



**Australian
Competition &
Consumer
Commission**

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Contact Officer: Erin Donohue
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16 June 2011

Mr Richard Westmoreland
Partner
HWL Ebsworth
GPO Box 5408
Sydney NSW 2001

Dear Mr Westmoreland

Third line forcing notification N95406 lodged by Zambrero Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 19 May 2011. The notification has been placed on the ACCC's public register.

Zambrero Pty Ltd proposes to, as a condition of its franchise arrangements, require franchisees to purchase particular ingredients (including, without limitation, meats and condiments) from suppliers nominated by Zambrero Pty Ltd.

Legal immunity conferred by the notification commenced on 2 June 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 Zambrero Pty Ltd will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Zambrero 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