



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2010/605  
Contact Officer: Jasmine Tan  
Contact Number: (02) 6243 1363

6 August 2010

Ms Jacqueline Downes  
Partner  
Allens Arthur Robinson

**By email to: [jacqueline.downes@aar.com.au](mailto:jacqueline.downes@aar.com.au)**

Dear Ms Downes

**Third line forcing notification N94744 lodged by FOXTEL Management Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 25 June 2010. The notification has been placed on the ACCC's public register.

FOXTEL Management Pty Ltd (FOXTEL) will supply video content delivered to a customer's Xbox 360 games console via the internet (the FOXTEL by Xbox LIVE Service) on the condition that the customer has purchased an Xbox 360 games console and subscribes to the Xbox LIVE Gold service, or the Xbox LIVE Silver service in the case of transactional video on demand content.

Legal immunity conferred by the notification commenced on 9 July 2010. I note that this legal immunity extends to the notified third line forcing conduct only. If FOXTEL or Microsoft were to engage in any exclusive dealing conduct other than that which has been notified to the ACCC, this would not be protected from legal action under the *Trade Practices Act 1974*.

On the basis of the information that you have 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.

This assessment has been made on the basis that FOXTEL will disclose all relevant terms and conditions to prospective clients.

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

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

Dr Richard Chadwick  
General Manager  
Adjudication Branch