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Postal Address:
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Royal Exchange NSW 1223,
Australia

Tel: +61 2 9225 0200
Fax: +61 2 9225 1595
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Date 18 April 2006 **Fax**

To Scott Gregson (02) 6243 1199
Australian Competition &
Consumer Commission

CC David Hatfield (02) 6243 1199
Australian Competition &
Consumer Commission

Tim Scott (02) 6243 1199
Australian Competition &
Consumer Commission

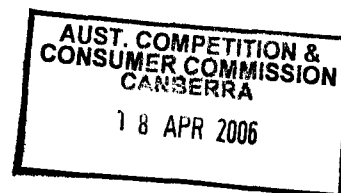
From Andrew Christopher

Ref # 389481-v1\AJC\GMF

Pages (w/cover) 3

Re Exclusive dealing notification lodged by Nestle Australia
Ltd

Our letter follows.

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Mr Scott Gregson
General Manager, Adjudication Branch
Australian Competition & Consumer Commission
470 Northbourne Avenue
Dickson ACT 2602

Dear Mr Gregson,

Exclusive dealing notification lodged by Nestle Australia Ltd

We refer to your letter of 3 April 2006 and the Commission's draft notice revoking the notification lodged by Nestle Australia Limited (Nestle). We also refer to Nestle's submission dated 8 March 2006.

There are a couple of matters that ALDI wishes to draw to the Commission's attention.

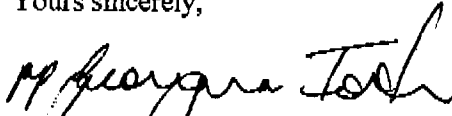
In paragraph 5.43 of the draft notice, the Commission concludes that the parallel imports of overseas Nestle instant coffee brands were a source of substantial competitive tension in the instant coffee market. ALDI notes that this conclusion is supported by promotions undertaken by Nestle following ALDI's introduction of the imported Nescafe products. In particular in February 2006, Nestle ran a promotion offering \$3 cash back on 150g jars of Nescafe Blend 43. Nestle's promotional material claimed "*If it doesn't say NESCAFE BLEND 43 it's not Australia's favourite*" and asserted that Nescafe Blend 43 was sourced and blended specifically for Australia's palate.

In sections 1.2, 2.3 and 4.2 of its submissions, Nestle has asserted that it has received customer complaints about the imported Nescafe products provided by ALDI. As the details of these complaints are set out in a confidential annexure to Nestle's submissions, ALDI is unable to comment on the complaints. ALDI notes however that since it commenced selling the imported Nescafe products there have been no reported instances of customer complaints to ALDI about the imported Nestle products. Further, ALDI has not has not received any written complaints about the imported Nestle products.

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Please do not hesitate to contact us if you would like any further information about these matters.

Yours sincerely,



Andrew Christopher
Partner
+61 2 9225 1508
andrew.christopher@bakernet.com

cc: David Hatfield
Director, Adjudication Branch
Australian Competition & Consumer Commission

cc: Tim Scott
Project Officer, Adjudication Branch
Australian Competition & Consumer Commission

Other Contact:
Georgina Foster
Senior Associate
Phone: +61 2 9225 0329
Email: georgina.foster@bakernet.com