



Australian Competition & Consumer Commission

Our Ref: C2002/11624
Contact Officer: Jaime Norton
Contact Number: (02) 6243 1208

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia

Ph (02) 6243 1111
Fax (02) 6243 1199

13 November 2002

Mr Kevin Elkington
Company Secretary
Kmart Australia
800 Toorak Rd
TOORONGA VIC 3146

Dear Mr Elkington

Re: Third line forcing exclusive dealing Notification lodged by Kmart Australia Ltd (N40540).

I refer to the above third line forcing exclusive dealing notification lodged with the Australian Competition and Consumer Commission (the Commission) on 22 October 2002.

You have described the conduct as involving Kmart Australia offering discounts on a certain range of goods, on condition that customers purchase McDonalds products.

I note that you have not identified the specific products which will be provided at a discount or the specific McDonalds products which are required to be purchased, which makes an assessment of the net public benefits arising from the conduct difficult.

In order to ensure the immunity afforded by this notification (which commenced on 5 November 2002) extends to all products in the promotion, I suggest that you inform the Commission of the specific products involved in the arrangement so that the Commission may update its register.

On the basis of the information that you have provided it is not intended that further action be taken in this matter at this stage.

Please note that the Commission may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This letter has been placed upon the Commission's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Jaime Norton on



(02) 6243 1208.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tim Grimwade'. The signature is written in a cursive style with a large 'T' and 'G'.

Tim Grimwade
General Manager
Adjudication Branch