



**Australian
Competition &
Consumer
Commission**

Our Ref: 52647
Contact Officer: Tanya Hobbs
Contact Number: 02 6243 1029

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21 November 2013

23 Marcus Clarke Street
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Mr Adam Walker
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Dear Mr Walker

Third line forcing notification N97073 lodged by New CHA Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 4 November 2013. The notification has been placed on the ACCC's public register.

New CHA Pty Ltd (New CHA) proposes to supply marketing services to its franchisees in the Cavalier Homes franchise system on condition that the franchisees acquire goods and services from nominated suppliers.

Legal protection conferred by the notification commenced on 18 November 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 New CHA Pty Ltd will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that New CHA Pty Ltd 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 Tanya Hobbs on (02) 6243 1029.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'Baethan Mullen', is positioned above the printed name.

Baethan Mullen
Acting General Manager
Adjudication Branch