

**PUBLIC RECORD VERSION**



**Australian Government**  
**Anti-Dumping Commission**

**INVESTIGATION No. 217**

**ALLEGED DUMPING OF PREPARED OR PRESERVED  
TOMATO PRODUCTS  
EXPORTED FROM ITALY**

**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**

**Prepared or Preserved Tomato Products – Importer Visit Report –  
Metcash Trading Limited**

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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
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

## BACKGROUND AND PURPOSE

### 1.1 The application

On 17 June 2013, SPC Ardmona Operations Limited (SPCA) lodged an application requesting that the Minister responsible for anti-dumping measures at that time (the Minister for Home Affairs), publish a dumping duty notice in respect of prepared or preserved tomatoes (tomatoes) exported to Australia from Italy.

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/EPR217.asp>.

The Commission has previously conducted dumping and countervailing investigations relating to canned tomatoes, from which dumping duties were imposed on the goods from Italy and China, and countervailing duties imposed on the same goods from Italy, Spain and Thailand in 1992. This was following an application lodged by Ardmona Foods Limited and SPC Limited<sup>1</sup> (Trade Measures Report No. 52 refers).

Both dumping and countervailing duties were continued on canned tomatoes from Italy following continuation inquiries. The last measures that applied to canned tomatoes from Italy were countervailing duty measures which lapsed in 2007.

There are no current anti-dumping or countervailing measures on tomatoes exported to Australia from Italy.

### 1.2 Purpose of visit

The purpose of the visit was to:

- confirm that Metcash Trading Limited (Metcash) is the importer of tomatoes attributed to it within Customs and Border Protection's commercial database and obtain information to assist in establishing the identity of the exporter(s) of the tomatoes;
- verify information on imports of tomatoes to assist in the determination of export prices;
- establish whether the purchases of tomatoes 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 tomatoes; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

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<sup>1</sup> These companies have since combined to become SPC.

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### 1.3 Meeting details

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

The following were present at the meeting.

Metcash	Lani Sutherland, Deputy General Counsel Tony Lorenzo, Imports & Forecasting Manager Werner Folscher, National Senior Buyer Corporate Brands
the Commission	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 and/or a countervailing duty notice. This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.
- 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.

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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.

**PUBLIC RECORD VERSION****2 THE GOODS****2.1 Description****2.1.1 General Description**

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

*Tomatoes, whether peeled or unpeeled, prepared or preserved otherwise than by vinegar or acetic acid, either whole or in pieces (including diced, chopped or crushed) with or without other ingredients (including vegetables, herbs or spices) in packs not exceeding 1.14 litres in volume.*

**2.1.2 Exclusion of certain goods from investigation**

In its application, SPCA indicated the goods excluded from this application are:

- *pastes, purees, sauces, pasta sauces, juices, and sundried tomatoes*

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

**2.2 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, aside from specific differences in composition (for example cut profile) are also absent.

The Australian and New Zealand Standard Industrial Classification (ANZSIC) code applicable to the domestic prepared tomato products 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.

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### 2.3 Tariff classification

Tomatoes are classified to subheading 2002.10.00 in Schedule 3 to the *Customs Tariff Act 1995*, statistical code 60. The general rate of duty is currently 5 per cent for goods imported from Italy.

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 business.

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 by Metcash.

Metcash Food & Grocery is the division that is involved in the importation and sale of tomatoes (noting that tomatoes are actually imported by Metcash Trading Limited

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(Metcash Trading), a subsidiary of Metcash, and then 'transferred' through an internal transaction to Metcash's Food & Grocery Division for sale).<sup>2</sup>

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 ■■■ others. Metcash Food & Grocery also supplies ■■■ IGA-branded stores – of which there are four channels to suit niche markets depending on their size, range and customer profile:

- Supa IGA –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 –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 –small format stores for the convenience market; and
- IGA Fresh –a 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'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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<sup>2</sup> See Chapter 4 for further discussion.

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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).

[available product range]

Metcash explained that, of its private labels, the Black & Gold brand are 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 up to the retailers if they stock IGA Signature, Black & Gold or No Frills products.

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

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 is benchmarked to market leaders.

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

Metcash's No Frills brand offers over [redacted] products. Metcash advised that there is one No Frills product line of tomatoes (400g diced tomatoes). The No Frills product catalogue was not provided by Metcash at the verification visit.

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### Tomatoes range

In terms of tomatoes, Metcash explained that it offers several private labels, as well as several national brands like SPC and Ardmona. Details of Metcash's private label tomatoes are outlined below.

We observed that the Black & Gold product catalogue lists three tomato products:

- tomatoes roma diced Italian, sold in 12 packs of 400g each;
- tomatoes roma whole peeled Italian, sold in 12 packs of 400g each; and
- tomato diced, sold in 12 packs of 800g each.

We noted the IGA Signature product catalogue lists eight tomato products:

- IGA Purely Organic tomatoes, whole peeled, sold in 24 packs of 400g each;
- IGA Purely Organic tomatoes, diced, sold in 24 packs of 400g each;
- IGA Signature roma tomatoes Italian, diced, sold in 12 packs of 400g each;
- IGA Signature roma tomatoes Italian, whole peeled, sold in 12 packs of 400g each;
- IGA Signature tomatoes, crushed with basil and oregano, sold in 12 packs of 410g each;
- IGA Signature tomatoes, crushed with onion and garlic, sold in 12 packs of 410g each;
- IGA Signature tomatoes, diced, sold in 12 packs of 400g each; and
- IGA Signature tomatoes, whole peeled, sold in 12 packs of 400g each.

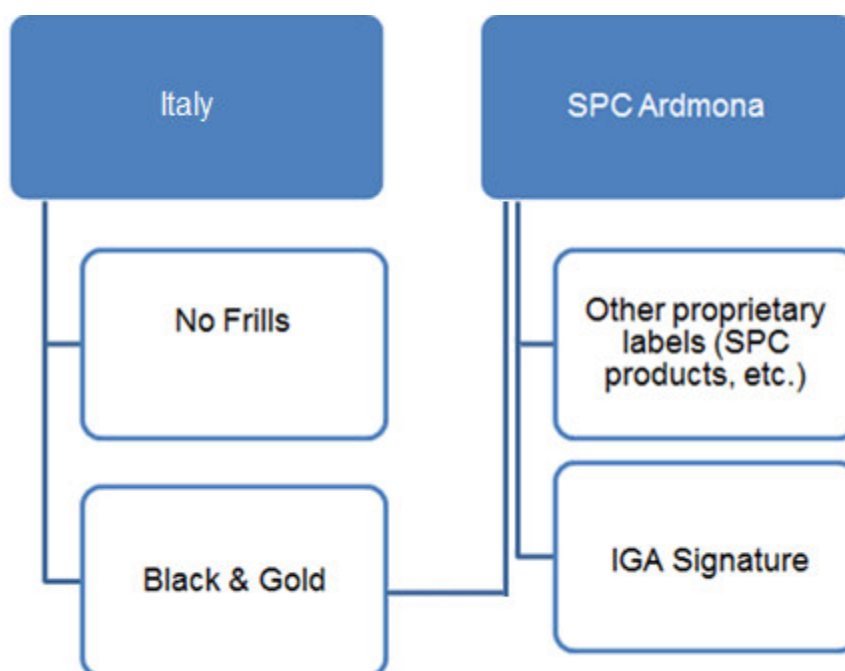
Metcash advised that Black & Gold tomato products are imported from Italy, as well as being supplied by SPCA. Only No Frills tomato products was imported from Italy. Conversely, Metcash's supply of IGA Signature tomatoes are solely sourced from SPCA. Refer to Chapter 5 for further details.

Metcash explained that its Black & Gold and No Frills product range are generally produced through production line 'run-offs' from another brand's production. Canned tomato 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 tomato products compete with SPC Ardmona tomato products, not Black & Gold or No Frills.

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

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Metcash explained that the difference in the quality of the tomatoes between labels is the percentage of the juice to the tomatoes in the cans. Metcash advised that, for its controlled Black & Gold and No Frills labels, the percentage of tomatoes is usually 60%. Metcash advised that, for its IGA Signature labels, the percentage of tomatoes is usually 60%. Metcash advised that the quality of tomatoes usually depends on the season and the crop in the season. Also, Metcash advised that the products purchased from Italy are varied depending on what the producers have leftover.

Metcash supplies its customers with imported tomatoes (under the brands No Frills and Black & Gold) that are produced to the same standards to the product produced by SPCA (IGA Signature). Metcash claims that similar product standards are detailed on its specification sheets and supplied to I.M.C.A. S.P.A. (IMCA) and SPCA.

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 provide the goods to Metcash. 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 they import tomatoes from Italy for its corporate brands, Black & Gold and No Frills, from a single supplier, IMCA from Italy.

Metcash explained that the 'Felice' label is a control brand label, and competes with other such 'brand names' like SPCA and Ardmona.

Metcash stated that in its tender process for tomatoes, it provided the Italian manufacturer IMCA with specification sheets detailing Metcash' product requirements which were similar to the product Metcash could source from SPCA. A copy of this specification sheet forms **Confidential Attachment 4**.

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In response to the importer questionnaire, Metcash provided various data relation to its imports of tomatoes, 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 tomatoes (as opposed to Kg). Metcash advised that each case contained 12 cans of 400g 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 its imports of the goods are like to SPCA's products,



In terms of its imported Black & Gold and No Frills tomatoes, 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 it considers there is no discernable quality or other physical difference between its imported products and SPCA tomatoes. However, Metcash noted that there may be some variances in the percentage of tomatoes in the product as discussed above, though this is not significant (noting that, recently, tomatoes sourced from Italy for Metcash's controlled labels have a slightly higher percentage of tomatoes (slightly better quality).

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 Australian industry can be put to the same end use, which was described by Metcash as SPCA product or imported product potentially being used for the No Frills and Black & Gold product lines.

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### 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 manufacturer of the goods, IMCA, has these certifications.

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

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

#### 3.6.2 Customers

Metcash advised that its sales of tomatoes 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 6.2.3 for further discussion.

**PUBLIC RECORD VERSION****4 IMPORTS****4.1 Introduction**

Customs and Border Protection's import database indicates that during the investigation period, Metcash imported [REDACTED] consignments of the good totalling [REDACTED] kilograms of the goods, all consisting of tomatoes and specifying the cut profile. None of the entries specifies 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 tomatoes from IMCA during the investigation period.

The shipments listed in the import database did not distinguish whether it was for a brand however the Commission understands that all importations of tomatoes by Metcash are for Black & Gold or the No Frills brands:

- [REDACTED] kgs diced tomatoes ([REDACTED] kgs of which were described as being in 400g cans);
- [REDACTED] kgs peeled tomatoes, in 400g cans; and
- [REDACTED] kgs tomatoes which were neither described as being peeled nor canned.

Metcash advised that, when it imports tomatoes, there are generally [REDACTED] cases of tomatoes per container and that each case had 12 x 400g of tomatoes.

Metcash confirmed that their tomatoes are imported on [REDACTED] terms with the invoices [REDACTED].

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

**4.3 Rationale for importing**

Metcash advised that it imports tomatoes as a way of ensuring supply continuity, particularly for its private labels of Black & Gold and No Frills.

The company explained SPCA does not produce enough tomatoes to supply its own and its customers' brand requirements, and that since SPCA is also importing tomatoes, Metcash had no choice but to import as well. To demonstrate this issue, the company also advised that SPCA notified Metcash that it is unable to provide tomatoes to Metcash until [REDACTED]. The company also provided emails showing that at times SPCA had imported tomatoes from [REDACTED] to cover the shortage of domestically available product. These emails form **Confidential Attachment IMP02**.

In addition, Metcash explained that SPCA's pricing has also caused the company to look to [REDACTED] import.



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[redacted] [confidential market intelligence] [redacted]

#### 4.4 Ordering/supply process and price

##### Price

Metcash advised that its purchase price of tomatoes from Italy is set after [redacted].

[redacted] [confidential tender processes]

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 IMCA

For imported products from Italy, it takes [redacted] for the order to arrive in the Metcash warehouse from Naples. The shipment goes through [redacted] on its way to Australia. [confidential period of time for shipment]

Upon arrival at an Australian port, the shipping container is unpacked and the tomatoes are stored by

[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.

In relation to labeling, when there is excess product, Metcash advised that for their private labels, IMCA sends Metcash a die line or a placeholder for its label. Metcash sends IMCA the final design and proof, which IMCA prints the label and then fixes it to the canned tomato product.

### 4.5 Verification of imports

Metcash provided a completed importer transaction form at the visit. The importer transaction form for tomatoes 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:

- commercial invoices (and corresponding heads of agreement/supply contracts where applicable);
- packing lists;
- purchase orders;
- bills of lading;
- proof of payment; and
- customs broker and domestic freight invoices.

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 comprised consignments of the goods. 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 were all supplied by IMCA.

The source commercial invoices provided by the supplier to Metcash did not reflect IMCA's stated payment terms of [REDACTED].

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Shipping terms for each selected shipment were [REDACTED]. From the date of invoice payment was made from [REDACTED].

Orders were generally invoiced by IMCA [REDACTED] after the order was made by Metcash, and the order shipped up to [REDACTED] after an order was placed.

For each selected shipment we verified that Metcash paid the supplier directly via EFT for the [REDACTED] price reflected in the importation spreadsheet, and source commercial documentation.

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

### 4.6 Shipment costs

Within the source document packages, Metcash provided invoices for ocean freight for each of the eight selected shipments. Metcash did not provide confirmation of payment to the freight provider, [REDACTED].

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.

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

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

The items included these charges as follows:

- inland freight costs included cartage, freight costs and side loader 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.

5% duty was payable on imports of tomatoes from Italy 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 tomatoes 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 S,G&A calculations as extracted from Metcash's income statements by division. This spreadsheet with supporting data spreadsheets form **Confidential Attachment IMP04**.

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### 4.9 Export prices for shipments

Based on the Customs and Border Protection import database, we calculated the weighted average [REDACTED] for all of the tomatoes exported from IMCA over the investigation period.

As previously discussed the goods description in the import database did not specify the brand but specified the cut profile of the goods.

Weighted average [REDACTED] – Customs and Border Protection import database

Goods description	Total weight in tonnes	Weighted average [REDACTED] AUD/metric tonne	[REDACTED]	Weighted average [REDACTED] AUD/kilogram	[REDACTED]
Tomatoes – Diced	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Tomatoes – Peeled	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Tomatoes not identified	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

From the eight selected shipments, the average [REDACTED] price for No Frills and Black & Gold diced tomatoes was [REDACTED], or [REDACTED].

### 4.10 Forward orders

Metcash currently has forward orders from IMCA for the following products:

- No Frills diced tomatoes;
- Black & Gold diced tomatoes; and
- Black & Gold whole peeled tomatoes.

### 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.

## PUBLIC RECORD VERSION

### 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 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 IMCA can be considered exporter of tomatoes 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.

PUBLIC RECORD VERSION

**5 PURCHASES FROM SPC**

As discussed previously, Metcash purchases their IGA Signature tomatoes range from SPC.

As stated above, Metcash advised that SPC notified Metcash that SPC is unable to provide tomatoes to Metcash until [REDACTED].

[REDACTED]  
[REDACTED] [confidential supply arrangements] [REDACTED]  
[REDACTED]

[confidential supply arrangements]

[REDACTED] [confidential terms of trade with SPCA]

1. [REDACTED]

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

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

Metcash provided an [REDACTED] price list issued from SPC showing the recent [REDACTED] [confidential text redacted] - pricing details].

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

## PUBLIC RECORD VERSION

**6 AUSTRALIAN MARKET AND SALES****6.1 General**

[redacted]  
[redacted] [confidential market intelligence]

Metcash advised that the tomatoes in the Australian market are price driven. Metcash supplies to independent retailers but also to grocery chains who could also be sourcing tomatoes from other suppliers. [confidential arrangements with retailers]

Metcash believes that an unknown source is selling tomatoes in Australia for less than Metcash's Black & Gold label, i.e. approximately [redacted] per can.

In the tomatoes market, Metcash see competition from the market being major supermarket chains Woolworths, Coles who are also importers of the goods.

Metcash advised that their competition is imported Italian tomato brands which compete with Metcash's private labels.

**6.1.1 Tomato availability in Australia**

Metcash claims that SPC Ardmona is unable to supply Australian tomatoes for its Black & Gold and No Frills private label brands.

[redacted] [confidential marketing arrangements]

Metcash provided an email conversation between itself and SPC which demonstrated that SPC were unable to source Australian product for Metcash's controlled brands. The same email also indicated that SPC could not supply Australian tomatoes to Metcash's brands before [redacted]. The email forms **Confidential Attachment IMP02**.

**6.1.2**

[redacted] [confidential market intelligence]

**6.1.3 Metcash sales to retailers**

[redacted] [confidential arrangements with retailers]

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



## PUBLIC RECORD VERSION

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 diced tomatoes to [REDACTED] customers who including but not limited to:

- [REDACTED].

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

- [REDACTED].

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

- [REDACTED].

#### 6.2.1 Ordering and sales process

[REDACTED] [customer orders] [REDACTED]  
[REDACTED] [delivery cycles]

[REDACTED]  
[freight arrangements to customer]

[REDACTED] [inventory management]

#### 6.2.2 Distribution and selling arrangements

[REDACTED]  
[terms of trade with customers]

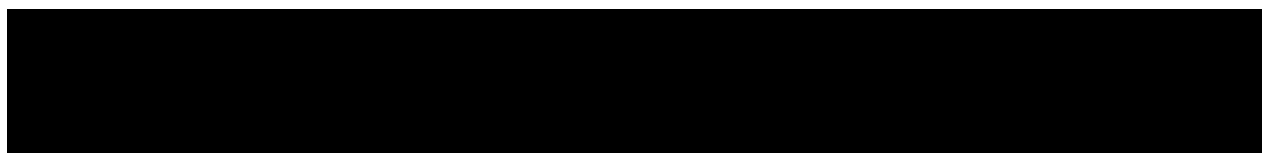
#### 6.2.3 Rebates and discounts

Each IGA-branded store is individually owned and operated.

## PUBLIC RECORD VERSION

Metcash Food and Grocery are the major distributor of groceries to IGA stores. However 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 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 IT, marketing, merchandising, business planning and strategy.



[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 to provide a detailed listing (line-by-line) of all of its sales of imported tomatoes to its Australian customers i.e. from the 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 tomatoes and Black & Gold tomatoes.

## PUBLIC RECORD VERSION

The spreadsheet included:

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

The Commission requested 3 invoices that it 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 tomatoes sales revenue to Metcash's income statement for the company's FY2012-13.

To reconcile the tomatoes sales gross revenue to its audited profit and loss statement, Metcash provided a spreadsheet that listed total sales revenue in the investigation period by:

- *Metcash Group* – gross sales revenue including other operating income;
- *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 of tomatoes supplied by SPC or imported.

We were unable to reconcile sales revenue for tomatoes through to the Metcash Food & Grocery division accounts as the breakdown of gross sales revenue for No Frills and Black & Gold brands could not be reconciled to the detailed list of tomatoes sales, and could not be reconciled to the Metcash Food and Grocery subdivisional results summary. These spreadsheets form **Confidential Attachment SALES04**. Metcash's end-year April 2013 financial statements form **Non-Confidential Attachment SALES05**.

## PUBLIC RECORD VERSION

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.

We are satisfied that Metcash's sales listing is a reasonably accurate list of the company's sales of tomatoes over the investigation period. However, as we were unable to perform the full verification to the company's audited accounts we cannot be satisfied of the completeness of this listing.

### 6.3.2 Conclusion – sales verification and data

Noting that we were able to verify the sales listing to provided invoices and source documents, we are 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, it is considered that this sales listing is of utility to the investigation and can be used for price undercutting or other injury analysis.

### 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 tomatoes to their originating shipment as the goods enter its warehouse facilities, becoming combined with tomatoes 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 tomatoes, by reference to the sales listing of imports requested of Metcash. Metcash agreed that this method seemed reasonable.

We calculated the total profit for all of the eight selected shipments (a calculated 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 sales examined were profitable. The range of profit for the selected transactions was calculated at between [REDACTED].

We observed that overall the shipments were profitable with an average profit of [REDACTED].

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

**PUBLIC RECORD VERSION****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 of the sales being non-arms' length.

We have been able to perform a full profitability assessment of imported tomatoes of which we have determined to be made sales made at a profit.

We consider that sales between IMCA and Metcash for the purposes of s.269TAA have been made at arm's length.

**PUBLIC RECORD VERSION****8 RECOMMENDATIONS**

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

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

Subject to further inquiries with these exporters, we recommend that the export price for tomatoes imported by Metcash from IMCA can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the [REDACTED] as required.

## PUBLIC RECORD VERSION

**9 APPENDICES AND ATTACHMENTS**

<b>Non-Confidential Attachment 1</b>	Information on Metcash's corporate structure
<b>Confidential Attachment 2</b>	Black & Gold: 2013 Product Catalogue
<b>Confidential Attachment 3</b>	IGA Signature: 2013 Product Catalogue
<b>Confidential Attachment 4</b>	S,G&A
<b>Confidential Attachment 5</b>	Other attachments to the report
<b>Confidential Attachment IMP01</b>	Metcash's import database spreadsheet
<b>Confidential Attachment IMP02</b>	Emails demonstrating SPC being unable to supply Australian tomatoes
<b>Confidential Attachment IMP03</b>	Verification of source documents: Selected imports – tomatoes
<b>Confidential Attachment IMP04</b>	Metcash – Importer transaction form with calculations
<b>Confidential Attachment SALES01</b>	SPC August 2013 price list to retailer customers
<b>Confidential Attachment SALES02</b>	IGA Trading Terms - NSW
<b>Confidential Attachment SALES03</b>	Verification of source documents: Selected Sales – tomatoes
<b>Confidential Attachment SALES04</b>	Upwards verification to the audited financial statements: financial report spreadsheets
<b>Non-Confidential Attachment SALES05</b>	Annual Report 2013
<b>Confidential Attachment SALES06</b>	Metcash – Importer transaction form with calculations