



**Australian
Competition &
Consumer
Commission**

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Contact Officer: Erin Donohue
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22 July 2009

Mr David Chapman
The Coffee Emporium
15 Badgery Avenue
Homebush NSW 2140

Dear Mr Chapman

**Third line forcing notification N94031 lodged by the Coffee Emporium
Franchising Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 3 July 2009. The notification has been placed on the ACCC's public register.

The Coffee Emporium Franchising proposes that its current and future franchisees use approved suppliers for the supply of products and/or services. Franchisees are also required to use approved shopfitters and equipment in their stores.

Legal immunity conferred by the notification commenced on 17 July 2009.

On the basis of the information that you have provided, it is not intended that further action be taken in relation to the notification 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 Coffee Emporium will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Coffee Emporium 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
Erin Donohue (02) 6243 1291

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch