



**Australian
Competition &
Consumer
Commission**

Contact Officer: Shane Chisholm
Contact Number: (02) 6243 1036

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Warren Scott
Partner
Mills Oakley Lawyers
PO Box 453
Melbourne VIC 8007

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

By email: wscott@millsoakley.com.au; cgorman@millsoakley.com.au

Dear Mr Scott

Third line forcing notification N96120 lodged by Tutti Frutti Australia Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 28 August 2012. The notification has been placed on the ACCC's public register.

Under the notified arrangement Tutti Frutti proposes to offer franchise agreements on the condition that franchisees acquire the 'Tutti Frutti equipment' from a 'Core Supplier' as defined in the franchise agreement.

Legal immunity conferred by the notifications commenced on 11 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 notification at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by this notification 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 Tutti Frutti will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Tutti Frutti 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.

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 Shane Chisholm on (02) 6243 1036.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch