



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2009/1647
Your Ref: JB: 70213
Contact Officer: Gina D'Ettorre
Contact Number: 03 9290 1483

16 October 2009

Mr James Berman
Holly Nethercote Lawyers
GPO Box 3045
MELBOURNE VIC 3001

Dear Mr Berman

**Third line forcing notification N94192 lodged by
Hungry Jack's Australia Pty Ltd (HJA)**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 28 September 2009. The notification has been placed on the ACCC's public register.

Under the notified arrangement HJA proposes to require franchisees:

1. to purchase all the equipment necessary to operate a Hungry Jack's franchise including but not limited to kitchen utensils, plant and equipment and furniture and fittings (as detailed in section 2(a) of the Form G) from suppliers approved by HJA, and
- ii. retain the accounting services of Lawler Partners.

Legal immunity conferred by the notifications commenced on 12 October 2009.

On the basis of the information you have provided, it is not intended that further action be taken in relation to the notification at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by this 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 assessment has been made on the basis that HJA will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that HJA is required to comply with the disclosure requirements of the Franchising Code of Conduct in relation to the notified arrangement. Among other things, these specify that a franchisor must provide information to franchisees in its disclosure document about:

- any restrictions on acquisition of goods or services by the franchisee from other sources
- whether the franchisor or an associate will receive a rebate or other financial benefit from the supply of goods or services to franchisees, including the name of the business providing the rebate or financial benefit and
- whether any such rebate or financial benefit is shared directly or indirectly with franchisees.

More generally I would note that the Franchising Code of Conduct also requires disclosure of:

- ownership by a franchisor or an associate of a franchisor of an interest in any supplier from which the franchisee may be required to acquire goods or services
- any restrictions by a franchisor on the goods or services that a franchisee may supply and
- any restrictions on the persons to whom a franchisee may supply goods or services.

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 Gina D'Ettorre on 03 9290 1483.

Yours sincerely

A handwritten signature in dark ink, appearing to be 'R. Chadwick', with a stylized flourish at the end.

Dr Richard Chadwick
General Manager
Adjudication Branch