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WOOLWORTHS GROUP LIMITED (ACN 000 014 675)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

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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: **Ben Richard Jordan**
Address: 1 Woolworths Way Bella Vista NSW 2153
Occupation: Senior Manager - Digital Trade
Date: 3 December 2025

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Signed: 

Taken by: 

Filed on behalf of Woolworths Group Limited, the Respondent

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I, BEN RICHARD JORDAN, of 1 Woolworths Way, Bella Vista NSW 2153, Senior Manager - Digital Trade of Woolworths Group Limited (**Woolworths**), affirm:

- 1 I am currently a Senior Manager – Digital Trade at Woolworths, the Respondent in this Proceeding.
- 2 In preparing this affidavit, I have been provided with a copy of the Affected Product Pricing and Sales Data Schedule (at Annexure C of the Statement of Agreed Facts filed on 13 June 2025, referred to as **Annexure C**) and the Agreed Sample List (dated 13 June 2025).
- 3 Unless otherwise stated, this affidavit is based on my own knowledge.
- 4 Shown to me at the time of affirming this affidavit is an electronic bundle of documents marked '**Confidential Exhibit BRJ-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 BRJ-1'.

Qualifications and experience

- 5 In 2014, I obtained a Bachelor of Communication and Media Studies (Digital Media & Communications) from the University of Wollongong. In 2021, I obtained a Masters in Business Administration from Macquarie Business School.
- 6 In around February 2015, I commenced employment at Woolworths on the graduate program, initially in the position of Business Leadership Graduate - Operations & Commercial. In October 2016, before completing my rotations on the graduate program, I took up a position as a Buyer – Commodity Sourcing & Packaged Foods in the Commodity Buying Team.
- 7 In January 2018, I became an Assistant Category Manager – Health & Beauty (Hair Care, Colour, Accessories & Personal Wash).
- 8 In October 2019, I became an Assistant Category Manager – Breakfast Foods.
- 9 In June 2020, I became the Category Manager – Baking.
- 10 In June 2021, I became the Category Manager – Health & Wellness, at around the same time Woolworths created the Health & Wellness category. This category brought together nuts products, vitamins, sports nutrition and health foods. In June 2022, the Health & Wellness category was split. After the split, I remained Category Manager –

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Health Foods, Nuts & Snacks, but no longer had responsibility for vitamins & sports nutrition.

- 11 In December 2022, I moved to the e-commerce part of Woolworths' business as a Senior Digital Merchandise Manager with "WooliesX". WooliesX at the time was a business unit within the Woolworths Group responsible for eCommerce fulfillment, Digital Experience, & eCommerce Operations.
- 12 In September 2023, I became a Senior Commercial Trading Manager – eCom with WooliesX.
- 13 In June 2025, I took up my current role as a Senior Manager – Digital Trade. In this role, I am responsible for the commercial performance of the Woolworths e-commerce platform for packaged grocery products, which comprises online sales via Woolworths online and the Woolworths app.

My responsibilities as Category Manager – Health Foods

- 14 As I described above at paragraph 10, I was the Category Manager – Health & Wellness, and then the Category Manager – Health Foods, Nuts & Snacks, from June 2021 until around December 2022.
- 15 At that time, the Health & Wellness category at Woolworths had a high supplier density. By "high supplier density" I mean that there were over 1,000 products in the category and these were supplied by suppliers that tended to supply only a small number of products. In other words, unlike some categories where there may be a relatively small number of suppliers who each supply a substantial number of products in the category, the Health & Wellness category had products from numerous suppliers.
- 16 In the role of Category Manager – Health & Wellness and the role of Category Manager – Health Foods, Nuts & Snacks, I was responsible for managing the profit and loss of the products in the category in Woolworths supermarkets. This included:
- (a) conducting range reviews periodically for each sub-category in the category and deciding which products should continue to be offered for sale in Woolworths supermarkets, which products should be delisted and which new products should be ranged;
 - (b) having discussions with suppliers about the promotional plans for their products in the category, with Assistant Category Managers who reported to me being

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responsible for determining the detail of the promotional plans for each product and executing those plans;

- (c) making decisions concerning the retail price at which products in the category were to be offered for sale in Woolworths supermarkets (which I did having regard to the product's recommended retail price (**RRP**), the margin delivery that the product would provide to Woolworths, the product's positioning within the category including in the context of the pricing ladders for similar offers in that particular category relative to its quality (whether 'good', 'better' or 'best'), and the price competitiveness having regard to competitors' pricing for the product); and
- (d) analysing and approving (with appropriate sign-off from one or more senior managers) cost price increase requests submitted by suppliers for products in the category, and conducting negotiations with suppliers in relation to cost price increase requests.

- 17 My responsibilities in that role included managing a product known as Bragg Apple Cider Vinegar in a 946ml bottle format, which had a Woolworths product reference number "476910-EA". Based on my review of Annexure C, I believe that this is the product listed at row 13 of Annexure C as "Bragg Apple Cider Vinegar 946ml (476910-EA)". Based on my view of the Agreed Sample List, I understand that this product is one of the sample products for the purposes of this proceeding (**Bragg Apple Cider Vinegar Sample Product**).
- 18 In my role as Category Manager – Health & Wellness, and subsequently as Category Manager – Health Foods, Nuts & Snacks, I reported to a Merchandise Manager, Shruti Gupta. At the time while I was in the role, Ms Gupta reported to Ewan Shearer, the Commercial Director – Grocery Foods.
- 19 I was assisted in performing my Category Manager role by two Assistant Category Managers. When I started the role, the Assistant Category Managers were King Cabrera and Marcus Anderson. In around September 2021, Marcus moved to the Breakfast Foods category and was replaced by Jess Harker. When the category was later split, Jess Harker remained as Assistant Category Manager - Health Foods and King Cabrera left my category. At that time, Rebecca Li became the other Assistant Category Manager in Health Foods, Nuts & Snacks.

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20 I was also assisted in my role by a Category Assistant who was responsible for performing administrative functions. Initially this was Angelina Battin, who was subsequently replaced by Erin Ristivojevic.

Cost price increase requests from suppliers

- 21 During my Assistant Category Manager roles in 2018 to 2020, and when I started as Category Manager – Baking in June 2020, cost price increase requests from suppliers in my categories were few and far between. By “cost price increase request” I mean a request from a supplier to increase the price at which they supply their products to Woolworths.
- 22 This began to change towards the end of 2020, when the number of cost price increase requests I received from suppliers in the category for which I was responsible started to increase materially. For instance, I recall that by the time I finished my role as Category Manager – Health Foods, Nuts & Snacks in December 2022, I had received hundreds of cost price increase requests in the Health & Wellness (and later, Health Foods, Nuts & Snacks) category whereas I recall working through a significantly lower volume of cost price increase requests during my time as Category Manager - Baking (referred to in paragraph 21 above).
- 23 To initiate a cost price increase request, Woolworths required suppliers to submit their cost price increase proposal through an online Woolworths system known as Partner Hub. Suppliers have access to this system. Once a cost price request is received in Partner Hub, the system tracks the progress of the request. Sometimes a supplier would send me a cost price increase request via email without having submitted it through Partner Hub. When this occurred, it was my practice to ask the supplier to formally submit their cost price increase request through Partner Hub.
- 24 When I received a cost price increase request from a supplier during my time as a Category Manager, I typically undertook an initial analysis of the likely effect of the cost increase on product volumes and margins and also considered the ultimate impact on Woolworths' customers. This was relevant to forming my view as to how Woolworths should respond to the request. I also understood that under the *Food and Grocery Code of Conduct*, Woolworths had to respond to the supplier within 30 days. Within that time, Woolworths could “Accept” the cost price increase, indicate that Woolworths would accept an increase but the amount was not agreed (a response of “Accept – Amount Not Agreed”), or “Not Accept” the cost price increase.

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- 25 To perform my initial analysis, I typically used a pricing simulator tool (which was an Excel spreadsheet) for the particular cost price increase. That spreadsheet would be prepared by the Woolworths Pricing & Customer Value Team (which at the time may have been known as the COGS Team). This spreadsheet would provide a snapshot for the affected products of the impact that the cost price increase would have on the average selling price, net cost and margin, based on using historical sales data to provide a forecast for the product. This spreadsheet allowed me to generate predicted sales, profit and cost indicators based on inputting the cost price increase information and any associated proposed revised promotional plan proposed by the supplier for the product.
- 26 It was important for me in performing my initial analysis to understand not only the supplier's proposed cost price increase, but also the nature of the proposed promotional plan going forwards. This was because it was not possible for me to form a holistic view about the likely impact of the cost price increase on sales volumes and margins without knowing the frequency, and basis upon which, the product would be promoted after the cost price increase became effective. It was therefore my practice when suppliers made a cost price increase request, to ask them to also provide their proposed revised promotional plan for the product if they had not already done so.
- 27 At the time, Woolworths required suppliers to use a template based in Excel known as a "deal sheet" for communicating and describing the structure and frequency of promotional plans for any particular product. A deal sheet includes fields for the cost structure of the product (including any rebates or supplier funding for promotions) and the nature and frequency of promotions for the product.
- 28 When I was a Category Manager, I recall it was my practice to seek approval from a more senior manager for any cost price increase with a net cost impact greater than \$50,000. Further, although I was able to action small cost price increases up to \$50,000, I cannot recall ever having done so without first discussing it with my Merchandise Manager, Shruti Gupta. While I also cannot recall what level of delegated authority Shruti had for approving a cost price increase, I do recall that my practice was to seek approval for cost price increase requests from the Commercial Director – Grocery Foods, Ewan Shearer, whenever the net cost impact exceeded \$100,000. I would seek this approval before I would communicate any decision to the supplier.
- 29 For cost price increases that could be approved by Shruti Gupta, I typically would seek her formal approval during a weekly meeting that I attended with Shruti and the other Category Managers whom she supervised. I also had one-on-one meetings with Shruti,

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either weekly or fortnightly. During these meetings I often sought informal feedback or direction on my current thinking in relation to cost price increase requests with which I was dealing at the time.

- 30 For cost price increases that had to be approved by Ewan Shearer, there was a standard weekly meeting held by Ewan with Merchandise Managers, which Category Managers could attend on an as needed basis. I was able to obtain approvals from Ewan for cost price increase requests by attending this meeting and presenting my recommended course of action to him which included providing him with a summary of the negotiated position with the supplier and the likely category and customer impact as a result of the cost price increase.

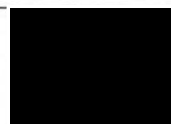
Health Foods Pantry Range Review in November 2021

- 31 When I commenced my role as Category Manager – Health & Wellness in June 2021, I spent some time reviewing the products in the category and analysing which products were, and were not, performing well. As part of my review, I recall that I considered market share data housed in a data visualisation tool dashboard called Tableau and also used a Range Decision Tool that the Woolworths Pricing & Customer Value Team provides to Category Managers to assist with performing their role.
- 32 The Range Decision Tool is based in Excel. It could be used to calculate various metrics of interest to a Category Manager for individual products within their category. Those metrics included:
- (a) a product's Average GP Return on Space Score, which is calculated based on total weeks ranged sales multiplied by the gross profit percentage divided by total linear space occupied by the product on the shelf; and
 - (b) a product's Average Loyalty Score, which I understood to be a calculation of the extent to which that product's sales would be lost to the category if it were to be de-listed.
- 33 Although I reviewed each product in the category, I do not recall the Bragg Apple Cider Vinegar Sample Product standing out to me at that point in time. Rather, it was a few months later during a Health Foods Pantry Range Review that I took a closer look at the Bragg Apple Cider Vinegar Sample Product. I describe this range review below at paragraphs 34 to 40, and I describe the analysis of the Bragg Apple Cider Vinegar Sample Product during that range review at paragraph 41 below.

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- 34 On 5 November 2021, I sent an email to all suppliers in the Health Foods Pantry sub-category informing them of an upcoming range review for the sub-category. My email attached a letter which described the nature and key focus areas of the range review. My email also included various dates relevant to the range review, such as the period during which I would engage with suppliers on the review (which was scheduled to occur between 22 November 2021 and 6 December 2021) and the date by which Woolworths would send notices of probable product de-listing to applicable suppliers (which was scheduled to be 8 November 2021). A copy of the email is at **[MPL.0055.0007.4570] of Confidential Exhibit BRJ-1**, and a copy of the letter is at **[MPL.0055.0007.4571] of Confidential Exhibit BRJ-1**.
- 35 Before sending this letter, I spent some time in around October 2021 analysing each product line in the Health Foods Pantry sub-category, principally to identify which products should be classified as probable candidates for de-listing. I typically refer to an individual product line as a “stock keeping unit” or SKU for short.
- 36 To perform this analysis, I used the Range Decision Tool. That is, I filtered within the Range Decision Tool so that it included only the SKUs within the Health Foods Pantry sub-category, I calibrated it to pull sales data on these products for the previous 52 weeks, I selected the relevant data points that were relevant to my range review, and I hit the “generate” button to generate an Excel worksheet, which I extracted onto my laptop as a local version to allow for the workability of the relevant data only for the team. I then created further worksheets in the same file as part of my range review analysis (the **B Prefix Analysis & NPD Planning Spreadsheet**). A copy of this spreadsheet is at **[MPL.0081.0001.0005] of Confidential Exhibit BRJ-1**.
- 37 The worksheet titled “B-Prefix Analysis” in the B Prefix Analysis & NPD Planning Spreadsheet is the data that I extracted from the Range Decision Tool for each SKU in the Health Foods Pantry sub-category, save for the second column from the left headed “Rationale”, which I inserted.
- 38 The metric recorded in the column headed “ROS Linear Ad” was the Average GP Return on Space Score for each SKU.
- 39 The metric recorded in the column headed “C1R Recommend”, which was shorthand for “customer first ranging recommendation”, was the output of the range decision tool for each SKU based on the various metrics in the worksheet. I understood the various phrases in the C1R Recommend column to have the following meanings:

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- (a) "Grow" meant that the product's metrics were exceptional versus its competitive set, which indicated that the Category Manager should seek to increase that product's sales. By "competitive set" in this context I mean the group of products in the column headed "C1R Recomm Group". This was a clustering of similar products within the Range Decision Tool to which the Range Decision Tool would compare the product of interest;
- (b) "Keep and Improve" meant that the product had some good metrics but there was room for improvement;
- (c) "Discuss" meant that the product's metrics indicated there were things to improve in relation to the product, but the metrics were not so poor that the product should be delisted;
- (d) "Probably delist" meant that the product's metrics were mostly poor, which indicated that the Category Manager should probably delist the product; and
- (e) "Delist" meant that all of the product's metrics were bad, which indicated that the Category Manager should delist the product.

40 The worksheet titled "B Prefix SKUs" is a worksheet that I created to record my analysis based on the output of the range decision tool. This worksheet recorded the SKUs that I considered were likely to be de-listed and for which I therefore wanted B-Prefix letters to be sent to the supplier.

First meeting with Unique Health Products and Woolworths' decision to increase the retail price of Bragg Apple Cider Vinegar

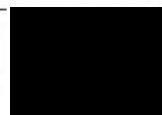
41 At the time I conducted my analysis in preparation for the Heath Foods Pantry Range Review, I understood the following matters concerning the Bragg Apple Cider Vinegar Sample Product:

- (a) Bragg Apple Cider Vinegar was an expensive apple cider vinegar imported from the United States of America that claimed to have health benefits, and the only apple cider vinegar to be sold in the Health aisle of the supermarket (other apple cider vinegars being sold in the mainstream vinegar aisle of the supermarket). By "expensive", I mean that this product was sold at a much higher price than the other apple cider vinegars sold at Woolworths when, in my view, it was no different from those other apple cider vinegars;

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- (b) Bragg Apple Cider Vinegar was made available for sale in Woolworths Supermarkets on a white ticket at a shelf price of \$12.95, and from time to time was placed on short-term promotional Specials with a yellow ticket;
- (c) based on an email I received on 14 September 2021 from Marcus Anderson, the regular promotion of the Bragg Apple Cider Vinegar Sample Product on yellow tickets had not resulted in any significant sales volume uplift (from which I inferred that the purchasers of the product were loyal customers whose purchases of the product tended not to fluctuate significantly with changes in price) (a copy of this email is at **[MPL.0055.0008.2943] of Confidential Exhibit BRJ-1**); and
- (d) Bragg Apple Cider Vinegar was not available in Coles supermarkets (which I regarded as Woolworths' closest competitor) and was ranged only in specialty health food stores like Go Vita in addition to Woolworths.

42 I can see that the information recorded in Annexure C from 1 January 2021 to 24 November 2021 aligns with my recollection in paragraph 41(b) above.

43 The Bragg Apple Cider Vinegar Sample Product formed part of my analysis for the Health Foods Pantry Range Review. It appears at row 12 of the B-Prefix Analysis worksheet in the B Prefix Analysis & NPD Planning Spreadsheet. Amongst other things, the worksheet records that it was in the "Grow" category, that its Average GP Return on Space Score was 68.3 and that its shelf price (that is, "Std Price") was \$12.95.

44 The Average GP Return on Space Score of 68.3 for the Bragg Apple Cider Vinegar Sample Product was significantly higher than the Average GP Return on Space Score for the "Dinner & Ingredients" segment at the time that I recorded in my 5 November 2021 letter to suppliers. At the time, the Bragg Apple Cider Vinegar Sample Product was a well performing product and I did not consider de-listing it during the range review.

45 On 17 November 2021, I received an email from Kylie Mannix, Head of Sales & Marketing at Unique Health Products, the supplier of the Bragg Apple Cider Vinegar Sample Product. Her email was in response to my 5 November 2021 email and letter concerning the Health Foods Pantry Range Review. Her email introduced the possibility of Woolworths ranging a new Bragg product (being Nutritional Yeast) and said she was "Looking forward to meeting at some stage". A copy of this email is at **[MPL.0055.0011.4252] of Confidential Exhibit BRJ-1**.

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- 46 Kylie's email attached some slides concerning the potential new product, Bragg Nutritional Yeast. A copy of this attachment is at **[MPL.0055.0011.4253] of Confidential Exhibit BRJ-1**. Slide 2 stated that "Bragg is part owned and heavily promoted by Katy Perry and Orlando Bloom". I do not recall whether I had been aware of this fact before receiving these slides. I do, however, recall being aware at around this time that the Bragg Apple Cider Vinegar Sample Product was associated with Katy Perry and Orlando Bloom, and that I perceived this to be part of the explanation for its popularity.
- 47 At this point in time, I had not previously met Kylie Mannix, or any representative of Unique Health Products. In response to her email, my Category Assistant scheduled a range review meeting with Kylie Mannix for 3:30pm on 23 November 2021.
- 48 On 23 November 2021 at 3:09pm, shortly before the scheduled range review meeting, I received an email from Kylie Mannix attaching a presentation. A copy of this email, which includes the emails with my Category Assistant arranging the meeting, is at **[MPL.0055.0011.3662] of Confidential Exhibit BRJ-1**. A copy of its attachment is at **[MPL.0055.0011.3663] of Confidential Exhibit BRJ-1**.
- 49 At 3:30pm on 23 November 2021, Jess Harker and I met with Kylie Mannix for the range review meeting via video conference. The purpose of the meeting was to discuss potential new products. I recall that during the meeting we discussed the possibility of ranging the Bragg Nutritional Yeast product and that Kylie proposed a promotional plan for this product. This caused me to further reflect on the prior promotional programs for the Bragg Apple Cider Vinegar Sample Product, which had generated minimal incremental sales or return on investment and resulted in the removal of previous promotions based on that data. I recall raising this with Kylie Mannix during the video conference.
- 50 Slide 4 of the presentation that Kylie Mannix emailed shortly before the range review meeting stated that the "RRP" for the Bragg Apple Cider Vinegar Sample Product was \$16.95 (which I understood to be the supplier's recommended retail price) and that Woolworths' current price was \$12.95 (see at **[MPL.0055.0011.3663] of Confidential Exhibit BRJ-1**). I was not aware before this time that Unique Health Products' RRP for the Bragg Apple Cider Vinegar Sample Product was \$16.95.
- 51 When I learned that the RRP for the Bragg Apple Cider Vinegar Sample Product was \$4 (or approximately 30%) higher than Woolworth's current shelf price of \$12.95, I very quickly decided to increase Woolworths' shelf price to this RRP. The factors which caused me to make this decision were:

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- (a) the product was not ranged in Coles supermarkets;
- (b) I considered that \$16.95 was the market price for this product, and although I cannot now recall having verified this by checking the shelf price at Go Vita or other specialty health food stores, I believe that I would have done so because it was my practice to check competitor pricing before increasing a shelf price; and
- (c) based on the data that Marcus Anderson had shared with me in September 2021, I considered that the price increase was unlikely to reduce sales volumes because I believed that the customers were loyal to the product, and alternative options were already available in Woolworths' range at significantly cheaper prices.

- 52 I believe that, shortly after making this decision, I instructed Jess Harker to implement the shelf price increase to \$16.95. This is because on 24 November 2021 at 11:45am, Jess Harker sent an email to my Category Assistant, Erin Ristivojevic, instructing her to increase the shelf price for the Bragg Apple Cider Vinegar Sample Product to \$16.95. Jess Harker would not have implemented a change in shelf price without my direction or approval. A copy of the email and Erin's reply confirming that the shelf price had been updated is at **[MPL.0081.0001.0027] of Confidential Exhibit BRJ-1**. From my review of Annexure C, I can see that on 25 November 2021, the shelf price for the Bragg Apple Cider Vinegar Sample Product in Woolworths supermarkets increased to \$16.95.
- 53 I did not discuss my decision to increase the shelf price for the Bragg Apple Cider Vinegar Sample Product with Unique Health Products before doing so. Nor did I discuss the possibility that Woolworths might increase its shelf price for the product at the range review meeting with Kylie Mannix on 23 November 2021.
- 54 On 26 November 2021, the day after Woolworths increased the shelf price for the Bragg Apple Cider Vinegar Sample Product to \$16.95, I received an email from Kylie Mannix attaching deal sheets with some suggested promotional pricing options for the Bragg Apple Cider Vinegar Sample Product. I do not recall when I reviewed and analysed Kylie's email and attached deal sheets, but based on the fact that I forwarded it to Jess Harker on 6 December 2021 (which I describe in the paragraph immediately below), I believe that I reviewed this material on the morning of 6 December 2021. When I reviewed the deal sheets, I noticed that the gross profit rate was not as high as Woolworths' current gross profit rate for this product, which indicated to me that Kylie was proposing a cost price increase. This was a surprise to me, because Kylie had not

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discussed requesting a cost price increase during the range review meeting on 23 November 2021 and there had been no formal notification of a cost price increase.

- 55 On 6 December 2021, I forwarded Kylie's email to Jess Harker and indicated my surprise. A copy of my email to Jess Harker forwarding Kylie Mannix's email of 26 November 2021 is at **[MPL.0055.0011.0788] of Confidential Exhibit BRJ-1**. The attachments to the email are at **[MPL.0055.0011.0789] of Confidential Exhibit BRJ-1**, **[MPL.0055.0011.0809] of Confidential Exhibit BRJ-1**, **[MPL.0055.0011.0810] of Confidential Exhibit BRJ-1**, and **[MPL.0055.0011.0811] of Confidential Exhibit BRJ1**.
- 56 A few hours later on 6 December 2021, Jess Harker replied to my email, stating, "Weird, I thought she was modelling something up for introducing a promo program but can't remember her bringing up a CPI on the ACV." This confirmed to me that Jess had the same recollection of the range review meeting that I had, namely that there was no discussion of a cost price increase. I replied to Jess later that day and stated, "I only noticed it as the RRP gp rate was not as high as ours is right now on her deal template!". A copy of Jess Harker's reply email and my reply email to Jess Harker is at **[MPL.0055.0010.9994] of Confidential Exhibit BRJ-1**.

