

# Application for Revocation of an Authorisation and Substitution of a Replacement

Lodged by 7-Eleven Stores Pty Limited



**NON-CONFIDENTIAL VERSION — RESTRICTION OF PUBLICATION  
OF PART CLAIMED**

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# Application for Revocation of an Authorisation and Substitution of a Replacement

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## 1 Authorisation to be revoked

### 1.1 The details of the authorisation to be revoked

The authorisation A1000500 granted by the Commission on 29 July 2020 to 7-Eleven Stores Pty Limited (ACN 005 299 427) (**7-Eleven** and the **Applicant**) which allows 7-Eleven to approach certain stores in its network, including future franchisees, and enter into arrangements which will provide for temporary closure or reduced trading hours for stores substantially affected by decreases in demand during the COVID-19 pandemic (the **Existing Authorisation**).<sup>1</sup>

### 1.2 Basis for seeking revocation

The term of the Existing Authorisation will expire on 31 March 2021. However, it is now clear that the COVID-19 pandemic will continue at least until the current vaccination programme being overseen by Australian Governments is more advanced. The vaccination programme commenced on or around 20 February 2021 and is estimated to continue until at least October 2021.

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## 2 Authorisation to be substituted

7-Eleven wishes to continue to engage in the conduct described in the Existing Authorisation for up to an additional 6-months beyond the term of the Existing Authorisation.

7-Eleven notes that the Commission could, under section 91B of the *Competition and Consumer Act 2010* (Cth) (**Act**), revoke the authorisation should there be a material change in circumstances such as will occur once the effects of the COVID-19 pandemic subside.

### 2.1 No other change to the Conduct under the Existing Authorisation

Other than the proposed term of authorisation, 7-Eleven is not seeking to change the conduct described in the Existing Authorisation.

Consequently, subject to the Commission granting this Application, 7-Eleven proposes to continue to engage in the following conduct:

- (a) to approach some of its franchisees (who form part of 7-Eleven's network in Australia) (**Franchisees**), with the particular Franchisees yet to be identified; and
- (b) to enter into arrangements with those Franchisees, should the Franchisee be willing, to either temporarily close or reduce the trading hours certain stores (**Stores**) either operated by some of the Franchisees, as well as those operated by itself (or through its sister entity, Convenience Holdings Pty Limited),

(the **Conduct**).

### 2.2 The need for authorisation

Continued authorisation would allow 7-Eleven to safeguard its network of Stores against the uncertainty of what will occur in relation to the COVID-19 pandemic in

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<sup>1</sup> <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/7-eleven-stores-pty-limited>

2021, including in relation to the timing and effectiveness of any immunisation programme.

While 7-Eleven expects to have only one Store on temporarily reduced trading hours on 31 March 2021, the ability for 7-Eleven to continue to respond to the real possibility of future outbreaks and Government restrictions is vital to ensuring the long-term sustainability of 7-Eleven's business, including its Franchisees who are small businesses operators.

7-Eleven's CBD Stores are the hardest hit when government mandated lockdowns are issued in response to an outbreak, as this results in significantly reduced foot traffic through these Stores. When restrictions are removed, CBD areas are one of the last places to recover in terms of foot traffic and customer demand.

Therefore, 7-Eleven is seeking to continue to protect against the possibility of further lockdowns that will affect its CBD Stores and Franchisees in a manner that cannot otherwise be addressed outside of reducing the operating expenses of that Store. 7-Eleven's use of objective criteria to determine the eligibility of Stores for temporary closure or temporarily reduced trading hours will continue to ensure that engagement in the Conduct is responsive and proportional to the real-time effects of COVID-19 on the trading conditions on any given Store in its network.

### 2.3 Background and rationale for the Conduct

The purpose of the Conduct is to assist 7-Eleven and its Franchisees to respond to and endure the COVID-19 pandemic in a cost-efficient manner, while supporting customers of the Stores. The Conduct will assist the business continuity of 7-Eleven and its Franchisees for the duration of the pandemic and as the economy recovers from the effects of the pandemic.

As the Commission will be aware, the retail sector (including the convenience retail sector in which 7-Eleven and its Franchisees operate) has been particularly hard hit by the ongoing pandemic.

The ongoing possibility of Government-mandated restrictions, lockdowns and social distancing measures in response to COVID-19 outbreaks has prolonged the economic effects of the pandemic, resulting in reduced consumer demand in areas affected by outbreaks and increased uncertainty for business operators. This is particularly the case for retail stores located in densely populated areas, such as Central Business Districts (**CBDs**).

7-Eleven and its Franchisees have experienced an immediate and drastic fall in pedestrian traffic whenever a COVID-19 outbreak has occurred and Government-mandated restrictions have come into effect. The Existing Authorisation has allowed 7-Eleven to effectively manage these changing circumstances.

Granting the Authorisation sought in this Application will continue to allow 7-Eleven to navigate the uncertain environment in a targeted and flexible manner. It will allow 7-Eleven and affected Franchisees to agree on measures designed to alleviate the effects of targeted Government restrictions and reduced consumer demand.

For example, during the Melbourne lockdown period from July to October 2020, Stores in the Melbourne CBD experienced decreases of approximately **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]** in daily merchandise sales and up to **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]** in customer numbers. During this time, the Existing Authorisation allowed 7-Eleven to approach and reach agreements with

**[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]** Stores that met the objective criteria to manage the effects of the Victorian Government's stage 4 lockdown on their Stores.

**[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES][CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.<sup>2</sup>

For example, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.

**[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**

The Existing Authorisation has allowed 7-Eleven and its Franchisees to mitigate the negative effects of COVID-19 outbreaks, while minimising effects on customers, as 7-Eleven's objective criteria only permits a Store to temporarily close or operate on temporarily reduced trading hours if **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.

Government restrictions and mandated lockdowns cause a severe decline in the transaction volume and merchandise sales as demonstrated by Figure 1 and Figure 2 below. Those Figures identify the types of Stores which 7-Eleven considers to be the most affected by the COVID-19 pandemic.

Figure 1 shows that Non-Fuel Stores have experienced, on average, a **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**% decrease in average weekly volumes of transactions and a **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**% decrease in average weekly revenue from sales of merchandise compared to the average weekly volumes and revenue from the period between July and December 2019.

Similarly, Stores that sell fuel have experienced, on average, a **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**% decrease in average weekly volumes of transactions and an **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**% increase in average weekly revenue from sales of merchandise over the same period.

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<sup>2</sup> **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**

**Figure 1: Average change in volumes and sales from the period between July to December 2020 against the average weekly volumes and sales from the period between July to December 2019 for Stores that traded 184 days in both comparison periods**

| Store Category and Segment | Transaction Volumes                           | Merchandise Sales (\$) | Fuel Litres | Fuel Sales (\$) |
|----------------------------|---|------------------------|-------------|-----------------|
| Non-Fuel Stores            | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES] |                        |             |                 |
| Fuel Stores                |   |                        |             |                 |

Figure 2 compares the average Non-Fuel Store performance over the last few weeks with the same period from last year. It shows that the Stores have experienced, on average, a decrease of [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]% in transaction volume and a decrease of [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]% in revenue from sales of merchandise compared to one year ago.

Similarly, Stores that sell fuel have experienced, on average, a [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]% decrease in volumes of transactions and an [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]% increase in revenue from sales of merchandise over the same period.

**Figure 2: Average change in weekly volumes and sales for the period from August 2020 against the period from August 2019 for Stores that traded 31 days in both comparison periods**

| Store Category and Segment | Transaction Volumes                           | Merchandise Sales (\$) | Fuel Litres | Fuel Sales (\$) |
|----------------------------|---|------------------------|-------------|-----------------|
| Non-Fuel Stores            | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES] |                        |             |                 |
| Fuel Stores                |   |                        |             |                 |

During the COVID-19 pandemic, government mandated lockdowns have had the effect of reducing pedestrian traffic, particularly in CBD areas, by a significant amount. During these periods, consumers have also been more likely to make planned visits to supermarkets to buy necessities in larger volumes than they usually would in order to reduce exposure and to maintain social distancing efforts. This has further contributed to the reduction in unplanned buying behaviour which is typical of the customers of convenience goods and services sold by 7-Eleven and its Franchisees, who instead normally benefit largely from incidental pedestrian traffic and customers, particularly in CBD areas.

The Existing Authorisation has prevented the Stores affected the most from incurring similar levels of operating costs as they did before the COVID-19 pandemic. In the case of 7-Eleven's corporate Stores, this includes liabilities for rent and electricity of all Stores, and the wages for the staff. For Franchisees, this includes liabilities such as staff wages. 7-Eleven estimates that under the Existing Authorisation, Stores on temporarily reduced trading hours were able to reduce their operating expenses by up to approximately **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**%. 7-Eleven recommended that each Franchisee seek independent legal and accounting advice to satisfy themselves that temporary closure or temporarily reduced trading hours was the right thing to do and in their best interests.

As a result, 7-Eleven has received requests from some of its Franchisees to review the need for certain Stores to remain open and/or to reduce the need for the Stores to remain open for 24 hours a day, 7 days a week. 7-Eleven has also had instances where Franchisees have declined 7-Eleven's offer to temporarily close or temporarily reduce their trading hours.

Until the COVID-19 pandemic is over, the possibility of government mandated lockdowns and social distancing-related measures remains a real possibility.

7-Eleven's CBD Stores are the hardest hit when government mandated lockdowns are issued in response to an outbreak, as this results in almost no foot traffic through these Stores. When restrictions are removed, CBD areas are one of the last places to recover in terms of foot traffic and customer demand.

Therefore, 7-Eleven is seeking to continue to protect against the possibility of further lockdowns that will affect its CBD Stores and Franchisees in a manner that cannot otherwise be addressed outside of reducing the operating expenses of that Store.

This is a question of long-term sustainability for certain of the Franchisees who are small businesses operators and who have sizeable external commitments (such as bank loan repayments).

7-Eleven considers the only way to minimise the financial hardship experienced by these Franchisees and to ensure they are best positioned to resume trading as normal following the crisis, is to engage in an immediate and continuous dialogue with them to ensure the roster of Stores that are within the same catchment area is operated in a way that supports the viability of those Stores into the future.

Further information about the Conduct is set out in section 4 ("The Conduct ") of this application.

## 2.4 Application for revocation and substitution

### (a) Existing Authorisation

7-Eleven and some of its Franchisees compete to supply goods and services to consumers to the extent that they operate Stores located in the same geographic catchment areas.

7-Eleven, therefore, sought and received authorisation under section 88(1) of the Act as the Conduct may give rise to contraventions of sections 45, 45AF, 45AG, 45AJ and 45AK of the Act.

### (b) Revocation and substitution – extension of the term of the Existing Authorisation

7-Eleven seeks revocation of the Existing Authorisation and substitution of a replacement of it under section 91C of the Act.

The only change to the conduct described in the Existing Authorisation would be a 6-month extension to the term of Existing Authorisation from the date of the Commission's Final Determination on this Application for revocation and substitution, assuming the Commission is in a position to make that Final Determination so that it would take effect on 1 April 2021, when the Existing Authorisation will have expired.

7-Eleven notes that the Commission could, under section 91B of the Act, revoke the authorisation should there be a material change in circumstances such as will occur once the effects of the COVID-19 pandemic subside.

Should customer demand for convenience stores continue to be materially and adversely impacted as a result of the COVID-19 crisis following this period, 7-Eleven may seek variation of the authorisation (should the Commission grant the authorisation) to extend the period in which it and its Franchisees can continue to engage in the Conduct.

### (c) Application for Interim Authorisation

To manage the possibility that the Commission will not be in a position to issue its Final Determination in relation to this Application so that its Final Determination in relation to this Application would take effect on 1 April 2021, 7-Eleven seeks interim authorisation under section 88(1) of the Act, to ensure uninterrupted legal protection should 7-Eleven need to continue engage in the Conduct with its Franchisees in response to any COVID-19 outbreaks or Government restrictions after 31 March 2021, for a period of up to 6 months from 1 April 2021 (to the end of October 2021).

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## 3 Parties to the Conduct

### 3.1 Applicant

7-Eleven is a locally owned private company with a license to operate and franchise 7-Eleven stores in Australia from the US-based 7-Eleven Inc. The majority of 7-Eleven's Stores are franchised by 7-Eleven and held by third party entities, many of whom are small business operators. 7-Eleven also operates its own corporate Stores, some of which are franchised and held by a sister entity of 7-Eleven, Convenience Holdings Pty Limited.

The 7-Eleven network in Australia comprises petrol and convenience stores across Australia, with over 700 stores in Victoria, New South Wales, the Australian Capital Territory, Queensland and Western Australia.



7-Eleven Stores emphasise convenience to the customer and sell products including, petrol, groceries, takeout foods and beverages, dairy products, non-food merchandise, specialty items and incidental services.

Further information about 7-Eleven can be found at <https://www.7eleven.com.au/>.

7-Eleven's contact details are:

| 7-Eleven Stores Pty Limited |   |
|-----------------------------|---|
| ACN                         | 005 299 427                                   |
| Address                     | 2/658 Church Street, Richmond Victoria 3121   |
| Contact Person              | James Wyatt, General Counsel                  |
| Telephone                   | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES] |
| Email                       | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES] |

### 3.2 Service of documents

| King & Wood Mallesons |  |
|-----------------------|--|
| Name                  | Sharon Louise Henrick                                    |
| Position              | Partner, Competition Law and Regulatory Group, Australia |
| Telephone             | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]            |
| Email                 | [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]            |

## 4 The Conduct

The Conduct involves 7-Eleven approaching some Franchisees and, if they agree, to enter into arrangements with them to temporarily close their Stores or reduce their trading hours based on customer demand and their financial viability.

The Stores targeted for temporary closure or a reduction in operating hours are likely to be determined based on objective criteria relating to their location, trading performance and operational requirements. This may include criteria such as:

- The Store has experienced a decline in merchandise sales to a certain extent by comparison to an equivalent period from before the COVID-19 pandemic (for example, [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]);
- The Store is currently trading at less than a certain amount (for example, [CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]);
- The Store is located within a certain distance from another trading Store (which is more applicable to Stores located in the CBD); and/or
- The Store is not subject to any other operational requirements to continue trading.

The thresholds for each objective criterion may vary based on whether the Store sells fuel or not.

Where trading hours are reduced, Stores are likely to be closed from late evening to early morning, with the possibility of further reductions on weekends and/or public holidays depending on demand. In the usual course, they would be open either 24-hours, 7 days a week or for a specified time as provided under the relevant Store Agreement.

7-Eleven does not expect this change to impact customers materially because pedestrian traffic is typically very low during this window under normal circumstances but has been especially low during the pandemic.

The Conduct also involves 7-Eleven and the relevant Franchisees directing customers from a closed Store to nearby Stores and providing information to customers about changes to the operating hours of the relevant Stores.

7-Eleven and its Franchisees will **not be engaging in any price coordination behaviour**. Under the terms of the Store Agreement, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**. The Conduct will not affect this.

The Conduct is voluntary. Any Franchisee can opt out of the Conduct at any time and can choose not to take up 7-Eleven's offer of temporary closure or reduced trading hours. If the Franchisee wishes to resume ordinary operations prior to the expiry of the authorisation, 7-Eleven would not unreasonably withhold consent for them to do so.

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## 5 Counterfactual

In the absence of the Conduct, 7-Eleven and its Franchisees would remain open in accordance with the terms of the Store Agreement – 24-hours a day, 7 days a week or for a specified time as provided under the relevant Store Agreement.

