



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2009/65  
Contact Officer: Tess Macrae  
Contact Number: 03 9290 1835

15 June 2009

Dear Sir/Madam

**Third line forcing notifications N93727, N93728, N93729 and N93779 lodged by  
Cartridge World Australia Pty Ltd and others**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) by Cartridge World Australia Pty Ltd (Cartridge World), Austcart Pty Ltd (Austcart), Pacific Oasis Pty Ltd (Pacific Oasis) and Ink Mark Pty Ltd (Ink Mark).

The conduct the subject of the notifications involves Cartridge World, Austcart, Pacific Oasis and Ink Mark requiring franchisees to purchase approved products from suppliers or the supplier approved by Cartridge World.

Under the notification process immunity from the exclusive dealing provisions of the Trade Practices Act 1947 (the Act) for third line forcing conduct is obtained automatically 14 days after the date of lodgement, and continues unless the ACCC issues a notice revoking the immunity.

For third line forcing notifications, the ACCC may issue a notice revoking the immunity only if it is satisfied that the likely benefit to the public from the notified conduct would not outweigh the likely detriment to the public resulting from the conduct. Provided it is so satisfied, the ACCC may act to remove the immunity afforded by a notification at any stage.

**Summary of ACCC considerations**

Having considered the notifications and submissions from Cartridge World and interested parties, the ACCC does not intend to take further action in this matter at this stage. This decision has been made on the basis that it is not apparent that the likely benefit to the public from the notified conduct would not outweigh the likely detriment to the public resulting from the conduct.

In reaching this position the ACCC accepted that there is a public benefit in arrangements that promote consistency in quality of products across franchise networks. In this instance Cartridge World has sought to achieve this through its

approved supplier arrangements which it considers to be a cost effective means of ensuring that standards with respect to quality and consistency are met.

The ACCC noted Cartridge World's submission that the approve supplier arrangements may facilitate relevant products being supplied more cheaply than would otherwise be the case and provide incentives for suppliers to offer greater levels of service. The ACCC also had regard to the concerns raised by franchisees that some products are available more cheaply from alternative suppliers and that some products franchisees wish to stock are not available from approved suppliers. However, the ACCC considered that it is appropriate that the franchisor consider various criteria in approving suppliers, in addition to cost and product range.

The ACCC considered submissions from franchisees about the level of competition between approved suppliers. However regard was also had to the ongoing competition provided by the manner in which approved suppliers are selected and reviewed, and Cartridge World's interest in approving suppliers that ensure that its franchisees are supplied on competitive terms. The ACCC also had regard to the fact that Cartridge World has recently introduced a new supplier approval process which includes much greater franchisee involvement in selecting suppliers.

The ACCC notes concerns expressed by some franchisees with products supplied by Cartridge World Supplies. However, requiring franchisees to acquire some stock from Cartridge World Supplies is not conduct covered by the notifications lodged. Accordingly the ACCC has not considered this requirement in assessing the notifications.

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.

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 Tess Macrae on 03 9290 1835.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', with a long horizontal stroke extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch