



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2007/25-04  
Contact Officer: Jaime Martin  
Contact Phone: (03) 9290 1477

2 May 2008

Ms Colleen Platford  
Partner  
Gilbert & Tobin  
GPO Box 3810  
SYDNEY NSW 2001

*By email: [cplatford@gtlaw.com.au](mailto:cplatford@gtlaw.com.au)*

Dear Ms Platford

**Draft notice proposing to revoke the exclusive dealing notification (N90330)  
lodged by Eastern Suburbs Newspapers**

I refer to your letter of 29 April 2008 and your meeting with David Hatfield and Jaime Martin on 4 March 2008 in relation to the above mentioned exclusive dealing notification.

Unless requested otherwise, I propose to place your letter of 29 April 2008 on the public register. Should you wish to request that your letter (or parts thereof) be excluded from the public register please do so by **9 May 2008**.

At the meeting on 4 March 2008, I understand that your client raised concerns about the Australian Competition and Consumer Commission's (ACCC) views outlined at paragraphs 6.20 and 6.21 of its draft notice regarding the likely purpose of the notified conduct. Our record of the meeting confirms that Adjudication staff asked your client what it is seeking from the ACCC in relation to paragraphs 6.20 and 6.21. In response, your client indicated that at the very least, it would like these paragraphs removed from any final decision of the ACCC. You also indicated that you would give further consideration to your client's position on this issue and set it out in writing to the ACCC.

In your letter of 29 April 2008, you have now formally requested the ACCC to do the following:

withdraw paragraphs 6.20 and 6.21 of its draft notice and

in any final decision, specifically refer to the circumstances surrounding the insertion of the 75 per cent requirement and the discussion surrounding the requirement with the Trade Practices Commission in 1993.

As you are aware, the ACCC's draft notice of 10 December 2008 proposes to revoke the immunity provided by notification N90330. As required by section 93A of the *Trade Practices Act 1974* (the Act), the draft notice is a public document upon which all interested parties are invited to lodge a written submission or request a conference. It is not possible for the ACCC to remove paragraphs from its draft notice following its release, as it forms part of the public record of the ACCC's review of this notification. I note that your submission of 31 January 2008 on this issue was placed on the public register and therefore, also forms part of the public record for this matter.

Please be assured that the ACCC will consider the issues raised by your client in any final decision concerning its review of notification N90330.

Should you have any questions in relation to the issues raised in this letter, please contact David Hatfield (02) 6243 1266 or Jaime Martin (03) 9290 1477.

Yours sincerely

A handwritten signature in dark ink, appearing to be 'R Chadwick', with a long horizontal flourish extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch