



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2006/2052
Your Ref: 81027769
Contact Officer: Gina D'Ettorre
Contact Phone: (03) 9290 1483

26 July 2007

Ms Lisa Emanuel
Senior Associate
Freehills
GPO Box 4227
SYDNEY NSW 2001

Dear Ms Emanuel

Re exclusive dealing notification N92682 lodged by Metcash Trading Limited

I refer to the above notification lodged by your client, Metcash Trading Limited (**Metcash**), on 1 November 2006 (**the Notification**) and our meeting with you and your client on 21 June 2007. I also refer to your telephone conversation with Gavin Jones of this office on 13 July 2007.

As explained by Gavin Jones in his telephone conversation with you the ACCC is close to finalising its consideration of this matter and in this regard it would be helpful if you were to confirm or clarify the following points.

The Data

First, I refer to the data outlined in the notification and the data referred to at our meeting of 21 June 2007. I understand there are now two distinct sets of data relevant to the notified arrangements. The first set of data is that described in the notification and which retailers currently receive. This data can include an Initial File Load or a Weekly Update and all of the information that would normally be contained therein, as outlined in the notification. This information is supplied to retailers electronically. I refer to this as the **Basic Data**.

The second set of data is that which will be provided to retailers who use one of the specified Software Brands. This data will enable Metcash/IGA to, amongst

other things, run various promotional programs including loyalty offers and fuel deals etc. I refer to this data as the **Advanced Data**.

Effect on retailers

Basic Data

1. I understand Metcash will continue to supply the Basic Data to all retailers including those who do not use one of the specified Software Brands. In this regard Metcash advised that no retailer will be worse off than at present should they choose to continue to operate non-accredited software. In respect of this assertion please advise whether the Basic Data will continue to be provided in a format compatible with retailers existing software systems.
2. Will retailers using non-accredited software continue to be able to order stock electronically and receive electronic invoices from Metcash?
3. In the event retailers, using non-accredited software, experience difficulties in continuing to interpret the Basic Data, to what extent, if any, will Metcash provide information and/or assistance to retailers to resolve such difficulties? Will Metcash provide the same information and/or assistance to all retailers, large and small, including for example, a four lane single store and Foodworks head office?

Advanced Data

4. Is it correct that Metcash cannot guarantee that retailers' software will be capable of reading the Advanced Data? To what extent, if any, will Metcash provide assistance to vendors or retailers in relation to the Advanced Data if they do not use one of the Software Brands?
5. **[EXCLUDED FROM PUBLIC REGISTER]**

Non-accredited software vendors

6. Will Metcash continue to provide non-accredited software vendors with the relevant 'file specification codes' to enable them to interpret the Basic Data?
7. **[EXCLUDED FROM PUBLIC REGISTER]**
8. To what extent, if any, will Metcash provide assistance, such as host support services, to retailers or vendors not using the Software Brands to enable them to interpret the Advanced Data?
9. Metcash advised that non-accredited software providers will not be precluded from seeking to become accredited. It will remain open to them to become accredited, provided they can show a commitment to the development of software in-line with IGA/Metcash requirements or

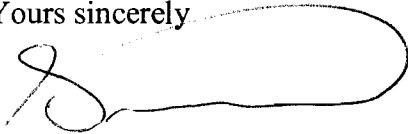
functionality and can offer a high quality product. In this regard, to what extent will Metcash provide information and/or assistance to vendors wishing to become accredited software providers?

I would appreciate your written response addressing the above and any other comments you may care to make by 6 August 2007.

This letter, save for questions 5 and 7, has been placed on the public register.

Should you wish to discuss any aspect of this letter please do not hesitate to contact Gina D'Ettorre by email at gina.dettorre@acce.gov.au, or by telephone on 03 9290 1487.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Gregson', written over a horizontal line.

Scott Gregson
General Manager
Adjudication Branch