



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: 37434  
Contact Officer: Simon Mitchell  
Contact Number: (03) 9290 6909

18 May 2009

Chris Jose  
Partner  
Freehills  
GPO Box 128A  
Melbourne VIC 3001

Dear Mr Jose

**Third line forcing notification N93975 lodged by  
Coles Supermarkets Pty Ltd (Coles)**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 6 May 2009. The notification has been placed on the ACCC's public register.

Coles proposes to offer and supply loyalty program services to customers on condition that the customers become members of the Loyalty Pacific Pty Ltd operated FlyBuys program.

Legal immunity conferred by the notification commences on 20 May 2009.

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

As with any notification, please note that the ACCC may act to remove the immunity afforded by the 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 Coles will disclose all relevant terms and conditions to prospective members of the FlyBuys program.

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 contact Simon Mitchell on (03) 9290 6909 or at [simon.mitchell@acc.gov.au](mailto:simon.mitchell@acc.gov.au).

Yours sincerely

A handwritten signature in dark ink, appearing to be 'R' followed by a long horizontal stroke.

Dr Richard Chadwick  
General Manager  
Adjudication Branch