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26 February 2010

BY EMAIL: erin.donohue@accc.gov.au
CONFIRMATION BY ORDINARY MAIL

Ms Erin Donohue
Adjudication Branch
Australian Competition and Consumer Commission
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ABC 2010-02-26

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Dear Madam

Back In Motion Physiotherapy Pty Ltd ACN 109 945 388
Exclusive Dealing Notification (Third Line Forcing)

We refer to your email of 10 February 2010, addressed to Adam Walker of our office, and to the subsequent email communications.

In response to the questions raised in your email, we are instructed to respond as follows.

1. *Is the requirement to acquire particular goods or services through nominated suppliers already in place? If not, how will the requirement be implemented and are there any transitional arrangements for existing franchisees?*

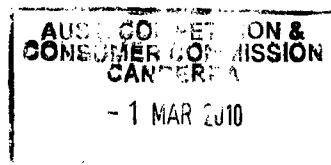
The conduct contemplated by the Notification is not yet in place. While, Back In Motion Physiotherapy Pty Ltd (BIM) has preferred suppliers, franchisees are currently not compelled to acquire from them.

The requirement that franchisees acquire from approved suppliers would be imposed as part of the usual course of a franchise relationship – most likely through a combination of the terms of the Franchise Agreement and the Operations Manual.

Any products sourced by franchisees from non-approved suppliers prior to immunity taking effect may be sold by franchisees, in the ordinary course of their business, until the earlier of:

- those products having been sold; and
- two (2) years having passed.

In a typical physiotherapy practice, stock is ordinarily sold within three (3) to six (6) months.



2. *How were the nominated suppliers selected? For example, were the suppliers selected through a tender process?*

The current preferred suppliers were selected through a tender process. This will continue once immunity takes effect.

If you have any questions, please contact Adam Walker using the details at the head of this letter.

Yours faithfully



Stephen Kroger
for GADENS LAWYERS