



**Australian
Competition &
Consumer
Commission**

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Our Ref: N96035 and N96036
Contact Officer: Jaime Martin
Contact Number: (03) 9290 1477

12 September 2012

Louis Leventis
Senior Associate
Camatta Lempens Lawyers
Level 1
345 King William Street
Adelaide SA 5000

Via email: llevantis@camattalempens.com.au

Dear Mr Leventis

**Third line forcing notifications N96035 & N96036 lodged by CP Licensing Pty Ltd
and Maxdon Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 3 August 2012. The notification has been placed on the ACCC's public register.

Under the notified arrangement CP Licensing Pty Ltd and Maxdon Pty Ltd (trading as Caffe Primo Licensing) proposes to require Caffe Primo Licensees to acquire Products and Ingredients from third party suppliers that have been approved by Caffe Primo Licensing.

Products include meats, poultry, smallgoods, pasta, pizzas, salads, vegetables and beverages (alcoholic and non-alcoholic) for consumption at Caffe Primo style cafes/restaurants. Ingredients include sauces, spices, seasonings, bread, oils, vegetables and dressings used in making the Products.

Legal immunity conferred by the notifications commenced on 17 August 2012.

On the basis of the information that you have provided, it is not intended that further action be taken in relation to the notifications at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notifications 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.

This assessment has been made on the basis that Caffe Primo Licensing will disclose all relevant terms and conditions to current and prospective franchisees/licensees. In particular I note that Caffe Primo Licensing 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.

Finally, you seek confirmation of whether the ACCC requires a copy of Caffe Primo Licensing's Disclosure Document pursuant to the Franchising Code. For the purpose of assessing the exclusive dealing notifications, the ACCC does not currently require a copy of the Disclosure Document.

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 contact Jaime Martin on (03) 9290 1477 or at jaime.martin@acc.gov.au.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch