



**Australian
Competition &
Consumer
Commission**

7 May 2013

Ms Kate Bowman
General Counsel
Asciano Services Pty Ltd

By email: kate_bowman@asciano.com.au

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

Dear Ms Bowman

Collective Bargaining Notification CB283 lodged by R J Nuss Removals Pty Ltd - request for comment

The Australian Competition and Consumer Commission (ACCC) invites your comments on a collective bargaining notification lodged by R J Nuss Removals Pty Ltd (Nuss Removals) on 6 May 2013.

I note this notification relates to conduct that has previously been notified in 2007 and again in 2010.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Competition and Consumer Act 2010* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 28 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by Nuss Removals

Nuss Removals, on behalf of itself and three other furniture removal and storage companies (Aussie Move International Movers Pty Ltd, King & Wilson Transport Pty Ltd and FIMPARK Pty Ltd trading as Keys Bros Removals and Storage) proposes to negotiate a Rail Services Agreement for the provision of rail linehaul freight services with Asciano Services Pty Ltd trading as Pacific National. In particular, Nuss Removals intends to negotiate an annual volume growth rebate and the terms of the Rail Services Agreement.

The protection from legal action provided by notification CB283 will commence on 20 May 2013 provided the ACCC does not issue a draft objection notice.

A copy of the collective bargaining notification lodged by Nuss Removals is attached for your information and will also be available from the ACCC's website at www.accc.gov.au/CollectiveBargainingRegister.

Request for submissions

To assist the ACCC in its consideration of the notification it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC in conducting its assessment of the notified arrangements. Guidelines for seeking exclusion from the public register are attached for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Submissions can also be lodged by email to adjudication@acc.gov.au.

Please ensure that any submission is lodged with the ACCC by **Tuesday, 14 May 2013**.

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 me on (02) 6243 1266.

Yours sincerely



David Hatfield
Director
Adjudication Branch