



INVESTIGATION No. 216

**ALLEGED DUMPING OF PREPARED OR PRESERVED PEACH
PRODUCTS
EXPORTED FROM SOUTH AFRICA**

VISIT REPORT - IMPORTER

METCASH TRADING LIMITED

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

October 2013

PUBLIC RECORD VERSION

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ABBREVIATIONS

ABCPS	Australian Customs and Border Protection Service
the Act	Customs Act 1901
AUD	Australian dollars
ANZSIC	Australian and New Zealand Standard Industrial Classification
BRC	British Retail Consortium
█	█
the Commission	Anti-Dumping Commission
EFT	Electronic funds transfer
G	Gram
HACCP	Hazard Analysis and Critical Control Points
Kg	Kilogram
Metcash	Metcash Limited
PAD	Preliminary affirmative determination
Peaches	Prepared or preserved peaches
Rhodes	Rhodes Food Group
RRP	Recommended retail price
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative expenses
SKU	Stock keeping units
SPCA	SPC Ardmona Operations Limited

1. BACKGROUND AND PURPOSE

1.1. The application

On 17 June 2013, SPC Ardmona Operations Limited (SPCA) lodged an application requesting that the relevant Minister (the Minister) publish a dumping duty notice in respect of prepared or preserved peaches (peaches) exported to Australia from South Africa.

Following consideration of the application, the Anti-Dumping Commission (the Commission) initiated an investigation on 10 July 2013. Public notification of initiation of the investigation was published in *The Australian* on 10 July 2013. Further details of this investigation are provided in Anti-Dumping Notice No. 2013/54 which is available at <http://www.adcommission.gov.au/cases/EPR216.asp>.

The Commission has previously conducted dumping and countervailing investigations relating to canned peaches, from which dumping duties were imposed on the goods from Greece and China and countervailing duties imposed on the same goods from Greece and Spain in February 1992 (Anti-Dumping Authority report (No. 57 of January 1992) refers).

Dumping duties were continued on canned peaches from Greece and China and countervailing duties were continued on canned peaches from Greece and Spain following revocation inquiries in September 1992 (Anti-Dumping Authority report (No. 88 of December 1992) refers).

Dumping duties were continued on canned peaches from Greece and China and countervailing duties were continued on peaches from Greece following a continuation inquiry in August 1996 (Anti-Dumping Authority report (No. 163 of December 1996) refers). A portion of the countervailing duty applicable to the sugar rebate subsidy paid to producers of Greek canned peaches was allowed to lapse.

Countervailing duties were continued on canned peaches from Greece following a continuation inquiry in 2001 (Trade Measures Report No. 47) and these countervailing duties expired on 19 February 2007.

There are no current anti-dumping or countervailing measures on peaches exported to Australia from South Africa.

1.2. Purpose of visit

The purpose of the visit was to:

- confirm that Metcash Trading Limited (Metcash) is the importer of peaches attributed to it within the Australian Customs and Border Protection Service's (ACBPS) import database and obtain information to assist in establishing the identity of the exporter(s) of those peaches;

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- verify information on imports of peaches to assist in the determination of export prices;
- establish whether the purchases of peaches were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for peaches; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

1.3. Meeting details

Company	Metcash Trading Limited
Address	50 Waterloo Road, Macquarie Park, NSW 2113
Telephone no.	02 9751 8200
Fax no.	02 9889 1557

The following were present at the meeting.

Metcash	<ul style="list-style-type: none">• Lani Sutherland, Deputy General Counsel• Tony Lorenzo, Imports & Forecasting Manager• Werner Folscher, National Senior Buyer Corporate Brands
Anti-Dumping Commission	<ul style="list-style-type: none">• Andrea Stone, Manager, Anti-Circumvention Unit• Tim Flor, Supervisor, Operations 2• Jo Schultz, Policy Officer, Strategic Policy

1.4. Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 July 2012 to 30 June 2013.
- The injury analysis period is from 1 January 2009 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (9 September 2013) and provisional measures (securities) may be imposed at the time of the PAD or at any time after the PAD has been made. The Commission will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.
This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

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- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 28 October 2013, or such later date as the Minister allows under s.269ZHI of *the Customs Act 1901* (the Act). The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Minister, and will invite interested parties to respond, within 20 days, to the issues raised therein.
- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Minister. The final report is due no later than 12 December 2013, unless an extension to the SEF or the final report itself is approved by the Minister.

1.5. Visit report

We advised Metcash that we would prepare a confidential report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential. We advised that a non-confidential version of the report would also be prepared in consultation with Metcash and subsequently placed on the investigation's public record.

2. THE GOODS

2.1. Description

The goods the subject of the application (the goods) are prepared or preserved peach products. The application specifies:

Prepared or preserved peach products either whole (peeled or unpeeled) or in pieces (including halves, slices, diced), with or without added sugar or other sweetening matter or spirit, prepared or preserved in container sizes from 300 grams up to and including 1.5 kilograms.

2.2. Exclusion of certain goods from investigation

In its application SPC indicated the goods excluded from this application are:

- *individually packed prepared or preserved peach products of less than 300g which are sold for snacking purposes;*
- *peaches mixed with other fruit types such as pears, apples or nectarines;*
- *sizes greater than 1.5kg, which are more common in the food service channel; and*
- *multiple packs of individual packs of prepared or preserved peach products, each less than 300g, which are sold together to aggregate to greater than 300g.*

The Commission considers that the goods covered by the investigation do not include those listed above.

2.3. Product information

The applicant claims that the imported product is marketed for sale in the Australian market under one of two tiers of product labeling:

- private label product – product labeled with specific commercial branding to the specifications of Australian importers; or
- proprietary label product – product labeled with proprietary commercial branding of the processor or exporter.

No assertions are made in the application regarding international standards of production applicable to the goods. The application submitted that discernible quality or specification differences between the tiers of imported product are also absent.

The Australian and New Zealand Standard Industrial Classification (ANZSIC) code applicable to the domestic peaches industry is category 2130 for Division C: Manufacturing, Sub-division 21: Food, Beverage and Tobacco manufacturing, Heading 213: Fruit and Vegetable Processing, sub-heading 2130.

2.4. Tariff classification

Peaches are classified to subheading 2008.70.00 in Schedule 3 to the *Customs Tariff Act 1995*, statistical code 51. The general rate of duty is currently 5 per cent for goods imported from South Africa.

There are currently no Tariff Concession Orders applicable to the relevant tariff subheading.

3. COMPANY DETAILS

3.1. Company background

Metcash is a wholesale distribution and marketing company specialising in grocery, fresh produce, liquor, hardware, automotive parts and fast moving consumer goods.

Metcash became a listed public company on the Australian Stock Exchange in 1994. The company has four primary shareholders - HSBC Custody Nominees (Australia) Limited, J P Morgan Nominees Australia Limited, National Nominees Limited and Citicorp Nominees Pty Limited – accounting for ██████% of the total shareholding.

The company provided the Commission with links to its website demonstrating its corporate structure. Information on Metcash's corporate structure form **Non-Confidential Attachment 1**.

3.2. Commercial Operations

3.2.1. Employee numbers

Metcash has eight board members and approximately ██████ employees consisting of the following:

- ██████ senior executives;
- ██████ senior managers;
- ██████ supervisors and managers;
- ██████ administration employees;
- ██████ sales employees; and
- ██████ warehouse employees.

3.2.2. Organisational structure

Metcash is comprised of four divisions or 'business pillars':

- Metcash Food & Grocery;
- Australian Liquor Marketers;
- Mitre 10; and
- Automotive Brands Group.

All divisions are fully owned by Metcash except for the Automotive Brands Group, which is 75.1% owned.

Metcash Food & Grocery is the division that is involved in the importation and sale of peaches (noting that the peaches are actually imported by Metcash Trading Limited (Metcash Trading), a subsidiary of Metcash, and then 'transferred' through an internal transaction to Metcash's Food & Grocery Division for sale). See Chapter 4 for further discussion.

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The Metcash Food & Grocery division, is the largest in the company servicing over 3,100 independent retailers across Australia including, ■■■ FoodWorks stores, ■■■ Lucky 7 convenience stores and ■■■ other. Metcash Food & Grocery also supplies 1,365 IGA-branded stores – of which there are three channels to suit niche markets depending on their size, range and customer profile:

- Supa IGA – these are large format stores which stock a large range of supermarket items and cater to shoppers who purchase fresh food and grocery items at the one location (and compete with supermarket chains Woolworths and Coles);
- IGA – they are medium format stores that carry a mid-sized supermarket range are located in suburban areas and cater to shoppers who buy on a regular basis;
- IGA Xpress – these are small format stores for the convenience market; and
- IGA Fresh – this South Australian only IGA brand is similar to the Supa IGA format.

Metcash supplies dry grocery, chilled, frozen, general merchandise and toiletries to these independent grocery stores from its five national warehouses located at Huntingwood (NSW), Laverton (VIC), Crestwood (QLD), Canningvale (WA) and Kidman Park (SA), which have service areas that cross state/territory borders. A further eight fresh distribution centres deliver fresh produce, meat, bakery and deli products. Goods are distributed from these warehouses around Australia by a contracted trucking company.

Metcash advised that these warehouses service all of its independent retailer-customers and IGA stores nationally, and that each customer is serviced by one designated warehouse that service the applicable region.

Metcash's customers are not obligated to source all of their stock from Metcash, and often purchase goods from Metcash as well as numerous other suppliers.

In financial year 2012/2013, the Metcash Food & Grocery division represented ■■■% of the company's total sales. It reported wholesale sales to April 2013 of ■■■.

Metcash explained that part of the Metcash Food & Grocery Division is the Corporate Brands area. Corporate Brands provide independent retailers with a competitive set of national brands to suit their local needs and customers. Corporate Brands monitor consumer trends in order to source the best products for each range so retailers can offer what their customers need while meeting their business requirements.

For clarity, Metcash Food & Grocery's supply chain is outlined in the below diagram.



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3.2.3. Product range

As discussed above, Metcash supplies a variety of products to the Australian market, including fresh and packaged foods, consumer goods (such as cleaning supplies, pet products, clothing, electrical goods and stationery) automotive products and hardware supplies.

Metcash also supplies a variety of different brands out of its warehouses. These include Metcash's private labels, Black & Gold, No Frills and IGA Signature, as well as other major brands (e.g. Cadbury, Coca-Cola, Smith's Chips, etc.). Metcash advised that it 'owns' the private label product (gaining the No Frills brand when Metcash acquired the Franklins supermarket business).

[REDACTED]

[available product range]

Metcash explained that, of its private labels the Black & Gold brand is available to all of Metcash's customers. No Frills products are only available to stores that are signed up to the No Frills program. The IGA Signature brand is available exclusively to IGA-branded stores. Metcash supplies a variety of different products under each private label name (e.g. the IGA Signature brand includes products of canned fruits and vegetables, pet supplies, dairy products, cleaning products, etc.).

Metcash advised that its business is based on retailers, and it is the retailer's decision whether it stocks IGA Signature, Black & Gold or No Frills products.

Black & Gold

The Black & Gold offers nearly [REDACTED] products including but not limited to groceries, cleaning products and kitchenware. It is an entry level product range available to all independent grocers, independent retailers and IGA-branded stores.

The suggested ideal shelf placement of Black & Gold products are [REDACTED] This is indicated in the Black & Gold: 2013 Product Catalogue, which forms **Confidential Attachment 2**.

IGA Signature

The IGA Signature brand offers nearly [REDACTED] products including but not limited to groceries, toiletries and clothing. The IGA Signature brand is a premium private label product range which are benchmarked to market leaders.

[REDACTED]

IGA Signature: 2013 Product Catalogue, which forms **Confidential Attachment 3**. [shelf placement and pricing]

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No Frills

Metcash's No Frills brand offers over ■ products, including cleaning products, food items and other household grocery items.

Peaches range

In terms of peaches, Metcash explained that it offers its private labels, as well as several national Brands like SPC and Golden Valley. Details of Metcash's private label peaches are outlined below.

The company advised that Black & Gold peaches are canned with a light syrup. We observed that the Black & Gold product catalogue lists one peach product – 304 Peach Slices in Light Syrup, 12 packs of 825 grams each.

Metcash advised that there is one No Frills product line of peaches. No Frills peaches contain 62% peaches and Black & Gold 60% peaches. The No Frills product catalogue was not provided by Metcash at the verification visit.

We noted the IGA Signature product catalogue lists three peach products:

- Peach Slices in Juice, sold in 12 packs of 410 grams each;
- Peach Slices in Juice, sold in 12 packs of 825 grams each; and
- Peach Slices in Juice, sold in 6 packs of 1 kilogram each.

Metcash advised that IGA Signature peaches are either in a ring-pull can with juice or packed in a plastic jar with juice.

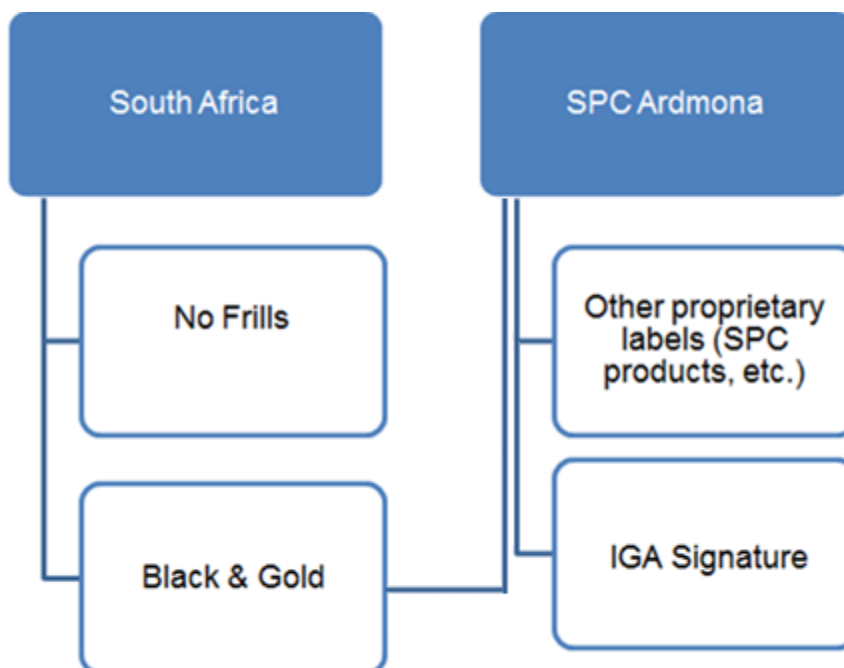
Metcash advised that Black & Gold peach products are imported from South Africa, as well as being supplied by SPCA. Only No Frills peach products were imported from South Africa. Conversely, Metcash's supply of IGA Signature peaches are solely sourced from SPCA. Refer to Chapter 5 for further details.