Without being able to coordinate to determine whether certain of the 7-Eleven Stores should temporarily close or whether the opening hours should be scaled back based on customer demand and financial hardship, 7-Eleven and its Franchisees would be collectively operating more Stores than required to support the current demand for these Stores in many areas under substantial financial hardship.

This would be highly inefficient because of the unnecessary costs that 7-Eleven and its Franchisees would continue to incur.

Many of the Franchisees are small business operators who are at particular risk of needing to close their Stores permanently in the absence of the Conduct.

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## 6 Persons who may be directly impacted by the Conduct

The Franchisees who 7-Eleven approaches and who enter into an arrangement to temporarily close their Store or reduce their trading hours would be directly impacted by the Conduct.

The Franchisees operate their Store(s) in accordance with a confidential Store Agreement with 7-Eleven. The current version of this agreement and the relevant Exhibits and Addendums are provided collectively as **Confidential Attachment B**. Some of these Exhibits and Addendums apply to Stores that sell

fuel and others apply to Stores that do not. Some Franchisees operate their Stores in accordance with earlier versions of this Store Agreement.

Relevantly, under the terms of the Store Agreement, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.

Under the Store Agreement between 7-Eleven and its Franchisees, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.

Where a Store's trading hours are temporarily reduced, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**.

For Stores that will be temporarily closed, 7-Eleven will make an ex gratia payment **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**<sup>3</sup> to the relevant Franchisee to cover certain unavoidable costs.

7-Eleven may also consider providing further support to Franchisees should the need arise.

7-Eleven also seeks authorisation to approach any person that may become a Franchisee in the relevant period, in an abundance of caution although it seems unlikely at this point in time.

A list of all current Franchisees as of 1 March 2021 and their contact details is provided to this application as **Confidential Attachment C**.

Other persons who would be directly impacted by the Conduct include customers, suppliers and staff of 7-Eleven's Stores that are temporarily closed or have their trading hours reduced.

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## 7 Significant likely public benefits

The Conduct is a temporary and urgent measure aimed at preserving the viability of Stores that might otherwise be forced to close permanently.

### 7.1 Ability to respond to outbreaks flexibly and sustainably

The Existing Authorisation gives 7-Eleven and its Franchisees the ability to respond to the unpredictability of further outbreaks and any resulting decrease in customer demand from social distancing and government restrictions.

By engaging in the Conduct, 7-Eleven is able to provide relief to the Stores in its network most affected by any outbreak in a timely manner. The Conduct can be scaled up across 7-Eleven's network according to the severity of the outbreak and effect on consumer demand and scaled down once an outbreak is contained and consumer demand increases.

### 7.2 Reducing the incidence of financial hardship and long-term closures

As stated in section 2.2 above, pedestrian traffic and volumes sales and revenues have drastically declined while 7-Eleven and its Franchisees continue to incur their existing operating costs. This has led many of the Franchisees (who are small business operators) to experience considerable financial hardship and the viability of their Stores to be substantially compromised by a COVID-19 outbreak in their area.

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<sup>3</sup> **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**

By engaging in the Conduct, 7-Eleven and its Franchisees would effectively be servicing reduced customer demand through fewer Stores in areas that cannot support the current number of Stores and minimising overhead costs by doing so.

In the longer term, the Conduct would have a significant and clear public benefit, as 7-Eleven and its Franchisees may otherwise eventually be forced to permanently close Stores in areas where the very low levels of demand are unnecessarily and inefficiently distributed amongst the 7-Eleven Store network. Instead, by temporarily closing or reducing the operating hours of certain Stores, the Franchisees' Stores stand a better chance of withstanding the financial pressures created by the COVID-19 pandemic over the longer term.

This mitigation of financial difficulty is also critical to supporting Franchisees who are currently suffering mental hardship as a result of dealing with the operational difficulties of sustaining Stores experiencing a significant reduction in sales volumes, sitting idle due to low Store traffic and managing staff in these difficult times.

### 7.3 Improving the ability of Stores to resume normal trade

The Conduct will place Stores across 7-Eleven's network in a better position to resume normal trading once the effects of the COVID-19 pandemic subsides.

### 7.4 Reducing the need for staff travel

The demand on staff to travel to Stores (in circumstances where it is inadvisable that they do so for non-essential reasons) would also be mitigated by temporarily closing Stores or scaling back trading hours.

### 7.5 Consumer benefits

The long-term business survival of each Store is a clear benefit to consumers once the COVID-19 pandemic subsides.

In the absence of the Conduct, the ability of the 7-Eleven network to supply of goods and services to the public once the pandemic subsides is compromised if 7-Eleven Stores are not viable in the interim and need to be closed permanently.

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## 8 No or limited likely detriments to the public

7-Eleven submits that the public benefits arising from the Conduct will outweigh any public detriments as:

- the Conduct does not affect inter-brand competition. That is, 7-Eleven branded stores will continue to compete against other convenience stores;
- the Conduct excludes any price coordination behaviour;
- customer access to conveniently located 7-Eleven Stores is not materially compromised as the temporary closures and reduced operating hours will primarily apply to instances where there are multiple underutilised 7-Eleven Stores in close proximity. For example, under 7-Eleven's objective criteria, **[CONFIDENTIAL TO 7-ELEVEN AND/OR FRANCHISEES]**;
- any reduction in trading hours has been limited to late evening to early morning, which will have a very limited impact on customer access to 7-

Eleven Stores because pedestrian traffic is typically very low during this period under normal circumstances, but has been especially low during the pandemic and further outbreaks;

- the duration of the Conduct is no longer than necessary and can be discontinued if the effects of the pandemic on 7-Eleven and its Franchisees subside at an earlier date. 7-Eleven has applied for an additional 6-month extension as there remains uncertainty around the continuation of the COVID-19 pandemic in 2021, including in relation to the timing and effectiveness of any immunisation programme;
- Through 7-Eleven's objective criteria, the number of Stores that are eligible under the Conduct is proportional to the effect of COVID-19 consumer demand at those Stores. The extent of the Conduct may be scaled up and down in response to variation in consumer demand due to any further outbreaks, government restrictions or reported case numbers; and
- the Conduct is conducted on a voluntary basis so that any of the Franchisees that are approached by 7-Eleven can cease/or begin their participation in the Conduct at any time. If the Franchisee wishes to resume ordinary operations prior to the expiry of the authorisation, 7-Eleven would not unreasonably withhold consent.

In short, the re-authorisation that 7-Eleven is seeking is a temporary measure, which seeks to maintain the viability of its Stores and those of its Franchisees during the current emergency and is highly unlikely to materially alter the competitive dynamics of the industry beyond the duration of the current crisis. As the effects of the COVID-19 crisis subside and pedestrian traffic and customer demand is restored to more typical levels, 7-Eleven and the relevant Franchisees will cease engaging in the Conduct at that time.

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## 9 Confidentiality

Any information contained in this application and Attachments to the application that are marked Confidential, is confidential to the Applicant and/or the Franchisees.

If the confidential information were to become publicly available, the Applicant and/or the Franchisees would likely suffer commercial detriment and, in relation to some of the information, be exposed to proceedings for breach of its contractual and equitable obligations of confidentiality.

The Applicant requests, pursuant to section 89(5) of the Act that the confidential information described above be excluded from the Commission's public register.

Further, the Applicant considers that the confidential information described above relates to the Commissions' core statutory function of administering and enforcing the Act.

Accordingly, the Applicant considers that the information comprises "protected information" as defined by section 155AAA(21)(a) of the Act.

### **Declaration by Applicant**

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).


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James Wyatt

General Counsel, 7-Eleven Stores Pty Limited

This eleventh day of March 2021

Signed on behalf of James Wyatt on 11 March 2021

  
**Sharon Henrick | Partner, Head of Competition Law & Regulatory, Australia  
King & Wood Mallesons**