



Australian
Competition &
Consumer
Commission

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Our Ref: C2011/390
Contact Officer: Ian Lawrence
Contact Number: 02 6243 1058

23 May 2011

Jacqueline Downes
Partner
Allens Arthur Robinson
GPO Box 50
SYDNEY NSW 2001

Dear Ms Downes

Third line forcing notification N95359 – N95368 lodged by Advertiser Newspapers Pty Ltd & Ors

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 13 April 2011. The notification has been placed on the ACCC's public register.

Advertiser Newspapers Pty Ltd, Advertiser News Weekend Publishing Company Pty Ltd, Nationwide News Pty Ltd, The Herald & Weekly Times Pty Limited, Queensland Newspapers Pty Ltd, Davies Brothers Pty Ltd, News Digital Media Pty Ltd, News Magazines Pty Ltd, News Limited, (together, *News Ltd entities*) and Abundant Media Pty Ltd as trustee for the Abundant Media Unit Trust (*Abundant Media*) provided notice of the following proposed conduct:

- Abundant Media may refuse to supply Abundant Media's services (media services, production services, strategic and creative campaign development services and intellectual property licences for a fee or fees) unless the Advertiser agrees to acquire News Ltd entities' services;
- News Ltd entities may refuse to supply News Ltd entities' services (multi-platform advertising services and print advertising creative services for a fee or fees) unless the Advertiser agrees to acquire Abundant Media's services.

You have advised that the proposed conduct only relates to use of a brand developed by Abundant Media (*the Brand*), that is use of a trademark, in research-based advertising and for products displaying the Brand. Further, you have advised that the proposed conduct would not:

- require a person using the Brand to advertise in all the News Ltd entities listed above;
- restrict generic or research based advertisements which do not use the Brand appearing in News Ltd entities' media.

The notified conduct could however require a person using the Brand to place up to 100% of their advertisement spend for use of the Brand in one or more of the News Ltd entities' publications.

Legal immunity conferred by the notification commenced on 27 April 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.

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 ACCC's understanding of the conduct, set out above, and on the basis that the Applicants will disclose all the relevant terms and conditions to prospective clients who seek to licence the Brand.

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 Mr Ian Lawrence on (02) 6243 1058.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch