



Our Ref: C2011/872
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Mr Justin Pasa, Associate
HWL Ebsworth Lawyers
By email: jpasa@hwle.com.au

Dear Mr Pasa,

**Collective Bargaining Notification lodged by BFC Stores Pty Ltd CB00157 –
CB00203**

I refer to the above collective bargaining notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 7 October 2011.

I am writing to inform you of the outcome of the ACCC's assessment of the notification.

The notified conduct

BFC Stores Pty Ltd, on behalf of itself, 30 BFC franchisee owned stores and one associate member (collectively 'BFC Stores') proposed to enter into negotiations with 47¹ target businesses in relation to the supply of architectural and decorative paint and coating products to the group. The proposed negotiations relate to Supplier Trading Terms Agreements, including terms relating to price. The arrangement does not involve a collective boycott.

The immunity conferred by the notification commenced on 21 October 2011.

Previous arrangement

On 7 October 2008 BFC Stores lodged collectively bargaining notifications CB00009 – CB00056 with the ACCC. These notifications were allowed to stand on 29 October 2011.

The October 2011 notifications largely seek to extend the previous collective bargaining arrangements.

¹ Now 46 as notification CB00278 which identified Lifestyle Australia Pty Ltd as a target was withdrawn on 20 October 2011.

The October 2011 notifications largely seek to extend the previous collective bargaining arrangements.

ACCC consideration

As you may be aware the ACCC may revoke the immunity provided by a collective bargaining notification at any time if it considers the relevant tests in section 93AC are satisfied. Generally, if the ACCC concludes that the benefit to the public likely to result from the collective bargaining arrangement will not outweigh the detriment to the public, the ACCC can remove the immunity provided by the notification.

The ACCC has assessed the collective bargaining arrangements proposed by BFC Stores and considers that the arrangements are likely to result in public benefits in the form of transaction cost savings. The ACCC also notes that the arrangements may allow BFC Stores to have more effective input into supplier contract terms and conditions.

Balanced against this the ACCC considers that the potential for the arrangements to result in anti-competitive detriment is limited, in particular by the composition of the collective bargaining group and the voluntary nature of the arrangement for both targets and participants of the group. The arrangements do not include a collective boycott.

On the basis of the information available, the ACCC considers that the likely benefit to the public from the collective bargaining arrangements will outweigh the likely anti-competitive detriment to the public. The ACCC does not intend to take any further action in relation to the notifications at this stage.

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 Hannah Ransom on (02) 6243 1255.

Yours sincerely



David Hatfield
A/g General Manager
Adjudication Branch