



**Australian
Competition &
Consumer
Commission**

GPO Box 520
Melbourne VIC 3001

Level 35 The Tower
360 Elizabeth Street
Melbourne VIC 3000

ph (03) 9290 1800
fax (03) 9663 3699

www.accc.gov.au

Our Ref: C2001/390-03
Contact Officer: Nadia Cooke
Contact Phone: (03) 9290 1478

14 February 2006

Mr Alan Weir
Special Projects Manager
Australian Baseball Federation
PO Box 10468
SOUTHPORT BC QLD 4215

Dear Mr Weir

Re: Notification N90853 lodged by the Australian Baseball Federation Inc. (ABF)

Thank you for your letter to the Australian Competition and Consumer Commission (ACCC) dated 18 January 2006, which included copies of accounts for the Baseball Australia Licensing and Merchandising Enterprise (BALME) program for the period 1 July 2004 to 31 December 2004, as prepared by Baseball Victoria, and for the period 1 January 2005 to 30 June 2005, as prepared by the ABF.

As foreshadowed in the ACCC's letter to the ABF dated 26 May 2004, which advised that further action would not to be taken in respect of the notification at that time, the ACCC is now reviewing the notification based on the information you have provided to assess whether the conduct the subject of the notification generate sufficient benefits to the public such that the notification should continue to be allowed to stand.

In this respect, please find attached copies of the letters that the ACCC has sent to interested parties as part of its review process, along with a list of interested parties to whom each letter has been sent.

In order to assist the ACCC with this review, I request that you provide the following additional information.

The accounts provided indicate a \$10,146.70 deficit for the period 1 July 2004 to 31 December 2004 and a \$16,999 surplus for the period 1 January 2005 to 30 June 2005.

1. Please provide details of the revenue generated by the BALME program and associated costs for the period 1 July 2005 to 31 December 2005.



You advised in your letter dated 18 January 2006 that revenue generated by the BALME program in 2004 and 2005 would be combined with funds from sponsorships and preferred supplier programs and returned to states in the form of a National Royalty Payment. You advised that this would be completed by January 2006 or shortly thereafter.

2. Please provide details of any National Royalty Payments made to states and territories in 2005 and 2006.
3. Please identify the amount of any National Royalty Payments that may be directly attributed to the BALME program.
4. Please include any other relevant information regarding the transfer of funds raised by the BALME program to states and territories.

The ACCC notes that the ABF assumed control of the management of the BALME program on 1 January 2005.

5. How will the change in administration affect the BALME program?
6. What benefits do you consider will be provided by the BALME program in the future? Please include some detail as to how these benefits will be achieved.
7. What public detriment do you consider will be generated by the BALME program in the future? The ACCC is particularly interested in whether the BALME program has or will result in increased prices to and/or reduced product choice for consumers.
8. Please provide details of the level of compliance with the BALME program in the various states and territories.
9. Does the ABF keep statistics regarding baseball participation in Australia? If so, please detail these (including the source) for the years 2001 to 2006.
10. Please include any other information you consider relevant to the current review of the ABF's notification regarding the BALME program.

You may request that information included in your response be treated as confidential and not placed on the ACCC's public register. If a request for confidentiality is made you are expected to provide the ACCC with reasons justifying your claim for confidentiality. The ACCC will not grant confidentiality to documents which are clearly not of a confidential nature unless there are compelling reasons to do so. Guidelines for seeking confidentiality are attached for your information.

Please address your response to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Your response can also be lodged by email to adjudication@accc.gov.au.

It would be appreciated if you could provide the requested information by
Friday 10 March 2006.

If you would like to discuss any of the issues raised in this letter, please do not hesitate to contact Nadia Cooke on (03) 9290 1478.

A copy of this letter has been placed on the ACCC's public register.

Yours sincerely


Scott Gregson
General Manager
Adjudication Branch



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Our Ref: C2001/390-03
Contact Officer: Nadia Cooke
Contact Phone: (03) 9290 1478

14 February 2006

Dear

Review of notification N90853 lodged by the Australian Baseball Federation Inc.

I am writing to you as a party that may be interested in providing a submission to the Australian Competition and Consumer Commission (ACCC) in relation to the above notification.

The notification process

As you may be aware, the competition provisions of the *Trade Practices Act 1974* (TPA) prohibit certain forms of anti-competitive conduct or arrangements. Section 47 of the TPA prohibits conduct known as exclusive dealing where it has the purpose or effect of substantially lessening competition. Generally speaking, exclusive dealing involves one business trading with another, imposing restrictions on the other's freedom to choose with whom, or in what, it deals.

Subsections 47(6) and (7) of the TPA prohibit exclusive dealing of the type known as third line forcing. Third line forcing occurs where a corporation supplies goods or services on condition the customer acquires other goods or services from another business or refuses to supply because the customer will not agree to that condition. Third line forcing conduct is currently a *per se* provision, meaning that it amounts to a contravention of the TPA regardless of its effect on competition.

Businesses wishing to engage in third line forcing conduct can 'notify' the ACCC of the conduct. Notification provides immunity from legal action by the ACCC and any other party for potential breaches of the exclusive dealing provisions of the TPA where the conduct is in the public interest.

Under the notification process immunity from third line forcing conduct is obtained automatically 14 days after the date of lodgement, and continues unless the ACCC issues a notice revoking the immunity.



For third line forcing notifications, the ACCC may issue a notice revoking the immunity only if it is satisfied that the likely benefit to the public from the notified conduct would not outweigh the likely detriment to the public resulting from the conduct. Provided it is so satisfied, the ACCC may act to remove the immunity afforded by a notification at any stage.

The notification

The Australian Baseball Federation Inc. (ABF) third line forcing notification was lodged on 20 March 2001. The conduct the subject of the notification involves a licensing program under which the Baseball Australia Licensing and Merchandising Enterprise (BALME), on behalf of the ABF, licenses suppliers of baseball uniform components and baseballs to affix a logo registered to ABF to their products (the BALME program). Under the BALME program, players that wear a registered baseball uniform are required by ABF to use only those baseball uniform components and baseballs bearing the ABF logo in games and competition conducted under the auspices of ABF.

Background

As you may be aware, the above notification has previously been considered by the ACCC. Most recently, the ACCC conducted a review of the notification between September 2003 and May 2004 following complaints lodged in relation to the BALME program.

Initial consultation

After initially receiving the notification in 2001, the ACCC decided to allow the notification to stand. The ABF identified a number of public benefits it considered would flow from the BALME program. In particular, the main benefit identified by the ABF and accepted by the ACCC, flowed from the ABF distributing the net proceeds of the BALME program to state and territory baseball associations. The ACCC considered that to the extent that funds raised from the BALME program were invested in programs designed to develop the sport, public benefit would result from the fostering of fitness and recreation.

The ACCC considered that any public detriment generated by the program would be limited as:

- the license fees charged by the ABF did not appear to be excessive
- there was no limit on the number of suppliers that could take up a license under the BALME program so that product and price competition for the relevant products was likely to continue
- the costs of the BALME program to players were limited by a number of initiatives adopted by the ABF including that registered players will be issued with a set of interim logos to place on their existing apparel at no cost to the player.

The 2003-04 review

As noted above, the ACCC conducted a review of the BALME program in 2003-04 following complaints made in relation to the program. At the conclusion of the 2003-04 review of the notification, the ACCC decided to allow the notification to stand. In doing so, the ACCC took the view that the notified conduct generated some limited public detriment in

the form of higher prices to consumers, but also some benefit through providing funds for the development and promotion of baseball.

However, the ACCC was concerned that the extent of the public benefit from the conduct was limited by the significant volume of funds generated being absorbed by administrative costs. In order to satisfy itself that the BALME program would continue to generate sufficient benefits to the public that the notification should continue to be allowed to stand, the ACCC advised the ABF that it was to provide to the ACCC details of the revenue generated by the program and the distribution of funds back into the sport in the 2004-05 financial year.

These details have now been received, and on the basis of these, the ACCC is conducting a further review of the notification. The ACCC notes that the ABF assumed control of the BALME program on 1 January 2005. Previously, the BALME program was operated by Baseball Victoria. A copy of the letter to the ACCC from the ABF, including copies of accounts for the BALME program for the period 1 July 2004 to 31 December 2004, as prepared by Baseball Victoria, and for the period 1 January 2005 to 30 June 2005, as prepared by the ABF, is attached for your information.

Opportunity to make a submission

As a potentially interested party, you are invited to make a written submission to the ACCC regarding the likely public benefit and detriment associated with the BALME program.

In particular, you may wish to make a submission in relation to:

1. Whether you consider there exists public benefits from the BALME program. If so, please identify what you consider these to be. The ACCC is particularly interested in the extent to which the BALME program directly provides funds for the development and promotion of baseball either to your association or other parties, and how you have used and/or will use any such payments.
2. Whether you consider there exists public detriments arising from the BALME program. If so, please identify what you consider these to be. The ACCC is particularly interested in whether the BALME program results in increased prices and/or reduced choice in respect of baseball uniform components and baseballs.
3. Whether the fact that the ABF has assumed responsibility of the BALME program is likely to impact upon the public benefits or detriments generated by the notified conduct. If so, please indicate the nature of this impact.
4. Any other issues the ACCC may wish to consider in relation to the BALME program.

As noted, the ACCC may act to remove the immunity afforded by the notification at any stage if it is satisfied that the balance of the public benefit and anti-competitive detriment arising from the BALME program no longer results in a net public benefit.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose. The ACCC may, where it is deemed appropriate, supplement written submissions with discussions with relevant parties on a mutually convenient basis.

Persons lodging a submission with the ACCC may request that information included in the submission be treated as confidential and not placed on any public register. If a request for confidentiality is made in relation to a notification the applicant is expected to provide the ACCC with reasons justifying its claim for confidentiality. The ACCC will not grant confidentiality to documents which are clearly not of a confidential nature unless there are compelling reasons to do so. Guidelines for seeking confidentiality are attached for your information.

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If you intend to lodge a submission, it would be appreciated if you could do so by **Friday 10 March 2006**. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding this application.

If you would like to discuss any of the issues raised in this letter, please do not hesitate to contact me on (03) 9290 1478.

A copy of this letter has been placed on the ACCC's public register.

Yours sincerely



 Gavin Jones
Director
Adjudication Branch

Interested parties

ACT Baseball Association Inc.

NSW Baseball League Inc.

Baseball QLD

South Australian Baseball League Inc.

Baseball Victoria

Baseball WA

Baseball NT Inc.



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Dear

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The notification process

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Background

As you may be aware, the above notification has previously been considered by the ACCC. Most recently, the ACCC conducted a review of the notification between September 2003 and May 2004 following complaints lodged in relation to the BALME program.

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The ACCC considered that any public detriment generated by the program would be limited as:

- the license fees charged by the ABF did not appear to be excessive
- there was no limit on the number of suppliers that could take up a license under the BALME program so that product and price competition for the relevant products was likely to continue
- the costs of the BALME program to players were limited by a number of initiatives adopted by the ABF including that registered players will be issued with a set of interim logos to place on their existing apparel at no cost to the player.

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the form of higher prices to consumers, but also some benefit through providing funds for the development and promotion of baseball.

However, the ACCC was concerned that the extent of the public benefit from the conduct was limited by the significant volume of funds generated being absorbed by administrative costs. In order to satisfy itself that the BALME program would continue to generate sufficient benefits to the public that the notification should continue to be allowed to stand, the ACCC advised the ABF that it was to provide to the ACCC details of the revenue generated by the program and the distribution of funds back into the sport in the 2004-05 financial year.

These details have now been received, and on the basis of these, the ACCC is conducting a further review of the notification. The ACCC notes that the ABF assumed control of the BALME program on 1 January 2005. Previously, the BALME program was operated by Baseball Victoria. A copy of the letter to the ACCC from the ABF, including copies of accounts for the BALME program for the period 1 July 2004 to 31 December 2004, as prepared by Baseball Victoria, and for the period 1 January 2005 to 30 June 2005, as prepared by the ABF, is attached for your information.

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1. Whether you consider there exists public benefits from the BALME program. If so, please identify what you consider these to be. In this respect, the ACCC is particularly interested in the extent to which the BALME program directly provides funds for the development and promotion of baseball.
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3. Whether the fact that the ABF has assumed responsibility of the BALME program is likely to impact upon the public benefits or detriments generated by the notified conduct. If so, please indicate the nature of this impact.
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If you would like to discuss any of the issues raised in this letter, please do not hesitate to contact me on (03) 9290 1478.

A copy of this letter has been placed on the ACCC's public register.

Yours sincerely



 Gavin Jones
Director
Adjudication Branch

Interested parties

Home Run Baseball Softball Uniforms
Aussie Mills
Pontague Sports & Leisure Wear
Rider Sportswear Pty Ltd
Rally Point
Fielder's Choice
Diamond One
Brisbane South Baseball Association
Dandenong Baseball Association
South Australian Country Baseball Association
New South Wales Junior Baseball League
Pacific Coast Baseball League Inc.
Wanneroo Baseball Club
University of WA Baseball & Softball
Yarrawarra Tigers Baseball Club
Cairns Heat
Greensborough Baseball Club
Playford City Baseball Club Inc.
Mr Jake Edelman
Mr Shane Tonkin

Documents attached to letters to interested parties



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ausbaseball@baseball.org.au

18th January 2006



Gavin Jones
Contact Officer
Australian Competition & Consumer Commission
PO Box 1199
Dickson ACT 2602

Dear Gavin,

RE: REFERENCE NUMBER C2001/390-02

Thank you for your letter of November 16th requesting further information on the Baseball Australia Licensing and Merchandising Enterprise (BALME) which is the Licensing and Merchandising program for the Australian Baseball Federation.

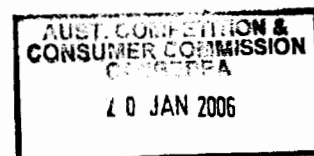
I apologize for the delay in responding to your request however there was a miscommunication between Baseball Victoria and the ABF which took longer than expected to be resolved.

Please find attached the accounts relating to the period for 1st July 2004 to 31st December 2004 which was prepared by Baseball Victoria who were the program managers of BALME until the ABF took control of the program on January 1st 2005. Also attached for your information are the accounts prepared by the ABF for the period 1st January 2005 to June 30th 2005 which were sent to you previously.

The ABF assumed responsibility for BALME from January 1st 2005 following a Business Development Review which recommended along with other initiatives a consolidation of national functions under direct ABF control. The goal for the ABF in assuming control of management of the BALME program was to minimize the administration costs associated with managing the program in order to maximize the financial return to state associations.

A report on the National Business Review is available should you wish to review the findings.

Baseball Victoria had in previous years been paid a fee per annum of \$40,000 to manage the licensing program on behalf of the ABF due to their experience managing their own successful state based licensing program.



Australian Government
Australian Sports Commission



ASTARRA





It should be highlighted that Baseball Victoria were outstanding managers of the program and the administration fees they received for managing BALME paid for the addition of the program manager and assisted Baseball Victoria to implement various programs such as:

- Junior development programs, including school clinics, after school sports programs, Playball program, special schools program.
- State wide implementation and member servicing of the 'My Club' national membership database system
- The 'Home Run Club', an accreditation program that fosters best practice in local baseball clubs across the state with potential for national implementation.

However as can be seen in the accounts for 1st July 2004 to 31st December 2004, Baseball Victoria negotiated an amount of \$25,000 which was a payment from the ABF for the early termination of their management contract for the administration of the BALME program.

With the ABF assuming control of the program from January 1st 2005 the administration costs for the program are expected to be less than that paid to Baseball Victoria. This reduction in administration fees will therefore result in a greater return to member states.

The focus for the ABF since assuming control of the program has been on systemic improvements and service delivery to licensees in order to improve revenue to the program. Furthermore an additional 8 licensees have been encouraged to join the program since January 2005 which will hopefully result in greater choice of suppliers for members.

It should also be noted that the cost of baseballs which represents a significant portion of a baseball clubs operating budget are now at an all time low price in part due to the introduction of the licensing and merchandising program.

Revenue generated by the BALME program in 2004 and 2005 will be combined with funds from sponsorships and preferred supplier programs and returned to states in the form of a National Royalty Payment. The BALME program is expected to contribute approximately \$40,000 to that pool of funds in the 2005/06 financial year. National Royalty Payments to member states are expected to be completed by January of 2006 or shortly thereafter.

A copy of the National Royalty Policy is also enclosed for your information.

The ABF is committed to the concept of a Licensing and Merchandising program and expects revenue from the program to increase with the introduction of a proposed professional baseball league for November 2007. Negotiations with Major League Baseball (MLB) for their involvement in this proposed league are currently being conducted and early positive indications from MLB have been received.



Should you have require further information on the program please don't hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a smaller 'W' and a trailing flourish.

ALAN WEIR
SPECIAL PROJECTS MANAGER

encl: Australian Baseball Federation Accounts
Baseball Victoria Accounts
National Royalty Policy

cc: Sue Clarke

Australian Baseball Federation Inc.
Trading as Baseball Australia Licensing & Merchandising
A.B.N. 18 610 026 404

Income and Expenditure Statement As At 30 June, 2005

2004	2005	2005
	\$ Dr	\$ Cr
Income		
Ball Sales		6,266
Uniform Sales		13,159
		<u>19,424</u>
Expenses		
Bank fees	46	
Ground Transportation	114	
Licensing Logos	2,240	
Miscellaneous expenses	25	
	<u>2,425</u>	
		<u><u>16,999</u></u>
BALME Surplus / (Deficit) for year		<u><u>16,999</u></u>

Victorian Baseball Association Inc
Trading as Baseball Australian Licensing & Merchandising Enterprise
ABN 21 913 089 041

Balance Sheet as at 30 June 2005

Assets

Current Assets

Cheque Account	\$ 6,772.92
Debtors	<u>\$10,404.23</u>
Total Current Assets	\$17,177.15

Liabilities

Current Liabilities

GST Collected	\$7,133.47	
GST Paid	<u>-\$4,280.87</u>	
Total GST Liabilities	\$2,852.60	
Total Current Liabilities		<u>\$2,852.60</u>

Net Assets	\$14,324.55
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Equity

Retained Earnings	\$24,471.25
Current Year Surplus/Deficit	<u>-\$10,146.70</u>
Total Equity	\$14,324.55

Victorian Baseball Association Inc
Trading as Baseball Australian Licensing & Merchandising Enterprise
ABN 21 913 089 041

Income & Expenditure Statement as at 30 June 2005
(trading period 1st July 2004 – 31 December 2004)

	2005 \$ Dr	2005 \$ Cr
<hr/>		
<u>BALME Income</u>		
Licensing Income		<u>\$32,818.70</u> \$32,818.70
<u>BALME Expenses</u>		
Bad Debt Write off	\$17,822.80	
Management Fees	\$25,000.00	
Bank Fees	<u>\$ 142.60</u>	
	\$42,965.40	
BALME Surplus/ (Deficit) for Year	(\$10,146.70)	

Australian Baseball Federation

National Royalty Policy

Statement of Purpose

This Policy has been developed predominantly by State Executive Directors in consultation with ABF management. This policy's major points of purpose include:

- To create a fair, open and transparent system for distributing Royalties earned from identified all of sport products.
- To create both incentive and benefits for Associations and members to support all of sport sponsors, licensees and service providers.
- To reinforce and grow the business potential for the sport of Baseball in Australia.

National Royalty Revenue

National royalty revenue is that generated from:

- Board designated portions from all of sport sponsor(s);
- Royalties from the National Licensing and Merchandise Program;
- Board designated portions of the My Shop on-line shopping program;
- Board designated preferred supplier buying incentive schemes for members; and
- Any other revenue designated by the Board from time to time.

Determination of the Annual Royalty Payment

As part of the annual budgeting process, the Board will determine, no later than 30 July each year, the total amount of royalty revenue available for distribution to States/Territories in that financial year. The Board reserves the right not to make a royalty distribution in a given year.

MOU

Each of the Federation's State and Territory members will be eligible for royalty distributions subject to being signatories to an MOU with the ABF. The key components of the MOU include:

- A commitment to comply with the national data base registration system;
- A commitment to comply with the national Licensing and Merchandising Program;
- A commitment to support and promote the National, all of sport sponsor(s)
- A commitment to support national preferred suppliers whose arrangements generate revenue into the national royalty pool;

- A commitment to not promote, or allow Clubs to promote companies that compete with National, all of sport sponsor(s), or national preferred suppliers whose arrangements pay royalties into the national royalty scheme, unless expressly approved in writing by the ABF; and
- The MOU agreement will for an initial 2 year term, and States/Territories must be signed off on the MOU no later than 31 August, which will be the commencement date for the 2 year term.

Royalty Distribution Formula

Distributions from the annually allocated royalty pool will be determined by the ABF Board and will be calculated for each State/Territory in consideration of the following criteria. Royalty distributions will be made no later than 31 December in each year.

Compliance Bonus Payments:

- There will be an equal bonus payment to each State/Territory when signing off on the MOU.
- There will be an equal bonus payment to each State/Territory that achieves 90% or better Club and/or registered, playing membership compliance with the National data base registration system.
- There will be an equal bonus payment to each State/Territory that can demonstrate a written, contractual commitment from 90% or better of its Clubs to the National Licensing and Merchandise Program.

There are three categories of Compliance bonus payment allocations and a set fee of \$2,000 will be made for each. Considering there are 7 State and Territory stakeholders in the scheme, \$42,000 would be made available for the bonus payments. If a State complied in all three bonus areas there bonus payments would be:

(For example - QLD)

- signed MOU	\$2,000
- 90% data base registration	\$2,000
- 90% Clubs contracted to L and M Program	\$2,000

Thus QLD can earn \$6,000 through compliance bonuses alone. If any State/Territory cannot comply with any or all of the three of the compliance categories, those bonus payments will be withheld from the year's Royalty distribution and rolled over into the scheme the following year.

Data Base Registration Payment:

Whatever remains in the Royalty Pool over and above the \$42,000 Compliance Bonus Payments will be distributed based upon the percentage of registered members that each State or Territory has in the total national data base of registered playing members. For example, if QLD has 10% of all registered players on the national data base, assuming once again the total royalty pool is \$100,000, and \$58,000 remains to be distributed after compliance bonus payments, the QLD data base registration payment will be:

- 10% x \$58,000

\$5,800

Hypothetically, the total QLD royalty payment in this year, so long as QLD meet all Compliance categories is:

- Compliance bonus payments

\$6,000

- Data base registration payment

\$5,800

- Total QLD

\$11,800

The Board reserves to review to alter the royalty distribution formula from time to time.

Compliance

The Board reserves the right to use such measures it so determines to ensure compliance commitments are being honoured by States/Territories and Clubs, and further reserves the right to issue fines or other reasonable penalties where breaches of compliance commitments are found to occur.

Accountability

ABF will produce a fully accountable reconciliation for royalty distributions annually. This reconciliation will be tabled at the annual State Council meeting (usually held in January).

GUIDELINES FOR CONFIDENTIALITY CLAIMS

The process whereby the Commission assesses applications for authorisation or notification is very public, transparent and consultative. The *Trade Practices Act 1974* (TPA) requires the Commission to maintain a public register in respect of authorisation and notification applications.

Applicants and interested parties can request that a submission, or part of a submission, be excluded from the public register.

The Commission is required under the TPA to exclude from the public register upon request details of:

- (i) secret formulae or process;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

The Commission also has the discretion, under s89 of the TPA, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

- (a) where the request is that a whole document be excluded, the words "**Restriction of Publication Claimed**" should appear in red writing near the top of each page; and
- (b) where the request is that part of a document be excluded, the words "**Restriction of Publication of Part Claimed**" should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

Applicants, as a matter of course, should remove headers claiming "confidential communication" from all Emails and otherwise, unless they have a particular piece of information that they justify to the Commission deserves exclusion from the public register. If confidentiality is not requested but a header cannot be removed, it should be clearly stated at the beginning of the communication that confidentiality is not requested.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the TPA.

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