



**Australian
Competition &
Consumer
Commission**

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

Contact Officer: Lauren Roy
Contact Number: 02 6243 4940

16 January 2009

Mr Stephen Giles
Partner
Deacons
GPO Box 4592
Melbourne VIC 3001

Dear Mr Giles

Third line forcing notification N93733 lodged by Hungry Jack's Australia Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 24 December 2008. The notification has been placed on the ACCC's public register.

Hungry Jack's Australia (HJA) proposes to require its franchisees to purchase certain goods and/or services from suppliers that have been approved by HJA (Approved Suppliers). The goods and/or services to be acquired from the Approved Suppliers include consumable products (including pre-manufactured or pre-packaged products) packaging products, merchandise and promotional products, maintenance and cleaning products and services, staff uniforms, software support and electricity, LPG, gas and other energy sources.

Legal immunity conferred by the notification commenced on 7 January 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 HJA will disclose all relevant terms and conditions to current and prospective franchisees. In addition, I note that HJA is required to comply with disclosure requirements of the Franchising Code of Conduct in relation to the notified conduct. Among other things, these requirements 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 Lauren Roy on (02) 6243 4940.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch