



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2006//2052-02
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13 September 2007

<<Title>><<First Name>><<Surname>>
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Dear <<Title>><<Name>>

Metcash Trading Limited (Metcash) Notification N92682

On 1 November 2006 Metcash lodged the above notification with the Australian Competition and Consumer Commission (the ACCC). On 10 April 2007 the ACCC wrote to interested parties inviting them to comment on the notification. The ACCC has since consulted with a number of interested parties including independent retailers, software vendors and Metcash.

The notification

Metcash's notification involves, from 1 July 2009, supplying pricing and other host support services (**the Data**) to retailers on condition that each retailer acquires, from one of eight nominated suppliers, software capable of reading the Data.

ACCC Assessment

Under the notification process immunity from third line forcing conduct is obtained automatically 14 days after the date a notification application has been lodged, 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. On the basis of the information provided to it, the ACCC is not so satisfied. Accordingly the ACCC does not propose to take any further action in relation to the notification 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 has advised Metcash that it expects Metcash to 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.

If you have any queries in relation to this letter, please do not hesitate to contact Gina D'Ettorre on (03) 9290 1483 or by email at gina.dettorre@acc.gov.au.

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

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch