



**Australian
Competition &
Consumer
Commission**

Our Ref: C2006/452
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21 March 2006

Mr Simon Newcomb
Clayton Utz
Level 28
71 Eagle Street
Brisbane,
Qld 4000

Dear Mr Newcomb

Re: Third line forcing notification N50179

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the Commission) on 6 March 2006.

You have described the conduct as an offer by Beds 'R' Us to supply the Beds 'R' Us trademark licence on the condition that the person to whom the trade mark licence is offered will acquire bedding products from Beds 'R' Us' preferred suppliers, and a refusal to offer a licence to persons who do not agree to acquire bedding products from these suppliers.

On the basis of the information 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 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.

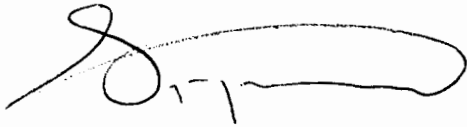
Beds 'R' Us has advised that it intends to replace its existing franchising agreement with a 'licence agreement'. I note that the Franchising Code of Conduct, pursuant to regulation 4 of the *Trade Practices (Industry Codes — Franchising) Regulations 1998*, applies to arrangements which *in substance* create a relationship of franchisor/franchisee. I would encourage you to further consider whether the requirements of the Franchising Code of Conduct apply to the proposed licence agreements, in particular I would like to bring to your attention to the requirement under the Code for a franchisor to disclose in a Franchise



Disclosure Document any commission or rebate received through an agreement with a third party supplier.

This letter has been placed on the Commission's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Melanie Brandis on (02) 6243 1061.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Gregson', with a long horizontal flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch