

Robert James Lawyers

25 February 2009

Our Ref: RA:114263-1

Attention: Monica Bourke
Australian Competition & Consumer
Commission
Adjudication Branch

By E-mail: monica.bourke@acc.gov.au

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Dear Ms Bourke,

Third Line Forcing Notification: Crust Gourmet Group Pty Ltd (Crust) Notification: 93776

I refer to your correspondence of 17 February 2009 and am instructed to respond to your questions as follows:

1. Crust Franchisees have been verbally informed of the list of suppliers recommended by Crust for the acquisition of goods and services in the operation of their Franchises. To date, Franchisees have been given a recommendation on the basis that better buying prices will be achieved as a "group" and for consistency in quality of various products. If Crust obtains immunity from legal action in connection with the Notification lodged, then it will, if necessary, ensure that its Franchisees purchase nominated goods and services from the Nominated Suppliers. We are instructed that to date, Crust Franchisees have been purchasing the nominated goods and services from the Nominated Suppliers without there being any compulsion to do so based on the benefits outlined.
2. The Nominated Suppliers were selected based on the better selling prices they were able to deliver to Crust Franchisees together with (for specified products) a greater level of consistency in product supply. For example, various products used in the Crust business are made to Crust's own recipes and are therefore "exclusive" to the group. There would be a significant threat to the consistency of quality if supply of those products made to Crust's recipes were acquired from a diverse range of suppliers.
3. Crust continually monitor, on a periodic basis, goods/services provided by Nominated Suppliers. This is particularly so in connection with products manufactured to Crust's

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recipe/formula and those products/ingredients which form part of the National Heart Foundation certified pizzas.

4. Crust does receive a rebate from the Nominated Suppliers. Part of the rebate is placed into the Crust marketing fund and the balance is retained by Crust for use in the development of the Crust franchise system. Crust Franchisees have been informed about the rebate via the Disclosure Document issued by Crust.

Crust requests that the list of suppliers submitted to you be kept confidential. Likewise, Crust considers that the level of the rebate is a confidential matter and in this regard, notes that the Franchising Code of Conduct requires that a list of suppliers paying a rebate be disclosed, but does not require the level of the rebate to be disclosed.

Please do not hesitate to contact me should you require any further information.

Yours faithfully,
ROBERT JAMES

Robert Alderuccio

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Partner

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