



**Australian
Competition &
Consumer
Commission**

Our Ref: C2008/928
Contact Officer: Sharon Clancy
Contact Phone: (02) 6243 1217

29 July 2008

Mr Warren Scott
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By facsimile: (03) 9605 0933

*Faxed with
attachments.
29/7/08
SC*

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Dear Mr Scott

Third line forcing notifications lodged by Brabus PA Franchising Pty Ltd and Brabus Investments Pty Ltd (together 'Brabus')

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 6 June 2008. As you are aware, the ACCC has conducted a public consultation process to assist in its assessment of whether the public benefit from the notified conduct outweighs the public detriment.

Two public submissions from interested parties have been received and are enclosed for your information. A third submission from an interested party has been received but has been excluded from the public register.

The interested party submissions raise issues associated with the public benefit claims made by Brabus. In particular, concerns have been raised that:

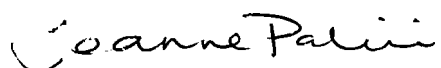
- The rebates paid to Brabus by the suppliers nominated by Brabus are unlikely to result in lower prices for franchisees or customers because franchisees generally sell products at recommended retail prices. Additionally, the rebates create inefficiencies because they dampen competition between suppliers to supply the Price Attack franchise network and result in supply orders which do not reflect consumer demand.
- The Shortcuts computer system is subject to technical and operational problems which limit its utility and reduce any efficiency claims associated with its use.
- The requirement that franchisees obtain internet services from a single provider will not necessarily result in decreased costs and efficiencies because franchisees have different internet usage patterns which may be best serviced by different providers.

The ACCC invites your response to these issues and any other issues raised in the interested party submissions.

I would be grateful for your response to this letter by **8 August 2008**.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Sharon Clancy on (02) 6243 1217.

Yours sincerely

A handwritten signature in black ink that reads "Joanne Palisi". The signature is written in a cursive style with a large initial 'J'.

Joanne Palisi
Director
Adjudication Branch