

Gavin Jones
Director
Competition Exemptions
Australian Competition and Consumer Commission

exemptions@accc.gov.au

12 April 2021

Dear Mr Jones

RE: AA1000546 – Coles Group Limited – Submission

The Australian Food and Grocery Council (AFGC) welcomes the opportunity to provide input to the ACCC's interim 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 wishes to acknowledge the value of the original authorisation AA1000477-1 in enabling swift, consistent and appropriate responses to the COVID-19 pandemic that ensured food and grocery products could be provided to Australian consumers in all parts of the country, in a safe and equitable manner.

The AFGC supports this interim authorisation enabling Participating Supermarkets to engage in coordinated activities in the defined and limited circumstances. As noted in our previous three submissions to the original authorisations, 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, any benefit gained should be limited to this environment and function only. Whilst the interim authorisations contains protections to ensure the proposed conduct is limited to activities that are directly linked to ensuring the supply and fair and equitable distribution of retail products to Australian consumers during the COVID-19 pandemic, as well as providing Government oversight at Authorised Meetings and Urgent Measures, the AFGC considers accountability could be strengthened through the establishment of a register to record the occurrence and contents of all Authorised Meetings and Urgent Measures. Such a register would include the following details:

- Date of the meeting
- The names and titles of those present at the meeting
- Key topics of discussion
- Any outcomes or actions as a result of the meeting or Urgent Measure.

The AFGC considers such a register to be an appropriate governance measure to monitor and record the utilisation of the authorisation. Further, this register should be made available to interested parties upon request, within a reasonable time period.

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 undue familiarity that may lead to 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 ([REDACTED] or [REDACTED]).

Yours sincerely

[REDACTED]

Tanya Barden
Chief Executive Officer