



Loyalty Pacific Pty Ltd (Flybuys)
Submission on ACCC Supermarket Inquiry Issues Paper

19 April 2024

We refer to the Supermarkets Inquiry Issues Paper (**Issues Paper**) released by the Australian Competition and Consumer Commission (**ACCC**) on 29 February 2024.

Loyalty Pacific Pty Ltd (trading as **Flybuys**) welcomes the opportunity to make a submission to the ACCC in response to the Issues Paper.

The ACCC has stated that it has been directed to consider the state of competition between retailers of groceries (and particularly supermarkets) and how this is affecting consumers. Loyalty programs are considered in the Issues Paper. Relevantly to Flybuys, the ACCC is exploring:

- the extent to which supermarkets rely on data and data analytics to make strategic decisions regarding pricing and product range; and
- the use of loyalty programs by supermarkets.

Flybuys is deeply interested in, and strongly committed to, ensuring that its loyalty program benefits Flybuys members and promotes competition in all the markets in which Flybuys and its partners operate.

In this submission, we do not seek to address every issue raised in the Issues Paper, but only those matters which relate to loyalty programs. Flybuys has organised its comments around three key themes as follows:

- Section 2 addresses the limited prospect of “lock up” arising from loyalty programs, and describes the pro-competitive nature of these programs;
- Section 3 describes the nature and scope of the data available to grocery retailers through loyalty programs; and
- Section 4 addresses data collection and targeted advertising, which is pro-consumer and pro-competitive.

1. Overview of Flybuys program

- 1.1. Flybuys’ primary business is the provision of loyalty program services in Australia, allowing consumers who join the program (**members**) the opportunity to earn points by making qualifying purchases from its participating retailers and businesses (**partners**). The Flybuys loyalty program has over 9 million active members and has been in

operation since 1994. Since November 2018, Flybuys has operated as an independent joint venture, with Coles Group Limited and Wesfarmers Limited each owning a 50% equity interest.

- 1.2. Flybuys operates as a coalition loyalty and rewards program. This means that the operation of the Flybuys program is not solely affiliated to one supermarket nor confined to the grocery sector. Flybuys creates multiple and diverse points earning and redemption opportunities across various retailers and non-grocery goods and services, such retailers being unrelated to one supermarket. Members typically earn Flybuys points across approximately 5 coalition partners on average (which has increased year-on-year for the last three years).
- 1.3. There are currently 23 partners in the Flybuys program across various retail and industry categories including HCF, NAB, Citi, Optus, Velocity and retailers and brands operated by Coles Group Limited (including Coles-branded grocery outlets, Coles Credit Cards, Personal Loans and Insurance, Liquorland and First Choice) and Wesfarmers Limited (including Bunnings, Officeworks, Target, Kmart, Catch and Kleenheat Gas).
- 1.4. A high-calibre member experience is at the core of Flybuys' business and it is focused on providing a service that members value. It seeks to achieve this by partnering with a wide and diverse range of organisations, ensuring members earn meaningful rewards for participation, and offering simple, transparent processes for points earning and reward redemption. Relevantly, Flybuys received the 2023 Canstar Blue "most satisfied customers" award in the rewards program category, with five-star reviews in value, rewards, accessibility & partners, website & app experience, ease of sign up, and overall satisfaction.
- 1.5. There are no participation fees for members, associated with the Flybuys program and the program is capable of generating significant benefits for members based on points earned from their everyday shopping activities. The program is non-exclusive, i.e. members can join multiple loyalty programs.

2. Loyalty programs are pro-competitive and do not create competition concerns from a "customer lock up" perspective

- 2.1. Flybuys agrees with the ACCC's conclusions in its December 2019 Customer Loyalty Schemes Report (**ACCC Loyalty Report**), that loyalty schemes can have pro-competitive effects and intensify competition between rivals, leading to competing loyalty discounts and lower prices for consumers.¹
- 2.2. In particular, the ACCC identified that Flybuys provides consumers with both price and non-price benefits.² Flybuys considers that meaningful value and benefits are derived by consumers as a result of participating in loyalty programs such as Flybuys.
- 2.3. Flybuys does not consider that its loyalty program raises any competition concerns regarding the ability of supermarket competitors to attract consumers. In particular,

¹ ACCC Loyalty Report, p. 89.

² Issues Paper, p.14.

Flybuys does not consider that its loyalty program provides any barriers to entry or expansion for rival market participants or contributes meaningfully to any switching costs, as posited by the Issues Paper.³ Flybuys is not aware of any credible evidence for those propositions.

2.4. The Issues Paper mentions that concerns have been raised about the use of loyalty programs to reduce consumers' willingness to get their groceries from competitors, however the ACCC has previously stated that the extent to which a loyalty program is likely to have an anti-competitive effect in a market will depend on whether, and to what degree, it has such an effect on customer purchasing decisions that a significant number of consumers become effectively locked into making purchases from a single seller.⁴

2.5. While Flybuys does not underestimate the value of its program for some consumers, or suggest that loyalty programs are unimportant for all consumers, we do not consider that our loyalty program plays a disproportionately large role in consumers' decisions as to where to shop for groceries, for these reasons:

- First, the ACCC identified in 2019 that customer loyalty for supermarkets is limited, whether driven by membership of loyalty programs or otherwise.⁵ There have been no material changes since 2019 that have increased consumers' loyalty to supermarkets, through loyalty programs or otherwise, and the opposite trend is observable. In a February 2023 survey, over half of the consumers surveyed had switched retailers in the preceding three-month period and over 80% of the consumers surveyed indicated that they intended to continue this behaviour.⁶
- Second, loyalty programs are only one factor in consumers' decisions to choose a supermarket, and there are a range of other factors that drive consumers' shopping decisions and habits. Those factors include location, delivery options, opening hours (etc.), and the relative importance of those factors in consumers' multifactorial decision-making is a matter the ACCC is presently investigating.⁷ Flybuys is aware of data that records consumers' increasing willingness to switch between grocery retailers, and that *value* is the leading factor determining that switching behaviour, followed by factors such as product availability, convenience and personal choice.⁸ The number of consumers for whom a loyalty program is a *strong* factor in their shopping decisions and habits is likely to be limited, compared to other factors.
- Third, the proportion of Australians who are a member of Woolworths Everyday Rewards and/or Flybuys **[CONFIDENTIAL TO FLYBUYS]** [REDACTED]

³ The ACCC has said that Customers of a loyalty scheme face a form of switching cost when they forego the opportunity to advance towards their habitual seller's rewards. See ACCC Loyalty Report, p.93.

⁴ ACCC Loyalty Report, p.94.

⁵ ACCC Loyalty Report, p 89.

⁶ McKinsey, Australian Consumer Loyalty Survey.

⁷ Issues Paper, p.11. In 2019, the ACCC found that location of supermarkets is a key competitive advantage as convenience is typically a paramount consideration when choosing a supermarket, as well as opening hours and product selection. Roy Morgan Research has found that while most consumers have a supermarket they mainly shop at, a relatively low proportion consolidate purchases exclusively with a single supermarket and more than three-quarters of consumers were found to have visited at least two different supermarkets in an average of four weeks. See ACCC Loyalty Report, p.101.

⁸ McKinsey, Australian Consumer Loyalty Survey.

██████████.⁹ This shows that for most consumers loyalty programs related to grocery purchases are not becoming more important over time or “locking” consumers into any behaviour.

- Fourth, there is nothing to suggest that any switching costs created by points earning and redemption opportunities would have a particularly meaningful “suction effect” on customer purchasing behaviour, funnelling purchases towards one supermarket, in circumstances where customers regularly switch and fail to record points earning opportunities.
- Fifth, certain supermarkets do not operate or are not affiliated directly with a loyalty or rewards program (such as ALDI). ALDI, in particular, has been able to meaningfully increase market share year-on-year and expand through opening new outlets without the “loyalty” factor¹⁰. Instead, ALDI in particular competes with rival supermarkets through pricing, value and product range.¹¹ ALDI’s experience shows that focusing on factors (other than loyalty) which consumers place value on can foster a successful expansion strategy.
- Sixth, loyalty programs (including Flybuys) are not exclusive. Consumers can use one or many loyalty programs. In the grocery sector, there are multiple loyalty programs and rewards programs available to consumers including those operated by or affiliated with supermarkets, as well as rewards programs operated by participants in other industries such as financial service providers that offer points earning opportunities on groceries through credit/debit card spend. In particular, **[CONFIDENTIAL TO FLYBUYS]** █████ of Flybuys members are also members of Woolworths Everyday Rewards and actively use both programs. Only **[CONFIDENTIAL TO FLYBUYS]** █████ of Flybuys’ members use Flybuys exclusively.¹²
- Finally, the ACCC has accepted that even for the loyalty programs with the highest levels of ‘stickiness’ (i.e. airline loyalty programs), there is limited evidence of “lock up”.¹³

2.6. None of the above factors support the suggestion that Flybuys, or another loyalty program related to the grocery sector, could create the competitive effects about which the ACCC appears to be concerned, including increasing barriers to entry or expansion or increasing switching costs.

3. Loyalty program data on competition

3.1. Flybuys notes that in the context of loyalty program data, the ACCC is considering whether a lack of access to comparable data sets or sources may increasingly be

⁹ ██████████

¹⁰ See, for example, [here](#) and [here](#)

¹¹ See, for example, [here](#).

¹² ██████████

¹³ ACCC Loyalty Report, p.93.

considered a barrier to entry or expansion. For the reasons outlined below, Flybuys does not consider this to be the case.

- 3.2. In assessing the value of loyalty program data to supermarkets, Flybuys considers that it is important that the nature, scope and uniqueness of this data is properly characterised.
- 3.3. The data held and utilised by loyalty programs is just one source of information available within a broad and complex data ecosystem (which also consists of a range of data brokers, digital platforms, data sharing platforms and other freely available sources), as well as data available from within a supermarket's own operations. This data, collated from multiple sources, assists supermarkets in location selection, ranging decisions and offer creation amongst other things.
- 3.4. In addition to a broad range of data sources, organisations have a variety of tools and technologies that are readily available that have the capability to greatly increase the capacity of organisations to understand customers and their preferences. These technologies are widely adopted and have supplemented and/or diminished the reliance placed on loyalty program data. As these tools and technologies continue to evolve, the perceived barriers to entry associated with the availability of loyalty program data will reduce.
- 3.5. A number of prominent examples of these tools and technologies include:
 - **Wi-Fi and Bluetooth pings** to track a mobile phone device's movement through the supermarket's store, to understand where customers are spending their time in store and to optimise merchandise offerings and store layout. As an example, the Australian Privacy Policy of major supermarket ALDI, which does not offer a loyalty program, provides that ALDI "*may also use mobile phone technology to track your movement within certain ALDI stores for the purpose of optimising the merchandising and layout of ALDI stores; and*
 - **Geo-targeting to target specific ads** (e.g. on Facebook or Instagram) to users whose mobile devices are within a defined geographic location (e.g. promoting ads for a store to devices within 1km of the store) which relies on the relevant digital platform to identify when users are within the specified location; and
 - **Device fingerprinting** (e.g. creating a unique "fingerprint" from a device's combination of IP address, web browser, cookies, time zone, operating system, device model and other details to track a specific device's engagement with a website over time), **cross-device targeting** (e.g. using a consumer's log-ons to identify a specific consumer across different devices) and cookies (currently being phased out) to track the products a consumer purchases online and any advertisements the consumer engaged with to make these purchases. These technologies have the capability to provide a more accurate, real-time, and comprehensive representation of a consumer's behaviour and preferences than loyalty program data.
- 3.6. Additionally, all supermarkets, irrespective of whether they offer a loyalty program, collect data about transactions that occur at their stores through POS systems, which

can then be aggregated with information and insights from third party sources. This information, in conjunction with the data collection and targeted advertising methods identified above in this section 3, allows for the creation of a complex and accurate customer profile including their preferences, and the development of deep insight around location selection, ranging decisions and offer creation. This value creation is not unique to loyalty program data.

- 3.7. As the ACCC has noted, online shopping has accelerated following the COVID-19 pandemic. The advancements in data analytics flowing from this increase in activity have been primarily driven by third-party technology providers which make their technologies available on a non-exclusive basis. This underlines the intensity of competition and the requirement for loyalty programs to provide curated, value driven offers to customers given the availability of meaningful data about customer preferences to all participants across the supermarket sector.

4. Perceived increased data collection or targeted advertising by loyalty programs

- 4.1. Flybuys notes that the ACCC is seeking to understand the impact of increased data collection and targeted advertising on consumers as a result of the further development of loyalty programs.
- 4.2. Flybuys collects data from its members to better understand their specific preferences and in exchange, members gain access to rewards through the awarding of points and special offers not readily available to non-members. This is a mutually beneficial value exchange, which enables campaigns and offers from partners to be delivered to those members who are most likely to find those offers relevant, while also providing members with the tangible benefit of points that they can use to obtain a variety of rewards.
- 4.3. The use of member data in this way is a key feature of the Flybuys program and is well understood by individuals who join the program. This is a core part of the value proposition Flybuys offers members. Ensuring that there is an appropriate value exchange between members and participating retailers over time maintains the health of the Flybuys program and the continued and sustained benefit of the program to members and partners.
- 4.4. The loyalty program ecosystem is mature and more than 90% of adult Australians are enrolled in at least one loyalty program. Consumers who participate in loyalty programs understand that data collection drives increased value of the relevant program through personalisation. Relevantly, PWC's 2022 "Creating Loyalty in Volatile Times" report provides that 82% of consumers are willing to share personal data for a better consumer experience.¹⁴
- 4.5. The data collection practices of loyalty programs were considered in the ACCC Loyalty Report. Following the report, Flybuys has updated its privacy policy and collection notices, offered an express opt-out for members in relation to targeted advertising both generally and in relation to certain products or brands. Flybuys continues to ensure that

¹⁴ Available [here](#).

all of its practices are compliant with the requirements of the Privacy Act 1988 (Cth). Flybuys is focussed on adopting a transparent approach to data practices and targeted advertising, and to empowering its members to make adequately informed decisions about the collection and use of their personal information.

- 4.6. It is important to note that Flybuys' data analytics practices in respect of member data have not substantively changed since the release of the ACCC Loyalty Report. As noted below in paragraph 4.7, the largest change in respect of data analytics has been primarily driven by third party technology providers which make their offerings widely available, thereby diminishing the value of loyalty program data. Flybuys considers that any concerns associated with increased data collection and targeted advertising are not attributable to loyalty programs.
- 4.7. In respect of targeted advertising, independent research (as described in the remainder of this paragraph) indicates that customers not only want a degree of personalisation to be provided by loyalty programs but are dissatisfied that not enough personalisation is currently provided. The Point of Loyalty's 2023 "For Love or Money" report provides that although 71% of loyalty program members surveyed considered loyalty programs to have improved in the previous year,¹⁵ only 24% of members considered this improvement to be due to personalised and relevant communications by the loyalty program provider,¹⁶ and 15% of program members considered that loyalty programs need to be "more personal and relevant".¹⁷ Forester's 2023 "Personalization at Scale: Retail Industry Spotlight" report also records that 73% of surveyed customers want to be "delighted" by personalised experiences, but only 18% of customers consider this bar to be met.¹⁸
- 4.8. The findings set out above highlight that notwithstanding the perceived value of loyalty program data, the degree of personalisation that is possible through the data collection and targeted advertising undertaken by loyalty programs is limited. As discussed above in section 3, tools and technologies currently available to all organisations (irrespective of whether they have access to loyalty program data) are becoming increasingly effective in building customer profiles and targeting advertising to customers.
- 4.9. Placing limitations on the ability of loyalty programs to deliver their core value proposition to members will detrimentally impact consumers without any corresponding increase in competition. For the reasons set out in sections 3 and 4 above, Flybuys does not consider that competition concerns arise from access to data or the ability to personalise advertising.

Flybuys is grateful for the opportunity to contribute its observations in response to the Issues Paper and is happy to engage in respect of any of the points raised.

¹⁵ For Love or Money 2023, p 41.

¹⁶ For Love or Money 2023, p 42.

¹⁷ For Love or Money 2023, p 45.

¹⁸ Personalization at Scale: Retail Industry Spotlight, p 4.