Metcash explained that its Black & Gold peach products are generally produced through production line run-offs from another brand's production. Peach products are canned once year into brite cans and the supplier would label these cans as orders are received from different customers. Specifically, Metcash's suppliers of Black & Gold and No Frills can these products once a year, using the same recipe but applying the Black & Gold or No Frills label as appropriate.

Metcash explained that its IGA Signature peach products compete with SPC Ardmona peach products, not Black & Gold or No Frills.

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For clarity, our understanding of Metcash's supply of peaches is detailed in the diagram below.



Metcash views its imports of the goods as similar in quality, cut profile and packaging to the Australian produced product by SPCA. Metcash supplies its customers with imported peaches (under the brands No Frills and Black & Gold) that are produced to the same standards to the product produced by SPCA (i.e. IGA Signature).

As discussed previously, Metcash sourced primarily from SPCA product for its brands Black & Gold, but resorted to importing the goods when SPCA were unable to offer the goods to Metcash on a regular basis. SPCA product is still sourced for Metcash's brands on an ad-hoc basis.

3.3. Metcash's imports of the goods

Metcash stated that it imports peaches and other stone fruit products for its corporate brands, Black & Gold and No Frills from its single supplier, Rhodes Food Group (Rhodes) from South Africa.

Metcash stated that, in its tender process for peaches, it provided Rhodes with specification sheets detailing Metcash's product requirements which were similar to the product Metcash could source from SPCA. A copy of two specification sheets forms **Confidential Attachment 4**.

In response to the importer questionnaire, Metcash provided various data regarding its imports of peaches, including purchase and sales data.

Prior to the visit, Metcash confirmed that the quantities listed in its spreadsheets referred to the number of cartons or cases of peaches (as opposed to kilogram (kg)). Metcash

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advised that each case contained 12 cans of 825 grams (g) each. From this information, it is possible to determine the number of kilograms for each shipment.

3.4. Like goods

Metcash explained that it considers the goods it imports are like goods to SPCA's products [REDACTED], and that no significant difference between the products is notable (i.e. Black & Gold peaches sourced from Rhodes and like to Black & Gold peaches sourced from SPCA).

In terms of the imported Black & Gold and No Frills peaches, Metcash views its imports of the goods as similar in quality, cut profile and packaging to the Australian produced product by SPCA of the same labels, as well as other similar-level product (produced by SPCA and/or imported), such as 'home brand'.

Metcash explained that the difference in the quality of peaches primarily relates to taste profile. Metcash stated that South Africa has better quality peaches than those sourced from within than Australia, and that its imports were driven by what peaches were available.

Metcash requires that the goods imported meet Australian standards. We were informed that the Australian industry also manufactures to these specifications which are the Hazard Analysis and Critical Control Points (HACCP) accreditation and British Retail Consortium (BRC) standards.

Metcash advised that both the imported goods and the like goods manufactured by the Australian industry can be put to the same end use. Metcash advised that either SPCA product or imported product could be used for the No Frills and Black & Gold product lines.

3.5. Accounting structure and details of accounting systems

Metcash uses [REDACTED] as its accounting system. Metcash also uses approximately [REDACTED] other business systems in its company.

Metcash operates a May to April financial year.

3.6. Relationship with suppliers and customers of the goods

3.6.1. Suppliers

Metcash explained its policy is to source products from manufacturers who can offer quality assurance and ensure food safety. Metcash advised that it has in place a preferred supplier program for its controlled brands. These preferred suppliers organise independent audits of its operations to maintain HACCP accreditation and BRC accreditation. Metcash advised that the South African manufacturer of the goods, Rhodes, has these certifications.

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Metcash explained that it buys from Rhodes on contract, following price and volume negotiations with the company.

Metcash advised that its relationship with Rhodes is a commercial one at arm's length, and that it does not receive any discounts or rebates from Rhodes.

3.6.2. Customers

Metcash advised that its sales of peaches are to unrelated customers at arm's length. Metcash maintains contracts with its customers (which are generally independently owned IGA stores or grocery retailers) and the terms of the contract are individual to the customer.

Metcash explained that it [REDACTED] to these customers (see Section 6.1.1 for further discussion).

4. IMPORTS

4.1. Introduction

ACBPS's import database indicates that during the investigation period Metcash (shown as the Metcash Limited) imported [REDACTED] consignments of the good totaling [REDACTED] kilograms of the goods, all consisting of peach slices in syrup and the majority of the entries specifying whether the product is Black & Gold or No Frills branded.

4.2. Volume of trade

The import data base showed that Metcash imported a total of [REDACTED] kilograms of peaches from Rhodes during the investigation period.

Three shipments of the goods did not distinguish whether it was for a brand however the Commission understands that all importations of peaches by Metcash are for Black & Gold or the No Frills brands:

- [REDACTED] kgs peaches branded No Frills;
- [REDACTED] kgs peaches branded Black & Gold; and
- [REDACTED] kgs peaches which neither described the peaches as being No Frills or Black & Gold.

Metcash advised that, when it imports peaches, there are generally [REDACTED] cases of peaches per container and that each case had 12 cans x 825g of peaches.

Metcash confirmed that their peaches are imported on [REDACTED] terms, with invoices issued in Australian dollars.

Metcash's import database spreadsheet is at **Confidential Attachment IMP01**.

4.3. Rationale for importing

Metcash advised that it imports peaches as a way of ensuring supply continuity, particularly for its controlled brands of Black & Gold and No Frills.

The company explained SPCA does not produce enough peaches to supply its own and its customers' brand requirements and as such, Metcash decided to import peaches. To demonstrate this issue, the company also provided an email that demonstrated that, as at July 2012, SPCA was unable to provide peaches to Metcash for its brands until February 2013. This email forms **Confidential Attachment IMP02**.

4.4. Ordering/supply process and price

Price

Metcash advised that its purchase price of peaches from South Africa is set after [REDACTED]

[REDACTED]
[REDACTED] [confidential tender processes]

A typical tender specifies the contract period, volume requirements and product specifications. The manufacturer of the goods will send Metcash product samples and negotiations begin on price.

Metcash explained that their tender price lists are vulnerable to exchange rate fluctuations.

Supply process

Metcash advised that the company maintains [REDACTED] weeks of stock to ensure a constant supply of products from its warehouses for its customers.

Metcash advised that it performs forecasts when looking at ordering products nationally and internationally, and does a stock take. Metcash then collates information on the volume of product sold, determines an average sales rate, and forecasts future product sales. From this, Metcash determines when it needs to place an order with its suppliers.

Metcash places orders on Rhodes

For imported products from South Africa, Metcash advised that it takes up to [REDACTED] for the order to arrive at each Australian state port. [confidential period of time for shipment]

Upon arrival at an Australian port, the shipping container is unpacked and the peaches are [REDACTED] stored [REDACTED] by [REDACTED]

[REDACTED] [confidential arrangements with freight forwarder]

[REDACTED] [confidential terms of trade]

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Metcash requires that all supplier delivery invoices must include information on the supplier's number and name, invoice number and date, stock description, stock quantities delivered, the unit cost and invoice total value per item line and the total invoice amount. A purchase order number must be quoted on all supplier invoices.

Metcash advised that for their private labels, Rhodes sends Metcash a dieline or a placeholder for its label. Metcash sends Rhodes the final design and proof, which Rhodes prints the label and then fixes it to the canned peach product.

4.5. Verification of imports

Metcash provided a completed importer transaction form at the visit. The importer transaction form for peaches detailed amounts for customs duty, customs entry fee, delivery charges and wharf storage fees.

Prior to the visit, we selected eight shipments so that Metcash could provide the Commission the following source documents, where applicable:

- sales invoice;
- commercial invoice;
- packing list;
- bill of lading;
- customs brokers invoice;
- transport company invoices;
- customs entry invoice; and
- proof of payment.

The source documents are at **Confidential Attachment IMP03**.

From the importer transaction form, we were able to reconcile the shipment number, bill of lading number, and packing list for the selected shipments with the source documentation provided in relation to each selected shipment.

4.5.1. Quantity of the goods

We confirmed that all selected shipments partly comprised consignments of the goods (as some shipments included fruit salad or apricot products from Rhodes). For each selected shipment, we confirmed, with reference to packing lists and commercial invoices, that the total quantity and composite quantity of the goods was accurately stated by Metcash.

We were able to reconcile the total invoiced price, and composite invoiced value of the goods to source commercial documentation.

4.5.2. Supplier invoice details

The selected shipments of peaches were all supplied by Rhodes.

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Regarding payment terms, the commercial invoices provided by the supplier to Metcash did not reflect Rhodes's payment terms (which the company stated was approximately [REDACTED] days).

For each selected shipment we verified against source documentation that Metcash paid the supplier directly via Electronic Funds Transfer (EFT) for the [REDACTED] reflected in the importation spreadsheet.

We were satisfied that the amount on the commercial invoice was the price paid to Rhodes by Metcash.

4.6 Shipment costs

Within the source document packages, Metcash could not provide invoices for ocean freight for each of the eight selected shipments as the shipments were invoiced [REDACTED] i.e. the seller paid the costs and freight to bring the goods to Australian ports. Metcash did not provide confirmation of payment to the freight provider, [REDACTED].

[REDACTED] [shipping terms]

Metcash advised that insurance is included in the [REDACTED] freight cost. Metcash explained that there is no separate insurance line charged and [REDACTED] includes this within their service charge.

4.7 Importation costs

Under the heading of 'Australian Importation Costs' on the importer transaction form, Metcash entered amounts for:

- customs entry fee;
- quarantine charges (where applicable);
- delivery; and
- import duty.

All importation charges relevant to specific purchase orders were incurred by [REDACTED], who then submitted a commercial invoice to Metcash for the total value of costs incurred.

We were able reconcile the total itemised amounts reflected in invoices provided to Metcash by the provider, to the total amounts used to apportion costs for each cost item in the transaction sheet.

An itemised breakdown of weighted average importation costs calculated from the data provided for the eight selected shipments (excluding shipping expenses) is presented below:

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Item	Average cost \$AU/kg
Inland freight costs	██████████
Customs duty	██████████
Warehousing	██████████
Customs declaration fee	██████████
Container charges	██████████
Total	██████████

The items included these charges as follows:

- inland freight costs included cartage, freight costs and sideloader access fees and other related charges;
- warehousing included pallet hire fees, storage charge per pallet fees, port charges, wharf storage and other related charges; and
- container charges included empty container park notification fees and heavy container charges.

For shipments including peaches and other stone fruits from Rhodes (such as apricots) these charges were apportioned by volume and by shipment to peaches.

5% duty was payable on imports of peaches from South Africa and was recorded on the importer transaction form and reconciled against importation source documentation.

4.8 Selling, general and administrative expenses (SG&A)

Metcash did not include SG&A calculations in the import and sell spreadsheet provided at the time of the visit.

We requested Metcash provide at a SG&A cost for the FY2012-13 period as a percentage of the peaches' sales revenue. We also requested information on how Metcash arrived at this calculation.

Metcash provided an estimate of its SG&A costs for the FY2012-13 period to the Food & Grocery Divisional level. The SG&A percentage was calculated by dividing the total SG&A costs by the gross sales revenue (inclusive of external and direct sales) of the Food and Grocery Division. The SG&A figure for the Food and Grocery Division was ██████ per cent of the division's total sales revenue for the year ended 30 April 2013.

We verified these SG&A calculations as extracted from Metcash's income statements by division. This spreadsheet with supporting data spreadsheets form **Confidential Attachment IMP04**.

4.9 Export prices for shipments

Based on the Customs and Border Protection import database, we calculated the weighted average [REDACTED] export price for all the peaches exported from Rhodes over the investigation period.

Goods description	Weighted average [REDACTED] AUD/metric tonne	Weighted average [REDACTED] AUD/kilogram
No Frills – Peach slices in syrup	[REDACTED]	[REDACTED]
Black & Gold – Peach slices in syrup	[REDACTED]	[REDACTED]
Other peach slices not identified	[REDACTED]	[REDACTED]

The weighted average [REDACTED] price ([REDACTED]) for the selected shipments were:

- No Frills peach slices: [REDACTED] and
- Black & Gold peach slices: [REDACTED].

4.10 Forward orders

Prior to the visit Metcash did not provide detailed volume and value data of forward orders for peaches and at the visit stated that no forward order information was available. However Metcash stated that they aim to have approximately [REDACTED] weeks' worth of stock available for its customers from its warehouses. Metcash however advised that their contract with Rhodes specifies volumes that Metcash must purchase over a year.

4.11 Recommendations

4.11.1 Who is the importer?

We have reviewed the documents provided by Metcash in respect of the selected shipments. We note that Metcash:

- is named as the consignee on the bill of lading;
- is named as the buyer on supplier invoices; and
- retains ownership of the goods until they are delivered to its customers.

Having regard to the definition of importer we consider Metcash to be the beneficial owner of the goods at the time of importation, and therefore the importer.

4.11.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the

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hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or

- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

Subject to further inquiries, we are satisfied that Rhodes can be considered exporter of peaches imported by Metcash. To our knowledge, this entity is the principal in the country of export, which manufacture the goods and gave up the goods for shipment directly to Metcash.

5 PURCHASES FROM SPCA

As discussed previously, Metcash purchases their IGA Signature peaches range from SPCA.

[redacted]
[confidential supply arrangements]

[redacted]
[confidential supply arrangements]

[redacted] [confidential terms of trade with SPCA]

1.

[redacted]
[redacted]
[redacted]
[redacted] In effect Metcash's profit margin remains confidential to its customers.

[redacted] [Confidential text redacted – trading term details details]

Metcash provided an [redacted] price list issued from SPCA showing [redacted] [confidential text redacted - pricing details].

[redacted] This price list forms **Confidential Attachment SALES01**.

6 AUSTRALIAN MARKET AND SALES

6.1 General

[REDACTED] [confidential market intelligence]

In the peaches market, Metcash see competition from the market being major supermarket chains Woolworths, Coles who are also importers of the goods. It also sees the imports of fresh peaches as a factor in determining demand for preserved and prepared peaches.

Of Metcash's Food and Grocery division sales:

- \$ [REDACTED] were prepared and preserved peaches sales (inclusive of IGA Signature, Black & Gold and No Frills brands); and
- approximately [REDACTED] were fresh peaches sales.

Metcash advised that it did not have any customer that comprised more than [REDACTED] of the group's revenue.

The company added that there has been a shift away from canned peaches toward peaches in resealable plastic jars.

6.1.1 Peach availability in Australia

Metcash advised that, in Australia, the growing season for peaches is from November to February and canning occurs in February.

[REDACTED] [confidential market intelligence]

6.1.2 [REDACTED] [confidential market intelligence]

6.1.3 Metcash sales to retailers

[REDACTED] [confidential arrangements with retailers]

[REDACTED]

[confidential arrangements with retailers]

[REDACTED] Metcash offers its customers retail data analytics and consumer research.

Metcash provides information to retailers on customer buying patterns, basket analysis, category insights, product and margin analysis using scan data.

6.2 Australian sales

According to Metcash's Australian sales spreadsheet (see Section 6.3 below), during the investigation period Metcash sold the No Frills peaches to [REDACTED] customers including but not limited to:

[REDACTED]

According to Metcash's Australian sales spreadsheet, during the investigation period Metcash sold Black & Gold peaches to [REDACTED] customers including but not limited to:

[REDACTED]

However, as discussed in Section 6.3 below, we are unable to identify from Metcash's sales listings which of these peaches were imported from Rhodes and which were purchased locally from SPCA.

6.2.1 Ordering and sales process

[REDACTED]

[customer orders]

[REDACTED] [delivery cycles]

[REDACTED]

[freight arrangements to customer]

6.2.2 [REDACTED] [inventory management]

6.2.3 Distribution and selling arrangements

[REDACTED] [terms of trade with customers]

6.2.4 Rebates and discounts

Each IGA-branded store is individually owned and operated.

Metcash Food and Grocery are the major distributor of groceries to IGA stores. Each store makes their own purchasing decisions, which can include products outside of the Metcash warehouses and outside of Metcash branded products which are produced specifically for Metcash by manufacturers and include Black & Gold and IGA Signature.

Metcash provides its customers promotional and marketing material to support sales and a dedicated representative in each state for support services in information technology (IT), marketing, merchandising, business planning and strategy.

[REDACTED] [confidential terms of trade]

Metcash provided an example of its default trading terms available to NSW customers that outlined:

- service fee scales;
- payment terms;
- [REDACTED];
- store launch costs; and
- signage.

A copy of the NSW trading terms forms **Confidential Attachment SALES02**.

6.3 Sales verification

The Commission requested Metcash provide a detailed listing (line-by-line) of all of its sales of imported peaches to its Australian customers i.e. from the Metcash warehouses to the retailers during FY2012-13.

Metcash provided us with a line by line sales list of its sales for the investigation period of its No Frills and Black & Gold peaches. We queried with Metcash whether these listings

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included SPCA product as well as imported product (as Metcash is supplied Black & Gold from SPCA and No Frills from Rhodes).

Metcash advised that, in its line-by-line sales list for peaches:

- all No Frills peaches sold during the investigation period were only supplied by Rhodes; and
- all Black & Gold peaches sold during the investigation period were a mixture of Rhodes and SPC product until March 2013, after that all Black & Gold peaches sold were supplied by Rhodes.

The implications of this mixture of imported and domestic sales in Metcash's sales listing is discussed in Section 6.3.2.

The sales spreadsheet included line-by-line details of:

- Product code;
- Product description;
- Customer name;
- Invoice number;
- Date;
- Number of cases;
- Unit per case; and
- Total sales.

The Commission requested invoices of 2 sales selected from the sales listing to verify its accuracy.

Copies of tax invoices and proof of payment (accounting entry from Metcash's accounting system was considered appropriate) for each transaction was provided. The Commission was able to reconcile the listed sales amount in Metcash's detailed list of sales to the listed sales amount on each selected invoice's proof of payment.

Copies of these tax invoices and proof of payment for the selected Australian sales form **Confidential Attachment SALES03**.

6.3.1 Upwards verification to audited statements

To verify the completeness of the sales data, the Commission requested documents to conduct an 'upwards' reconciliation of the company's total peaches sales revenue to Metcash's audited income statement for the company's FY2012-13.

To reconcile the peaches sales gross revenue to its audited income statement, Metcash provided spreadsheets that listed total sales revenue in the investigation period by:

- *Metcash Group* – gross sales revenue including other operating income;

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- *Metcash Division* – breakdown reports of gross sales revenue by division i.e. Metcash Food and Grocery, Australian Liquor Marketers, Mitre 10, Automotive Brands Group, other sales;
- *Metcash Food and Grocery* – a further breakdown of gross sales revenue (excluding internal transfers) within the Metcash Food and Grocery group accounting for Cornerstone, Metcash Food and Grocery and Fresh Retail subdivisions; and
- *Metcash Food and Grocery brands* – a further breakdown of gross sales revenue for No Frills and Black & Gold brands supplied by SPC or imported.

We were unable to reconcile sales revenue for peaches through to the Metcash Food & Grocery division accounts. These spreadsheets form **Confidential Attachment SALES04**. Metcash's end-year April 2013 financial statements form **Non-Confidential SALES05**.

We observed that the total gross sales revenue reported for Metcash's FY 2012-13 in this spreadsheet approximated to the company's audited statement of comprehensive income.

6.3.2 Conclusion – sales verification and data

We were able to verify the sales listing to provided invoices and source documents, we are therefore satisfied that Metcash's sales listing is reasonably accurate.

However, as we were unable to perform the full verification to the company's audited accounts, we cannot be satisfied of the completeness and relevance of this listing.

In any case, as it is considered that the sales listing for Black & Gold peaches includes sales of peaches other than those imported from Rhodes, it is considered that this particular sales listing is therefore of limited utility to the investigation in relation to analysis for the Black & Gold product. While Metcash has advised that the sales listing for No Frills brands only includes imported peaches, we have not been able to satisfy ourselves of this through verification of this data.

6.3.3 Profitability of sales and selling price

We discussed the need to assess the profitability of each selected shipment with Metcash by reference to the total actual selling price of the imported products in that shipment.

Metcash explained that it is not possible for it to trace the actual selling prices of its imported peaches to their originating shipment as the goods enter its warehouse facilities, becoming combined with peaches from other sources, and may be sold across different times to multiple different customers.

We explained to Metcash that we may be able to perform such an assessment by arriving at a weighted average Australian selling price for imported peaches, by reference to the sales listing of imports requested of Metcash. Metcash agreed that this method seemed reasonable.

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However, it has since become evident that such an exercise for Black & Gold peaches would be inaccurate, as this data contains sales of domestically-sourced peaches as well as Rhodes imports.

Further, while Metcash has advised that the sales listing of No Frills product is only of imported goods from Rhodes, we are not satisfied that this has been reasonably demonstrated through verification.

In any case, we calculated the total profitability for the selected shipments that were wholly of No Frills-branded product by using the sales listing to calculate a total weighted average selling price for the quarter the shipment was sold in, minus the total cost to import and sell in the importer transaction form.

All four sales of No Frills peach products that were examined were not profitable. The range of profit for the selected No Frills peach product transactions was calculated at between [REDACTED]. We observed that overall the no Frills shipments were not profitable with an average profit of [REDACTED].

The Commission's calculations for profitability and selling price form **Confidential Attachment SALES06**.

7 ARMS LENGTH

In determining export prices under s.269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arms length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Metcash stated that it considers its purchases are made at arms length and we found no evidence to the contrary.

As discussed in Chapter 6, we have been unable to perform a profitability assessment of imported Black & Gold peaches. We have been able to perform a profitability assessment of imported No Frills peaches, assuming that the sales data provided by Metcash is wholly of imported peaches (unverified), we have determined all of these sales were made at a loss.

The Commission considers that sales at a loss by an importer of the goods are one indicator that the buyer will, directly or indirectly, be reimbursed, compensated or otherwise receive a benefit in respect of the whole or a part of the price. However, the Commission does not consider that sales at a loss to necessarily be conclusive evidence that sales are not at arms length.

We did not find any other evidence to suggest that the purchases of peaches by Metcash from Rhodes were not at arms length.

Noting the above, we consider that further assessment must be made as to the arm's length nature of the sales between Rhodes and Metcash, for the purposes of s.269TAA.

8 RECOMMENDATIONS

From our investigations, we are of the opinion that, for the goods imported by Metcash from Rhodes:

- the goods have been exported to Australia otherwise than by the importer; and
- the goods have been purchased by the importer from the exporter.

While we have not been able to perform a full profitability assessment for all of the selected shipments, we found no evidence to suggest that the purchases of the goods by the importer were not arms length transactions, though we consider further assessment is warranted.

Subject to further inquiries with the exporter (particularly in relation to arms length), we recommend that the export price for peaches imported by Metcash from Rhodes can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.

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9 APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Information regarding Metcash's corporate structure
Confidential Attachment 2	Black & Gold: 2013 Product Catalogue
Confidential Attachment 3	IGA Signature: 2013 Product Catalogue
Confidential Attachment 4	Product specification sheets for peaches
Confidential Attachment 5	Other attachments to the report
Confidential Attachment IMP01	Metcash's import database spreadsheet
Confidential Attachment IMP02	Emails demonstrating SPC being unable to supply Australian peaches
Confidential Attachment IMP03	Verification of source documents: Selected imports – peaches
Confidential Attachment IMP04	Metcash – Importer transaction form with calculations
Confidential Attachment SALES01	SPC August 2013 price list to retailer customers
Confidential Attachment SALES02	IGA Trading Terms - NSW
Confidential Attachment SALES03	Verification of source documents: Selected Sales – peaches
Confidential Attachment SALES04	Upwards verification to the audited financial statements: financial report spreadsheets
Non-Confidential Attachment SALES05	Annual Report 2013