



Australian Competition & Consumer Commission

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Our Ref: C2002/1616
Contact Officer: Jaime Norton
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28 November 2002

Ms Carolyn Hillman
Minter Ellison Lawyers
GPO Box 769G
MELBOURNE VIC 3001

Dear Ms Hillman

Third line forcing of exclusive dealing notification – lodged by BioLab Australia Pty Ltd (N91049)

I refer to the above third line forcing exclusive dealing notification lodged with the Australian Competition and Consumer Commission (“the Commission”) on 7 November 2002 which has been placed on the Commission’s public register.

You have described the conduct as involving BioLab Australia Pty Ltd offering franchises operating under the Backyard Pleasures banner a reduction in a joint marketing fund contribution on condition they acquire products from preferred suppliers. Legal immunity provided by the exclusive dealing third line forcing notification commenced on 21 November 2002.

In respect of this conduct, I bring to your attention the requirement under the Franchising Code of Conduct for a franchisor to disclose in the Franchise Disclosure Document any commission or rebate received through an agreement with a third party supplier.

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 this third line forcing notification at a later stage if it is satisfied that the public benefit arising from the notified conduct does not outweigh the public detriment arising from the conduct.



This letter has been placed upon the Commission's public register. If you wish to discuss any aspect of this matter further, please do not hesitate to contact Jaime Norton on (02) 6243 1208.

Yours sincerely



Tim Grimwade
General Manager
Adjudication Branch