



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2009/1364
Contact Officer: Gina D'Ettorre
Contact Number: 03 9290 1593

3 August 2009

Mr Geoff Carter
Minter Ellison Lawyers
PO Box 769G
MELBOURNE VIC 3001

Dear Mr Carter

**Third line forcing notification N94044 lodged by
Fonterra Brands (Australia) Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 16 July 2009. The notification has been placed on the ACCC's public register.

Fonterra Brands (Australia) Pty Ltd (Fonterra) proposes to supply or offer to supply, for two non-consecutive weeks (in August and/or September 2009), its 'Western Star original' 375 g dairy spread to Ritchies Supermarkets (via Metcash) and offer Ritchies Supermarkets a 'redemption' for all consumer purchases of bundled Western Star original 375 g dairy spread and George Western English Breakfast Tip Top muffins.

Fonterra submits this may be characterised as it giving or offering to give or allow, a rebate or credit in relation to the supply or proposed supply of Western Star original to Ritchies Supermarkets (via Metcash) on the condition that Ritchies Supermarket will acquire English Breakfast Tip Top muffins from George Western; or

Fonterra refusing to give or offer to a give a rebate or credit in relation to the supply or proposed supply of Western Star original to Ritchies Supermarkets (via Metcash) for the reason that Ritchies Supermarkets has not acquired or agreed to acquire English Breakfast Tip Top muffins from George Western.

Legal immunity conferred by the notification commenced on 30 July 2009.

On the basis of the information that you 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.

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 Gina D'Ettorre on 03 9290 1483.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', written over a light grey rectangular background.

Dr Richard Chadwick
General Manager
Adjudication Branch