



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2011/679  
Contact Officer: David Hatfield  
Contact Phone: 02 6243 1266

26 October 2011

Noel Woodall  
Principal  
Noel Woodall & Associates  
Commercial Centre, 212 David Low Way  
Peregian Beach, Qld 4573

*Sent via email: [nwlawyer@qld.chariot.net.au](mailto:nwlawyer@qld.chariot.net.au)*

Dear Mr Woodall

**Re: Football Queensland Ltd notification N93402  
- interested party submissions and request for further information**

I refer to previous correspondence in relation to the Australian Competition and Consumer Commission's (ACCC) current review into the above third line forcing notification.

As you are aware, on 9 September 2011, the ACCC issued a Draft Notice proposing to revoke Football Queensland's third line forcing notification and subsequently commenced a public consultation process on the Draft Notice. The ACCC requested submissions be provided by 30 September 2011. I note that Football Queensland provided a submission on 30 September 2011 (Football Queensland's latest submission).

The purpose of this letter is to provide Football Queensland with an opportunity to respond to the interested party submissions received in relation to the Draft Notice. I would also like to take this opportunity to seek further information from Football Queensland in relation to the notified conduct.

***Consultation on Draft Notice***

The ACCC has received 23 submissions in relation to the draft notice, including 19 public submissions and 4 confidential submissions.

Of the 19 public submissions, 12 have been placed on the ACCC's public register in their entirety, however, 7 have been partially redacted in response to requests to not reveal the identity of the authors.

Section 95(2) of the *Competition and Consumer Act 2010* (the Act) provides that a person submitting a document in relation to a notification may request that the document or parts thereof be excluded from the public register by reason of the nature of certain information contained in the document. Football Queensland has expressed concerns that restricting the identity of the authors and excluding submissions entirely from the public register may put it at a disadvantage in terms of responding to the issues raised within.

In deciding whether or not to exclude a submission or part of a submission from the public register in this matter, the ACCC has been mindful to balance any claims for confidentiality against the need for procedural fairness for Football Queensland.

Although 7 public submissions have been redacted to protect the identity of the authors, to allow Football Queensland to understand the context in which the submissions have been made, the ACCC has specified the class of interested party who made the submission, for instance, supplier, club or individual. The substance of the submissions have also been placed on the ACCC's public register to enable Football Queensland to respond to the issues contained within.

The ACCC is unable to release the confidential submissions, that is those submissions which have been excluded entirely from the ACCC's public register, to Football Queensland. However, in the interests of procedural fairness, the ACCC has compiled a summary of the confidential submissions received following the Draft Notice. This summary is at [Attachment A](#).

A copy of each of the public submissions received is also attached. All publicly available submissions are also posted on the ACCC's website, at [www.accc.gov.au/ExclusiveDealingRegister](http://www.accc.gov.au/ExclusiveDealingRegister).

Any comments Football Queensland may wish to make on the submissions, should be provided to the ACCC by **COB 11 November 2011**.

#### ***Further information required by the ACCC***

In its Draft Notice, the ACCC recognised that licensing programs have the potential to deliver benefits to sporting clubs and participants. However, the ACCC was not satisfied that, on the evidence available before it, the public benefits arising from Football Queensland's conduct outweighed the public detriments arising from the conduct. Nevertheless, the ACCC welcomed further information in order to help it reach a final view.

In light of issues raised by interested parties following the Draft Notice, the ACCC seeks further clarification from Football Queensland in relation to the following issues:

### 1. Minimum standard of quality

The ACCC notes that the Teamwear Program could deliver minimum quality standards by ensuring that only suppliers who met certain quality criteria were granted a license to supply Teamwear products.

The ACCC has received a number of submissions from clubs and suppliers suggesting that Football Queensland does not undertake any quality assessment of apparel prior to licensing suppliers. Further, that it is left primarily to clubs to follow up any quality issues with suppliers.

The ACCC has also received submissions from other clubs and suppliers stating that Football Queensland does work to ensure apparel of acceptable quality is supplied.

In its latest submission, Football Queensland states that it has acted on a number of occasions to ensure standards were met by suppliers. The ACCC would welcome additional information from Football Queensland providing any further examples of action that it has taken to rectify any quality issues.

### 2. Lower apparel prices

Football Queensland has stated that apparel prices have been falling over the last 3 years. Is it Football Queensland's submission that the licensing program has resulted in that reduction? If so, please explain how it has had that effect.

I also note that some clubs have submitted that they have been able to achieve lower apparel prices due to the Program's 'buying power'. The ACCC would welcome any comments that Football Queensland may wish to make on this. In particular, how the Program delivers any buying power to clubs.

### 3. Revenue

The ACCC notes that raising revenue to return to clubs for the promotion and development of football is one of the key potential benefits of the Teamwear Program. It is for this reason that the ACCC seeks to properly understand how much revenue has been raised by the Program, how it has been spent and how this is likely to constitute a public benefit.

The ACCC notes that Football Queensland has previously provided financial data regarding revenue generated and the cost of administering the Teamwear Program. However, as set out in the Draft Notice, the ACCC notes that this information appears to contain inconsistent figures and does not contain a breakdown of the administrative costs of the program over a specific time period.

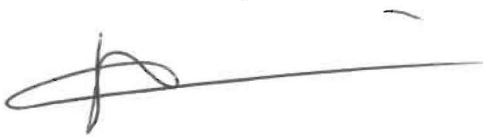
For instance, in relation to the Red Kits program, the ACCC notes that, as set out in paragraph 5.42 of the Draft Notice, Football Queensland has on several occasions provided the ACCC with different figures regarding how much Football Queensland has contributed to the Program. The ACCC also notes the submissions of interested parties that the Red Kits program was funded primarily by Red Rooster and has not been run since 2009. The ACCC seeks exact figures detailing the amount that Football Queensland has contributed to the Red

Kits program and the time period in which that program provided benefits to clubs. The ACCC also seeks further information regarding any other such initiatives funded by Football Queensland.

The ACCC would appreciate the opportunity to meet with Football Queensland to discuss these issues, as well as any additional issues that Football Queensland considers relevant to the ACCC's consideration of the notified conduct. I would be grateful if you could contact David Hatfield on 02 6243 1266 to arrange a suitable time to do so. If possible, it would be appreciated if this meeting could be held no later than the week ending **4 November 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 David Hatfield on the number above.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Richard Chadwick', written over a horizontal line.

Dr Richard Chadwick  
General Manager  
Adjudication Branch

## **Attachment A – Summary of confidential submission received by ACCC following Draft Notice**

### Efficiencies in tender process

- In reference to submissions by suppliers regarding the price of playing sets (shirts and shorts), that these cannot be purchased for \$10 – *A supplier*
- Bulk buying power is not achieved via licensing program – *A supplier*
- Suppliers do increase the price of Teamwear. For instance, suppliers add on a charge for the Q logo – *A supplier*
- I have been involved with soccer for long time and in various capacities. It is my experience that each individual clothing supplier builds into price of their apparel the cost of licensing program that FQ operates. – *An individual*

### Barriers to entry

- FQ has opened the doors to anyone prepared to pay the licence fee. This favours the big players, whereas smaller companies would find it more difficult to break even – *A supplier*
- Two licensed suppliers (Gorilla Sports and Statewide Sports) have 70% of the market, the rest of the licensees compete for 30% share – *A supplier*

### Service

- Regional areas are disadvantageded as few licensees service these areas – *A supplier*