

Our Ref: 50492
Contact Officer: Michael Drake
Contact Number: (03) 9658 6517



**Australian
Competition &
Consumer
Commission**

17 January 2013

Allison McLeod
Norton Rose Australia
Level 15, RACV Tower
485 Bourke Street
MELBOURNE VIC 3000

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

By Email: allison.mcleod@nortonrose.com

Dear Ms McLeod

Third line forcing notification N96511 lodged by Clark Rubber Franchising Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 27 December 2012. The notification has been placed on the ACCC's public register.

Under the notified arrangement Clark Rubber Franchising Pty Ltd (**CRF**) proposes to provide a gift card system to its franchisees. The gift card system would initially be provided by a third party and would facilitate a gift card scheme in which customers of Clark Rubber franchises who obtain a gift card are able to spend the card at any Clark Rubber franchise.

Legal immunity conferred by the notifications commenced on 10 January 2013.

On the basis of the information that you have provided, it is not intended that further action be taken in relation to the notifications 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 CRF will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that CRF 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

A handwritten signature in blue ink, appearing to read 'Richard Fleming', with a stylized, flowing script.

Richard Fleming
Acting General Manager
Adjudication Branch