



Australian
Competition &
Consumer
Commission

Our Ref: 52559
Contact Officer: Neville Matthew
Contact Phone: (02) 6243 1066

13 April 2015

Ms. Shabnam Amirbeaggi
Official Liquidator / Trustee in Bankruptcy
Crouch Amirbeaggi
Suite 403, 55 Lime Street
King Street Wharf, Sydney NSW 2000

Dear Ms Amirbeaggi,

The ACCC is writing in connection with the information the ACCC obtained from Crouch Amirbeaggi on 11 March 2014 pursuant to a *Disclosure Notice* relating to unsafe electrical cable supplied by Infinity Cable Co Pty Ltd (**the Infinity information**). There are two purposes in writing to you:

1. To advise you that a limited amount of **the Infinity information** was disclosed to a downstream supplier who had purchased Infinity cable from wholesalers identified in **the Infinity information**, and
2. To ask if any or all of **the Infinity information** is in fact confidential.

Controls on how the ACCC collects, uses and discloses information

How the ACCC collects, uses and discloses information is controlled by the provisions of the *Competition and Consumer Act 2010* (CCA) and other legislation and described in the **ACCC/AER Information Policy** (attached). The ACCC (including its staff and internal and external consultants) are subject to a number of general prohibitions on making an unauthorised disclosure of information. However, the CCA and other legislation provides for the ACCC to disclose confidential information in certain circumstances. This includes under s. 155AAA of the CCA where disclosure is permissible in the course of performing ACCC duties or functions, or to certain ministers, government departments and other government agencies when specific criteria are met.

The Infinity information has proved very helpful in assisting the ACCC and other government agencies in the regulatory taskforce to monitor the recall and remediation of the faulty cables.

The disclosure of a limited amount of the Infinity information

On 2 April 2015, I became aware that one of the ACCC staff working on the Infinity cables recall had disclosed some of **the Infinity information** to a small supplier located in NSW. The supplier had been seeking support from wholesalers of the Infinity cable. In trying to assist the small supplier the staff member disclosed the following information in emails (to the small supplier):

1. On 5 March 2015 - "we can confirm that records of supply provided to us by Infinity Cable Co Pty Ltd via its liquidator show that both Kalmarc Electrical Industries Pty Ltd and Alliance Electrical Wholesalers Blue Mountains Pty Ltd purchased Infinity cables", and
2. On 20 March 2015 - "Kalmarc and AEW Blue Mountains purchased 2.5mm 2C+E TPS Infinity cable from Infinity Cable Co Pty Ltd between the following dates:
Kalmarc: 1st Jul 2011 to 16th August 2013 (9 shipments in total: 1/7/11, 3 shipments on 1/8/11, 28/11/11, 29/5/12, 4/9/12, 14/9/12, 16/8/13)
Alliance: 2nd Feb 2012 to 22nd Feb 2012 (3 shipments in total: 2/2/12, 7/2/12, 22/2/12)".

This type of information, being the dates on which Infinity Cable Company supplied cable to wholesalers and retailers, (and also the quantity and value of cable sold) may assist suppliers, builders and electricians to determine more readily the exact locations of installed faulty cables.

I note that when the Infinity information was provided to the ACCC via email, there was a 'boilerplate notice' (in the form of an email footer) which included a confidentiality claim in relation to the email and attachments. However, there was no more specific claim of confidentiality in relation to the information provided. I acknowledge that in light of this ambiguity, it would have been preferable for the ACCC to clarify the status of the Infinity information prior to this disclosure, and I apologise for this oversight.

Gathering your views about the status of this **disclosed information** is important to the ACCC as it will inform our overall response to the disclosure.

Next Steps

We wish to deal appropriately with genuinely confidential information, which is not otherwise publicly available or accessible, and to take reasonable steps to rectify any inadvertent disclosure of such material.

To assist the ACCC in managing any potential adverse impacts of the disclosure, the first step is to ask if you regard this **disclosed information** is confidential in nature. If it is confidential, I would ask you to explain the basis of the confidentiality and the implications of unauthorised disclosure.

I would also ask you to consider **the Infinity information** more broadly, and I would appreciate your advice as to whether you regard any or all of **the Infinity information** as confidential, and if so, the basis for this.

The ACCC takes information management very seriously and I seek your prompt assistance with this matter. If you have questions regarding this letter, please me or via neville.matthew@accg.gov.au or on (02) 6243 1066.

Yours sincerely



Neville Matthew
General Manager, Chemicals and Compliance
Product Safety Branch