



**Australian
Competition &
Consumer
Commission**

Our Ref: 54081
Contact Officer: Hannah Ransom
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17 March 2014

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Dear Ms Pace

Third line forcing notification N97314 lodged by Chicco Coffee Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 11 March 2014. The notification has been placed on the ACCC's public register.

Chicco Coffee Pty Ltd proposes to require franchisees of the Kicco franchise system to purchase approved products and services from the relevant 'required suppliers' listed in the Franchise Manual which will be updated at the Franchisor's discretion.

Legal protection conferred by the notification will commence on 25 March 2014.

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 Chicco Coffee Pty Ltd will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that Chicco Coffee 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.

Public register exclusion request

I have considered your request that some documents provided in support of the notification be excluded from the ACCC's public register.

As you are aware, the ACCC is generally required under section 95 of the Competition and Consumer Act 2010 (the Act) to place documents provided to it in relation to a notification on the ACCC's public register. The Act provides that a person submitting a document in relation to a notification may request that the document or parts thereof be excluded from the public register by reason of the nature of certain information contained in the documents.

As a person authorised to make a decision for and on behalf of the ACCC in relation to such a request, I advise that the relevant documents will not be placed on the public register.

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 Hannah Ransom on (02) 6243 1255.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal line extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch