh's email containing Nestle Purina's Third Proposal, to Tracey Tran (who was an analyst in Woolworths' COGS & Margin, Pricing and Customer Value team (COGS team)). A copy of my email is at [MPL.0002.0005.0985] of Confidential Exhibit MJM-1 and the attachment to my email is at [MPL.0002.0005.0986] of Confidential Exhibit MJM-1. In my email, I requested that Tracey provide an update on the changes in Nestle Purina's Third Proposal and "let me know the improvement. Nestle have summarised the improvement we should see in the below email so it would be good to check against this when you refresh the sheets". In making that statement, I wanted to be sure that the numbers presented by Nestle Purina

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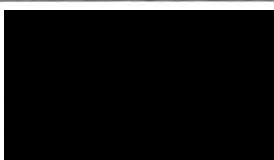


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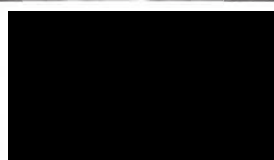


- were aligning with Woolworths' records, given the margin and sales discrepancies I had experienced earlier in the negotiations of Nestle Purina's CPI request.
- 47 At around 11:02am on 15 February 2022, I received a further email from Josh, who clarified that Nestle Purina's figures on the CPI net cost amount was aligned to Woolworths' numbers. A copy of Josh's email is at **[MPL.0002.0005.0700] of Confidential Exhibit MJM-1**. Josh's email was a follow up to his email of 5:30pm on 14 February 2022, where he sought my clarification on this calculation (at point 3 of that email).
- 48 At around 2:06pm on 15 February 2022, I received a response from Tracey to my email described at paragraph 46. A copy of Tracey's email is at **[MPL.0002.0005.0970] of Confidential Exhibit MJM-1**. In her email, Tracey set out the differences between Woolworths' Second Counterproposal and Nestle Purina's Third Proposal in respect of the Lucky Dog Sample Product (among others). Tracey noted there was an increase in the scan deal contribution from Woolworths' Second Counterproposal of \$ [REDACTED] compared to Nestle Purina's Third Proposal of \$ [REDACTED]. However, in terms of the overall cost increase across the whole of the revised CPI proposal, Tracey observed that the absolute net impact increased from \$ [REDACTED] to \$ [REDACTED].
- 49 Using the analysis provided by Tracey in her email described immediately above, at around 2:20pm on 15 February 2022, I sent an email to Josh with my assessment of Nestle Purina's Third Proposal. A copy of my email is at **[MPL.0002.0005.0700] of Confidential Exhibit MJM-1**. Among other things, in my email, I stated that the size of the increase remained \$ [REDACTED], which was significantly higher than the \$ [REDACTED] I had proposed in my email on 14 February 2022. Given the overall cost increase proposed by Nestle Purina, I proposed in the second table embedded in my email that, in respect of the Lucky Dog Sample Product, trading GP% increase by [REDACTED]% (being the difference between the current trading GP% and my proposed trading GP%).
- 50 At around 7:43pm on 16 February 2022, I sent an email to Josh confirming that Woolworths had rectified net cost errors in its data and that every pack group (i.e., all products) in the CPI request was aligned to Nestle Purina's latest deal sheet, being the Nestle Purina's Third Proposal described above. A copy of my email is at **[MPL.0002.0005.0700] of Confidential Exhibit MJM-1**. Among other things, in my email, I reiterated the need to reduce the net impact to \$ [REDACTED] with trading GP improving by [REDACTED] bps across all products subject to the CPI request. I provided an updated version

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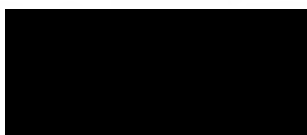
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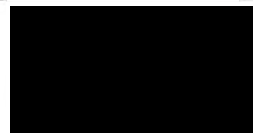
of the table referred to in my email at 2:20pm on 15 February 2022, showing proposed trading GP% growth increase by [REDACTED]% in respect of the Lucky Dog Sample product.

- 51 At around 4:01pm on 16 February 2022, I received an email from Josh attaching an extract from Woolworths' Promotional Management Portal (referred to as "PMR" in his email) in 2021 showing the RRP and scan deal of products including the Lucky Dog Sample Product. A copy of Josh's email is at **[MPL.0002.0005.1267 (alternative version)] of Confidential Exhibit MJM-1** and copy of the PMR extract attached to Josh's email is at **[MPL.0002.0005.1268] of Confidential Exhibit MJM-1**. In Josh's email, he set out a table capturing Woolworths' initial GP against Nestle Purina's LY GP% for, among others, the Lucky Dog Sample Product. From my review of the table, I understood that Josh was conveying that Woolworths and Nestle Purina were aligned on the proposed trading GP% growth of [REDACTED]%. However, from the analysis provided by Tracey (which I refer to at paragraph 48 above), this was not consistent with Woolworths' data.
- 52 At around 12:45pm on 28 February 2022, I received an email from Ryan Hollis, who stated that Nestle Purina was on standby for a response from Woolworths in respect of its offer provided on 14 February and proposed that the parties "*put down the calculators & be either Aligned or Misaligned*" and stated the need for final alignment on the CPI request by 2 March 2022, given the cost price change was to become effective on 7 March 2022. A copy of Ryan's email is at **[MPL.0002.0005.0743] of Confidential Exhibit MJM-1**. In Ryan's email, he suggested that we "*leverage the 9am WIP tomorrow morning to work through*" my proposal and align on next steps. By this statement, I understood that Ryan was suggesting that we discuss the discrepancies in the numbers set out in his email (which did not relate to the Lucky Dog Sample Product) during a regular call that I had scheduled with Ryan and Josh the next morning.
- 53 Attached to Ryan's email was a proposed promotional calendar for the 2021 calendar year. A copy of this promotional calendar is at **[MPL.0002.0005.0744] of Confidential Exhibit MJM-1**. From my review of the promotional calendar, no promotions were proposed for the Lucky Dog Sample Product. I understood this was because the product was on the Prices Dropped Program at the time, and so, it was captured as being on that pricing program for that calendar year with no further promotions proposed in the promotional calendar.

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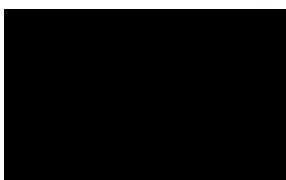


- 54 At around 2:48pm on 28 February 2022, I sent an email to Ryan in response to his email described at paragraph 52 above. A copy of my email is at **[MPL.0002.0005.0700]** of **Confidential Exhibit MM-1**. In my email, I stated that Woolworths had been unable to align with Nestle Purina on the differences in the numbers recorded for the overall margins. By this I meant that our estimates of Woolworths' margin did not match the estimates suggested by Nestle Purina. As a proposed way forward, I suggested that "we focus on using the deal sheets to improve the proposal, whilst acknowledging that there will be a difference in our valuations."
- 55 At around 4:43pm on 28 February 2022, I received an email from Josh, in response to my email immediately above, in which he stated that Nestle Purina was aligned to progressing the negotiations and provided a revised offer on Nestle Purina's CPI request 'with the understanding our GP%'s aren't lining up on some assortments'. A copy of Josh's is at **[MPL.0002.0005.0736]** of **Confidential Exhibit MJM-1**.
- 56 Attached to Josh's email of 28 February 2022 was a deal sheet for the products subject to the CPI request, including the Lucky Dog Sample Product. A copy of Nestle Purina's revised deal sheet is at **[MPL.0002.0005.0737]** of **Confidential Exhibit MJM-1**. Nestle Purina's revised deal sheet contained the following in respect of the Lucky Dog Sample Product (**Nestle Purina's Fourth Proposal**):
- (a) in respect of the proposed cost structure:

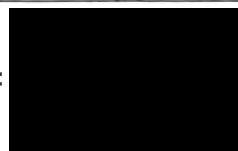
Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend % (Sum of Business/National Volume Rebate (BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

- (b) in respect of the proposed promotional plan:

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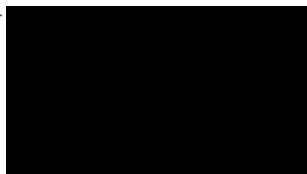


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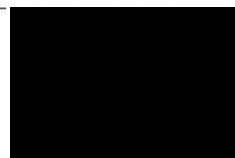
Proposed	RRP / Unit (Inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.50	8	9,059		
Promo Level 1	\$6.00	44	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		710,472	Total GP %	
COOP					
					Average Sc:
Additional Information:					
DD once on dropped = \$					

- 57 Comparing Nestle Purina's Fourth Proposal against Nestle Purina's Third Proposal, Nestle Purina was suggesting the following:
- no changes in respect of the cost price structure;
 - no change to the proposed period of 8 weeks at the new RRP of \$6.50 and 44 weeks at a price of \$6.00 on the Prices Dropped Program; and
 - an increase in the proposed scan funding from \$ to \$, with an amendment to the comment in the "additional information" field, to propose '*DD once on dropped = \$*'.
- 58 At around 3:44pm on 1 March 2022, I sent an email to Josh with my assessment of the revised offer. A copy of my email is at [MPL.0002.0005.0702] of Confidential Exhibit MJM-1. In my email, I stated that Nestle Purina's revised offer of 28 February 2022 included an improvement in margin by % overall, but fell short of my ask in respect of a total margin improvement of %, referred to in my email at paragraph 39. I therefore asked Nestle Purina to review the numbers to '*see where we can build additional margin into the plan*'.
- 59 At around 9:37am on 2 March 2022, I received an email from Ryan in reply to my email of 1 March 2022. A copy of Ryan's email is at [MPL.0002.0005.0700] of Confidential Exhibit MJM-1. In Ryan's email, he stated that Nestle Purina could not make any further improvements on the margin given the "*misalignment on GP position*". By this statement, I understood Ryan to be referring to the discrepancy in the data between Woolworths and Nestle Purina. Ryan set out Nestle Purina's final position to deliver an improvement of % to the GP% as against the previous year.

Signed:



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60 At around 12:21pm on 2 March 2022, I sent an email to Ryan. A copy of my email is at **[MPL.0002.0005.1734] of Confidential Exhibit MJM-1**. In my email, I stated that Nestle Purina's proposal was not acceptable in its current form for reasons including the reduction of \$ [REDACTED] million in the 'Fixed Deals' (by which I meant deferred deals) for the Lucky Dog Sample Product. Having regard to Ryan's position in his email of 2 March 2022 in respect of Nestle Purina's inability to improve on margin, I requested that Nestle Purina adjust the structure of the commercial proposal, rather than providing further investment, so that there was a shift to deliver a \$ [REDACTED] in fixed deals (i.e., a swing or "shift" of \$ [REDACTED] in deferred deals, as described in my email, which I believed would deliver the desired outcome of a [REDACTED] % improvement in the GP%).

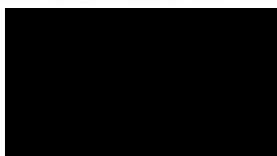
61 At around 2:01pm on 2 March 2022, I received an email from Ryan, in response to my email described in the paragraph immediately above. A copy of Ryan's email is at **[MPL.0002.0005.1745] of Confidential Exhibit MJM-1**. In Ryan's email, he set out a table of the difference in position between Nestle Purina and Woolworths in respect of the proposed deferred deal for the Lucky Dog Sample Product, as compared to the previous 52 weeks. Ryan also referred to the Lucky Dog Sample Product "evolving" its "DROPPED Offering". By this statement, I understood that Ryan was proposing to support the continuation of the Lucky Dog Sample Product on the Prices Dropped Program, with a new (or 'evolved') deferred deal of \$ [REDACTED].

62 At around 3:30pm on 2 March 2022, I received an email from Josh containing a revised offer from Nestle Purina. A copy of Josh's email is at **[MPL.0002.0005.1742] of Confidential Exhibit MJM-1**. In his email, Josh confirmed that proposed scan funding had been moved into deferred deal funding for, among others, the Lucky Dog Sample Product. Josh also acknowledged that the product will have "8 weeks of baseline sales before going live on dropped." By this statement, I understood that Josh was referring to the period of time where the product would be sold at the new white ticket price to establish that price for the product, which followed the discussion I refer to at paragraph 36 above.

63 Attached to Josh's email of 2 March 2022 was a revised deal sheet for the products subject to the CPI request, including the Lucky Dog Sample Product. A copy of Nestle Purina's revised deal sheet is at **[MPL.0002.0005.1743] of Confidential Exhibit MJM-1**. Nestle Purina's revised deal sheet contained the following in respect of the Lucky Dog Sample Product (**Nestle Purina's Fifth Proposal**):

(a) in respect of the proposed cost structure:

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Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend % (Sum of Business/National Volume Rebate (BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

(b) in respect of the proposed promotional plan:

Proposed	RRP / Unit (Inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales Qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.50	8	9,059		
Promo Level 1	\$6.00	44	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		710,472	Total GP %	
COOP					%
					Average Scan %
Additional Information:					

64 Comparing Nestle Purina's Fifth Proposal to Nestle Purina's Fourth Proposal, I understood that Nestle Purina was suggesting the following changes:

- the introduction of a deferred deal at [REDACTED] % (in accordance with my request in my email at paragraph 60 above);
- a reduction in the net cost from \$ [REDACTED] to \$ [REDACTED] per unit, following the application of the [REDACTED] % deferred deal; and
- a removal of the proposed deferred deal of \$ [REDACTED] from the promotional plan (previously proposed to contribute to funding the Prices Dropped price of \$6.00 for 44 weeks).

65 At 6:24pm on 2 March 2022, I received an email from Josh attaching a consolidated deal sheet with the final proposals (including for the Lucky Dog Sample Product), as previously discussed and aligned between Nestle Purina and Woolworths. A copy of Josh's email is at [MPL.0002.0005.1738] of Confidential Exhibit MJM-1 and a copy of Nestle Purina's final deal sheet is at [MPL.0002.0005.1739] of Confidential Exhibit MJM-1. In Josh's email, he indicates "Ryan and I will await your feedback tomorrow

Signed:

[REDACTED]

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[REDACTED]

after presenting to your business". By this statement, I understood that Josh was referring to the internal approvals that I needed to obtain in respect of the commercial outcomes for the CPI request, as well as the movement of products onto the Prices Dropped Program, before those pricing adjustments could be implemented.

66 Nestle Purina's final deal sheet contained the following in principle confirmation on the position reached between Woolworths and Nestle Purina on the Lucky Dog Sample Product (**Nestle Purina's Final Proposal**):

(a) in respect of the agreed cost price structure:

Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances % (Sum of Warehouse, Distribution, Miscellaneous and/or Quantity Buy Allowances in %)		
Off invoice^a deal %		
Invoice Cost \$ per unit		
Volume Spend % (Sum of Business/National Volume Rebate (BVR), Ullage, Marketing Allowance and/or Settlement/Cash discount in %)		
Deferred deal %		
Net Cost \$ per unit		

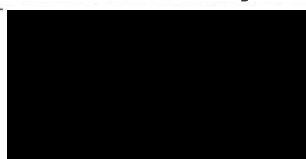
(b) in respect of the promotional plan:

Proposed	RRP / Unit (inc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %
Shelf	\$6.50	8	9,059		
Promo Level 1	\$6.00	44	14,500		
Promo Level 2					
Promo Level 3					
Promo Level 4					
	Annual Forecasted Quantity		710,472	Total GP %	
COOP					
					Average Sci
Additional Information:					

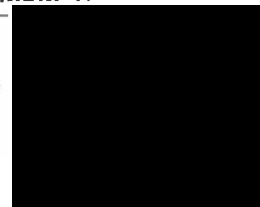
67 From my review of Nestle Purina's Final Proposal, I believe it is identical to Nestle Purina's Fifth Proposal, as I set out in paragraph 63 and 64 above.

68 At around 6:28pm on 2 March 2022, I sent an email to Josh stating that I would double check the figures contained in the final deal sheet attached to Josh's email of 2 March 2022 against Woolworths' numbers "one last time to be safe". I stated that I would provide any further feedback in the morning. A copy of my email is at [MPL.0002.0005.1734] of Confidential Exhibit MJM-1.

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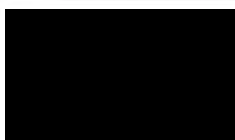


- 69 At around 9:40am on 3 March 2022, I sent an email to Ryan and Josh, confirming acceptance of the Nestle CPI request effective 7 March 2022 on the condition of a \$ [REDACTED] investment per week into the 1:1 promotional programme and alignment to the commercial plan outlined in the deal sheet I attached to my email. The proposal for the Lucky Dog Sample Product remained the same as Nestle Purina's Final Proposal. A copy of my email is at **[MPL.0002.0005.1732] of Confidential Exhibit MJM-1** and a copy of the deal sheet attached to my email is at **[MPL.0002.0005.1733] of Confidential Exhibit MJM-1**. With respect to the Lucky Dog Sample Product, the attached deal sheet is identical to Nestle Purina's Fifth Proposal, as set out in paragraphs 63 and 64 above, and Nestle Purina's Final Proposal, as set out in paragraph 66 above.
- 70 At around 10:28am on 3 March 2022, I received an email from Ryan who confirmed that Nestle Purina was aligned, or had agreed, to the conditions set out in my email, as described immediately above. A copy of Ryan's email is at **[MPL.0002.0005.1726] of Confidential Exhibit MJM-1** and the deal sheet attachment to his email is at **[MPL.0002.0005.1727] of Confidential Exhibit MJM-1**. In his email, Ryan also stated that the "[n]ext steps to finalise will be confirmation of the NEW DROPPED Campaigns + Evolved DROPPED Mechanics so we can ensure alignment into the 6wk collab process." By this statement, I understood Ryan to be referring to my approval requirements to enable time for product replenishment and weekly supply meetings with Nestle Purina to finalise product forecasting, which was a process that generally took 6 weeks.

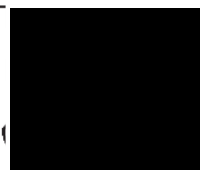
Price Establishment Period and Prices Dropped Placement

- 71 As I mention in paragraph 17 above, from my review of item 108 of the Annexure C, I understand that on 7 March 2022, the Lucky Dog Sample Product was removed from the Prices Dropped Program and the product was offered for sale to customers in Woolworths Supermarket and Woolworths Online from that date at a new shelf price of \$6.50, with a white ticket applied to convey that price offering.
- 72 At around 9:29am on 7 March 2022, I sent an email to Ryan with a request that he return a completed template containing all nominations for Nestle Purina products that were proposed to be launched onto the red programme following the CPI negotiation. A copy of my email is at **[MPL.0002.0005.1712] of Confidential Exhibit MM-1**. In referring to the "red programme", I was referring to both products proposed to be placed on the EDLP and the Prices Dropped Program. I made this request to assist me in

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obtaining final approval for the movement of those products onto those programs. In my email, I stated that my preference was to *'use Low Price rather than Dropped where we can'*. This reflected a personal preference to use EDLP, which did not involve any savings statement and therefore did not necessitate a price establishment period. I was comfortable putting products on the Prices Dropped Program but doing so required a price establishment period.

73 In the case of Lucky Dog Sample Product, I agreed to Nestle Purina's proposal to keep the product on the Prices Dropped Program because:

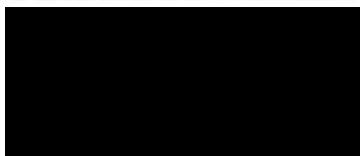
- (a) I considered the utilisation of the Prices Dropped Program was beneficial for customers because I was bringing the price down from what it otherwise would have been (i.e., down from the new shelf price); and
- (b) Nestle Purina made their funding contribution conditional on their request for the product to be placed on the Prices Dropped Program, with the consequence being that I did not believe Nestle Purina would have funded retail price reductions to the same extent if the product was not placed on the Prices Dropped Program.

74 At around 3:00pm on 7 March 2022, I received an email from Ryan confirming (among other things) that the Lucky Dog Sample Product was agreed as an *'Evolved Dropped'* product, moving from the Prices Dropped Price of \$4.50 to a new, or "evolved" Prices Dropped price of \$6.00, subject to Woolworths' confirmation of the date on which that would occur. A copy of Ryan's email is at **[MPL.0002.0005.1712] of Confidential Exhibit MJM-1**. In Ryan's email, he also sought clarification on whether I requested that the template be completed for all Nestle Purina products nominated for the red program, or only those which were additional to the products agreed as part of the CPI negotiation.

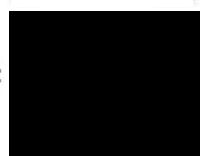
75 At around 3:03pm on 7 March 2022, I sent an email to Ryan, confirming that I wanted to *'capture all of the planned Dropped or Low Price into this template'*. A copy of my email is at **[MPL.0002.0005.1712] of Confidential Exhibit MJM-1**.

76 At around 4:28pm on 7 March 2022, I received an email from Ryan in reply to my email described immediately above, attaching the completed template with red program nominations. A copy of Ryan's email is at **[MPL.0002.0005.1712] of Confidential Exhibit MJM-1** with the completed template that was attached to his email at

Signed:



Taken by:



[MPL.0002.0005.1713] of Confidential Exhibit MJM-1. Nestle Purina proposed the following in respect of the Lucky Dog Sample Product:

- (a) a cost price of \$█, which I believe to be an error because the Final Nestle Proposal included a First Cost of \$█ and a Net Cost of \$█; and
- (b) a proposed sell price of \$6.00, once the product was placed on the Prices Dropped Program.

77 On 11 March 2022, I sent an email to Ryan confirming that I was aiming to seek approval for the products proposed to be included on the Prices Dropped Program the following week. A copy of my email is at **[MPL.0002.0005.0816]** of Confidential Exhibit MJM-1. In my email, I requested that Ryan provide a customer/strategic rationale for each proposed Prices Dropped price and to confirm the priority 'Red launches' proposed for in store signage/support (that is, those products where additional marketing support was proposed to be given by a supplier). I requested this information to assist me in obtaining final internal approval for the red program nominations, including in respect of the nomination to place the Lucky Dog Sample Product on the Prices Dropped Program.

78 On 17 March 2022, I received an email from Ryan which stated, in relation to the Lucky Dog Sample Product, that the strategic intent of putting the Lucky Dog Sample Product on Prices Dropped was stated to be '*Evolution of Current DROPPED Strategy*' and the customer intent was '*Highly Impulse Category*'. By these statements, I understood that the Lucky Dog Sample Product is in the Dog Treats category, which is generally an impulse (or unplanned) purchase for customers in the store. This is in contrast to the main pet food categories such as Dry Dog, which are generally planned by customers before they enter the store. A copy of Ryan's email is at **[MPL.0002.0005.0816]** of Confidential Exhibit MJM-1. In his email, Ryan also stated that the deferred deals had been activated for products which had been agreed to be placed on Prices Dropped Program, including in respect of the Lucky Dog Sample Product. Ryan requested that I confirm the timing by which the products would move onto that program as soon as possible, so that Nestle Purina could forecast accordingly.

79 At around 8am on 31 March 2022, I attended a weekly forum with my MM, Commercial Director and the COGS team to obtain approval for the placement of the Lucky Dog Sample Product on the Prices Dropped Program. A screenshot from my diary, which shows my acceptance of a calendar invitation for that weekly forum is at **[MPL.0090.0001.0002]** of Confidential Exhibit MJM-1 and the agenda for that weekly

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forum is at **[MPL.0090.0001.0001]** of **Confidential Exhibit MJM-1**. I recall that I obtained approval during that weekly forum.

80 At around 3:16pm on 31 March 2022, I emailed Ryan to confirm that approval had been given to place the Lucky Dog Sample Product (among others) on the Prices Dropped Program, effective Monday 4 April 2022, with the only action requested from Nestle Purina being to plan for the additional volume required once the products moved onto the Prices Dropped Program. A copy of my email is at **[MPL.0002.0005.0816]** of **Confidential Exhibit MJM-1**.

81 At around 3:24pm on 31 March 2022, I received an email from Ryan confirming that Nestle Purina was aligned to (or agreed with) my request, and would review the pricing on Monday 4 April to ensure the figures were correct. A copy of Ryan's email is at **[MPL.0002.0005.0816]** of **Confidential Exhibit MJM-1**.

82 As I mention in paragraph 17 above, I understand that:


- (a) on 5 April 2022, the Lucky Dog Sample Product was placed on the Prices Dropped Program; and
- (b) between 5 April 2022 and 13 November 2022, the Lucky Dog Sample Product was offered to customers at Woolworths Supermarkets and Woolworths Online for \$6.00 with a red Prices Dropped ticket applied to the product.

Subsequent events

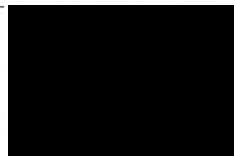
83 In preparing this affidavit, I have been shown an email chain between me, Ryan and Josh dated between 22 August 2022 and 17 October 2022. A copy of this email chain is at **[MPL.0002.0004.9219]** of **Confidential Exhibit MJM-1**. From my review of the email chain, I understand that it relates to my negotiations with Ryan and Josh on a subsequent CPI request made by Nestle Purina on 22 August 2022 for products including the Lucky Dog Bones Sample Product (**subsequent CPI**).

84 The email chain includes an email from me to Ryan and Josh which I sent at around 1:56pm on 27 September 2022. In that email, I responded to a number of queries raised by Ryan in an email I received on 21 September 2022. In my email of 1.56pm, I embedded Ryan's query in blue text in my response, with my comments recorded in green text. Among other matters, I responded to a query from Ryan about the criteria to get onto the Prices Dropped Program and whether products could be pulsed (or added

Signed:



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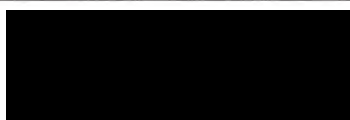


onto repeated short term yellow ticket Specials) while on the Prices Dropped Program. In my response to that query, I stated:

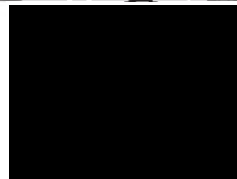
- (a) *“3-6 weeks price establishment period, and some restrictions around how high the increase can go. e.g. we cannot manufacture a save by going far too high and coming back down.”* By this statement, I was referring to Woolworths policy requirements to ensure that a new shelf price was established before a product is placed onto the Prices Dropped Program. While I cannot specifically recall what I intended to convey by the reference to *“restrictions around how high the increase can go”*, I believe that I was concerned to ensure that the product was not offered to customers at a retail price that was artificially high but, rather, reflected a genuine standard price for the product. Further, in circumstances where Nestle Purina was proposing to move the product onto the Prices Dropped Program, I was concerned to ensure that any Prices Dropped price was a genuine reduction in the standard shelf price for the product in that it was below the price that would have been charged by Woolworths absent the supplier funding the price reduction offered as a result of the Prices Dropped Program.
- (b) *“The rules aside, my view is that the Dropped program should not be a focus for us if we're putting up prices, and we should use the Low Price program instead as it has no save.”* By this statement, I was conveying the view I have explained in paragraph 72 above – that is, it was my personal preference to use EDLP because it did not make any statement about the amount a customer was saving on the product and therefore did not necessitate a price establishment period.
- (c) *“Low Price rules are that it has to be competitive vs. market.”* By this statement, I meant that, if a product was nominated to be placed on the EDLP program at Woolworths, the price for the product needed to provide good value for customers and be cheaper than the price at which the product was offered for sale at Woolworths' competitors, such as Coles and Aldi.

85 The email chain also includes an email from me to Josh which I sent at around 1:27pm on 17 October 2022. In that email, I provided Josh with feedback on the subsequent CPI proposal and stated (among other things) *“Red Program: Aligned to the selected pack groups. Are you proposing Low Price or Prices Dropped? My preference is LP but will need your confirmation that all products will be ASP competitive in the market”*. In making this statement, I was conveying a similar point to the one I make at paragraph

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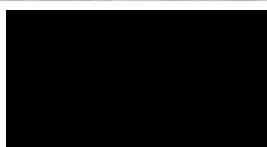
84(c) above. In Josh's response at around 4:01pm on 17 October 2022, he states that Nestle Purina's preference was for the selected products (including the Lucky Dog Sample Product) to be included on the Prices Dropped Program.

86 In preparing this affidavit, I have also been shown an email chain between me, Ryan and Josh dated between 17 October 2022 and 11 November 2022. A copy of this email chain is at **[MPL.0002.0004.9632] of Confidential Exhibit MJM-1**. That email chain also relates to the subsequent CPI. The email chain includes:

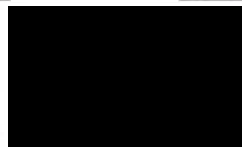
- (a) an email from me to Ryan which I sent at around 1:50pm on 31 October 2022. In that email, I queried whether there were any products in the subsequent CPI, including the Lucky Dog Sample Product, which Nestle Purina was not looking to promote (in the form of Special promotions), for which EDLP could be used. In response to my email, at around 2:03pm on 31 October 2022, I received an email from Ryan stated "*[o]ur ideal preference would be to run on the DROPPED Program so please let me know if there is any fundamental pushback on this from your wider business and we can review accordingly. The concern we have on our end is how consumers will resonate / react with LOW PRICE vs DROPPED & it also limits our ability to pulse if & when needed.*" By this statement, I understood that Ryan was expressing Nestle Purina's preference for the Lucky Dog Sample Product (among others) to be placed on the Prices Dropped Program to give Nestle Purina flexibility to propose short term Special promotions below the Dropped price. Under the EDLP program, no short-term Specials could be offered below the EDLP price.
- (b) an email from me to Ryan and Josh which I sent at around 11:01am on 8 November 2022. In that email, I confirmed that I had submitted a request for approval to Paul Harker in respect of, inter alia, the Lucky Dog Sample Product being placed on the Prices Dropped Program following the negotiations of the subsequent CPI.

87 From my review of Woolworths' records, I understand that, on or about 13 November 2022, the Lucky Dog Sample Product was removed from the Prices Dropped Program.

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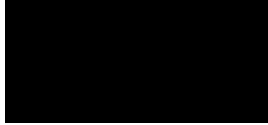


SWORN by the deponent
at Sydney
in New South Wales
on 21/11/2025
Before me:

)
)
)
)
)



Signature of deponent



Signature of witness

SELINA SHERYAN TA

Name of authorised witness (*block letters*)

LEVEL 61

~~FLYNN~~ 1 FARRER PLACE SYDNEY NSW 2000

Address of authorised witness

SOLICITOR.

Capacity (eg Justice of the Peace)

No VID 974 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Competition and Consumer Commission
Applicant

Woolworths Group Limited (ACN 000 014 675)
Respondent

Certificate identifying Confidential Exhibit MJM-1

This is **Confidential Exhibit MJM-1** to the affidavit of **Martin John McCaig** sworn at 1 Farrer Place, Sydney NSW 2000 on 21 November 2025 before me:


.....
Signature of witness

SELINA SHER YAN TA

Australian Legal Practitioner

Filed on behalf of Woolworths Group Limited, the Respondent

Prepared by Peta Stevenson
Law firm **KING & WOOD MALLESONS**
Tel +61 2 9296 2492
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Form approved 01/08/2011

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