

21st April 2020

Daniel McCracken-Hewson
Australian Competition & Consumer Commission
Level 17/2 Lonsdale Street
Melbourne VIC 3000

By email: adjudication@acc.gov.au

Dear Daniel

We are a retailer in the food retailing sector and like many others in the café & restaurants space, we have been very badly affected by COVID-19.

Since COVID -19, we have had stores trading at up to 70% down on normal sales since mid March. Since the sales deterioration, we have been in negotiation with many landlords, a couple which have been very supportive of our position. Unfortunately, the majority of our landlords have been difficult to deal with and are unwilling to assist us in any meaningful way.

We are a member of the Australian Retailers Association (ARA). We are advised that the ARA has sought to allow tenants to collectively bargain. As a retailer and a member of the ARA, I would fully support this request. Once the government lifts the “self-distancing” requirements, we do not expect to reach our normal trading patterns until at least 12 months after the COVID-19 epidemic. The retail landscape will not return to its pre-COVID levels anytime soon with unemployment expected to hit close to 10% and upwards of 20% for younger generations.

The ability to discuss with other tenants traffic flow of the centre, what other retailers within the food & cafes sector are experiencing would help understand the overall effect of COVID-19 on our business.

We would like to be able to exchange information, and collectively negotiate with landlords regarding support to be provided by them, including the appropriate information to be exchanged with the landlord for that purpose.

Areas that we would discuss are, but not limited to:

- Falling customer counts
- Number of vacancies within a shopping centre
- Deteriorating trading conditions caused by COVID-19
- The position landlords have taken with respect to how they have applied and interpreted the code
- The size and form of rent reductions, including waivers and deferrals
- What initiatives landlords have taken to combat the impact of COVID-19, including as part of the recovery phase
- What incentives and supports have been provided by the government, banks and other third parties to landlords to help them cope with and navigate the crisis

We understand that negotiations must take into account the code of conduct announced by the Prime Minister on the 7th April 2020, which prescribes the good faith leasing principles applicable to negotiations between landlords and SME tenants **(The CODE)**

We believe that if we can collectively bargain, then the benefits to our business would be ensuring that we can continue to trade without having to close shops that would become unprofitable or insolvent. It would help ensure that we:

1. Continue to directly or indirectly employ the >1000 people in our retail network
2. Continue to be able to pay proportionate rent in the short term
3. Are able to return to a position over time, of paying rent that is commensurate with our landlord's capacity to deliver us foot traffic that supports our occupancy costs.

Yours sincerely,
Proud Food Retailer