



**Australian
Competition &
Consumer
Commission**

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Our Ref: 46902
Contact Officer: Clare McGinness
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8 September 2011

Mr Mark Griffiths
G & R Wills
22 Kidman Street
Alice Springs, NT, 0870

Dear Mr Griffiths

**Collective Bargaining Notification lodged by the Mai Wiru Regional Stores Council -
request for submission**

On 7 September 2011, the Australian Competition and Consumer Commission (the ACCC) received a collective bargaining notification from Mai Wiru Regional Stores Council (Mai Wuri) and six stores that provide grocery and supermarket items to members of remote indigenous communities within the Anangu Pitjantjatjara Yankuntjatjara Lands:

- Amata Anangu Store Aboriginal Corporation
- Kaltjiti Anangu Store Aboriginal Corporation
- Murputja Homelands Council
- Pipalyatjara Patilpa Store Inc
- Pukatja Supermarket and Associated Stores Aboriginal Corporation
- Wapa Store Aboriginal Corporation

Under the notified arrangement Mai Wuri is seeking to collectively bargain on behalf of the stores for the procurement of essential grocery and supermarket items to be sold within these stores. Mai Wiru proposes to negotiate price and terms and conditions of supply with G & R Wills and five other suppliers:

- ABC Transport Pty Ltd
- Stuart Bakery
- Independent Grocers
- Central Fruit & Veg Wholesalers
- Prime Cut Meats

A copy of the collective bargaining notification lodged is attached for your information and is also available from the ACCC's website at www.accc.gov.au.

The purpose of this letter is to seek G & R Wills' comments on the collective bargaining notification lodged by Mai Wiru on behalf of the six stores.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Competition and Consumer Act 2010* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by Mai Wiru

Mai Wiru has submitted that the proposed arrangements will have a direct impact on the health and wellbeing of regional community members by:

- facilitating reliable access to grocery and supermarket items in remote areas which are relatively inaccessible
- helping ensure a diversity of healthy grocery and supermarket items in each community store
- enabling them to negotiate affordable prices for the supply of grocery items to the stores (which in turn will ensure affordability at the retail level).

Mai Wiru considers that the arrangements will not result in anti-competitive detriment, as it only applies to a limited number of stores. Mai Wiru notes that the stores are free to negotiate with G & R Wills or any other supplier directly.

The immunity from legal action provided by notifications CB00150 – CB00155 will commence on 21 September 2011, provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

Request for submissions

To assist the ACCC in its consideration of the notification it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC in conducting its assessment of the notified arrangements. Guidelines for seeking exclusion from the public register are attached for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Submissions can also be lodged by email to adjudication@acc.gov.au or by facsimile on 02 6243 1211.

Please ensure that your submission is lodged with the ACCC by **COB Thursday 15 September 2011**.

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 Clare McGinness on 03 9290 6909.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch