



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: 52097  
Contact Officer: Luke Griffin  
Contact Number: 02 6243 1114

GPO Box 3131  
Canberra ACT 2601

12 September 2013

23 Marcus Clarke Street  
Canberra ACT 2601

Mr Andrew Rankin  
Partner  
Norton Rose Australia

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By email: [Andrew.rankin@nortonrose.com](mailto:Andrew.rankin@nortonrose.com)

Dear Mr Rankin

**Third line forcing notification N96926 lodged by Capercorp Pty Ltd (Capercorp)**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 23 August 2013. The notification has been placed on the ACCC's public register.

Capercorp proposes to supply franchise services on the condition franchisees agree to acquire approved products and services from approved suppliers.

Legal protection conferred by the notification commenced on 6 September 2013.

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

As with any notification, please note that the ACCC may act to remove the legal protection provided by the 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 Capercorp will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Capercorp 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 Luke Griffin on 02 6243 1114.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long horizontal line.

Dr Richard Chadwick  
General Manager  
Adjudication Branch