

9 June 2019

David Jones
General Manager - Adjudication
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By email – adjudication@accc.gov.au

Dear David

Resale Price Maintenance notification RPN10000452 submitted by Meredith Dairy Pty Ltd (Meredith Dairy)

I refer to the resale price maintenance notification lodged with the ACCC by Meredith Dairy on 18 April 2019, in which Meredith Dairy proposes to require retailers who are its direct customers not to sell any of its cheese products below prices nominated by Meredith Dairy, and to require its distributors to impose a similar requirement on the retailers they supply (the **Notified Conduct**).

Coles has reviewed the notification and the ACCC Draft Notice in response to the Notified Conduct. Coles supports the ACCC's conclusion that the Notified Conduct is likely to result in public detriment by reducing retailers' ability to compete on pricing in selling Meredith Dairy's cheese products.

Retail pricing is one key factor influencing a consumer's choice of where to shop and what to buy. Coles has consistently committed to providing trusted value to customers and is focused on continuing to deliver this using various pricing mechanics, including individual price-based product promotions.

Over the past 12 months Coles has offered for sale seven cheese SKUs supplied by Meredith Dairy in Coles' Specialty Cheese and Dairy Categories. At various times throughout the current financial year (**FY19**) selected Meredith Dairy cheese SKUs have been promoted to Coles customers at prices less than the products' regular selling prices.

Table A below details the specific Meredith Dairy cheese products sold by Coles in FY19 and the number of times each cheese SKU has been promoted at a discount off the regular price in Coles stores. Of the 15 price reduction promotions referred to in Table A, seven were funded entirely by Meredith Dairy, and eight were funded on a 50/50 shared basis by Coles and Meredith Dairy.

Table A	
Meredith Dairy Cheese Product	Times promoted at a reduced price at Coles in FY19
Meredith Dairy Marinated Goat's Cheese 100G	5 times
Meredith Dairy Goats Cheese Chevre 80G	4 times
Meredith Dairy Chevre Ash 150G	2 times
Meredith Dairy Chevre Dill 150G	2 times
Meredith Dairy Chevre Plain 150G	2 times
Meredith Dairy Marinated Goats Cheese 550G	Not promoted in FY19
Meredith Dairy Marinated Goat Cheese 320G	Not promoted in FY19

Were the Notified Conduct permitted to stand, such price promotions would be lost to consumers, to their detriment. Coles would also be unable to promote the Meredith Dairy cheese products in this way.

Coles concurs with the ACCC's view that for markets to work in the interests of consumers, market forces should operate to enable retailers to compete vigorously, offering and advertising discounts on goods in order to attract and retain customers. The Notified Conduct seeks to prohibit that price competition between all retailers of Meredith Dairy's cheese products.

Coles submits that this outcome is likely to result in public detriment by inhibiting retailers' ability to compete on price when selling Meredith Dairy cheeses and increasing the prices consumers are likely to pay for these cheeses. Coles cannot identify any public benefit of the Notified Conduct.

Yours sincerely

Rebecca Irish

Head of Legal – Merchandise & Marketing
 Coles Supermarkets Australia Pty Ltd