



Australian  
Competition &  
Consumer  
Commission

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Our Ref: 42981 C2010/716  
Contact Officer: Tess Macrae  
Contact Number: (03) 9290 1835

23 August 2010

Mr Warren Scott  
Mills Oakley Lawyers  
PO Box 453  
Collins Street West  
Melbourne VIC 8007

Dear Mr Scott

**Third line forcing notification N94870 lodged by Brabus PA Franchising Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 27 July 2010. The notification has been placed on the ACCC's public register.

Under the notified arrangements Brabus PA Franchising Pty Ltd proposes to supply franchisees with the right to operate a Price Attack business on the condition that they acquire specified products including hair care, styling and beauty products for resale and hair products used in providing in-salon services from L'Oreal.

Legal immunity conferred by the notifications commenced on 10 August 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 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 Brabus PA Franchising will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Brabus PA Franchising 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 Tess Macrae (03) 9290 1835.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch