



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: N96512  
Contact Officer: Tanya Hobbs  
Contact Number: 02 6243 1029

GPO Box 3131  
Canberra ACT 2601

29 January 2013

23 Marcus Clarke Street  
Canberra ACT 2601

Ms Jocelyn Saint-Fryar  
Corporate Counsel  
Subway Systems Australia Pty Ltd  
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Fortitude Valley QLD 4006

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**By email:** [saintfryar\\_j@subway.com](mailto:saintfryar_j@subway.com)

Dear Ms Saint-Fryar

**Third line forcing notification N96512 lodged by  
Subway Systems Australia Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 24 December 2012. The notification has been placed on the ACCC's public register.

The ACCC understands that, as part of the notified conduct, Subway Systems Australia Pty Ltd (Subway) will offer Subway franchises and franchise services to franchisees on condition they acquire goods and services from approved suppliers. Approved suppliers and the goods and services that franchisees are required to obtain from approved suppliers may change from time to time.

Following the placement of the notification on the ACCC's public register, the ACCC received a number of submissions from interested parties concerned about the notification. The concerns expressed relate to the breadth of business inputs covered by the notification, the high cost of some products acquired from approved suppliers (compared to normal retail cost) and that Subway appears to be reducing the number of approved suppliers for each product to one.

In order to allow the ACCC to inform each Subway franchisee of the notification and provide an opportunity for comment, please provide contact details for each Subway franchisee including the name, address and email address of the franchisee and location of the stores owned by the franchisee, provided in an Excel spreadsheet. Please provide this information by **1 February 2013**.

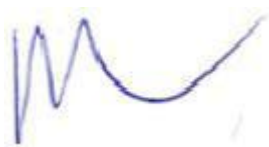
To assist the ACCC's assessment of this notification, could you please also provide the additional information requested at Attachment A to this letter and any other information you may wish the ACCC to take into account in its assessment by **22 February 2013**.

Please note that Subway's response to the information requested at Attachment A will be placed on the ACCC's public register, subject to any request for exclusion – please see the ACCC's publication [Guidelines for excluding information from the public register](#).

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 Tanya Hobbs on 02 6243 1029.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Richard Fleming', with a stylized, cursive-like structure.

Richard Fleming  
Acting General Manager  
Adjudication Branch

**Information Request to Subway Systems Australia Pty Ltd**

1. A copy of Subway's current franchise agreements and disclosure documents.
2. A list of Subway's approved suppliers, manufacturers and distributors including a contact name, the position title of the contact, telephone number and email address (where available).
3. For each of Subway's approved suppliers, manufacturers and distributors, please provide details of any payments made by the supplier, manufacturer or distributor to Subway or Independent Purchasing Company (Australasia) Limited (IPCA) and the reason for the payment. If the payments are not a defined lump sum, include the method of calculation of those payments.
4. For each of the products listed in Annexure A to Subway's notification (Annexure A products), note the supplier/s, manufacturer/s and distributor/s that Subway has approved to supply this item to its franchisees. If some suppliers, manufacturers and distributors are approved to supply only a limited group of franchisees, please note this as well.
5. Subway's notification indicates that IPCA conducts tenders and negotiates supply contracts with each approved supplier, manufacturer and distributor and that price is a factor upon which suppliers, manufacturers and distributors are evaluated. Accordingly, for each Annexure A product for which a retail equivalent is also available, please provide details of how each approved supplier, manufacturer and distributor prices in comparison to the retail equivalent.
6. For each Annexure A product, please provide details of each of the instances in the past three years where a franchisee has requested that it be given approval to source a product from a supplier not previously approved by Subway. Please note in each instance whether Subway gave its approval.
7. Details of the commercial relationship between IPCA and Subway, including any corporate ties or payments between Subway (or its directors, officers or owners) and IPCA (or its directors, officers or owners).