



Our ref: N10000501
Contact officer: Kobi Maybury
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14/11/2019

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Jennifer French
Senior Legal Officer
Department of Environment and Energy

By email: Jennifer.french@environment.gov.au

Dear Ms French

N10000501 – National Carbon Offset Standard – No further action

I refer to the notification lodged with the Australian Competition and Consumer Commission (the **ACCC**) by the Department of Environment and Energy (the **department**)

The department has described the notified conduct as follows:

The department will offer to supply services (in the form of carbon neutral certification) to a person or organisation (an applicant/ potential applicant) on the condition that the person or organisation will acquire services from another person or organisation (a consultant listed on the departments register), or will refuse to supply because the person or organisation will not agree to that condition (the **Notified Conduct**).

Commencement of legal protection

The protection from legal action provided by this notification commenced automatically when it was validly lodged with the ACCC on 16 September 2019.

While the legal protection is in force, the notifying party may engage in the conduct as described in the notification without the risk of breaching the exclusive dealing provisions of the *Competition and Consumer Act 2010* (Cth).

ACCC assessment

On the basis of the information that you have provided, the ACCC considers that the Notified Conduct is not likely to have the purpose, effect or likely effect of substantially lessening competition.

In particular, while the Notified Conduct will limit consumer choice in engaging a consultant to validate their carbon neutrality claim to those consultants listed on the departments register, the ACCC notes that access to this register is available to all consultants who meet the minimum requirements set by the department.

As such, the ACCC has decided to take no further action at the current time, which allows the legal protection provided by the notification to continue unless or until the ACCC revokes the notification or it is withdrawn.

If circumstances change, or the ACCC receives further information, such that it is satisfied that the Notified Conduct has the purpose, effect or likely effect of substantially lessening competition and that the public benefits from the third line forcing conduct do not outweigh the public detriments, the ACCC may take steps to remove the legal protection by revoking the notification.

The notification and this email will be placed on the ACCC's [exclusive dealing notifications register](#).

Please contact Kobi Maybury on (02) 6243 1222 or by email to adjudication@acc.gov.au if you have any questions about this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DMcCracken-Hewson', with a long horizontal flourish extending to the right.

Daniel McCracken-Hewson
General Manager (A/g)
Adjudication