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Director
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Australian Competition and Consumer Commission

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1 May 2020

Dear Mr Fu

RE: AA1000477 – Coles Group on behalf of itself and participating supermarkets – submission

The Australian Food and Grocery Council (AFGC) welcomes the opportunity to provide input to the ACCC's assessment of the interim authorisation and final authorisation permitting Coles, Woolworths, Aldi, Metcash and other approved retailers to discuss and coordinate for the purpose of ensuring the continued supply and fair and equitable distribution of retail products to consumers during the COVID-19 pandemic.

The AFGC wishing to acknowledge and congratulate the ACCC for their swift response to the application for an interim authorisation, enabling retailers in Australia to work together to provide food and grocery products to all parts of the country, including to those in vulnerable positions and in rural and remote regions.

In responding to the ACCC's call for submissions regarding the interim authorisation, the AFGC wishes to discuss two key matters relating to the fair and equitable supply of retail products into rural and remote regions and the time frame for the operation of the authorisation.

Fair and equitable supply into rural and remote regions

A key challenge facing the supply of food and grocery products during the COVID-19 has been enabling fair and equitable supply of product throughout Australia. This particularly relates to the fourth element of the Proposed Conduct, being to facilitate access to retail products in remote or rural areas. Initial demand surges saw Australians stockpiling products in anticipation of a severe lockdown of the country. This was closely followed by spikes in purchases accompanying the Government's issue of its first stimulus package.

Anecdotal stories have stated that a community store within a remote Indigenous population, with a usual weekly turnover of \$8,000, sold \$66,000 in the week following the issue of the Government's \$750 payments. These buying patterns have depleted stores, large and small, of stock and created challenges for forecasting and demand signalling through the suppliers. Whilst the overall uplift in demand has created shortages of products, it should, however, be noted that Australia produces enough food for 75 million people and this demand surge does not point to an issue of food insecurity¹.

The AFGC is aware of instances where fair and equitable supply issues have been able to be resolved through leveraging the interim authorisation, enabling major supermarket retailers to transfer stock to wholesalers servicing regional and remote areas. This is particularly important where there is only one store in an area or town and consumers do not have choice of shopping destination.

¹ Based on Australia exporting around 70% of its agricultural production. www.agriculture.gov.au/abares/publications/insights/australian-food-security-and-COVID-19

The AFGC, however, considers that there has been an underutilisation of the interim authorisation. While demand surges have stabilised across many categories in urban areas, this has not always been mirrored in rural and remote areas. Concerns continue to be raised by Federal, state and territory governments and Ministers regarding supply of essential products to these areas. The AFGC considers that this challenge is ideally suited to the collaborative behaviour enabled under the interim authorisation and that the retailers should be encouraged to utilise it accordingly.

The AFGC is encouraged to see the recent participation of additional retailers and associations from 29 April 2020 in the interim authorisation. The AFGC recommends that the Supermarket Taskforce, with the support of the ACCC, promotes the roles of the interim authorisation is facilitating access to retail products in rural and remote areas, and where appropriate, seeks additional independent retailers to become Participating Supermarkets.

Time frame for the operation of the authorisation

The AFGC understands that the ACCC's final determination will consider granting an authorisation for a further six month period. Currently the ACCC website states that the final determination will be issued in September 2020, meaning an extension would keep the authorisation in operation until March 2021. The AFGC does not consider these timelines to be appropriate.

Noting that the interim authorisation enables the ACCC to revoke the authorisation should the 'effects of the pandemic subside', the AFGC recommends that any final authorisation be monitored closely and only be in place for the period that the COVID-19 pandemic adversely impacts supply chains and Australians' access to food and grocery products. Once demand and supply stabilise the authorisation should cease to operate. In determining when this point is, the AFGC recommends the ACCC establish a monthly review of the authorisation through the Department of Home Affairs' Supermarket Taskforce.

Australia's supermarket retail landscape is one of the most heavily concentrated in the world (Grattan Institute 2017, AFGC and EQ Economics). While the AFGC supports the interim authorisation to facilitate the supply of retail products during the COVID-19 pandemic, we consider any benefit gained should be limited to this environment and function only. Beyond this point, the Australian food and grocery industry relies on a strong regulatory competition framework to ensure that those holding significant market power do not have the ability to adversely manipulate the industry.

The AFGC will continue to engage with the ACCC regarding the interim authorisation for cooperation between the participating supermarkets, noting the need to ensure the fair and equitable distribution of products throughout Australia, whilst also avoiding the development of any entrenched anti-competitive behaviour.

Should the ACCC desire any further information regarding this submission I would ask that you contact AFGC's Director, Industry Affairs, Samantha Blake () or ().

Yours sincerely,



Dr Geoffrey Annison
Acting Chief Executive Officer

