

Commonwealth of Australia
Competition and Consumer Act 2010

In the Australian Competition Tribunal

File No: ACT 1 of 2026
RE: Coles Supermarkets Australia Pty Limited Application for Review of Australian Competition and Consumer Commission Determination under subsection 51ABZE(1) of the *Competition and Consumer Act 2010* (MN-01068)

Affidavit of: **Jennifer Ann Chamberlain**
Address: 1 Thomas Holt Drive, Macquarie Park, NSW 2113
Occupation: Chief Financial Officer, Food division, Metcash Trading Limited
Date: 3 August 2026

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I, Jennifer Ann Chamberlain, of 1 Thomas Holt Drive, Macquarie Park NSW, affirm:

- 1 I am the Chief Financial Officer of the Food division of Metcash Trading Limited (**Metcash**). I have held this position since 2020.
- 2 I am authorised to make this affidavit on behalf of Metcash.
- 3 I make this affidavit in support of an application by Metcash dated 3 August 2026 for further directions pursuant to paragraph 8(b) of the directions made by Justice O'Bryan in these proceedings on 21 July 2026 (**Directions**), concerning the confidentiality regime provided for by the Directions (**Confidentiality Regime**).

Filed on behalf of (name & role of party)	Metcash Trading Limited		
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[Version 3 form approved 02/05/2019]

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- 4 I make this affidavit from my own knowledge, except where otherwise indicated. Where I depose to matters on the basis of information provided to me, I believe those matters to be true and correct. Where matters I depose to are based upon information and belief, I have set out the basis of that information and belief.

Background

- 5 Metcash is a national wholesaler and distributor of food and grocery products. Metcash supports a network of independent retailers across the grocery, liquor and hardware sectors, including supermarkets operating under the IGA and Foodland banners.
- 6 Between December 2025 and May 2026, Metcash produced, on a confidential basis, information and documents to the Australian Competition and Consumer Commission (**ACCC**), in response to information requests and compulsory notices from the ACCC during its review of the proposed acquisition by Coles Supermarkets Australia Pty Limited (**Coles**) of a supermarket and liquor site in Kalgoorlie, Western Australia (**WA**) (MN-01068) (**Coles Acquisition**).
- 7 I understand that information and those documents will be subject to the Confidentiality Regime, subject to any further directions made by the Tribunal.
- 8 Metcash applies for further directions in relation to the following documents which are described in the documentary index filed by the ACCC on 28 July 2026 (**ACCC Index**):
- (a) a report prepared for Metcash and its solicitors by Frontier Economics dated 23 February 2023 (document 01068.001.005.0011 on page 218 of the ACCC Index), (**Frontier Report**);
 - (b) a report prepared for Metcash and its solicitors by Charles River Associates (**CRA**) dated 3 December 2024 (document number 01068.001.005.0042 on page 218 of the ACCC Index) (**CRA Report**); and
 - (c) a letter to the ACCC containing Metcash's response to a notice issued by the ACCC to Metcash Limited pursuant to section 155(1)(a) and (b) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) dated 17 April 2026, which Metcash's solicitors provided to the ACCC on 1 May 2026 (document number 01068.001.020.1915 on page 243 of the ACCC Index) (**May Response**), including the following enclosures to that response:
 - (i) a document with the file name "Response to Schedule 1, questions 1(a), 1(b) and 2(e).xlsx" (document number 01068.001.020.1929 on page 243

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of the ACCC Index) (**Response to Schedule 1, questions 1(a), 1(b) and 2(e)**); and

- (ii) a document with the file name "Max Endorsed Thresholds by State.pptx" (document number 01068.001.020.1928 on page 243 of the ACCC Index) (**Max Endorsed Thresholds**);
- (iii) a document with the file name "WA Price Book.xlsx" (document number 01068.001.020.1930 on page 243 of the ACCC Index) (**WA Price Book**).

9 The Frontier Report and the CRA Report were annexed to a letter from Metcash's solicitors to the ACCC dated 13 January 2026 (document 01068.001.005.0261 on page 219 of the ACCC Index) (**January Response**). I was involved in the preparation of the January and May Responses. To the extent that any aspect of those responses was not prepared by me, I understand and believe that they were prepared with the involvement of other staff of Metcash over whom I had general oversight.

The Frontier Report and CRA Report

10 On 19 December 2025, the ACCC issued a request for information to Metcash (document number 01068.001.013.0007 on page 227 of the ACCC Index), which included a request that Metcash provide further information and/or documents to support submissions that Metcash had made in a submission to the ACCC on 8 December 2025 (document number 01068.001.005.0001 on page 218 of the ACCC Index): [REDACTED]

11 Metcash responded to that request in the January Response at pages 01068.001.005.0263 and 01068.001.005.0264, under the heading [REDACTED]. In that response, Metcash referred to the enclosed Frontier Report as Attachment 1, and the CRA Report as Attachment 2 (at page 01068.001.005.0264). Metcash identified in the January Response that all information provided in that response was confidential, and requested that "all information provided by Metcash is not disclosed by the ACCC to any person without its prior consent, other than in accordance with the ACCC's usual protocols and legal obligations" (on page 01068.001.005.0261).

12 The Frontier Report is a report prepared for Metcash and its solicitors, which Metcash originally submitted to the ACCC on a confidential basis [REDACTED]

[REDACTED]. Paragraph 8 of the Frontier Report (on page 01068.001.005.0016) identifies that information shaded in grey in that report identified "Metcash data that is HIGHLY CONFIDENTIAL".

- 13 Part 2 of the Frontier Report (beginning on page 01068.001.005.0017) [REDACTED],
[REDACTED],
which does not concern the current proceedings. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 14 Part 3.3 of the Frontier Report (beginning on page 01068.001.005.0036) addresses the significance of scale economies to Metcash, including [REDACTED]
[REDACTED]
[REDACTED]
- 15 The CRA Report is a report prepared for Metcash and its solicitors, which Metcash originally submitted to the ACCC in December 2024, in the context of the ACCC's inquiry into Australia's supermarkets sector conducted in 2024 and 2025. The CRA Report addressed the following proposition from the Interim Report the ACCC had published in August 2024 connection with its inquiry (CRA Report at page 01068.001.005.0047):
- While independent supermarkets would likely benefit from having more wholesale supply alternatives to Metcash, competition at the retail level from Coles and Woolworths likely plays a role in constraining the wholesale prices and terms offered by Metcash.*
- 16 The CRA Report is marked confidential and was originally submitted to the ACCC on a confidential basis.
- 17 The CRA Report addresses the extent to which Metcash's wholesale operations are constrained by competition at the retail level from Coles and Woolworths, including the benefits of scale to Metcash's wholesale operations. The CRA Report is based on and refers to confidential information Metcash provided to CRA, including on matters relevant to [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- 18 Based on my involvement in preparing the January Response, I believe that Metcash provided the Frontier Report and CRA Report to the ACCC as part of that Response solely for the purposes of assisting the ACCC to understand the importance of scale to Metcash's wholesale operations, in response to the ACCC's specific request described in paragraph 10 above.
- 19 Metcash seeks further directions that the Frontier Report and the CRA Report are not disclosed to any person described in paragraphs 3(a) to 3(e) of the Confidentiality Regime. In particular, Coles is a key competitor to Metcash in retail and wholesale markets. Disclosure of the confidential information and analysis of Metcash's wholesale operations in the Frontier and CRA Reports to Coles' internal solicitors and external advisers would be highly damaging to Metcash and to competition, because it would reveal commercially and competitively sensitive information that is ordinarily not in the public domain. This would provide Coles with a competitive advantage. Those individuals who are advisers to or employees of Coles would be privy to confidential information about Metcash's operations and competitive position at a wholesale level, including its strengths and vulnerabilities, which may be relevant (and difficult for such individuals to forget) when giving future advice to Coles on matters where Metcash's competitive significance was at issue or in relation to any strategic advice that may be provided to Coles about its commercial strategy or operations at a wholesale level.
- 20 Based on my review of the ACCC's published decision documents, namely, its decision that the acquisition be subject to a Phase 2 review dated 29 January 2026, its Notice of Competition Concerns Summary dated 5 March 2026 and the ACCC's Statement of Reasons published on 30 June 2026, and my involvement advising Metcash in relation to the ACCC's review of the Coles Acquisition, I understand that the ACCC did not publicly identify theories of harm in relation to that acquisition that concern the impact of the acquisition on grocery wholesaling.
- 21 Given the matters addressed in the paragraphs above, Metcash seeks further directions that the Frontier Report and CRA Report not be disclosed to any person under paragraphs 3(a) to (e) of the Confidentiality Regime, or alternatively, that they not be disclosed to any internal solicitor employed by a Participant (as defined in the Confidentiality Regime).

The May Response and enclosures

- 22 Metcash seeks in its application, further directions that the May Response (including the annexures listed at paragraph 8(c)), is not disclosed to any internal solicitor employed by a Participant in the proceedings.
- 23 The May Response contains highly sensitive and confidential information that Metcash was compelled to produce to the ACCC during its consideration of the Coles Acquisition. This includes (among other things) granular information about [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- 24 The enclosures to the May Response also enclose highly confidential information to Metcash:
- (a) the Response to Schedule 1, questions 1(a), 1(b) and 2(e) contains granular information about [REDACTED]
[REDACTED]
[REDACTED];
 - (b) the [REDACTED] document outlines [REDACTED]
[REDACTED]
[REDACTED]; and
 - (c) the WA Price Book contains granular information about [REDACTED]
[REDACTED]
[REDACTED].
- 25 Metcash acknowledges that parts of the May Response did feature in the ACCC's assessment of the Coles Acquisition and does not wish to prevent external lawyers and advisors to Coles from understanding its contents. However, this information is highly confidential and commercially sensitive to Metcash and would not ordinarily be available to persons who are employed by one of its key competitors, Coles. Metcash understands that the only Participant which has nominated internal solicitors to receive confidential information is Coles.

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- 26 Disclosure of such information to internal solicitors employed by Coles could cause real and significant competitive harm to Metcash and/or Metcash supplied independent supermarkets if it were to be inadvertently used by those employees in Coles' internal decision making and in future positioning on regulatory and policy matters. Once known by Coles internal solicitors, who likely do have strategic involvement in such matters, the information cannot be readily unknown.
- 27 Disclosure of the granular pricing information of the kind described in the documents contained in paragraph 24, could be inadvertently used by Coles employees and may cause Coles to compete less vigorously with independent supermarket competitors.
- 28 Accordingly, Metcash seeks further directions that the May Response is not disclosed to any internal solicitor employed by a Participant in the proceeding.

Sworn / Affirmed by the deponent
at Sydney
in NSW
on 3 August 2026
Before me:

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)
)
)
)

J Chamberlain

Signature of deponent

Carole Chapman

Signature of witness

Carole Chapman
Solicitor
Metcash Trading Limited

This document was signed in counterpart and witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW). Due to a workplace emergency that has prevented access to the Metcash office, this document has been signed electronically, but can be signed in wet ink subsequently if required