

Our Ref: 52102
Contact Officer: Michael Drake
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**Australian
Competition &
Consumer
Commission**

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13 September 2013

Louis Leventis
Level 1,
345 King William Street
Adelaide SA 5000

By Email: llevantis@camattalempens.com.au

Dear Mr Leventis

Third line forcing notification N96929 lodged by RXBRY Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the **ACCC**) on 26 August 2013. The notification has been placed on the ACCC's public register.

RXBRY Pty Ltd (**RXBRY**) proposes to supply licences for the right to operate a Caffè Supremo franchise on the condition they acquire approved products and ingredients from approved suppliers.

Legal immunity conferred by the notification commenced on 9 September 2013.

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 RXBRY will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that RXBRY 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 Michael Drake on (03) 9658 6517.

Yours sincerely



Richard Chadwick
General Manager
Adjudication Branch