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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.

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

Form 59
Rule 29.02(1)

Affidavit

No VID 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: **Timothy Charles Moffatt**
Address: 1 Woolworths Way Bella Vista NSW 2153
Occupation: Category Manager - Paper Goods, Period & Continence Care
Date: 21 November 2025

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Signed: 

Taken by: 

Filed on behalf of Woolworths Group Limited, the Respondent

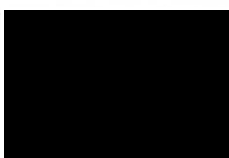
Prepared by Peta Stevenson
Law firm **KING & WOOD MALLESONS**
Tel +61 2 9296 2492
Email peta.stevenson@au.kwm.com

Address for service
Level 61, Governor Phillip Tower
1 Farrer Place, Sydney NSW 2000, Australia
Ref: P Stevenson:602-0051665

I, Timothy Charles Moffatt, of 1 Woolworths Way Bella Vista NSW 2153, of Woolworths Group Limited (**Woolworths**), affirm:

- 1 I am a Category Manager (**CM**) for Paper Goods, Period & Continence Care at Woolworths, the Respondent in this Proceeding.
- 2 As part of my responsibilities as CM - Paper Goods, Period & Continence Care, I am responsible for the management of products which include the:
 - (a) Stayfree Pad Ultra Thin Wing Night 10pk (44861-EA) (**Stayfree Sample Product**); and
 - (b) Kleenex Facial Tissue Xcare Aloe Vera 95pk (79502-EA) (**Kleenex Sample Product**).
- 3 This affidavit addresses Woolworths cost price increase (**CPI**) negotiations with:
 - (a) Johnson & Johnson Pacific Pty Ltd (**J&J**), the supplier of the Stayfree Sample Product, in the period December 2021 to March 2022; and
 - (b) Kimberly-Clark Australia (**KCA**), the supplier of the Kleenex Sample Product, in the period December 2022 to February 2023.
- 4 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 filed 13 June 2025 (**Annexure C**)) and the Agreed Sample List (filed 13 June 2025).
- 5 Based on my review of the Agreed Sample List, I have identified the Kleenex Sample Product and the Stayfree Sample product in items 7 and 12 of the Agreed Sample List and understand that those products are agreed sample products for the purposes of this proceeding.
- 6 Based on my review of Annexure C, I have identified the Kleenex Sample Product is listed at row 98 and the Stayfree Sample Product is listed at row 233 of Annexure C.
- 7 Unless otherwise stated, this affidavit is based on my own knowledge.
- 8 Shown to me at the time of affirming this affidavit is an electronic bundle of documents marked '**Confidential Exhibit TCM-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 TCM-1.

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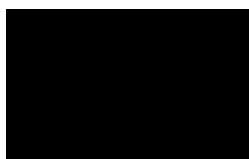
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My employment at Woolworths and role as Category Manager

- 9 On 25 February 2000, I commenced employment with Woolworths as a Produce Assistant. From that time, until 6 November 2011, I worked in various roles in-store at Woolworths Supermarkets, including Produce Manager, Long Life Manager, Store Services Manager and Assistant Store Manager.
- 10 On 7 November 2011, I commenced my first commercial role as a Produce Buyer for Vegetables in South Australia and, subsequently, Queensland. I held that role until 21 September 2017. I later held the following commercial roles within Woolworths:
- (a) from 22 September 2017 to 15 September 2019, I was the Assistant Category Manager (**ACM**) in Produce - Hard Vegetables;
 - (b) from 16 September 2019 to 22 March 2020, I was the CM in Produce - Pome & Stone Fruit team;
 - (c) from 23 March 2020 to 3 May 2020, I was the CM in Produce - Freshcuts, Mushrooms and Floral team; and
 - (d) from 4 May 2020 to 24 October 2021, I was the CM in Produce - Brassica & Lettuce team.
- 11 On 25 October 2021, I started in my current role as a CM for Paper Goods, Period & Contenance Care. My day-to-day responsibilities in this role include:
- (a) deciding on which products in the category would be made available for sale (or 'ranged') at Woolworths' Supermarkets and Woolworths Online, including by conducting regular range reviews of existing or new product offerings;
 - (b) negotiating cost prices and promotions funding with suppliers in the category;
 - (c) determining the retail price for products within the category;
 - (d) monitoring the sales, performance and profitability of products or groups of products (sometimes referred to as 'product families' or 'product ranges') in the category;
 - (e) determining product placement in Woolworths' Supermarket stores, including working with Woolworths' Microspace team, who were responsible for generating

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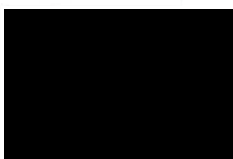


and executing plans containing the layout of products on shelves in Woolworths Supermarkets; and

- (f) selecting the product range, and setting the retail pricing, of Woolworths' Own Brand products.

- 12 In my role as CM – Paper, Period and Contenance Care, I report to the Merchandise Manager (**MM**). From the time I commenced my role in October 2021 until around April 2023, John Loader was the MM for the category. Since around April 2023, Richard Jones has been the MM.
- 13 Both at the time of the events referred to below and currently, I report to the MM in respect of responsibilities outlined above. This includes seeking alignment (i.e., agreement) in the negotiation of a CPI request with a supplier where the proposed increase in cost price is above a certain threshold (which at the time of the below events was \$50,000) and where there are changes in the pricing and promotional plan resulting from a CPI request, including in respect of the placement of a product on the Prices Dropped Program. In the period from October 2021, in addition to ad hoc discussions I had with John Loader, I attended weekly meetings with him to discuss and align on the approach to negotiations with suppliers in respect of CPI requests, including the impact of the cost increases on Woolworths and its customers.
- 14 John Loader and, subsequently, Richard Jones reported to James Hepworth, who had been the Commercial Director for the Everyday Needs Portfolio from at least the time I commenced as CM – Paper Goods, Period & Contenance Care in October 2021 until October 2025. During that time, I attended, as required, weekly forums with my MM and James Hepworth, including to inform James of a CPI request when I first received it from a supplier and to obtain approval for the overall commercial outcomes of the CPI at the conclusion of negotiations with the supplier.
- 15 As CM - Paper Goods, Period & Contenance Care, I supervise the ACM in the category. The primary responsibility of the ACM is the implementation of promotional plans which I negotiate with suppliers in respect of products in the category. Throughout my time as CM - Paper Goods, Period & Contenance Care, I have had oversight of these promotional plans and their implementation. I was also supported by the ACM in the negotiation of a CPI request and sought their input on the frequency of promotional plans (having regard to the fact that they would be responsible for executing those plans). From the time I commenced as CM - Paper Goods, Period & Contenance Care

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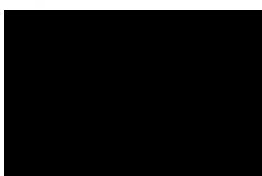
until about October 2023, the ACMs for the category were Semra Moda, then Nathan Connor.

- 16 In my role as CM - Paper Goods, Period & Contenance Care, I also supervise a Category Assistant (**CA**). At the time I commenced as CM - Paper Goods, Period & Contenance Care in October 2021 until around January 2024, James Goudie was my CA. James was responsible for operational and administrative tasks associated with products in the category, including changes in cost and retail pricing, product descriptions and setting up price focus flags. Price focus flag changes are required when there is, for example, a movement from the standard shelf price (which is indicated by a **White Ticket**) to a long-term pricing program for products placed on the Prices Dropped Program or Everyday Low Price program (which is indicated by a **Red Ticket**). The changes in cost and retail pricing, product descriptions and setting up price focus flags are implemented by James in Woolworths' **SAP System**, being an internal Woolworths system utilised to input such changes to product information.

Stayfree Sample Product and the Prices Dropped Program

- 17 From my review of row 233 of Annexure C, I understand that:
- (a) from 1 January 2021 until 15 March 2022, the Stayfree Sample Product was offered at Woolworths Supermarkets and Woolworths Online on what is often referred to as "high / low" basis, where the product was:
 - (i) regularly offered for sale to consumers on a White Ticket at \$4.50, being the standard shelf price for the product; and
 - (ii) frequently promoted at a lower price below the White Ticket price for a period of 1 week. When placed on these specials, the promotional price would be shown on a **Yellow Ticket**.
 - (b) On 16 March 2022, the Stayfree Sample Product's shelf price was increased from \$4.50 to \$5.30 and was offered for sale to consumers at Woolworths Supermarkets and Woolworths Online at that increased price, with a White Ticket applied to the product.
 - (c) Between 4 April 2022 and 6 September 2022, the Stayfree Sample Product was placed onto the Prices Dropped Program and offered to customers at Woolworths Supermarkets and Woolworths Online at \$4.80 (with periodic Yellow Ticket specials).

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(d) Between 4 April and at the latest 4 May 2022, a White Ticket was applied to the Stayfree Sample Product. However, by no later than 29 April (in the case of Woolworths Online) and no later than 4 May 2022 (in the case of Woolworths Supermarkets), a Red Ticket applied to the product. As I explain below, I believe that the application of a White Ticket during the period of 4 April 2022 and 4 May 2022 was a system error and a Red Ticket for Prices Dropped should have been applied.

18 Below I explain the evolution of the pricing for the Stayfree Sample Product mentioned in paragraph 17 above.

Notification of CPI Request concerning the Stayfree Sample Product

19 On 6 December 2021, I received an email from Jade Caton, the National Account Manager - Woolworths at J&J. In Jade's email, she notified me that "*[a]s part of the annual pricing review, Johnson & Johnson Pacific Pty Ltd has made the difficult decision to adjust pricing across our portfolio. These decisions have been made taking into account a number of commercial considerations. The attached changes will be effective for deliveries on or after Monday 28th February 2022*". A copy of Jade's email is at **[MPL.0021.0007.7602] of Confidential Exhibit TCM-1**.

20 Jade's email also confirmed that J&J had uploaded and submitted the proposed recommended retail prices (**RRP**) and First Cost adjustments into Partner Hub that day. Partner Hub is a Woolworths operated system which is accessible to suppliers and primarily used to input supplier changes to product data, including proposed changes to cost pricing, descriptions, sizing and imagery. I understood Jade's reference to "**First Cost**" to be the price that J&J offered its products for sale to Woolworths before any discount, allowances, rebates or Deferred Deals are applied. That is consistent with my understanding of how the term "First Cost" is typically used when referring to the cost of a supplier's products to Woolworths.

21 A **Deferred Deal** is an arrangement where a supplier agrees to fund a portion of the cost of a product, including to support the placement of the product on the Prices Dropped Program. In my experience as CM – Paper Goods, Period and Continence Care, a Deferred Deal is the preferred form of funding for both Woolworths and suppliers where a product is on a long-term pricing program like the Prices Dropped Program. This is because, given suppliers are typically unwilling to change the First Cost price, a Deferred Deal provides for a consistent percentage deduction from the First Cost price to facilitate a reduced sell price and simplify the ongoing administration of the product.

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The product administration is simplified because of the ability to forecast supply from a consistent baseline price. In comparison, other forms of funding -- such as a **Scan Deal**, which applies a deduction to the cost price upon a customer's purchase (or scan) of the product at Woolworths Supermarkets or Woolworths Online – would require the promotion to be entered into the system frequently, with the promotional quantity required to be adjusted weekly.

22 Jade's 6 December 2021 email attached the following documents:

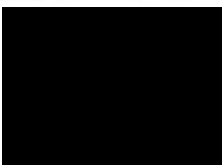
- (a) a letter from J&J dated 6 December 2021 which, in effect, repeated the content of Jade's email, as I have set out in paragraph 19 above. A copy of this letter is at **[MPL.0021.0007.7603] of Confidential Exhibit TCM-1;**
- (b) a copy of J&J's price adjustment list, as referenced in Jade's email. The price adjustment list itemised, for each of the J&J products supplied to Woolworths in the Paper Goods, Period and Continence Care category, the current and proposed new pricing for the relevant products, including the RRP and Invoice Cost (which, in this context, I understood to be the same as "First Cost") (**J&J's CPI request**). A copy of the J&J's CPI request is at **[MPL.0021.0007.7604] of Confidential Exhibit TCM-1.**

23 The Stayfree Sample Product appears in the fourteenth row of J&J's CPI request. According to that entry, J&J:

- (a) requested an increase in the Invoice Cost from \$ [REDACTED] to \$ [REDACTED] per unit (ex GST), being a [REDACTED] % increase in the First Cost price for the product; and
- (b) indicated that it would increase the RRP from \$4.81 to \$5.29 per unit (incl GST), being a 9.9% increase. I believe that the reference to the new RRP being inclusive of GST is an error, given my understanding that period care products do not attract GST. While J&J determines the RRP for the Stayfree Sample Product, I am not required to adopt or agree to this price as the determination of the shelf price of the product is my responsibility.

24 I cannot recall the initial steps I took to evaluate this specific CPI request at the time. That said, my usual practice upon receiving a CPI request was, and is, to first assess the likely impact of the proposed CPI on Woolworths' customers. I would do so by considering the size of the proposed increase in cost price and RRP for the products, including how those prices compare to other products in the same category (having regard to the different qualities and characteristics of those products) (which I call the

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Pricing Hierarchy). I also typically undertake a high-level assessment of the sales performance of the products which are the subject of the CPI request. Once I have analysed the impact on Woolworths' customers and the impact on Woolworths, I then formulate an initial response to discuss with my MM and seek alignment on an initial response to the supplier.

Negotiation of proposed pricing and promotion for the Stayfree Sample Product

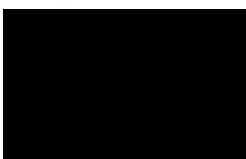
- 25 On 16 December 2021, I received an email from Jade attaching a document titled "Period Care WIP December 2021" (**WIP Report**), being a work in progress report which Jade noted in her email as a document that "*we went through today*". A copy of Jade's email is at [MPL.0002.0014.1592] of **Confidential Exhibit TCM-1** and a copy of the WIP Report is at [MPL.0002.0014.1593] of **Confidential Exhibit TCM-1**. I do not specifically recall going through the WIP Report with Jade that day, but it was commonplace for me to meet with suppliers, including J&J, to discuss performance and proposed promotional plans. However, it was not common for J&J to provide me with a presentation like the WIP Report after those meetings. I did not ask Jade to provide me with the WIP Report and do not believe that the WIP Report was prepared specifically in connection with J&J's CPI request (given it covers broader issues and topics relating to the performance of the Stayfree Sample Product, among others).
- 26 The WIP Report included, among other things, J&J's proposed pricing and promotional strategy for the Stayfree Sample Product. Page .0009 of the WIP Report:

- (a) Suggests that the current pricing and promotional strategy for the Stayfree Sample Product was as follows:

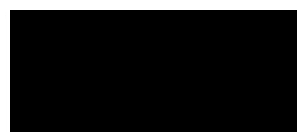
Current		
Bundle	Price	Frequency
Stayfree 10-16	\$4.50	35
	\$3.60	10
	\$3.15	7
Stayfree 18/20	\$4.30	35
	\$3.44	10
	\$3.01	7

- (b) Records that J&J proposed a 52-week promotional plan for the Stayfree 'bundle', which included the Stayfree Sample Product, as follows:


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Proposed		
Bundle	Price	Frequency
Stayfree	\$4.80	35
	\$3.80	10
	\$3.36	7



- (c) Includes the following commentary in respect of the pricing and promotional strategy for the Stayfree 'bundle', which included the Stayfree Sample Product:

Commentary:

- Continue to Bundle Stayfree together
- Currently total range on "Dropped"
- Proposal – FY22Q4 Hi/Low. FY23 New Dropped "\$4.80"
- LFL Promo % and Frequencies
- 20% Off now "Save \$1" off "Dropped" (20% off = \$3.83, vs \$3.80) LFL at 10x PA
- Set up as 1 price family in Partner Hub?

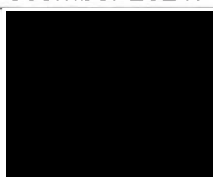
*Pricing is at the sole discretion of the retailer. For modelling purposes only

27 From my review of page .0009 of the WIP Report, I understood J&J's proposed 52-week promotional plan to be, in respect of the Stayfree Sample Product:

- (a) the placement of the Stayfree Sample Product on the Prices Dropped Program at the price of \$4.80 for at least 35 weeks (this is what I understood the reference to "*FY23 New Dropped \"\$4.80\"*" in the third dot point in the commentary section at the bottom of page .0009);
- (b) 10 pulses (or short-term promotions) at \$3.80, to be applied off the Prices Dropped price (this is what I understand to be meant by the fifth dot point in the commentary section, which states "*20% Off now \"Save \$1\" off \"Dropped\" (20% off = \$3.83, vs \$3.80) LFL at 10 x PA*"). I refer to the price that the product is sold while on the Prices Dropped Program as the **Dropped Price**; and
- (c) 7 pulses at \$3.36, to be applied off the Dropped Price.

28 As set out in paragraph 26 above, there is a statement on page .0009 of the WIP Report that reads "Currently total range on Dropped". There is also a table headed "Current" which lists "Stayfree 10-16" and features the "Prices Dropped" logo. However, based on my review of row 233 of Annexure C (see paragraph 17 above), which indicates that the Stayfree Sample Product was not on the Prices Dropped Program at that time, I do not believe these statements in the WIP Report were accurate in December 2021. That is, I do not believe that the Stayfree Sample Product was on the Prices Dropped Program in December 2021.

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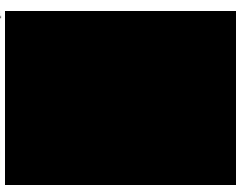


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- 29 The WIP Report also shows the changes in units sold corresponding to discounted and non-discounted pricing periods - in particular, page .0004 of the WIP Report shows increases in the number of units sold corresponding with the weeks when those products were on promotion. An increase in units sold is the primary reason suppliers agree to fund promotional activities with Woolworths. In my experience as CM – Paper Goods, Period and Continence Care, the reduced sale price of goods offered to customers on Yellow Tickets and Red Tickets is usually partially funded by suppliers. Suppliers benefit from having products included on such programs because promotions and pricing programs can draw customers' attention to the supplier's product and boost the volume of units sold. In my experience, supplier funding of price reductions is only ever offered on the basis that the product will be promoted on a Yellow Ticket or included in a Red Ticket pricing program. I am not aware of any occasion where a supplier has offered or been willing to fund a reduction in the sale price of a product from the White Ticket price without a promotional callout (that is, a Yellow Ticket or Red Ticket which shows a price reduction on the product to Woolworths customers). Other than in the case of Own Brand products, I have not placed any products in my category on the Prices Dropped Program without funding from the supplier of that product.
- 30 On 21 December 2021, I received an email from Jade providing an update on J&J's pricing proposal for other products and attaching a document titled "J&J Price Adjustment Period Care". A copy of Jade's email is at **[MPL.0002.0014.1575] of Confidential Exhibit TCM-1** and a copy of the attachment is at **[MPL.0002.0014.1576] of Confidential Exhibit TCM-1**. From my review of Jade's email and its attachment (at page .0003), I understand that the pricing proposal concerning the Stayfree Sample Product, as set out in the WIP Report described in paragraphs 26 and 27 above, did not change.
- 31 On 24 December 2021, I sent an email to Jade responding to her email described at paragraph 30 above. A copy of my email is at **[MPL.0002.0014.1574] of Confidential Exhibit TCM-1**. In my email, I informed Jade that Woolworths' initial response to J&J's CPI request was 'Acceptance - Amount Not Agreed'. This indicated that Woolworths accepted that there would be a cost price increase in the products notified by J&J, but did not agree to the amount or promotional terms of the proposed cost price increase. I explained in my email that this was "*due to the lack of information in the original proposal.*" I considered that there was a lack of information in J&J's CPI request at this time because J&J had not provided me with any details of:

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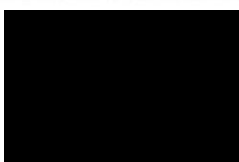


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- (a) the proposed cost structure, including the proposed amount (or percentage) of any Deferred Deal which J&J proposed to contribute towards the placement of the products on the Prices Dropped Program, or the proposed **Net Cost** price to be paid by Woolworths for the products (being the price paid by Woolworths to the supplier for a product after all rebates, allowances and Deferred Deals are applied (but before any Scan Deals are activated)); and
- (b) J&J's proposed funding for the suggested promotions and pricing campaigns for the Stayfree Sample Product, including the period in which J&J contemplated the products would be placed on the Prices Dropped Program and the pricing and frequency of any Yellow Ticket specials for the products.
- 32 On 5 January 2022, I received an email from Jade confirming that the plans containing J&J's proposed promotional and Deferred Deal details had been uploaded into Partner Hub. A copy of this email is at **[MPL.0002.0014.0434] of Confidential Exhibit TCM-1**.
- 33 On 19 January 2022, I received a further email from Jade which attached an excel spreadsheet titled "Period Care – Detail of Funding" containing what she described in her email as "*key metrics by SKU that are required in Partner Hub to enable the pricing team to review and evaluate.*" A copy of this email is at **[MPL.0002.0014.0434] of Confidential Exhibit TCM-1** and a copy of Jade's attachment to her email dated 19 January 2022 is at **[MPL.0002.0014.0435] of Confidential Exhibit TCM-1**.
- 34 The attachment to Jade's email of 19 January 2022 shows that J&J's proposal at this time was that the Stayfree Sample Product (stated to be exclusive of GST on the sheet labelled 'proposed funding' and inclusive of GST on the sheet labelled 'proposed frequencies'. As I have explained at paragraph 23(b) above, period care products were not subject to GST at this time):
- (a) would have a RRP of \$5.29;
- (b) was proposed to be placed on the Prices Dropped Program at a proposed Dropped Price of \$4.80 for 35 weeks;
- (c) was proposed to be offered at a promotional price of \$3.80 for 7 weeks (a pulse off the Dropped Price); and
- (d) was also proposed to be offered at a promotional price of \$3.36 for 10 weeks (another pulse off the Dropped Price).

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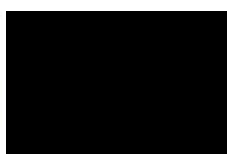


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- 35 J&J's proposal on 19 January 2022 did not include any period during which the Stayfree Sample Product would be offered on a White Ticket. Despite this, it was my understanding of Woolworths' policy and practice at the time that Woolworths would not include the Stayfree Sample Product on the Prices Dropped Program at a price of \$4.80 without that product first being sold, for a period, at the new White Ticket shelf price. I generally refer to this period as the **Rest Period**.
- 36 While it was Woolworths' policy and practice to implement a Rest Period after a price increase before any product could be returned to the Prices Dropped Program, it was not uncommon for suppliers to propose CPIs and promotional plans that did not explicitly include a Rest Period. One reason for that is such proposals are intended to be long-term arrangements (52 weeks or more), and so a Rest Period at the very start of those arrangements is unlikely to be material to the long-term economics of the deal. Another reason is that the appropriate Rest Period was set by Woolworths, not the supplier. So while suppliers might not explicitly include a Rest Period in their promotional plans, that did not mean that there would not be a Rest Period at the shelf price.
- 37 On 20 January 2022, I sent an email to Jade requesting that J&J enter its proposed pricing and promotion plan in an excel spreadsheet which I attached to my email. A copy of my email is at **[MPL.0002.0014.0425] of Confidential Exhibit TCM-1** and a copy of the attachment is at **[MPL.0002.0014.0426] of Confidential Exhibit TCM-1**.
- 38 On 25 January 2022, I received an email from Jade confirming that she had completed J&J's proposed promotion plan in the excel spreadsheet I provided on 20 January 2022, which she attached to her email. A copy of Jade's email is at **[MPL.0002.0014.3285] of Confidential Exhibit TCM-1** and a copy of the attachment is at **[MPL.0002.0014.3286] of Confidential Exhibit TCM-1**. The proposed promotional pricing and frequency for the Stayfree Sample Product remained unchanged from the proposal included with Jade's email of 19 January 2022 at paragraph 34. In this proposal, column K of the promotional plan includes a 'scan deal' method of funding, but in fact pricing program funding for the Stayfree Sample Product was ultimately agreed using a Deferred Deal as I explain below.
- 39 On 16 February 2022, I received an email from Jade. A copy of Jade's email is at **[MPL.0050.0009.1462] of Confidential Exhibit TCM-1**. In that email, Jade makes reference to having received a proposal from me. I cannot recall the proposal she was referring to and have not been able to locate a copy of it. In her email, Jade also

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presented a revised proposal in respect J&J's CPI request, but that proposal did not make specific reference to the Stayfree Sample Product.

- 40 On 17 February 2022, I received an email from Jade, attaching a completed "yellow deal sheet". The yellow deal sheet attachment was a completed version of Woolworths' template excel spreadsheet used for recording the proposed cost structure, promotional plan (including frequency, price and volume forecasts) and other metrics forming part of a CPI request (among other things) to enable a consistent assessment of the commercials of that deal. A copy of this email is at [MPL.0050.0009.1462] of **Confidential Exhibit TCM-1** and a copy of the yellow deal sheet is at [MPL.0050.0009.1463] of **Confidential Exhibit TCM-1**. In her email, Jade stated that the "*Shelf Prices are at the proposed "Dropped" where applicable*". I understood this to mean that Jade had included the proposed Dropped Price in the yellow deal sheet in the "Shelf" row and was letting me know that she had input the price of \$4.80 as the proposed Prices Dropped price. For the reasons I explain in paragraph 36 above, it was not uncommon for suppliers like J&J to present their proposed promotional plan in this way.
- 41 In the completed yellow deal sheet attached to Jade's email of 17 February 2022, J&J proposed the following:

- (a) In respect of the cost price structure:

Cost Structure	Proposed	
First Cost \$ per Unit		
Allowances %		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend %		
Deferred deal %		
Net Cost \$ per unit		

- (b) In respect of the proposed pricing and promotional plan:

Signed:



Taken by:



Proposed	RRP / Unit (exc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %	For Multibuy Promotions		Funding Rate
						Multibuy Redemption Estimate (%)	Multibuy Blended ASP	
Shelf	\$4.80	41	12,000					
Promo Level 1	\$3.80	6	23,500					
Promo Level 2	\$3.36	2	29,000					
Promo Level 3	\$2.88	2	50,400					
Promo Level 4	\$2.40	1	99,000					
Annual Forecasted Quantity			890,800	Total GP %				
% Volume on Promotion Average Scan funding per Promo unit								44.8%

42 At around 9.31am on 24 February 2022, I emailed Jade to confirm that I was planning to accept J&J's original proposal in Partner Hub that day, but noted that a number of Deferred Deals were missing from that submission, including a Deferred Deal in respect of the Stayfree Sample Product. The Deferred Deal information is necessary to be submitted into Partner Hub because the SAP System draws on information from Partner Hub in implementing product price changes. Without the Deferred Deal amounts being recorded in Partner Hub, and filtering through to the SAP System, the Net Cost price reduction would not be accurately implemented for the relevant product, including the Stayfree Sample Product. A copy of this email is at **[MPL.0002.0003.3646]** of **Confidential Exhibit TCM-1**.

