



**Australian
Competition &
Consumer
Commission**

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Our Ref: TRACKIT 48803
Contact Officer: Susan Philp
Contact Number: 02 6243 1347

21 May 2012

Mr Michael Bradley
Marque Lawyers
Level 4, 343 George Street
SYDNEY NSW 2000

Dear Mr Bradley

Third line forcing notification N95855 lodged by Moochi Operations Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 4 May 2012. The notification has been placed on the ACCC's public register.

Under the notified arrangement Moochi proposes to grant franchises to franchisees on condition, among other things, that the Moochi franchisee offers for sale at the franchise the entire range of approved products. Approved products comprise the following: yoghurt, yoghurt powder, yoghurt paste, frozen fruits, crumble toppings, churros mix, frozen fruits and coffee and teas, from suppliers approved by Moochi.

Legal immunity conferred by the notifications commenced on 18 May 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 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 Moochi will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Moochi 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 Susan Philp on 02 6243 1347.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch