



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2007/2052-02  
Contact Officer: Gina D'Ettorre  
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13 September 2007

Ms Jacqueline Cachia  
Solicitor  
Freehills  
GPO Box 4227  
SYDNEY NSW 2001

Dear Ms Cachia

**Third line forcing Notification N92682 lodged by Metcash Trading Limited (Metcash)**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (**the ACCC**) on 1 November 2006.

From 1 July 2009, Metcash proposes to supply pricing and other host support data (**the Data**) to retailers on condition that each retailer acquires from one of Metcash's nominated suppliers, software capable of reading the Data (**the Software Brands**).

Legal immunity conferred by the notification came into force on 15 November 2006.

On the basis of the information Metcash has provided, it is not intended that further action be taken at this time.

In making its assessment the ACCC took into account submissions from Metcash that:

- as most retailers already use one of the eight nominated suppliers the notified conduct will only affect a minority of independent retailers
- the notified arrangements are designed to increase the efficiency of Metcash's and retailers operations with a view to making them more competitive with larger supermarket chains
- it will continue to provide the Data and file specification codes to retailers and non-accredited software vendors, although it cannot guarantee that non-accredited software systems will be able to interpret the Data
- it expects that retailers will continue to be able to order stock and receive invoices electronically (however over time changes and upgrades to the software may prevent retailers using non-accredited software in the longer term)

- it will not preclude software vendors from becoming accredited provided they have a commitment to develop the software consistently with IGA's and Metcash's requirements, and they also have a highly developed product. The IGA Steering Committee would also need to undertake a review before accreditation would be provided.

The ACCC also expects that Metcash will work with potentially affected parties to explain the arrangements and where possible to take into account specific transitional issues that might arise in a reasonable manner.

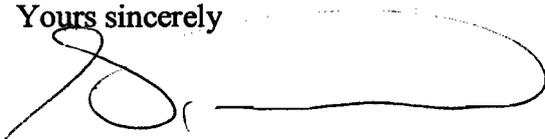
The ACCC has advised interested parties of the outcome of the ACCC's consideration of the notification and its reasons for its decision. A copy of the letter to interested parties is attached.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the 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.

This letter has been placed on the ACCC's public register.

Should you have any queries in relation to this matter, please do not hesitate to contact Gina D'Ettorre on 03 9290 1483.

Yours sincerely

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

Scott Gregson  
General Manager  
Adjudication Branch