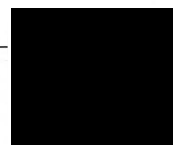
Inclusion of the Bragg Apple Cider Vinegar Sample Product in the Seasonal Prices Dropped Program in January 2022

- 57 On 27 October 2021, I received an email from Sanjay Kapoor, my previous Merchandise Manager to whom I reported when I was Category Manager – Baking, forwarding a request from Richard Lowe for nominations of products for inclusion in an upcoming Seasonal Prices Dropped campaign which was intended to highlight health-focused products (referred to as **Prices Dropped on Healthier Products**). I believe I received this email at the time because I was still on the Woolworths Long Life Grocery Food CM Team email distribution list. A copy of this email is at **[MPL.0003.0007.4688] of Confidential Exhibit BRJ-1**.
- 58 On around 17 November 2021, Shruti Gupta asked me to identify a further 15 SKUs that could be added to the Prices Dropped on Healthier Products campaign, so that the campaign could include more than 200 products. In response to this, I had a Google Chat conversation with Jess Harker in relation to whether she could identify any further products for inclusion on the program. A copy of this Google Chat is at **[MPL.0091.0001.0004] of Confidential Exhibit BRJ-1**.

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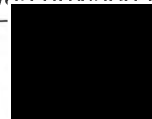


- 59 On 23 November 2021, Shruti Gupta sent me an email stating that the Prices Dropped on Healthier Products campaign was still short by ten to fifteen SKUs and requested that I help identify ten to fifteen SKUs for the program. I replied to Shruti stating that Jess Harker and I would work on this. I recall that we continued adding product nominations to the Google spreadsheet into early December 2021. On 6 December 2021, Shruti emailed me and Jess again, asking for product suggestions for the Prices Dropped on Healthier Products campaign. A copy of the email chain between 23 November 2021 and 6 December 2021, which includes Shruti's initial email, various replies and Shrutit's 6 December 2021 email is at **[MPL.0039.0003.9267] of Confidential Exhibit BRJ-1.**
- 60 On 7 December 2021, I sent a Google Chat message to Shruti Gupta stating that we had just increased the price of the Bragg Apple Cider Vinegar Sample Product up to its RRP two weeks ago and that it would have been at that price for 6 weeks by the end of December. In a further message, I asked Shruti whether we could drop the price and include it in the Prices Dropped on Healthier Products campaign. A copy of this Google Chat thread, including further messages between me and Shruti, is at **[MPL.0091.0001.0003] of Confidential Exhibit BRJ-1.**
- 61 The reason why I said in my Google Chat message that the product will have been at its increased price for 6 weeks by the end of December, and asked Shruti whether it could be included in the campaign, was that I was conscious that within Woolworths there were guidelines around "price establishment" before a "was" price could be used on a Prices Dropped ticket. That is, I was conscious that Woolworths had internal policies that required a product to be offered for sale at a particular price for a certain period before it can be promoted at a lower price. I was seeking Shruti's advice as to whether the 6 week period was sufficient.
- 62 I took from Shruti's response, "There's a few conversations around moving up to drop atm but let me ask", that she would raise my question with the Commercial Director, Ewan Shearer, but that in the meantime I could add the Bragg Apple Cider Vinegar Sample Product as a nomination for the Prices Dropped on Healthier Products campaign.
- 63 I did not increase the price of the Bragg Apple Cider Vinegar Sample Product in November 2021 in the expectation that it would be included in the Prices Dropped on Healthier Products campaign or for that purpose. The two events were entirely unrelated. I increased the price in November for the reasons I explain in paragraph 51 above. I did not consider the possibility of including the product on Prices Dropped at all in making that decision. It was only later, when I was advised by Shruti Gupta that the

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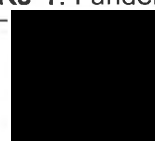
business was still looking for more products to add to the seasonal Prices Dropped on Healthier Products campaign that I first considered adding the product to that campaign.

- 64 At **[MPL.0081.0001.0002]** of Confidential Exhibit BRJ-1 is a copy of a screenshot I took of the historical version of the Health Data – Master Spreadsheet G-Drive Version into which I inserted my nomination of the Bragg Apple Cider Vinegar Sample Product for the campaign. The historical version of the Google spreadsheet records that I updated it with the Bragg Apple Cider Vinegar Sample Product at 9:46am on 7 December 2021. At **[MPL.0096.0001.0001]** of Confidential Exhibit BRJ-1, is a point in time version (as at 9.39am on 7 December 2021), that I have been shown, of the Health Data – Master Spreadsheet. At **[MPL.0096.0001.0002]** of Confidential Exhibit BRJ-1, is a point in time version (as at 9.46am on 7 December 2021), that I have been shown, of the Health Data – Master Spreadsheet.
- 65 I did not discuss with Unique Health Products my proposal to include the Bragg Apple Cider Vinegar Sample Product in the Prices Dropped on Healthier Products campaign. I did not seek to negotiate any supplier funding for the inclusion of this product on the campaign, because I considered that the gross margin on the product was sufficient not to require supplier funding for its inclusion in a seasonal Prices Dropped program. Although I knew that Woolworths would likely earn less margin on this product while on the seasonal Prices Dropped program, I considered that this was in the interest of achieving the overall strategy for the Prices Dropped on Healthier Products campaign of being able to claim there were hundreds of healthy products with lower prices.
- 66 On 8 December 2021, I received an email from Jigar Oza (a Pricing Manager in the Woolworths Pricing & Customer Value Team) requesting confirmation that the products included in the Prices Dropped on Healthier Products campaign complied with certain guidelines and setting out next steps for the campaign. A copy of this email is at **[MPL.0002.0023.3130]** of Confidential Exhibit BRJ-1. I understood the request for confirmation of compliance to be requesting confirmation of only those matters described in the hollow bullet points under the solid bullet point in bold, “Confirmation on information and following the legal guidelines”. I have been shown a point in time version (as at 1.09pm on 8 December 2021) of the document linked to the email from Jigar Oza dated 8 December 2021 which is at **[MPL.0096.0001.0004]** of Confidential Exhibit BRJ1.
- 67 I forwarded Jigar’s email to Jess Harker on 9 December 2021. Jess Harker replied to my email and indicated her view that my team only needed to update the “column P” price lists for the Health & Wellness products in my category. A copy of this email chain is at **[MPL.0055.0010.9209]** of Confidential Exhibit BRJ-1. I understood that the reference

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to updating the "column P" price lists was a reference to "column P" in the document at [MPL.0096.0001.0004] referred to in paragraph 66 above.

68 The Bragg Apple Cider Vinegar Sample Product was ultimately included in the Prices Dropped on Healthier Products campaign which commenced on 5 January 2022. From my review of Annexure C, on that date, the Bragg Apple Cider Vinegar Sample Product was placed on a red Prices Dropped ticket and moved to a Prices Dropped Price of \$16.00.

69 On 30 March 2022, at the conclusion of the Prices Dropped on Healthier Products campaign, the red Prices Dropped Ticket was removed from the Bragg Apple Cider Vinegar Sample Product and it was returned to the white ticket shelf price of \$16.95.

Correspondence with Unique Health Products about the 23 November range review meeting

70 After the Bragg Apple Cider Vinegar Sample Product was placed on the Prices Dropped on Healthier Products campaign, I exchanged several emails with Kylie Mannix that referred to our discussion at the range review meeting on 23 November 2021.

71 On 14 January 2022 at 9:35am, I received an email from Kylie Mannix referring to the fact that Woolworths had updated the shelf price for the Bragg Apple Cider Vinegar Sample Product to their RRP and proposing a new cost structure. A copy of this email is at [MPL.0055.0010.7293] of **Confidential Exhibit BRJ-1**. A copy of its attachments are at [MPL.0055.0010.7294], [MPL.0055.0010.7295] and [MPL.0055.0010.7296] of **Confidential Exhibit BRJ-1**.

72 I replied to Kylie's email that morning, a copy of which is at [MPL.0055.0010.7286] of **Confidential Exhibit BRJ-1**. My statement in the first paragraph that, "We got a last minute opportunity to include ACV in our Healthier Choices dropped campaign", was a reference to the fact that it was only in December 2021, after several requests to find more products, that I nominated the Bragg Apple Cider Vinegar Sample Product for the campaign. In the second paragraph I included a query, "it seems as though you are suggesting a cost price increase due to a change in our shelf pricing?" I asked this question because it was how I understood her email and I wanted to make clear that the fact that Woolworths had increased its shelf price was not a reason for a cost price increase.

73 On 4 February 2022, I received an email from Kylie Mannix that stated she would complete the Partner Hub submission for the Bragg Apple Cider Vinegar Sample

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Product to “sit at \$16.95 RRP (EDLP of \$16)”. I took this to mean that she would update Partner Hub with a cost price increase request for the Bragg Apple Cider Vinegar Sample Product. A copy of this email is at **[MPL.0055.0010.4436] of Confidential Exhibit BRJ-1**.

- 74 On 8 February 2022, I responded to Kylie’s email noting that I was “happy for you to resubmit the NPD commercials and proposed CPI on the supplier deal template,” a copy of which is at **[MPL.0055.0010.4697] of Confidential Exhibit BRJ-1**. “NPD” stands for “new product development” and related to the proposal to range the Bragg Nutritional Yeast product.
- 75 On 10 February 2022, I received an email from Kylie Mannix in reply to my email of 8 February 2022, a copy of which is at **[MPL.0002.0004.5848] of Confidential Exhibit BRJ-1**. In the third paragraph under the heading “Bragg 946ml ACV”, Kylie said “as we discussed at the range review in December”. I took this to be a reference to the range review meeting on 23 November 2021, because I did not have any subsequent meeting with Kylie in December 2021. In the same paragraph, Kylie said “At that time we asked you how to proceed with a cost price increase and price rise to our RRP\$16.95 for the ACV. We discussed increasing the price and running an EDLP to soften the impact to customers. We sent through a recommendation to you based on this discussion (also attached)”. I did not (and do not) think Kylie’s account of our November 2021 meeting in this email is accurate. There was no discussion of a cost price increase or an increase in Woolworths’ shelf price to the RRP at the range review meeting on 23 November 2021, or any discussion of including the product on the “Everyday Low Prices” (EDLP) program.
- 76 On 15 March 2022, I sent a response to Kylie’s email (after receiving a further email from Kylie on 14 March 2022 in the same email chain), a copy of which is at **[MPL.0055.0009.9184] of Confidential Exhibit BRJ-1**. In the second paragraph I said “RE: ACV my position hasn’t changed as to the relevance of a cost increase being driven by our shelf price change (which was always the trigger for the discussion)”. I said this to convey to Kylie my view that the discussion with her about a cost price increase for the Bragg Apple Cider Vinegar Sample Product had been prompted by Woolworths increasing its shelf price to the RRP of \$16.95 and was not discussed at the earlier range review meeting on 23 November 2021. In circumstances where the cost price increase request had been prompted by the increase in Woolworths’ shelf price and I had not been able to validate any movements in relevant raw materials costs for the product (which I explained in the next sentence of the second paragraph), I considered

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that Woolworths could not agree to the cost price increase (which I stated in the third paragraph of my email).

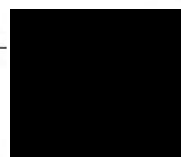
- 77 On 16 March 2022, I received an email from Kylie Mannix in reply to my email of 15 March 2022, a copy of which is at **[MPL.0002.0004.5940] of Confidential Exhibit BRJ-1**. She stated that she understood that I thought Unique Health Products were requesting a cost price increase due to Woolworths increasing its shelf price, but reiterated her view that we had discussed the price rise and a cost price increase at the range review meeting in November 2021. She stated that she appreciated and respected my decision to reject the cost price increase and asked me to let her know the next steps for negotiations.
- 78 On 11 April 2022, Kylie Mannix sent me a further email stating she would appreciate entering into negotiations regarding their price rise, a copy of which is at **[MPL.0002.0004.5733] of Confidential Exhibit BRJ-1**.
- 79 On 5 May 2022, I replied to Kylie's emails of 16 March 2022 and 11 April 2022, a copy of which is at **[MPL.0055.0002.9705] of Confidential Exhibit BRJ-1**. I indicated there was an opportunity to increase distribution of the Bragg Apple Cider Vinegar Sample Product by ranging it in an additional 260 stores. I said I would be happy to support this increase "if we are able to continue on the current commercials for the SKU for the next 12 months". In other words, I was happy to support increased distribution if Unique Health Products did not increase its cost price for another 12 months.
- 80 I did not comment in this email on the bullet points in Kylie's email of 16 March 2022 because:
- (a) I did not feel the need to respond to it in circumstances where I had already stated my position, which I described above at paragraph 76; and
 - (b) I was focused on moving forward and trying to come to a mutually beneficial outcome with Unique Health Products.

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82 In two subsequent emails I received from Kylie Mannix respectively on 30 June 2022 and 8 August 2022, Kylie again referred to the range review meeting in November 2021 and said we had discussed a cost price increase on the Bragg Apple Cider Vinegar Sample Product before Woolworths increased its shelf price. Copies of those emails are at [MPL.0002.0004.6923] of Confidential Exhibit BRJ-1 and [MPL.0002.0004.5570] of Confidential Exhibit BRJ-1. My replies to those emails dated respectively 30 June 2022 and 17 August 2022 focused on the cost price increase request we were negotiating and did not comment on Kylie’s observations regarding the range review meeting. This was for the same reason that I explained above at paragraph 80. Copies of these reply emails are at [MPL.0002.0004.6936] of Confidential Exhibit BRJ-1 and [MPL.0055.0002.0756] of Confidential Exhibit BRJ-1.

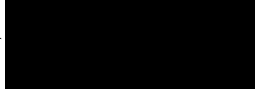
AFFIRMED by the deponent)
 at Sydney)
 in New South Wales)
 on 3 DECEMBER 2025)
 Before me: ANTHEA SHI HUI YONG) Signature of deponent

Signature 

ANTHEA SHI HUI YONG
 Name of authorised witness (block letters)

ONEFARRER PLACE, SYDNEY, NSW 2000
 Address of authorised witness

SOLICITOR
 Capacity (eg Justice of the Peace)

Signed: 

Taken by: 

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 BRJ-1

This is **Confidential Exhibit BRJ-1** to the affidavit of **Ben Richard Jordan** affirmed at 1 Woolworths Way, Bella Vista NSW 2153 on 3 December 2025 before me:

.....
Signature of 

Australian Legal Practitioner

Signed:



Taken by:

