



Our Ref: C2011/872  
Contact Officer: Hannah Ransom  
Contact Phone: (02) 6243 1255

**Australian  
Competition &  
Consumer  
Commission**

3 November 2011

Level 7, Angel Place  
123 Pitt Street  
Sydney NSW 2000

GPO Box 3648  
Sydney NSW 2001

Tel: (02) 9230 9133  
Fax: (02) 9223 1092

[www.accc.gov.au](http://www.accc.gov.au)

**By email**

Dear Sir or Madam,

**Collective bargaining notifications CB00157-CB00177 & CB00179-203 lodged by  
BFC Stores**

I refer to the above collective bargaining notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 7 October 2011 and the ACCC's email to you on 14 October 2011.

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

**The notified conduct**

The notifications were lodged by BFC Stores Pty Limited on behalf of a number of retail paint and decorator stores that provide products and services to retail customers and trade painters Australia wide. The stores proposing to collectively bargain include BFC Stores Pty Ltd owned stores, 30 BFC franchisee owned stores and one associate member<sup>1</sup> of the franchise system (collectively 'BFC Stores').

BFC Stores proposed to enter into negotiations with 47<sup>2</sup> target business, supplying architectural and decorative paint and coating products to the group. The proposed negotiations will relate to the terms of Supplier Trading Terms Agreements, including terms relating to price. The proposed collective bargaining arrangements are voluntary and do not involve a collective boycott. Copies of the notifications lodged by BFC Stores are available from the ACCC's website at [www.accc.gov.au](http://www.accc.gov.au).

As noted previously your business is one of the proposed targets identified by BFC Stores in its notifications.

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

<sup>1</sup> The associate member operates its store under a similar system to the BFC franchisees, although independent of the BFC franchise system.

<sup>2</sup> The notification relating to Australian Lifestyle Pty Ltd (CB00178) was withdrawn by the applicants as a proposed target on 20 October 2011, reducing the number of proposed target businesses to 46.

## **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