



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2021-319

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	Waived
6. Processing time (in working days)	17 days
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: 2021-319 Freedom of Information request
Date: Monday, 15 November 2021 12:46:17 PM

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

In relation to investigation of Pink Frosting, 86 Candles Pty Limited and Louise Curtis, all email correspondence between Rohan Connor, David Snowden and Derise Cubin, in some cases the emails may only include one person, in other cases they may include the three people, and in some may include other staff, however we require all email correspondence between these three people in relation to this matter from 16 November 2020 to 25 February 2021.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: 2021-320 Freedom of Information request
Date: Monday, 15 November 2021 12:48:34 PM

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:

Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

In relation to investigation of Pink Frosting, 86 Candles Pty Limited and Louise Curtis, all email correspondence between Rohan Connor and Stephen O'Rourke of Access Canberra, between 1 November 2018 and 30 March 2019.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: 2021-321 Freedom of Information request
Date: Monday, 15 November 2021 12:50:02 PM

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

In relation to investigation of Pink Frosting, 86 Candles Pty Limited and Louise Curtis, all email correspondence between Wendy Maree Harrison and Rohan Connor of Access Canberra between 15 October 2018 and 30 March 2019.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-319



FREEDOM OF INFORMATION REQUEST

I am writing to you in response to your three access applications under the *Freedom of Information Act 2016 (FOI Act)*, dated 15 November 2021, in which you sought access to:

CMTEDDFOI2021-319 – *“...all email correspondence between Rohan Connor, David Snowden and Derise Cubin, in some cases the emails may only include one person, in other cases they may include the three people, and in some may include other staff, however we require all email correspondence between these three people in relation to this matter from 16 November 2020 to 25 February 2021”.*

CMTEDDFOI2021-320 – *“...all email correspondence between Rohan Connor and Stephen O'Rourke of Access Canberra, between 1 November 2018 and 30 March 2019”.*

CMTEDDFOI2021-321 – *“...all email correspondence between Wendy Maree Harrison and Rohan Connor of Access Canberra between 15 October 2018 and 30 March 2019”.*

Section 43(2) of the Act allows for a respondent to consider two or more applications as one application if the applications are related and are made by the same applicant. As all three requests are from you and related closely to each other, a decision has been made to combine the requests and respond to you using the timeline of the first application **CMTEDDFOI2021-319**.

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 13 December 2021.

Decision on access

Searches were completed for relevant documents and 3 files were identified that fall within the scope of your request. I have included as **Attachment A** to this decision the schedule of relevant files. This provides a description of each file that falls within the scope of your request and the access decision for each of those files.

I have decided to grant partial access to all three files relevant to your request as I consider some of the information is:

- contrary to the public interest information under schedule 1 of the Act; or
- information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

Statement of Reasons

In reaching my access decisions, I have taken the following into account:

- the Act,
- the content of the documents that fall within the scope of your request, and
- the *Human Rights Act 2004*, and
- the *Information Privacy Act 2014*.

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Contrary to the public interest information under schedule 1 of the Act

File 2021-319 contains information that is considered to be contrary to the public interest under schedule 1 of the Act section 1.2 - *Information subject to legal professional privilege*.

Pages 3-13 of file 2021-319 identified as being within the scope of your request, is comprised of information that is considered to be contrary to the public interest information under section 1.2 of Schedule 1 of the Act. These documents contain information sent to and from the Office of the ACT Government Solicitor for the purposes of obtaining legal opinion. I consider the advice in these documents is subject to legal professional privilege as it was brought into existence for the dominant purpose of providing a legal opinion. This information can only be released if the parties involved agree to waive that privilege.

Accordingly, I have decided to withhold pages 3-13 of file 2021-319 from release under the Act. The remaining information is released to you in full.

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when 'used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which it appears'. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factors favouring disclosure in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(xiv) *contribute to the administration of justice for a person.*

Having considered the above factor as relevant in this matter, I consider that release of the information contained in the document may contribute to administration of justice for yourself as it may assist you in identifying information related to you and your business and those people listed in your application.

Factors favouring nondisclosure in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

(iii) *prejudice security, law enforcement or public safety.*

However, when considering this finding against the factors favouring nondisclosure in relation to files 2021-320 and 2021-321, I am satisfied that the protection of an individual's right to privacy is a significant factor. The parties involved have provided their personal information for the purposes of corresponding with the ACT Government. This information includes names and identifying information of complainants, contact phone number, email addresses and physical addresses that are not publicly available. This, in my opinion, outweighs the benefit which may be derived from releasing the personal information of this individual. These individuals are entitled to expect that their non-public personal information that they have supplied as part of this process will be dealt with in a manner that protects their privacy.

I also find that disclosure of the *Investigation Strategy Review* submission contains details and discussions of methods used by Access Canberra in its investigations into breaches or possible breaches of the law and demonstrates the application of those methods and procedures. In particular, I consider that the document demonstrates how Access Canberra assesses allegations to determine whether it will pursue an investigation, including the types of information Access Canberra gathers and considers relevant, the factors it considers in assessing whether to take regulatory action and demonstrates Access Canberra analysis of the relevant information and factors in the specific circumstances. I am satisfied that these methods and procedures are not routine

methods, nor are they generally known to the public and release could jeopardise future investigations. Accordingly, I find that disclosure of the information would be reasonably likely to prejudice the effectiveness of those methods and procedures.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

Charges

Pursuant to Freedom of Information (Fees) Determination 2018 processing charges are applicable for this request because the total number of pages to be released to you exceeds the charging threshold of 50 pages. However, the charges have been waived in accordance with section 107(2)(b) of the Act.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 3 days after the date of my decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

8 December 2021



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Investigation of Pink Frosting, 86 Candles Pty Limited and Louise Curtis	CMTEDDFOI2021-319 (combined request)

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-13	Documents for reference 319 *Applicant's own information removed where applicable	From 16 Nov 2020 to 25 Feb 2021	Partial release	Schedule 1 s 1.2	Yes
2	14-72	Documents for reference 320 *Out of scope information removed	From 1 Nov 2018 to 30 Mar 2019	Partial release	Schedule 2 2.2(a)(II) Schedule 2 2.2(a)(iii)	Yes
3	73-91	Documents for reference 321 *Out of scope information removed where applicable	From 15 Oct 2018 to	Partial release	Schedule 2 2.2(a)(II) Schedule 2 2.2(a)(iii)	Yes

From: "Snowden, David" <David.Snowden@act.gov.au>
Sent: 20/01/2021 12:59 AM
To: "Mangeruca, Giuseppe" <Giuseppe.Mangeruca@act.gov.au>; "Cubin, Derise" <Derise.Cubin@act.gov.au>; "Connor, Rohan" <Rohan.Connor@act.gov.au>
Subject: Fwd: RE - Consumer Affairs QTB index

Get [Outlook for iOS](#)

From: Hodshon, Gerard <Gerard.Hodshon@act.gov.au> on behalf of ACDLO <ACDLO@act.gov.au>
Sent: Wednesday, January 20, 2021 11:59 am
To: Access Canberra Government Business & Coordination
Cc: Snowden, David; Short, Rachael; Rynehart, Josh
Subject: RE - Consumer Affairs QTB index

OFFICIAL: Sensitive

Cath
Note the request for a Pink Frosting QTB – rest are good to go.
They are not asking for background – just what to say in the event that something is asked.
Regards
Gez


From: Georgeson, Matthew <Matthew.Georgeson@act.gov.au>
Sent: Wednesday, 20 January 2021 11:51 AM
To: ACDLO <ACDLO@act.gov.au>
Cc: McGuire, AnnaX <AnnaX.McGuire@act.gov.au>
Subject: Re: Advice pls - Consumer Affairs QTB index

These look good - but he'll also need something re Pink Frosting ie what is the appropriate thing to say if asked.
Thanks

On 14 Jan 2021, at 1:31 pm, ACDLO <ACDLO@act.gov.au> wrote:

OFFICIAL: Sensitive

Out of Scope



From: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Sent: 21/01/2021 9:44 PM
To: "Mangeruca, Giuseppe" <Giuseppe.Mangeruca@act.gov.au>; "Cubin, Derise" <Derise.Cubin@act.gov.au>; "McPherson, Alex" <Alex.McPherson@act.gov.au>
Subject: FW: 86 Candles Pty Limited (Pink Frosting) v ACT Government
Attachments: Letter to Access Canberra re Pink Frosting dated 21 January 2021.pdf

OFFICIAL

Just FYI.

From: Louise Curtis <louiselollypotz@gmail.com>
Sent: Friday, 22 January 2021 6:53 AM
To: BARR Reception <BARR@act.gov.au>; RATTENBURY <RATTENBURY@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: 86 Candles Pty Limited (Pink Frosting) v ACT Government

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning Shane and Andrew,

Please find attached letter sent yesterday to Access Canberra.

We were advised yesterday that the Commissioner had retired this week, please advise who the new fall guy will be.

I've also shared with you this morning via Google Drive the audio from our meeting with the Commissioner. I note that all parties agreed that the meeting of 25 November could be recorded (Rohan Connor also recorded it) - just so you're fully aware of the contents of our discussion.

Warm regards,

Louise Curtis

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

0475 605 862

From:"Connor, Rohan"

Sent:21/11/2018 10:49 PM

To:"Prescott, Aidan" <Aidan.Prescott@act.gov.au>;"O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Subject:Pink Frosting: Next steps [SEC=UNCLASSIFIED]

Morning Aidan and Steve,

When would be good to chat about the next steps for Pink Frosting?

Cheers, Roh

Rohan Connor

Manager | Advice, Investigations and Enforcement

(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From: "Connor, Rohan"

Sent: 27/11/2018 2:37 AM

To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>; "Prescott, Aidan" <Aidan.Prescott@act.gov.au>

Subject: Discussion with David - Pink Frosting and [Out of Scope] [SEC=UNCLASSIFIED]

Attachments: Investigation Strategy Review - 2018.11.22 - Draft.docx

Hi Steve and Aidan,

Please find attached an investigation strategy template. It is envisaged that the template will be completed and provided to David in advance of our meetings with him to discuss next steps in our investigations.

We are going to take the [Out of Scope] Pink Frosting matters to David first, to trial the template and meeting format. I was thinking we could aim for a meeting early next week, if you wouldn't mind putting together a draft prior to then. The template should be around 1 page, but no longer than 1.5 pages, when completed.

Happy to discuss if you have questions.

Cheers, Rohan

Rohan Connor

Manager | Advice, Investigations and Enforcement

(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

Investigation Strategy Review

Case Particulars	
Date investigation commenced	
CRM Number	
Objective reference	
Trader details	(Business name, address, phone, email, web, licence number, ABN, ACN)
Other Parties	
Alleged conduct	Act, section(s)
Case theory	
Background	
Key issues, dates and evidence	
Proposed investigation strategy, including potential outcomes	

From: "Connor, Rohan"
Sent: 04/12/2018 3:41 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Subject: RE: Pink Frosting: Complaints [SEC=UNCLASSIFIED]

Hi Steve, thanks again for putting this together so quickly.

From: O'Rourke, Stephen
Sent: Tuesday, 4 December 2018 2:39 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: RE: Pink Frosting: Complaints [SEC=UNCLASSIFIED]

Good afternoon,

Please find below all complaints received by Access Canberra in relation to the business **Pink Frosting** between the dates of **1 January 2017 – 30 June 2018**:

Month/Year	Complaints Received
January 2017	0
February 2017	0
March 2017	0
April 2017	0
May 2017	0
June 2017	0
July 2017	0
August 2017	0
September 2017	1
October 2017	2
November 2017	0
December 2017	0
January 2018	0
February 2018	2
March 2018	0
April 2018	3
May 2018	8
June 2018	1
Total	
17	

Let me know if you require any further details.

Kind regards,
Steve.

Stephen O'Rourke | Investigator
Investigations, Compliance and Enforcement
Access Canberra | ACT Government



From: Connor, Rohan
Sent: Tuesday, 4 December 2018 1:27 PM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: Pink Frosting: Complaints [SEC=UNCLASSIFIED]

Hi Stephen,

As discussed, could you please compile by month the number of complaints about Pink Frosting in the period from 1 January 2017 to 30 June 2018? These numbers need only include complaints made to Access Canberra (rather than complaints made to other regulators).

For example, the table could be set out as follows:

Month	Total number of complaints
January 2017	4
February 2017	6
March 2017	0

Happy to discuss if you have any questions.

Thanks, Rohan

Rohan Connor

Manager | Advice, Investigations and Enforcement
(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From:"Connor, Rohan"
Sent:04/12/2018 2:27 AM
To:"O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc:"Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject:Pink Frosting: Complaints [SEC=UNCLASSIFIED]

Hi Stephen,

As discussed, could you please compile by month the number of complaints about Pink Frosting in the period from 1 January 2017 to 30 June 2018? These numbers need only include complaints made to Access Canberra (rather than complaints made to other regulators).

For example, the table could be set out as follows:

Month	Total number of complaints
January 2017	4
February 2017	6
March 2017	0

Happy to discuss if you have any questions.

Thanks, Rohan

Rohan Connor

Manager | Advice, Investigations and Enforcement
(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Sent: 10/12/2018 4:29 PM
To: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Subject: RE: Pink Frosting [DLM=For-Official-Use-Only]

Excellent, thanks for that. I will send all of the IRS's through to David and CC you and Aidan.

Thank you,
Steve.

From: Connor, Rohan
Sent: Monday, 10 December 2018 4:13 PM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: RE: Pink Frosting [DLM=For-Official-Use-Only]

Thanks Steve and Aidan. Here are my comments.

Could you please email these three documents on to David ready for our meeting tomorrow morning?

Cheers, Rohan

From: O'Rourke, Stephen
Sent: Monday, 10 December 2018 3:58 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: Pink Frosting [DLM=For-Official-Use-Only]

Good afternoon Rohan,

Please find attached latest draft for the Pink Frosting Investigation Strategy review.

Thanks,
Steve.

Stephen O'Rourke | Senior Investigator
Investigations, Compliance and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



**Access
Canberra.**

From: "Connor, Rohan"
Sent: 10/12/2018 5:13 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc: "Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject: RE: Pink Frosting [DLM=For-Official-Use-Only]
Attachments: Investigation Strategy Review - 2018.11.22 - Draft - Pink Frosting (Latest Draft) (002) (RC).docx

Thanks Steve and Aidan. Here are my comments.

Could you please email these three documents on to David ready for our meeting tomorrow morning?

Cheers, Rohan

From: O'Rourke, Stephen
Sent: Monday, 10 December 2018 3:58 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: Pink Frosting [DLM=For-Official-Use-Only]

Good afternoon Rohan,

Please find attached latest draft for the Pink Frosting Investigation Strategy review.

Thanks,
Steve.

Stephen O'Rourke | Senior Investigator
Investigations, Compliance and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



ACT
Government

**Access
Canberra.**

From: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Sent: 10/12/2018 3:58 PM

To: "Connor, Rohan" <Rohan.Connor@act.gov.au>

Cc: "Prescott, Aidan" <Aidan.Prescott@act.gov.au>

Subject: Pink Frosting [DLM=For-Official-Use-Only]

Attachments: Investigation Strategy Review - 2018.11.22 - Draft - Pink Frosting (Latest Draft).docx

Good afternoon Rohan,

Please find attached latest draft for the Pink Frosting Investigation Strategy review.

Thanks,

Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



ACT
Government

**Access
Canberra.**

From:"Connor, Rohan"

Sent:11/12/2018 11:21 PM

To:"O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>;"Prescott, Aidan" <Aidan.Prescott@act.gov.au>;"Louise Curtis" <louiselollypotz@gmail.com>

Subject:Meeting between Access Canberra and Pink Frosting

From: "Connor, Rohan"

Sent: 11/12/2018 1:21 AM

To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Cc: "Nicholas, Andrew" <Andrew.Nicholas@act.gov.au>; "Prescott, Aidan" <Aidan.Prescott@act.gov.au>

Subject: RE: Today's Meeting (11/12) with David [DLM=For-Official-Use-Only]

Hi Steve,

Thanks for taking the time to put this together, I appreciate it.

I added a few things in black text below and deleted a few sentences.

Could you please send the final version on to Michael, copying in Tanja, Aidan, Andrew and me?

Cheers, Roh

From: O'Rourke, Stephen

Sent: Tuesday, 11 December 2018 11:13 AM

To: Connor, Rohan <Rohan.Connor@act.gov.au>

Cc: Nicholas, Andrew <Andrew.Nicholas@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>

Subject: Today's Meeting (11/12) with David [DLM=For-Official-Use-Only]

Hi everyone,

Please see below notes recorded regarding our meeting with David today, please let me know if I've missed anything.

Thanks,
Steve.

Pink Frosting:


Issues:

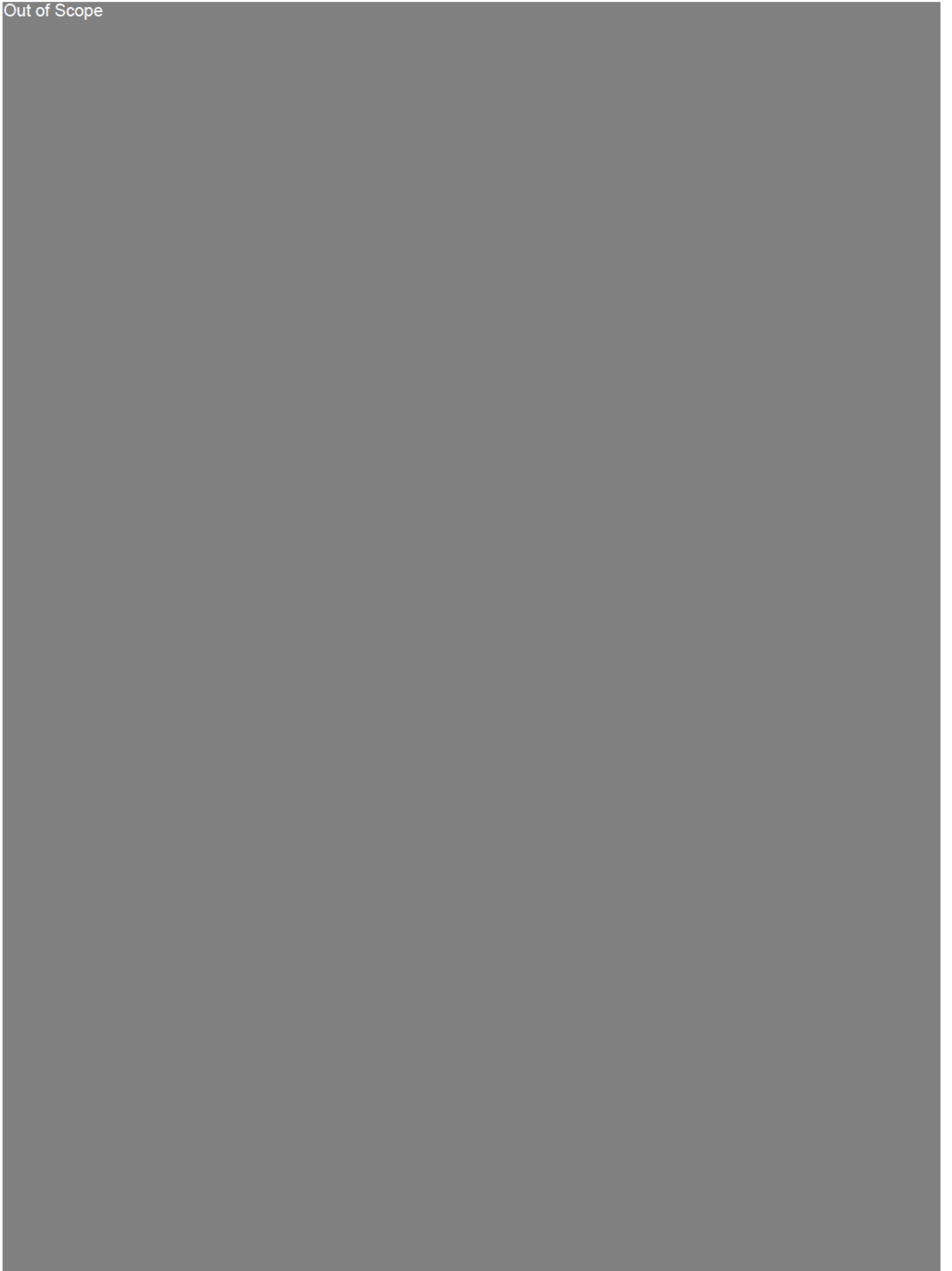
- Alleged contravention of s36 of the *Australian Consumer Law*.
- Need to meet with trader to raise the issues of further complaints in relation to the same issues as previously addressed.
- A large number of affected consumers, nationally as the business has an online presence.

Outcome:

- **Agreed with recommendation** to pursue a possible enforceable undertaking; and
- Meet with the trader prior to 25 December 2018 to discuss issues and possible regulatory action (*enforceable undertaking*).

Out of Scope





Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: "Connor, Rohan"
Sent: 11/12/2018 10:43 PM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc: "Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject: FW: Pink Frosting: Meeting with Access Canberra [SEC=UNCLASSIFIED]

Hi Steve,

I've had to pull Aidan off working on the Pink Frosting undertaking to work on the Out of Scope

Would you mind taking the lead on preparing a draft undertaking with Pink Frosting for discussion during our meeting next week? I'd suggest to start by taking a look at the Access Canberra and ACCC undertaking registers to scope out some undertakings that involve consumer protection concerns. Perhaps after that you and I could sit down to discuss a high-level overview of what the undertaking will include. We'll also need to discuss pulling together some key points in advance of the meeting.

Finally, apologies for the mistake in my email below, I meant to say that you and Aidan would be joining me at the meeting, not Andrew.

Very happy to discuss if you have any questions.

Cheers, Rohan

From: Connor, Rohan
Sent: Wednesday, 12 December 2018 9:36 AM
To: 'Louise Curtis' <louiselollypotz@gmail.com>
Cc: Prescott, Aidan <Aidan.Prescott@act.gov.au>; O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: Pink Frosting: Meeting with Access Canberra [SEC=UNCLASSIFIED]

Dear Louise,

As previously discussed, Access Canberra and other Australian Consumer Law regulators around Australia have recently received an increase in complaints about Pink Frosting. While the individual circumstances of each complaint varies, a common theme has been the alleged failure of Pink Frosting to supply goods in a reasonable timeframe in contravention of section 36 of the Australian Consumer Law.

Access Canberra has previously engaged with Pink Frosting regarding consumer complaints. We acknowledge that there have been some challenges in operating Pink Frosting, including due to a flood at the Pink Frosting warehouse and subsequent proceedings. Nevertheless, Access Canberra is concerned about the significant uptick in consumer complaints about Pink Frosting in recent months.

We would welcome the opportunity to meet with you in our office on Tuesday or Wednesday next week to discuss our concerns. If you are amenable to this request, could you please nominate a time that is convenient for you. Attending me at the meeting will be my colleagues Aidan and Andrew.

If you have any questions about my email, please call me.

Regards, Rohan

Rohan Connor
Manager | Advice, Investigations and Enforcement
(02) 6207 8284 | rohan.connor@act.gov.au
Access Canberra | ACT Government
GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From:"Connor, Rohan"

Sent:14/01/2019 10:53 PM

To:"O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Cc:"Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>;"Prescott, Aidan" <Aidan.Prescott@act.gov.au>;"Nicholas, Andrew" <Andrew.Nicholas@act.gov.au>

Subject:Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]

Hi Steve,

Could you please pull together a Word table with all of the complaints from ACT residents regarding Pink Frosting?

The table should include at least the following columns (and any others you think would be helpful):

1. Date of complaint
2. CRM reference number
3. Conduct type (e.g. Failure to supply in reasonable timeframe; consumer guarantees; misleading or deceptive conduct etc)
4. Consumer name
5. Consumer telephone
6. Consumer email
7. Date of purchase
8. \$ amount of purchase
9. Summary of complaint

If possible, it'd be good to have this completed by cob today.

I think you may've already, but please familiarise yourself with the elements of a contravention of section 36(4) – failure to supply goods within a reasonable time. Please continue to investigate this matter with a view to a possible court-based outcome.

Happy to discuss if you have any questions.

Cheers, Roh

Rohan Connor

Manager | Advice, Investigations and Enforcement

(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From:"O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Sent:15/01/2019 3:37 PM
To:"Connor, Rohan" <Rohan.Connor@act.gov.au>
Cc:"Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>;"Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject:RE: Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]
Attachments:20181123 - Pink Frosting - Complaints rec'd chronology.docx

Hi Rohan,

Please find attached, chronology of Pink Frosting complaints received by Access Canberra which I formulated last November. I will amend the chronology to include all information requested.

Happy to further discuss.

Cheers,
Steve.

From: Connor, Rohan
Sent: Tuesday, 15 January 2019 9:54 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>; Nicholas, Andrew <Andrew.Nicholas@act.gov.au>
Subject: Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]

Hi Steve,

Could you please pull together a Word table with all of the complaints from ACT residents regarding Pink Frosting?

The table should include at least the following columns (and any others you think would be helpful):

1. Date of complaint
2. CRM reference number
3. Conduct type (e.g. Failure to supply in reasonable timeframe; consumer guarantees; misleading or deceptive conduct etc)
4. Consumer name
5. Consumer telephone
6. Consumer email
7. Date of purchase
8. \$ amount of purchase
9. Summary of complaint

If possible, it'd be good to have this completed by cob today.

I think you may've already, but please familiarise yourself with the elements of a contravention of section 36(4) – failure to supply goods within a reasonable time. Please continue to investigate this matter with a view to a possible court-based outcome.

Happy to discuss if you have any questions.

Cheers, Roh

Rohan Connor
Manager | Advice, Investigations and Enforcement
(02) 6207 8284 | rohan.connor@act.gov.au
Access Canberra | ACT Government
GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

Pink Frosting – Complaints received chronology

Date	Complainant	Description	Value	Sections (ACL)
04/09/2017	2.2(a)(ii)			s36(4)
05/10/2017				s36(4)
30/10/2017				s36(4)
06/02/2018				s36(4)
19/02/2018				s36(4)
11/04/2018				s36(4)
13/04/2018				s36(4)
18/04/2018				s36(4)
13/05/2018				s36(4)
17/05/2018				s36(4)
21/05/2018				s36(4)
21/05/2018				s36(4)

Pink Frosting – Complaints received chronology

22/05/2018	2.2(a)(ii)		s36(4)
30/05/2018			s36(4)
31/05/2018			s36(4)
31/05/2018			s36(4)
01/06/2018			s36(4)
03/09/2018			s36(4)
17/10/2018			s36(4)
22/10/2018			s36(4)
20/10/2018			s36(4)
25/10/2018			s36(4)
29/10/2018			s36(4)

Pink Frosting – Complaints received chronology

	2.2(a)(ii)	
04/11/2018		s36(4)
05/11/2018		s36(4)
06/11/2018		s36(4)
16/11/2018		s36(4)
22/11/2018		s36(4)

Total Complaints received: 28 Unresolved: 10

<i>Total Amount \$ (Goods not received)</i>	Breakdown of complaints
2.2(a)(ii)	

From: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Sent: 15/01/2019 6:25 PM
To: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Cc: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>; "Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject: FW: Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]
Attachments: 20190115 - Pink Frosting - Complaints Summary.docx

Hi Rohan,

Please find attached amended complaints chronology/summary re: Pink Frosting.

Kind regards,
Steve.

From: O'Rourke, Stephen
Sent: Tuesday, 15 January 2019 3:38 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: RE: Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]

Hi Rohan,

Please find attached, chronology of Pink Frosting complaints received by Access Canberra which I formulated last November. I will amend the chronology to include all information requested.

Happy to further discuss.

Cheers,
Steve.

From: Connor, Rohan
Sent: Tuesday, 15 January 2019 9:54 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>; Nicholas, Andrew <Andrew.Nicholas@act.gov.au>
Subject: Pink Frosting: ACT complaints [SEC=UNCLASSIFIED]

Hi Steve,

Could you please pull together a Word table with all of the complaints from ACT residents regarding Pink Frosting?

The table should include at least the following columns (and any others you think would be helpful):

1. Date of complaint
2. CRM reference number
3. Conduct type (e.g. Failure to supply in reasonable timeframe; consumer guarantees; misleading or deceptive conduct etc)
4. Consumer name
5. Consumer telephone
6. Consumer email
7. Date of purchase
8. \$ amount of purchase
9. Summary of complaint

If possible, it'd be good to have this completed by cob today.

I think you may've already, but please familiarise yourself with the elements of a contravention of section 36(4) – failure to supply goods within a reasonable time. Please continue to investigate this matter with a view to a possible court-based outcome.

Happy to discuss if you have any questions.

Cheers, Roh

Rohan Connor

Manager | Advice, Investigations and Enforcement

(02) 6207 8284 | rohan.connor@act.gov.au

Access Canberra | ACT Government

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

From: "Connor, Rohan"
Sent: 17/01/2019 10:17 PM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: RE: Current matters [DLM=For-Official-Use-Only]

Hi Steve,

Thanks for your time on this, it's helpful.

Since Wendy is away, I've made some notes below that are highlighted yellow.

Happy to discuss if you have any questions.


Cheers, Rohan

From: O'Rourke, Stephen
Sent: Wednesday, 16 January 2019 2:21 PM
To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: Current matters [DLM=For-Official-Use-Only]

Good afternoon,

Below is a list of my current matters, status and next steps –

Out of Scope



- **Pink Frosting** – Alleged contraventions of the s36 of the ACL.

Status – Under investigation.

Next steps – Write to Pink Frosting to seek documents and information relating to key complaints (Rohan).

Clarify jurisdictional restrictions, further engage with trader and contact consumers.

Possible outcome – Court action or enforceable undertaking.

Timeframe - To be determined, re: possible outcomes.

Out of Scope

I note that the timeframes I have provided are estimates, happy to further discuss.

Cheers,
Steve

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: "Connor, Rohan"
Sent: 24/01/2019 7:25 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: RE: Current matters [DLM=For-Official-Use-Only]

Thanks Steve, this is helpful.

In case you were wondering, I haven't forgotten about Pink Frosting. I'm aiming to draft a letter tomorrow or early next week.

Cheers, Roh

From: O'Rourke, Stephen
Sent: Tuesday, 22 January 2019 11:37 AM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Current matters [DLM=For-Official-Use-Only]

Hi Rohan,

Further information on my current matters.

Out of Scope

- **Pink Frosting** – Please find attached, updated complaints summary (included order numbers); and

Out of Scope

Happy to further discuss if you have any questions.

Cheers,
Steve.

From: Connor, Rohan
Sent: Friday, 18 January 2019 9:18 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Current matters [DLM=For-Official-Use-Only]

Hi Steve,

Thanks for your time on this, it's helpful.

Since Wendy is away, I've made some notes below that are highlighted yellow.

Happy to discuss if you have any questions.

Cheers, Rohan

From: "Connor, Rohan"

Sent: 04/02/2019 6:24 AM

To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>; "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Subject: RE: Tomorrow (05/02/19) [DLM=For-Official-Use-Only]

Hi Steve,


Would you mind please starting work on the letter to Pink Frosting? I'm not going to have time to focus on it for a while and we need to keep it moving.

It will just be a template please explain with an annexure containing the requests for information and documents relating to all of the ACT complaints and the most serious other complaints.

Happy to discuss.

Thanks, Rohan

Out of Scope



Happy to further discuss.

Thanks,
Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: "Connor, Rohan"
Sent: 04/02/2019 10:38 PM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Cc: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: RE: Tomorrow (05/02/19) [DLM=For-Official-Use-Only]

Thanks Steve, appreciate your efforts

From: O'Rourke, Stephen
Sent: Tuesday, 5 February 2019 9:09 AM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: RE: Tomorrow (05/02/19) [DLM=For-Official-Use-Only]

Hi Rohan,

No worries, I will get started on that today. I will look to have a draft version back to you by this afternoon.

If you need anything you can contact me via email or on 2.2(a)(ii)

Cheers,
Steve.

From: Connor, Rohan
Sent: Monday, 4 February 2019 5:24 PM
To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Subject: RE: Tomorrow (05/02/19) [DLM=For-Official-Use-Only]

Hi Steve,

Would you mind please starting work on the letter to Pink Frosting? I'm not going to have time to focus on it for a while and we need to keep it moving.

It will just be a template please explain with an annexure containing the requests for information and documents relating to all of the ACT complaints and the most serious other complaints.

Happy to discuss.

Thanks, Rohan

From: Harrison, Wendy Maree
Sent: Monday, 4 February 2019 5:13 PM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>; Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: RE: Tomorrow (05/02/19) [DLM=For-Official-Use-Only]

Hi Steve

Out of Scope

Cheers

Wendy and Rohan

From: "Connor, Rohan"

Sent: 06/02/2019 10:27 PM

To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Cc: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Steve,

As discussed, please find below a template "please explain" letter, which includes requests for information and documents. Could you please take a look and then drop by to chat with me?

Sorry again for not passing this along in the first instance.

Cheers, Roh

Out of Scope

Access Canberra has received consumer reports regarding issues with the **Out of Scope**. The purpose of my letter is to inform **Out of Scope** of these concerns and to provide it with an opportunity to respond to them.

Australian Consumer Law

Access Canberra administers and enforces the Australian Consumer Law (ACL), at Schedule 2 of the *Competition and Consumer Act 2010*, in the Australian Capital Territory.

Of relevance to concerns raised in this letter, the consumer guarantees provide that if a product fails to meet one or more of the consumer guarantees, a consumer is entitled to a remedy. If the problem is major or cannot be fixed, the consumer can choose to reject the goods and obtain a full refund or replacement, or keep the goods and seek compensation for any reduction in value of the goods.

Consumer concerns

Around ten consumers have reported a range of issues with **Out of Scope** to Access Canberra. Our interest is focussed on reports about two issues in relatively **Out of Scope**

Out of Scope

Consumers have reported that in relation to both of these issues, **Out of Scope**

Out of Scope

We have requested details of any relevant contacts from our state and territory counterpart regulators. We also understand that in the **Out of Scope**

At this stage, Access Canberra has not formed a view about what, if any, further action it will take in response consumer reports. To assist Access Canberra with its assessment of these concerns, I would be grateful if you could please provide the requested information and documents at **Annexure A**. In addition to responding to these requests, please provide any further information and documents that you consider would assist with our understanding of this matter.

Please provide your response to this request by no later than **5:00 PM on 8 December 2017**.

If you have any questions regarding this letter, please contact **Out of Scope**

Out of Scope

Yours sincerely

Out of Scope

Annexure A: Request for information and documents

Please provide the following information and documents by no later than

1. Insert
2. Insert
3. Insert

From: O'Rourke, Stephen

Sent: Wednesday, 6 February 2019 4:28 PM

To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached draft version of a show cause letter to Pink Frosting regarding the alleged ACL issues. I have included a note in the document mentioning whether it is worth requesting information in the show cause letter.

Happy to further discuss.

Cheers,
Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: "Connor, Rohan"

Sent: 06/02/2019 7:09 AM

To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>; "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Thank you, Steve. I hope to review this letter tomorrow.

From: O'Rourke, Stephen

Sent: Wednesday, 6 February 2019 4:28 PM

To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached draft version of a show cause letter to Pink Frosting regarding the alleged ACL issues. I have included a note in the document mentioning whether it is worth requesting information in the show cause letter.

Happy to further discuss.

Cheers,
Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



ACT
Government

**Access
Canberra.**



ACT
Government

Chief Minister, Treasury and
Economic Development

7 February 2019

Ms Louise Curtis
The Trustee for 86 Candles Unit Trust t/as Pink Frosting
Units 2 & 3, 35 Townsville Street
FYSHWICK ACT 2609

Dear Ms Curtis

Complaints about Pink Frosting

Access Canberra has received numerous consumer complaints regarding the conduct of Pink Frosting. The purpose of my letter is to inform Pink Frosting of these concerns and to provide it with an opportunity to respond to them.

Australian Consumer Law

Access Canberra administers and enforces the Australian Consumer Law (ACL), at Schedule 2 of the *Competition and Consumer Act 2010*, in the Australian Capital Territory.

Of relevance to concerns raised in this letter, section 36 – Wrongly accepting payment of the ACL provides that, a person who, in trade or commerce, accepts payment or other consideration for goods or services:

- Must supply all the goods or services within the period specified at or before the time of payment or other consideration was accepted, or, if no period is specified – within a reasonable time; and
- Must not supply goods or services materially different from the goods or services in respect of which the payment is accepted.

The maximum penalty imposable for contravention of section 36 of the ACL is **\$10,000,000** for a person that is a body corporate and **\$500,000** for a person that is not a body corporate.

For your reference, please find attached at **Annexure A** an extract of section 36 - Wrongly accepting payment, of the Australian Consumer Law.

Consumer concerns

Access Canberra has received around **35** complaints and enquiries regarding the conduct of Pink Frosting, of which **16** relate to orders placed post 1 July 2018. The complaints received have identified the following issues:

1. Pink Frosting accepting payment for goods and not supplying the goods within the specified or a reasonable timeframe.
2. Pink Frosting charging consumers twice on direct debit transactions.
3. Pink Frosting providing goods materially different from the goods which payment was accepted for.
4. Consumers not being provided refunds where goods were not provided within a reasonable timeframe, or where consumers were charged twice for goods.

I note that Access Canberra has worked with Pink Frosting to conciliate a number of complaints received within the previous 18 months; subsequently, Access Canberra has continued to receive further consumer complaints about Pink Frosting of a similar nature.

We have requested details of any relevant consumer enquiries from our state and territory counterpart regulators. The information provided showed that there has been a number of similar complaints received by ACL regulators in other jurisdictions about Pink Frosting.

At this stage, Access Canberra has not formed a view about what, if any, further action it will take in response consumer reports. To assist Access Canberra with its assessment of these concerns, I would be grateful if you could please provide the requested information and documents at **Annexure B**. In addition to responding to these requests, please provide any further information and documents that you consider would assist with our understanding of this matter.

Please provide your response to this request by no later than **5:00 PM on 4 March 2019**.

If you have any questions regarding this letter, please contact Stephen O'Rourke on (02) 6207 7124 or by email to stephen.o'rourke@act.gov.au.

Yours sincerely

Rohan Connor
Senior Manager
Investigations, Compliance and Enforcement
Access Canberra

From: "Connor, Rohan"
Sent: 07/02/2019 7:11 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>; "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]
Attachments: 20190207 - Pink Frosting - Show Cause Letter (RC).docx

Hi Steve,

Thanks for your time on this. I've tracked some suggested changes in the attached version. I am wondering if we should leave our discussion on the allegations that do not relate to section 36, but we can think on that for the moment. I'll come chat with you regarding the requests for Annexure A.

Cheers, Rohan

From: O'Rourke, Stephen
Sent: Thursday, 7 February 2019 12:21 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached amended draft show cause letter to Pink Frosting.

Happy to further discuss.

Cheers,
Steve.

From: Connor, Rohan
Sent: Thursday, 7 February 2019 9:27 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

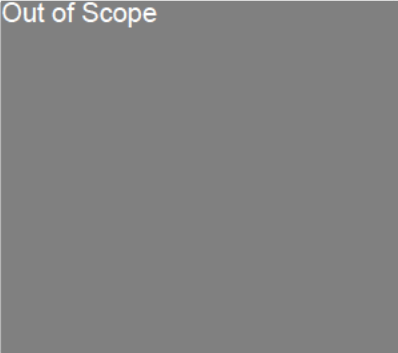
Hi Steve,

As discussed, please find below a template "please explain" letter, which includes requests for information and documents. Could you please take a look and then drop by to chat with me?


Sorry again for not passing this along in the first instance.

Cheers, Roh


Out of Scope



Duplicated information



Out of Scope



Annexure A: Request for information and documents

Please provide the following information and documents by no later than

1. Insert
2. Insert
3. Insert

From: O'Rourke, Stephen

Sent: Wednesday, 6 February 2019 4:28 PM

To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached draft version of a show cause letter to Pink Frosting regarding the alleged ACL issues. I have included a note in the document mentioning whether it is worth requesting information in the show cause letter.

Happy to further discuss.

Cheers,
Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



ACT
Government

**Access
Canberra.**



ACT
Government

Chief Minister, Treasury and
Economic Development

7 February 2019

Ms Louise Curtis
The Trustee for 86 Candles Unit Trust t/as Pink Frosting
Units 2 & 3, 35 Townsville Street
FYSHWICK ACT 2609

[By email: louiselollypotz@gmail.com](mailto:louiselollypotz@gmail.com)

Dear Ms Curtis

Complaints about Pink Frosting

Access Canberra has received numerous consumer complaints regarding the conduct of The Trustee for 86 Candles Unit Trust trading as Pink Frosting (Pink Frosting). The purpose of my letter is to inform Pink Frosting of these concerns and to provide it with an opportunity to respond to them.

Australian Consumer Law

Access Canberra administers and enforces the Australian Consumer Law (ACL), at Schedule 2 of the *Competition and Consumer Act 2010*, in the Australian Capital Territory.

Of relevance to concerns raised in this letter, section 36 – ~~Wrongly accepting payment of the ACL~~ provides that, a person who, in trade or commerce, accepts payment or other consideration for goods or services:

- Must supply all the goods or services within the period specified at or before the time of payment or other consideration was accepted, or, if no period is specified – within a reasonable time; and
- Must not supply goods or services materially different from the goods or services in respect of which the payment is accepted.

The maximum penalty imposable for contravention of section 36 of the ACL is \$10,000,000 for a ~~person that is a body corporate and \$500,000 for a person that is not a body corporate.~~

For your reference, ~~please find~~ attached at Annexure A is an extract of section 36 – ~~Wrongly accepting payment, of the Australian Consumer Law of the ACL.~~

Consumer concerns

Access Canberra has received ~~around 35 complaints and enquiries~~ complaints regarding the conduct of Pink Frosting ~~that, of which 16 relate to orders placed post 1 July 2018. The complaints received have identified the following issues~~ raise a number of allegations, including:

1. Pink Frosting ~~accepting~~ accepted payment for goods ~~and but did not supplying~~ the goods within ~~the a reasonable or specified~~ specified or a reasonable timeframe.
2. Pink Frosting ~~charged~~ ing consumers twice on direct debit transactions.

3. Pink Frosting providing goods that were materially different ~~from to~~ the goods for which payment was accepted ~~for~~.

Pink Frosting

4. refused or failed to ~~Consumers not being~~ provided refunds to consumers in circumstances where goods were not provided within a reasonable timeframe, or where consumers were charged twice for goods.

Next steps

In MONTH 2018, ~~I note that~~ Access Canberra ~~has worked~~ communicated with Pink Frosting to conciliate a number of complaints. Since that time, received within the previous 18 months; ~~subsequently,~~ Access Canberra has continued to receive further ~~consumer~~ complaints of a similar nature about the conduct of Pink Frosting ~~of a similar nature~~.

~~We have requested details of any relevant consumer enquiries from our state and territory counterpart regulators. The information provided showed that there has been a number of similar complaints received by ACL regulators in other jurisdictions about Pink Frosting.~~

At this stage, Access Canberra has not formed a view about what, if any, further action it will take in response to these consumer reports/complaints. To assist Access Canberra with its assessment investigation of these ~~concerns/complaints~~, I would be grateful if you could please provide the requested information and documents at **Annexure B** by no later than 5:00 PM on 4 March 2019. In addition to responding to these requests, please provide any further information and documents that you consider ~~would will~~ assist with our understanding of this matter/understanding of these complaints.

~~Please provide your response to this request by no later than 5:00 PM on 4 March 2019.~~

If you have any questions regarding this letter, please contact Stephen O'Rourke on (02) 6207 7124 or by email to stephen.o'rourke@act.gov.au.

Yours sincerely

Rohan Connor
Senior Manager
Investigations, Compliance and Enforcement
~~Access Canberra~~

From: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>

Sent: 11/02/2019 3:31 PM

To: "Connor, Rohan" <Rohan.Connor@act.gov.au>; "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Attachments: 20190211 - Pink Frosting - Show Cause Letter (RC) Amended.docx, 20190211 - Annexure A - Pink Frosting.docx, 20190211 - Annexure B - Information Request.docx

Hi Rohan,

Please find attached amended show cause letter to Pink Frosting including attachments.

Happy to further discuss.

Kind regards,

Steve.

From: Connor, Rohan

Sent: Thursday, 7 February 2019 6:12 PM

To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Steve,

Schedule 2.2(a)(iii)

Cheers, Rohan

From: O'Rourke, Stephen

Sent: Thursday, 7 February 2019 12:21 PM

To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached amended draft show cause letter to Pink Frosting.

Happy to further discuss.

Cheers,

Steve.

From: Connor, Rohan

Sent: Thursday, 7 February 2019 9:27 AM

To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>

Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Steve,

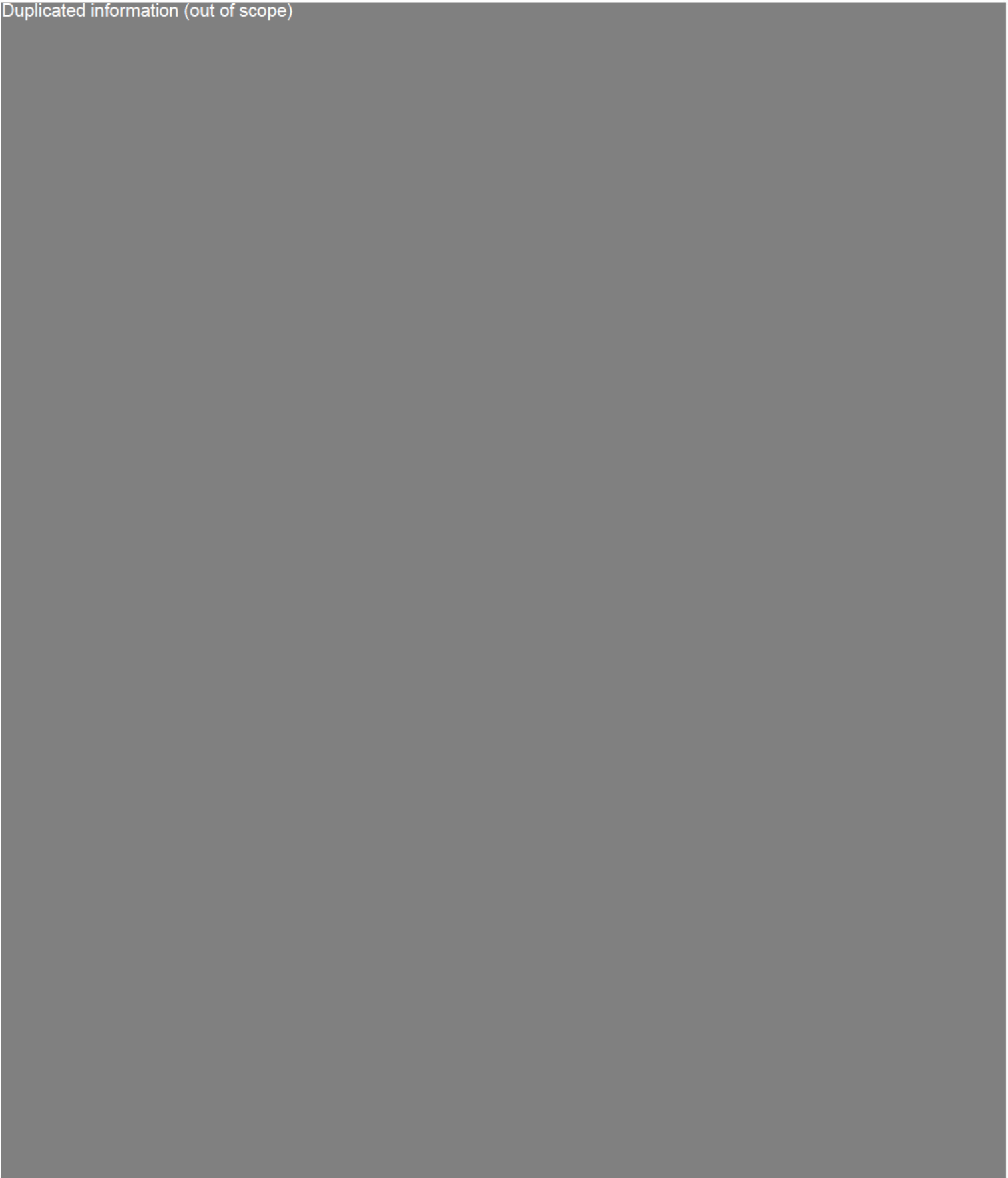
As discussed, please find below a template "please explain" letter, which includes requests for information and documents. Could you please take a look and then drop by to chat with me?

Sorry again for not passing this along in the first instance.

Cheers, Roh

23 November 2017

Duplicated information (out of scope)



Yours sincerely

Out of Scope

Annexure A: Request for information and documents

Please provide the following information and documents by no later than

1. Insert
2. Insert
3. Insert

From: O'Rourke, Stephen

Sent: Wednesday, 6 February 2019 4:28 PM

To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>

Subject: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Good afternoon,

Please find attached draft version of a show cause letter to Pink Frosting regarding the alleged ACL issues. I have included a note in the document mentioning whether it is worth requesting information in the show cause letter.

Happy to further discuss.

Cheers,
Steve.

Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601





ACT
Government

Chief Minister, Treasury and
Economic Development

11 February 2019

Ms Louise Curtis
The Trustee for 86 Candles Unit Trust t/as Pink Frosting
Units 2 & 3, 35 Townsville Street
FYSHWICK ACT 2609

By email: louiselollypotz@gmail.com

Dear Ms Curtis

Complaints about Pink Frosting

Access Canberra has received numerous consumer complaints regarding the conduct of The Trustee for 86 Candles Unit Trust trading as Pink Frosting (Pink Frosting). The purpose of my letter is to inform Pink Frosting of these concerns and to provide it with an opportunity to respond to them.

Australian Consumer Law

Access Canberra administers and enforces the Australian Consumer Law (ACL), at Schedule 2 of the *Competition and Consumer Act 2010*, in the Australian Capital Territory.

Of relevance to concerns raised in this letter, section 36 provides that, a person who, in trade or commerce, accepts payment or other consideration for goods or services:

- Must supply all the goods or services within the period specified at or before the time of payment or other consideration was accepted, or, if no period is specified – within a reasonable time; and
- Must not supply goods or services materially different from the goods or services in respect of which the payment is accepted.

The maximum penalty imposable for contravention of section 36 of the ACL is \$10,000,000 for a body corporate.

For your reference, attached at **Annexure A** is an extract of section 36 of the ACL.

Consumer concerns

Access Canberra has received complaints regarding the conduct of Pink Frosting that raise a number of allegations, including:

1. Pink Frosting accepted payment for goods but did not supply the goods within a reasonable or specified time.
2. Pink Frosting charged consumers twice on direct debit transactions.
3. Pink Frosting provided goods that were materially different to the goods for which payment was accepted.
4. Pink Frosting refused or failed to provide refunds to consumers in circumstances where goods were not provided within a reasonable timeframe or where consumers were charged twice for goods.

Next steps

In June 2018, