

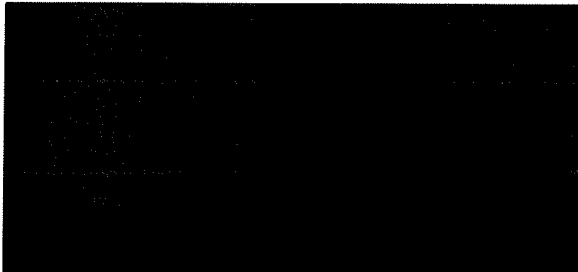
Our Ref: [REDACTED]  
Contact Officer: Michael Dowers  
Contact Phone: 07 4729 2666  
Your reference: [REDACTED]



**Australian  
Competition &  
Consumer  
Commission**

24 September 2012

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370 Flinders Mall  
Townsville Qld 4810  
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Dear [REDACTED]

As you are aware the Australian Competition and Consumer Commission (ACCC) has received a complaint alleging that representations made by [REDACTED] on behalf of the [REDACTED] concerning a fee intended to be imposed on [REDACTED] clients to send and receive faxes being attributable to the carbon levy was false or misleading.

### **Background**

The ACCC is a national statutory authority responsible for administering and enforcing the *Competition and Consumer Act 2010* (Cth) (CCA). The purpose of the CCA is to enhance the welfare of Australians through the provision of consumer protection and the promotion of competition and fair trading.

The ACCC assesses and investigates complaints received from businesses and consumers as appropriate. If the evidence indicates a contravention of the CCA, the ACCC has a number of enforcement options available to it. These range from administrative resolutions including warning letters and court enforceable undertakings through to litigation.

### **The Australian Consumer Law (ACL)**

Section 18(1) of the ACL, which is included at schedule 2 of the CCA states:

*A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.*

Section 29(1)(i) of the ACL states:

*A person must not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, make a false or misleading representation with respect to the price of goods and services.*

### **Penalties and remedies for breaches of the ACL**

You should be aware that the ACCC has the power to issue Infringement Notices where it has reasonable grounds to believe that a business has contravened s.29 of the ACL. The penalty amount for an Infringement Notice is currently \$6,600 for a corporation and \$1,320 for an individual for each alleged contravention.

Contraventions of s.29 may result in civil monetary penalties up to:

- \$1.1 million for companies; and
- \$220,000 for individuals.

The ACCC can also seek other remedies for a contravention of these provisions including injunctions to prevent the prohibited conduct continuing and declarations.

In serious cases a criminal prosecution may be pursued.

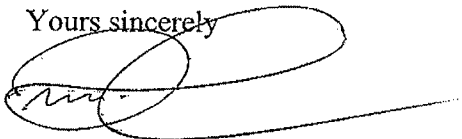
### **Warning**

The ACCC has completed its investigation into the allegation described above and it is not our intention to pursue this matter further, however in the event that further complaints are made to the ACCC concerning [REDACTED] or the [REDACTED] and representations concerning the carbon levy, we may review this position without notice, particularly in light of the information provided in this letter.

You are reminded that any future representations concerning the carbon levy must not be misleading, deceptive or false. The responsibility to ensure such representations are not at risk of contravening the CCA rests with [REDACTED]

If you have any questions in relation to this letter or would like to discuss this matter further please contact me on (07) 4729 2666 or by email at michael.dowers@acc.gov.au.

Yours sincerely



Michael Dowers  
Director  
ACCC | Townsville