



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2002/599  
Contact Officer: David Hatfield  
Contact Phone: 02 6243 1266

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

2 September 2005

Mr Bruce Lloyd  
Partner  
Clayton Utz Lawyers  
Levels 19-35  
No. 1 O'Connell Street  
Sydney NSW 2000

By Fax: 02 8220 6700

**Juice Station Franchising notifications N31192 and N31144**

Dear Mr Lloyd

I am writing to you in your role acting for Juice Station Franchising Pty Limited (Administrator Appointed).

As requested in your fax of 31 August 2005, please find attached copies of correspondence from two Juice Station franchisees, Mr Ahmed Kilani and Ms Kelly Spagnol, setting out concerns regarding bottles supplied by Juice Station.

I understand that there have been a number of similar concerns raised by a range of franchisees with Juice Station over a number of months (and more recently with the Administrator) concerning the quality of bottles. Your client should be able to provide details of these concerns. Most recently I note an email sent to Juice Station from the franchisee at Miranda yesterday (1 September 2005).

Following on from the Draft Notice sent to your client on 24 August 2005, I wanted to offer the opportunity to discuss any aspect of that notice or the next steps in the process, including the nature of a conference, should your client or another interested party wish to call one. The date for submissions and/or to call a conference in response to the Draft Notice is 12 September 2005.

As you are aware, the ACCC's consideration of notifications is a public process. Typically all documents provided to the ACCC in relation to a notification are placed on a public register (and made available from the ACCC's website). In this regard, the ACCC intends to place on the public register two pieces of correspondence from your client, one dated 5 August 2005 and the other faxed on 22 August 2005, both signed by C L Horn.



I note that the letter of 5 August 2005 was marked 'Without Prejudice'. While I have reservations about whether the contents of the letter can be properly characterised as being subject to a claim for "without prejudice" privilege, in any event I do not consider that such a claim is applicable in circumstances other than the adducing of evidence in court. In my view a claim of "without prejudice" privilege does not preclude the ACCC from considering the contents of the letter for the purposes of the notification process and placing it on the public register.

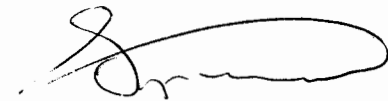
I have also formed the view that no claim for confidentiality was made in respect of the correspondence of 5 and 22 August. The ACCC cannot identify any aspect of these two documents that appears to raise confidentiality issues – indeed given the issues raised by franchisees, it is likely to be very much in Juice Station's interests to have its responses on the public register.

Should you have a different view, I ask that you respond by c.o.b Monday 5 September 2005.

A copy of your letter of 31 August 2005 and this response will be placed on the ACCC's public register in due course.

Please feel free to give myself (02 6243 1132) or David Hatfield (02 6243 1266) a call if you wish to discuss any aspect of this matter.

Yours sincerely



Scott Gregson  
A/g General Manager  
Adjudication