43 At around 2.10pm on 24 February 2022, Jade replied to my email described at paragraph 42. A copy of this email is at **[MPL.0002.0003.3646]** of **Confidential Exhibit TCM-1**, excluding the attachment which I believe was sent inadvertently as it is titled 'JJ 2022 Price Change SKU detail - Listerine' and does not concern J&J's CPI request in respect of the Stayfree Sample Product. In her reply, Jade confirmed that the Deferred Deals would be updated prior to 28 February 2022 'for the RRP's'. By this, I understood Jade to be referring to an adjustment of the deferred deals in accordance with the increase to the White Ticket price of \$5.30 for, relevantly, the Stayfree Sample Product. Jade also confirmed that the Deferred Deals would be adjusted again before the product was placed on the Prices Dropped Program, rather than being funded as a Scan Deal.

44 At around 3.50pm on 24 February 2022, Jade submitted a Price Change request for the Stayfree Sample Product in Woolworths' Partner Hub system to increase the First Cost Price from \$ [REDACTED] to \$ [REDACTED] and the Deferred Deal from \$ [REDACTED] to \$ [REDACTED]. A copy of this submission is at **[MPL.0081.0001.0198]** of **Confidential Exhibit TCM-1** and **[MPL.0081.0001.0202]** of **Confidential Exhibit TCM-1**.

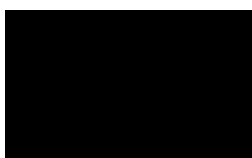
45 On the same day, I approved the cost price increases for the Stayfree Sample Product as submitted by Jade, with an effective date of 28 February 2022.

Signed: [REDACTED]

Taken by: [REDACTED]

- 46 At around 3.08pm on 25 February 2022, I sent an email to Jade stating that Woolworths could not 'meet the requests' of certain elements of J&J's 17 February 2022 proposal. However, I also confirmed '*that WOW have approved your initial proposal for a cost price increase within the Period Care category. This has been actioned in PartnerHub today, with cost prices effective 28/02.*' This meant that Woolworths had approved J&J's CPI request, effective from 28 February 2022 and the promotional plan attached to Jade's 25 January 2022 email referred to at paragraph 38 above. At around 3.36pm on the same day, Jade replied to my email, stating "*Aligned with the below. Great to have everything in and approved.*" I understood that statement to indicate J&J and Woolworths had reached agreement on the CPI request made by J&J for products in the Paper Goods, Period and Continence Care category, including the Stayfree Sample Product. A copy of this email chain is at **[MPL.0002.0014.1991] of Confidential Exhibit TCM-1.**
- 47 On 1 March 2022, I sent an email to Semra Moda (my ACM at the time) and James Goudie (my CA at the time), setting out the Prices Dropped Program prices to be applied for the Stayfree Sample Product (among other products). A copy of this email is at **[MPL.0002.0013.9475] of Confidential Exhibit TCM-1.** I requested that James flag in SAP that, relevantly, the Stayfree Sample Product would be moving onto 'Dropped' (meaning the Prices Dropped Program) effective 4 April 2022 at a Dropped Price of \$4.80, with a "Was" Price of \$5.30.
- 48 On 3 March 2022, Jade sent an email to my direct report, Semra Moda, who was my ACM at the time, attaching a further yellow deal sheet. A copy of Jade's email is at **[MPL.0002.0003.3836] of Confidential Exhibit TCM-1** and a copy of the further yellow deal sheet is at **[MPL.0002.0003.3837] of Confidential Exhibit TCM-1.** The proposed promotional prices and frequency are the same as Jade's proposals on 19 and 25 January 2022 discussed at paragraphs 34 and 38 above (save for the references being updated to ex GST). The yellow deal sheet records the following proposal in respect of the Stayfree Sample Product:
- (a) In respect of the cost price structure:

Signed:



Taken by:



Cost Structure	Proposed	
First Cost \$ per Unit		
Allowances %		
Off invoice ^a deal %		
Invoice Cost \$ per unit		
Volume Spend %		
Deferred deal %		
Net Cost \$ per unit		

(b) In respect of the proposed pricing and promotional plan:

Proposed	RRP / Unit (exc GST)	Frequency (Total of 52 weeks)	Forecasted unit sales qty per week	Scan Funding per promo unit	GP %	For Multibuy Promotions		Funding Rate	
						Multibuy Redemption Estimate (%)	Multibuy Blended ASP		
Shelf	\$4.80	35	12,000						
Promo Level 1	\$3.80	7	23,500						
Promo Level 2	\$3.36	10	29,000						
Promo Level 3	\$2.88		50,400						
Promo Level 4	\$2.40		99,000						
Annual Forecasted Quantity			874,500	Total GP %					
								% Volume on Promotion	52.0%
								Average Scan funding per Promo unit	

- 49 I believe that the proposed pricing and promotional plan shown in paragraph 48(b) above was the final plan agreed for J&J's CPI request.
- 50 On 1 April 2022 at around 3.25pm, I received an email from Nathan Connor informing me that James Goudie had loaded the new RRP for the Stayfree Sample Product (among others) and included a Red Ticket flag for the Dropped Price of the product, effective from 4 April 2022. A copy of this email is at **[MPL.0002.0003.3193] of Confidential Exhibit TCM-1.**
- 51 In the same email, Nathan informed me that three products included in J&J's CPI Request, but not including the Stayfree Sample Product, had not been increased to the new RRP and therefore could not be moved onto the Prices Dropped Program on 4 April 2022. I later agreed with Jade that those three products would be moved to Prices Dropped Program on 2 May 2022 – about a month later. A copy of those emails is at **[MPL.0002.0003.3193] of Confidential Exhibit TCM-1.**
- 52 On 2 April 2022, I approved a 'Price Change' request from Jade in Partner Hub, where she had submitted a Deferred Deal of \$ [REDACTED] per unit. This was an increase from the previous Deferred Deal submission of \$ [REDACTED] per unit. I believe this submission was made to correct the amount of the Deferred Deal, as agreed between Jade and I, for the J&J CPI Request (i.e., [REDACTED] % of \$ [REDACTED], being the First Cost price referred to at

Signed:

[REDACTED]

Taken by:


[REDACTED]

- paragraph 44 above). The effective date for this change was 4 April 2022. A copy of this submission is at **[MPL.0081.0001.0205] of Confidential Exhibit TCM-1** and **[MPL.0081.0001.0206] of Confidential Exhibit TCM-1**.
- 53 From my review of row 233 of Annexure C, I understand that on 4 April 2022, the price of the Stayfree Sample Product was reduced to \$4.80, being the agreed Dropped Price and the agreed date for the product to go on the Prices Dropped program.
- 54 On 4 April 2022, I received an email from Jade containing a screenshot from Woolworths' online store displaying four products, including the Stayfree Sample Product, which "*do not have the "dropped" red box and call out on them however they are supposed to*". A copy of Jade's email is at **[MPL.0002.0003.3179] of Confidential Exhibit TCM-1**. From my review of Jade's email, I understood that she was alerting me to the Stayfree Sample Product being offered for sale to consumers at a Dropped Price of \$4.80, but was not being advertised, at least online according to that screenshot, with a Red Ticket to signify that the product was on the Prices Dropped Program.
- 55 While I cannot recall precisely when, I instructed Nathan Connor, my ACM at the time, to investigate whether the price focus flag (which I explain in paragraph 16 above) had been correctly entered in the SAP System for the Stayfree Sample Product.
- 56 At around 4.26pm on 4 April 2022, I was copied into an email from Nathan Connor, in which he requested that James Goudie check whether the Stayfree Sample Product (among others) was correctly flagged for the Prices Dropped Program in the SAP System, given any flags "*should automatically filter onto the website*". A copy of this email is at **[MPL.0002.0003.3197] of Confidential Exhibit TCM-1**.
- 57 At around 4.42pm on 4 April 2022, James replied confirming that the product was currently flagged for the Prices Dropped Program but, because it was not showing up in the system, he would speak to 'product data'. By his reference to 'product data', I understood James to be referring to the product data team. The product data team typically assists me, and my ACMs and CAs, when we experience issues with the communication and filtering of information between Woolworths' pricing systems including where price focus flags from SAP do not filter through for ticketing changes in Woolworths Supermarkets and Woolworths Online. A copy of this email chain is at **[MPL.0002.0003.3187] of Confidential Exhibit TCM-1**.
- 58 James Goudie's email of 4.42pm on 4 April 2022 contains a screenshot of the SAP System as follows:

Signed:



Taken by:



The screenshot displays the SAP 'Additional Sales Data' screen. At the top, there are navigation tabs: Purchasing, Sales (selected), Logistics: DC, Logistics: store, POS, and Labelling Data. Below these are several data fields:

- Margin (gross): [Redacted] %
- Void To: 31.12.9999
- CurrentMrgn (net): [Redacted] %
- CurrentMrgn (g): [Redacted] %
- Other Sales Data section:
 - Product attributes:
 - Product attribute 1:
 - Product attribute 2:
 - Prefiable Line:
 - Fixed DC Issue Cost:
 - Export - Prescribed Goods:
 - Image Line:
 - Key Item:
 - Hanger:
 - Inventory Focus:
 - Fixed Store Issue Cost:
- Additional Sales Data section:
 - Product Typology: [Dropdown]
 - Style: [Redacted]
 - Online Product ID: [Redacted]
 - Return Code: [Redacted]
 - Reduced To Clear Lead Days: [Redacted]
 - Price Focus: **01** Price Drop 1 - AU/NZ
 - Price Focus Reference Date: [Redacted]
 - Price Focus Ticket Valid From Date: **03.04.2022**
 - Price Focus Ticket Valid To Date: [Redacted]
 - Acct Assignment Grp: **01**
 - Labour Standard Code: **070**
 - Reference MPL %: **20.00**

- 59 In the section of the screenshot titled 'Additional Sales Data', in the entry for 'Price Focus', a 'D1' 'Price Drop 1 - AU/NZ' code is recorded. From my experience in using the SAP System, I understand that the 'D1' code shown in the screenshot above signifies that an instruction was entered for a Red Ticket for Prices Dropped to be applied on the Stayfree Sample Product. The screenshot also records the 'Price Focus Ticket Valid From' date as being 3 April 2022. I understand that the date entered in the SAP System for price focus changes is always the day before the required pricing change. In this case, the 3 April 2022 date signified the last day that the Stayfree Sample Product was to be sold on a White Ticket at the shelf price before the Red Ticket for Prices Dropped was to be implemented.
- 60 I have been shown an email from Nathan Connor to James Goudie dated 5 April 2022. A copy of this email is at **[MPL.0031.0002.5041]** of **Confidential Exhibit TCM-1**. I was not copied to Nathan's email, but it follows from my instructions to Nathan to investigate whether the price focus flag was correctly implemented in the SAP System for the

Signed:

[Redacted Signature]

Taken by:

[Redacted Name]

Stayfree Sample Product. Nathan's email states that *'the below lines should definitely be flagged as price dropped now but aren't on the website.'* The reference to the 'below lines' was a reference to a screenshot of four Stayfree products, including the Stayfree Sample Product. I understood Nathan to be stating that an instruction for a change to a Red Ticket had been correctly entered for the Stayfree Sample Product but it still did not have the Red Ticket for Prices Dropped applied at the time of his email. Nathan also states *"might be a case of following up with ProductData"*.

61 From my review of the emails at paragraphs 56, 57 and 60 above, and my experience in using the SAP System, I believe that:

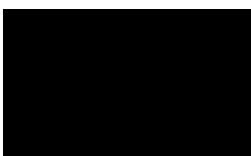
- (a) an instruction within the SAP System was correctly implemented to change the ticketing style to a Red Ticket for the Stayfree Sample Product upon its placement on the Prices Dropped Program.
- (b) with the Price Focus flag correctly implemented in SAP, the Red Ticket for Prices Dropped should have been applied to the Stayfree Sample Product.
- (c) there was a mistake in the system which resulted in the Stayfree Sample Product not having a Red Ticket applied, even though it showed the correct Prices Dropped Price.

62 On or around 28 April 2022, I sent an email to Jade requesting her confirmation that she was *"seeing on [the Woolworths] website and in [Woolworths] store"*, that, relevantly, the Stayfree Sample Product was *"Price OK - Not showing 'Dropped'"*. By this request, I had observed that the Stayfree Sample Product was at the Dropped Price of \$4.80 but not displaying a Red Ticket, so I was asking Jade to confirm that this *"covers the remaining changes to be made"*. A copy of this email chain is at **[MPL.0050.0007.2751] of Confidential Exhibit TCM-1.**

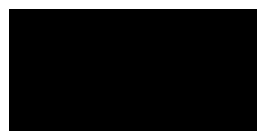
63 On 29 April 2022, I received an email from Jade which included a screenshot from Woolworths Online that showed the Stayfree Sample Product correctly displaying the Prices Dropped flag. A copy of this email chain is at **[MPL.0050.0007.4677] of Confidential Exhibit TCM-1.** From this screenshot, I believe that the Stayfree Sample Product Price was corrected from a White Ticket to a Red Ticket online (or Prices Dropped flag) by no later than 29 April 2022.

64 It follows that, as a result of an error, the Stayfree Sample Product was sold on Woolworths Online between 4 April 2022 and 29 April 2022 at the Dropped Price of \$4.80 with a White Ticket instead of a Red Ticket for Prices Dropped. I say it was an

Signed:



Taken by:



error because my intention and instruction was that the \$4.80 price was the Dropped Price and should have been displayed on a Red Ticket. I do not know exactly how the error occurred. However, based on my review of the screenshot at paragraph 58 above and James Goudie's indication that he would speak with the product data team, I believe a systems issue prevented the Price Focus Code from being flagged in SAP and successfully filtering through to a ticketing change in Woolworths systems, despite the Prices Dropped Price (which was a separate data point in the system) being successfully implemented in time.

65 I do not have an email or other record indicating the date that the Stayfree Sample Product was placed on a Red Prices Dropped Ticket in Woolworths Supermarkets. I have seen Annexure C which indicates that the Stayfree Sample Product was placed on a Red Prices Dropped Ticket in Woolworths Supermarkets on 4 May 2022.

Kleenex Sample Product and the Prices Dropped Program

66 From my review of row 98 of Annexure C, I understand that the Kleenex Sample Product was offered for sale to consumers at Woolworths Supermarkets and Woolworths Online as follows:

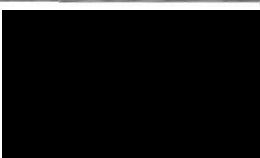
- (a) between 2 May 2022 and 5 February 2023, the Kleenex Sample Product was on the Prices Dropped Program and offered for sale to customers at \$2.20 using a Red Ticket for Prices Dropped;
- (b) on 6 February 2023, the Kleenex Sample Product was removed from the Prices Dropped Program and offered for sale at the standard shelf price of \$3.00, using a White Ticket; and
- (c) on 20 March 2023, the Kleenex Sample Product was placed back on the Prices Dropped Program and offered to customers for sale using a Red Ticket with a Dropped Price of \$2.60.

67 In the remainder of this affidavit, I explain the evolution of the pricing set out in paragraph 66 above.

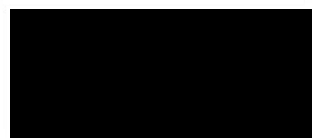
Notification of CPI Request for Kleenex Sample Product

68 On 7 November 2022, I received an email from Kate Wilkie, who was the Customer Business Manager - Woolworths at KCA. A copy of this email is at **[MPL.0050.0006.2413] of Confidential Exhibit TCM-1**. In her email, Kate stated that

Signed:



Taken by:

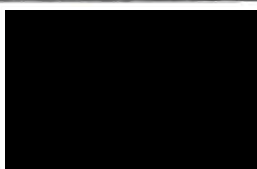


KCA has absorbed “*significant increases in input costs across the entire [KCA] portfolio*” but “*the business is no longer able to offset increased input costs. The impact of this inflation is such that a rise in list prices on select Facial Tissue & Paper Towel products will come into effect for all orders invoiced on or after 6th February 2023.*” Kate also referred to a conversation she and I had on the preceding Thursday evening. I do not specifically recall this conversation.

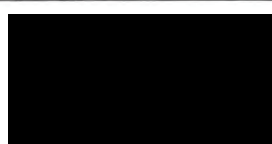
69 Kate’s email described in paragraph 68 above attached three documents:

- (a) a letter from David Walker, Finance Director of Kimberly Clark ANZ which was addressed to me and dated 7 November 2022. A copy of this letter is at **[MPL.0050.0006.2414] of Confidential Exhibit TCM-1**. In David’s letter, he stated that KCA has absorbed “*significant cost pressure across its entire portfolio*” and that “*recent movements have created a situation where the business is no longer able to offset accelerated increases in input costs.*” David’s letter stated that the impact of this inflation had resulted in an increase in the List Price (which I took to mean First Cost price) on certain products, taking effect from 6 February 2023. David’s letter annexed a summary of the List Price and RRP Changes for certain products, including the Kleenex Sample Product (which was itemised in the third row of the summary). The summary, shows that KCA was proposing an increase in the First Cost Price for the Kleenex Sample Product from \$█ to \$█ per pack (excl GST) and indicating an increase in the RRP for the Kleenex Sample Product from \$2.80 to \$3.30 per pack (excl GST);
- (b) a spreadsheet (in the form of a yellow deal sheet) which recorded KCA’s proposed cost structure and promotional plan for, among other things, the Kleenex Sample Product, among others (**KCA’s CPI Proposal**). A copy of KCA’s CPI Proposal is at **[MPL.0050.0006.2415] of Confidential Exhibit TCM-1**. From my review of KCA’s CPI Proposal, I have identified the proposal in respect of the Kleenex Sample Product in the first table in the ‘Special Care’ tab, which was as follows:
 - (i) in respect of the proposed cost structure:

Signed:



Taken by:



Cost Structure	Current	Proposed
First Cost \$ per Unit		
Allowances %		
Off invoice* deal %		
Invoice Cost \$ per unit		
Volume Spend %		
Deferred deal %		
Net Cost \$ per unit		
Store Distribution %	100%	100%

(ii) 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 %	Multibuy Redemption Estimate (%)	Multibuy Blended ASP	Funding Rate	
Shelf	\$3.30	6	101,816						
Promo Level 1	\$2.60	46	101,816						
Promo Level 2									
Promo Level 3									
Promo Level 4									
Annual Forecasted Quantity			5,294,432	Total GP %					
								% Volume on Promotion	88.5%
								Average Scan funding per Promo unit	

Additional Information:
List Price Increase Effective 6 February 2023
EDLP SKU: \$3.30 price establishment and then Prices Dropped at \$2.60. Deferred deal is effective from Prices Dropped date only.

(c) a yellow deal for a different series of products, which did not concern KCA's proposal in respect of the Kleenex Sample Product. I have not exhibited this yellow sheet to my affidavit.

70 From my review of the proposal in respect of the Kleenex Sample Product, I understood KCA to be suggesting the following:

- an increase in the First Cost price from \$ [redacted] to \$ [redacted] per unit
- a continued commitment to a Deferred Deal of [redacted] %;
- an increase in the Net Cost price from \$ [redacted] to \$ [redacted] per unit;
- the placement of the product at KCA's stated RRP of \$3.30 for 6 weeks; and
- the placement of the product on the Prices Dropped Program at \$2.60 for 46 weeks, after the product had been offered at the '\$3.30 price establishment' price for 6 weeks. While Kate makes reference to 'EDLP SKU' in the "Additional Comments" field, it was not my understanding that KCA was proposing that the Kleenex Sample Product be sold as part of Woolworths' Everyday Low Price

Signed:

[redacted]

Taken by:

[redacted]

program. In my experience as CM, the term 'EDLP' is commonly, and incorrectly in this context, used by suppliers to refer to proposals to place a product on a longer term pricing campaign, including the Prices Dropped Program, after being sold at the standard retail price for a set period.

- 71 I cannot specifically recall the steps I took as part of my initial assessment of KCA's CPI Proposal but I expect I adopted the usual practice outlined in paragraph 24 above.

Negotiation of proposed pricing and promotion for Kleenex Sample Product

- 72 On 2 December 2022, I emailed Kate setting out some concerns I initially had with KCA's CPI Proposal and requesting further information in respect of the proposal. A copy of this email is at **[MPL.0002.0003.3290] of Confidential Exhibit TCM-1**. I requested this information because I wanted to understand the reasons for the proposed increase, given I considered the amount to be substantial and I had not seen similar increases across other comparable product lines.

- 73 In my email to Kate, I also made reference to the proposal concerning the Kleenex Sample Product (among other products) and stated

Currently on Dropped at \$2.20ea, Was \$2.60.

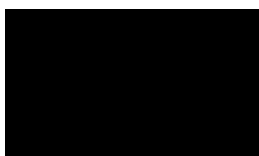
This proposal has the shelf price lift to \$3.30, 26.9% above the previous was price, and then drop to \$2.60, 18.2% above the current dropped price.

I do not believe showing a save of 70c is a fair representation to our Customers.

- 74 In making this statement, I considered that KCA's proposed RRP was overinflated at \$3.30, being a 26.9% increase as described above. For that reason, I did not consider that KCA's suggestion to convey that consumers would be saving 70 cents at the new proposed price (being the difference between the new RRP of \$3.30 and the new proposed Prices Dropped Program price of \$2.60) was 'fair'. I was concerned to ensure that any new shelf price reflected value to the consumer given the product's place in the Pricing Hierarchy and that, in turn, any amount that was called out to consumers as part of the Prices Dropped Program in respect of the reduction on the new shelf price of the product would also be fair.

- 75 I do not recall any response from Kate. I do, however, recall that I made the decision to set the new shelf price for the Kleenex Sample Product at \$3.00 (rather than at the RRP of \$3.30) to better represent the value of the product and the appropriate price point at

Signed:



Taken by:



which Woolworths would sell the product if it was not on the Prices Dropped Program or any promotion.

- 76 On 6 December 2022, Kate responded to my email described in paragraph 72 above, with further information about the context of the proposed CPI. A copy of Kate's email is at **[MPL.0021.0015.4520] of Confidential Exhibit TCM-1**. Kate's email referred to, and attached, a further yellow deal sheet. A copy of this yellow deal sheet is at **[MPL.0021.0015.4521] of Confidential Exhibit TCM-1**. From my review of the further yellow deal sheet, I understood that no changes to KCA's CPI Proposal were made in respect of the Kleenex Sample Product (as compared to the 7 November 2022 proposal described at paragraph 69).
- 77 On 13 December 2022, I sent an email to Kate, confirming that Woolworths was proposing to accept KCA's CPI Proposal for the Kleenex Sample Product. A copy of my email is at **[MPL.0002.0003.3280] of Confidential Exhibit TCM-1**.
- 78 On 21 December 2022, I received an email from Kate acknowledging Woolworths' agreement to KCA's CPI Proposal in respect of the Kleenex Sample Product and attaching an updated yellow deal sheet. A copy of Kate's email is at **[MPL.0002.0003.3280] of Confidential Exhibit TCM-1** and a copy of the updated yellow deal sheet is at **[MPL.0002.0003.3281] of Confidential Exhibit TCM-1**. From my review of the updated yellow deal sheet, I understood that no changes to KCA's CPI Proposal were made in respect of the Kleenex Sample Product (as compared to the 7 November 2022 proposal described at paragraph 69).
- 79 Between 21 December 2022 and 25 January 2023, I exchanged emails with Kate in respect of KCA's CPI Proposal. On 25 January 2023, I sent an email to Kate raising concerns with KCA's ability to maintain supply for Woolworths' customers and suggested that Kate and I arrange a time to discuss these matters. I recall that I held this concern at that time because there had been significant supply challenges in respect of products within my category generally, and contained in KCA's CPI Proposal specifically, following the COVID-19 pandemic. On 27 January 2023, I suggested a meeting at Woolworths' Bella Vista Office to finalise the CPI requests submitted by KCA. A copy of this email chain is at **[MPL.0002.0003.3453] of Confidential Exhibit TCM-1**.
- 80 On 1 February 2023, I received an email from Kate confirming KCA's supply forecast for three consecutive months and that, if KCA was unable to meet its supply commitments, Woolworths '*can exercise discretion in reversing range review outcomes agreed as part of CPI*'. A copy of this email is at **[MPL.0002.0003.3453] of Confidential Exhibit TCM**

Signed:



Taken by:



- 81 I understood this to mean that Woolworths could initiate a new range review, which would allow Woolworths to adjust our ranging and shelf space to allow alternate products to be sold in the absence of KCA's *affected* products, in the event of KCA experiencing issues with the supply of products in the Paper Goods category including the Kleenex Sample Product. Kate's email attached a spreadsheet with volume commitments for various products, including the Kleenex Sample Product. A copy of this spreadsheet is at **[MPL.0002.0003.3454] of Confidential Exhibit TCM-1.**
- 82 On 2 February 2023 I formally approved the CPI request submitted by Kate in Partner Hub for the Kleenex Sample Product, to take effect from 6 February 2023. This included accepting an increase in the First Cost price of the Kleenex Sample Product from \$ [REDACTED] to \$ [REDACTED] per 24 units. A copy of this submission is at **[MPL.0081.0001.0461] of Confidential Exhibit TCM-1** and **[MPL.0081.0001.0465] of Confidential Exhibit TCM-1.** I approved the CPI request on the understanding that the product would be placed on the Prices Dropped Program in accordance with the proposed promotional plan in KCA's CPI Proposal (as set out in paragraph 69(b) above)
- 83 On or around 2 February 2023 I instructed James Goudie to set the new shelf price of the Kleenex Sample Product to \$3.00 for 6 weeks from 6 February 2023 before the product was added to the Prices Dropped Program at the price of \$2.60.

AFFIRMED by the deponent
at Sydney
in New South Wales
on 21 November 2025
Before me:

)
)
)
)
)

[REDACTED]
.....
Signature of deponent

[REDACTED]
.....
Signature or witness

GEORGIA RAQUEL ZOCCO
.....
Name of authorised witness (*block letters*)

1 FARRER PLACE, SYDNEY
.....
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

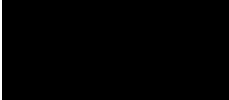
Applicant

Woolworths Group Limited (ACN 000 014 675)

Respondent

Certificate identifying Confidential Exhibit TCM-1

This is **Confidential Exhibit TCM-1** to the affidavit of **Timothy Charles Moffatt** affirmed at 1 Farrer Place, Sydney NSW 2000 on 21 November 2025 before me:


.....
Signature of witness

GEORGIA RAQUEL ZOCCO

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
Email peta.stevenson@au.kwm.com

Address for service
Level 61, Governor Phillip Tower
1 Farrer Place, Sydney NSW 2000, Australia
Ref: P Stevenson:602-0051665