



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2010/317
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Mr John Toigo
Partner
Corporate & Commercial
ClarkeKann Lawyers
GPO Box 2249
BRISBANE QLD 4001

8 April 2010

Dear Mr Toigo

**Third line forcing notifications N94566 and N94567 lodged by Good Price
Pharmacy Franchising Pty Ltd & Good Price Pharmacy Management Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 19 March 2010. The notifications have been placed on the ACCC's public register.

Good Price Pharmacy Franchising Pty Ltd (GPPF) is the new franchising entity within the Good Price Pharmacy Group and Good Price Pharmacy Management Pty Ltd (GPPM) provides management services to non-franchised stores within the Good Price Pharmacy Group.

Under the notified arrangements:

- GPPF proposes to offer franchise agreements to potential Good Price Pharmacy Warehouse franchisees on condition that the franchisees purchase various pharmaceutical, health and beauty products from suppliers authorised by GPPF and maintain such products in such quantities as GPPF may reasonably require from time to time. A franchisee wishing to make purchases from a supplier other than an authorised supplier must obtain approval from GPPF.
- GPPM proposes to offer licensing agreements to potential Good Price Pharmacy Warehouse proprietors on the condition that the proprietors purchase various pharmaceutical, health and beauty products from authorised suppliers and maintain such products in such quantities as GPPM may reasonably require from time to time.

Legal immunity conferred by the notifications commenced on 2 April 2010.

On the basis of the information that you have provided, it is not intended that further action be taken in relation to the notifications at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by these notifications 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 GPPF and GPPM will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that GPPF 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 Jasmine Tan on (02) 6243 1363.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch