



**Australian
Competition &
Consumer
Commission**

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Contact Officer: Erin Donohue
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14 February 2011

Mr Dean McNamara
General Counsel
The Hairhouse Warehouse Pty Ltd
PO Box 4449
Doncaster Heights VIC 3109

Dear Mr McNamara

**Third line forcing notification N95238 lodged by the
Hairhouse Warehouse Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 21 January 2011. The notification has been placed on the ACCC's public register.

The Hairhouse Warehouse Pty Ltd proposes to, under the terms of its Franchise Agreement, supply its services as franchisor on the condition that franchisees acquire their salon permanent hair extensions from the exclusive/preferred supplier (to be nominated by Hairhouse Warehouse on basis of a tender process) and brushes from the exclusive/preferred supplier nominated by Hairhouse Warehouse, namely, Tress De Moda Pty Ltd.

Hairhouse may refuse to supply its services as franchisor if franchisees do not acquire or agree to acquire salon permanent hair extensions or brushes from the exclusive/preferred suppliers.

Legal immunity conferred by the notification commenced on 4 February 2011.

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.

This assessment has been made on the basis that Hairhouse Warehouse Pty Ltd will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Hairhouse Warehouse Pty Ltd 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.

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 Erin Donohue on (02) 6243 1291.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch