



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: 30691  
Contact Officer: John Rouw/ Marie Dalins  
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16 April 2012

Fiona Wallwork  
Partner  
Norton Rose Australia  
GPO Box 3872  
SYDNEY NSW 2001

**By email: [Fiona.wallwork@nortonrose.com](mailto:Fiona.wallwork@nortonrose.com)**

Dear Ms Wallwork

**Exclusive dealing notification N93244 lodged by Jireh International Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 17 December 2007.

The ACCC has received complaints about supply arrangements for Gloria Jean's Coffee franchisees that may relate to the above notification. In particular, the ACCC has received complaints that:

- The range of 'approved' suppliers and/ or supplies has been reduced and is not price competitive with prior suppliers
- Franchisees are being required to buy particular equipment, such as ovens, that fall outside the notified arrangements
- Franchisees are unable to purchase products from a supplier other than an approved supplier, even if the criteria set out in clause 6.9 reproduced in the notification are met.

To assist the ACCC to assess these complaints and in particular to determine whether the notified conduct is likely to continue to result in a benefit to the public that is likely to outweigh the likely detriment from the notified conduct, I invite you to provide a response to the issues raised above and ask that you provide the following information:

1. Have the supply arrangements for franchisees covered by notification N93244 changed since 2007?
2. If the supply arrangements have changed, can Jireh provide an updated submission to the ACCC on the benefits and detriments resulting from the notified conduct that addresses the changes in the conduct?
3. Will Jireh be lodging any further notifications for exclusive dealing, related to requirements placed on Gloria Jean's franchisees, for the ACCC's consideration?

4. How and on what basis have the current suppliers been selected? For example, was there a tender process, consultation with franchisees or some other approach taken?
5. How and when were these changes first communicated to franchisees and how will they be implemented, for example is there a transitional period?
6. Does Jireh receive a rebate or fee or other benefit from suppliers to franchisees?
7. If Jireh does receive a rebate or fee or other benefit from suppliers:
  - a. What is the value of the benefits and how are they structured?
  - b. Are franchisees informed of such payments and, if so, how and when?
  - c. How will any such benefits be used?
  - d. How do the current benefit arrangements, if any, compare with the situation when Jireh notified its conduct in 2007? For example, have they increased in proportion or total?
8. Can franchisees sell products in addition to the goods required to be obtained from suppliers Jireh has nominated?
  - a. Is clause 6.9 or a similar arrangement still in place in the Gloria Jean's franchise system? If so, will it be continued? If it is no longer in place and/ or is not to be continued, why not?
  - b. How many times have franchisees sought approval to use alternative suppliers? How many times has approval been given?

I would appreciate a response by **4 May 2012**.

A copy of this letter will be placed on the ACCC's public register.

If you have any questions, please contact John Rouw on (03) 9290 1402 or Marie Dalins on (03) 9290 1893.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch