

1 June 2012

Senate Select Committee on Australia's food processing sector
Parliament House
Canberra ACT 2600

Thank you for your letter of 16 May 2012 seeking a Coles' response to a Question on Notice from Senator Nick Xenophon following Committee hearings.

The question from Senator Xenophon asked: *"You explained that Coles has a policy of no retrospective payments. Does Coles investigate whether that policy is being implemented operationally? What steps are taken when it is identified that the policy is not being implemented at the operational level?"*

Coles' response to Senator Xenophon's question on notice follows:

"Coles, supported by its parent company Wesfarmers, has specific policy principles and operational procedures that Category Managers must follow when dealing with suppliers.

Copies of Wesfarmers compliance fact sheets on "Unconscionable conduct" and "Negotiating a good deal for Coles – how far is too far" are attached. These facts sheets have been distributed to key people within the Coles buying team including Business Category Managers and Category Managers.

Summaries of these fact sheets are placed on the Coles intranet, Connect, for review on demand by individual managers. Regular refresher sessions are also held in the lead-up to important events such as year-end terms of trade negotiations to ensure no systematic breaches of trading rules occur. These materials are also used to induct new recruits into the Coles buying team, to ensure that they are aware of the company directives in this regard.

Senators should note that the fact sheets specifically refer to:

- Negotiating in good faith
- Not using undue influence, pressure or unfair tactics
- Not varying the terms of a contract without the agreement of a supplier
- Not threatening to delete or withdraw a product unless a supplier provides greater funding, rebates or discounts than previously agreed
- Providing reasons when requesting changes to pricing or supply terms outside of the agreed supply terms
- Always providing a supplier with reasonable time to review and consider a proposal

These fact sheets and the Connect guidelines reinforce that special care must be taken with smaller suppliers who may not have the capacity of larger suppliers to understand or negotiate on their own behalf.

In addition, each Wesfarmers business has a training program in place to ensure compliance with the Competition and Consumer Act 2010. These programs include fair trading induction and continuing education and training. Seminars on the Competition and Consumer Act 2010 are conducted annually across the Wesfarmers Group.

In addition to these specific policy principles, every Coles team member has signed a Code of Conduct that applies appropriate behaviour standards. **A copy of the Code is attached.**

Coles has a finance team which is responsible for collection of rebates and other payments. This team sits separately from the buying team, which negotiates the trading terms. This separation of responsibilities and accountabilities ensures objectivity in the collection of payments.

Additionally, internal audit and external auditors regularly review whether payments are made in conjunction with agreed terms.

These audits include:

- Internal audits which are carried out regularly by the Coles finance team;
- Internal audits by the Wesfarmers audit team; and
- External audits as required by Wesfarmers' financial auditors (including internal control evaluation questionnaires).

Coles is currently upgrading its current manual payments system with an automated payments system to improve the accuracy and record keeping of our accounts system.

Coles has a number of different options available to suppliers who consider that they have been unfairly treated:

- Coles has an established internal dispute resolution process for escalation of concerns. Details of this procedure are published on the Coles supplier portal. This process outlines an effective way for suppliers to raise and have resolved issues or disputes that they may have with Coles. Coles has recorded several complaints from suppliers over incorrect processing of claims and rebates in the last four years through the internal dispute resolution process and all were resolved without the need to escalate to the Produce and Grocery Code Ombudsman; and
- Coles also provides contact information on its supplier portal for **Stopline**, a national organisation that provides an independent, confidential hot-line service that team members, suppliers and others can use to anonymously report a wide range of real or suspected unethical behaviour. There have been no supplier complaints lodged with **Stopline** since it was engaged by Coles in 2007.

Wesfarmers also has a Whistle-blower policy and procedures that enables third parties such as suppliers to lodge complaints which receive protection from any possible retribution from business unit managers.

The Wesfarmers Whistle-blower policy has recently been extended to third parties who trade or conduct business with any Wesfarmers group company for the purpose of encouraging employees, suppliers, contractors, tenderers or any person who trades with, or has business dealings with Wesfarmers to raise any concerns relating to unethical, illegal, fraudulent or any other undesirable conduct, without fear of intimidation, disadvantage or reprisal. The new policy supports and supplements the Coles approach.

If a member of the Coles buying team is found to have breached company policy, a range of sanctions are available to senior management, including censure and remedial training for minor or unintended breaches, up to termination of employment for serious or repeated breaches. There have been several instances over the last four years where the employment of individual Category Managers has been terminated for breaches of company policy.

Coles is currently preparing responses to a range of other questions taken on notice during the Committee hearings and will ensure that substantive responses are provided by 23 June. In the interim, Coles would be pleased to clarify any issues raised in information already provided.

Yours sincerely

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