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Our ref: AA1000606  
Contact officers: Miriam Kolacz  
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25/03/2022

### ***By email***

Dear Sir/Madam

### **Coles Group Limited – Application for re-authorisation AA1000606 – Interim authorisation decision and interested party consultation**

The Australian Competition and Consumer Commission (the **ACCC**) has received an application for revocation and substitution (**re-authorisation**) from Coles Group Limited (**Coles**). This letter is to invite you to comment. You are welcome to pass this letter on to others who may wish to make submissions.

Coles seeks re-authorisation on behalf of itself, Woolworths Group Limited, ALDI Stores and Metcash Limited (the **Participating Supermarkets**) and any Other Approved Supermarkets who have obtained ACCC approval to continue to cooperate to ensure the supply and fair and equitable distribution of Retail Products to Australian consumers in response to the COVID-19 pandemic.

Coles seeks re-authorisation until 31 December 2023. A full copy of the application for re-authorisation is available on the ACCC's [authorisations public register](#).

### **Interim authorisation**

The ACCC has also granted interim authorisation, with conditions, to enable the Participating Supermarkets and Other Approved Supermarkets to engage in the above conduct immediately.

Interim authorisation is also granted for any other relevant party who may wish to participate in the arrangements in the future and has notified the ACCC in writing of their intention to do so in accordance with Condition 3 of the interim authorisation decision.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Competition and Consumer Act 2010* while the ACCC considers and evaluates the merits of the application.

A copy of the ACCC interim authorisation decision is **attached** and available on the [ACCC Public Register](#).

Interim authorisation commences immediately and remains in place until it is revoked, the date the ACCC's final determination comes into effect or the date on which the application for authorisation is withdrawn.

### **Making a submission**

The ACCC invites you to make a submission on the substantive application for re-authorisation. In making your submission, please provide information, evidence and views about the likely public benefits, effects on competition and any other public detriment that you consider will result from the Proposed Conduct. In particular, the ACCC invites views about:

## 1. Whether the length of re-authorisation sought by Coles is appropriate.

Coles seek re-authorisation until 31 December 2023 for the reasons outlined in section 5.6 of its [application](#).

## 2. Whether the ‘purpose’ for which the Proposed Conduct must be engaged in should be amended.

Currently, any Authorised Meetings or Urgent Measures must have ‘the purpose of ensuring the supply and fair and equitable distribution of Retail Products to Australian consumers during the COVID-19 pandemic’ (see s 5.2(1)(b) of Coles’ [application](#)). To remove any ambiguity about what ‘during the pandemic’ means (in particular, when this period ends) and to tie the Proposed Conduct more explicitly to addressing the effects of the COVID-19 pandemic, the ACCC is considering whether to amend this wording to read:

*(b) has the purpose of ensuring the supply and fair and equitable distribution of Retail Products to Australian consumers while responding to issues arising from the COVID-19 pandemic by...*

Coles has requested that additional wording be included to avoid doubt that conduct would be covered where it seeks to address an issue arising from COVID-19 impacts, but there may be an additional contributing factor. Specifically:

*(b) has the purpose of ensuring the supply and fair and equitable distribution of Retail Products to Australian consumers while responding to issues arising from or exacerbated by the COVID-19 pandemic by....*

If you intend to provide a submission, please do so by **8 April 2022**. If you wish to request an extension, please contact us on the details below as early as possible. Submissions after the due date (or after any extension granted) may not be taken into account.

Please email your submission to [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au), with the subject ‘AA1000606 – Coles Group Limited – submission’. Alternatively, if you would like to provide comments orally, please contact Miriam Kolacz via the details at the end of this letter.

Your submission **will** be placed on the ACCC’s [authorisations public register on the internet](#) unless you have made a request (with reasons) for us to exclude part or all of the submission from the public register (see [Guidelines for Excluding Information from the Public Register](#) for more information on how to make a request and how we assess requests).

### Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information, and an up to date version (including any changes) will be posted on the public register.

Indicative date	Stage in assessment process
21 December 2021	Lodgement of application.
9 March 2022	Lodgement of application.
25 March 2022	ACCC decision regarding interim authorisation.
8 April 2022	Closing date for submissions on substantive application.

<b>Indicative date</b>	<b>Stage in assessment process</b>
<b>April 2022</b>	<b>Applicant responds to issues raised in the public consultation process.</b>
<b>May 2022</b>	<b>Draft determination.</b>
<b>May/June 2022</b>	<b>Public consultation on draft determination including any conference if called.</b>

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Miriam Kolacz on (03) 9658 6476 or email [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au).

Yours sincerely



Darrell Channing  
Director  
Competition Exemptions