

**Australian
Competition &
Consumer
Commission**

Our Ref: N93776
Contact Officer: Monica Bourke
Contact Number: 02 6243 1351

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

13 March 2009

Mr Robert Alderuccio
Partner
Robert James Lawyers
GPO Box 761
Melbourne VIC 3001

By email: Robert@robertjames.com.au

Dear Mr Alderuccio

**Third line forcing notification lodged by Crust Gourmet Group Pty Ltd –
Notification N93776**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 9 February 2009. The notification has been placed on the ACCC's public register.

Crust Gourmet Group Pty Ltd (Crust) proposes to require Crust franchisees to acquire:

- Products
- Ingredients used in making the products (ingredients)
- Boxes, cartons, containers, napkins, plastic cutlery and other items of packaging and cutlery used in the franchised business (packaging) and
- Such services which a Crust franchisee is required to acquire from Crust or third party service providers including software and IT related services (services)

from third party suppliers who have been approved by Crust.

More specifically Crust describes the conduct as:

Crust franchises are granted to Crust franchisees on the condition, among other things, that they agree to:

- only use and sell specified products and provide the delivery and other services in the franchised business which have been approved by Crust and

acquire those products, ingredients, packaging and services specified time to time by Crust from nominated suppliers.

Legal immunity conferred by the notification commenced on 23 February 2009.

On the basis of the information that you have provided, it is not intended that further action be taken in relation to the notifications 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 Crust will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Crust 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.

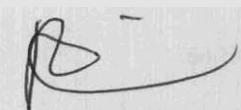
More generally I would note that the Franchising Code of Conduct also requires disclosure of:

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 Monica Bourke on (02) 6243 1351.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch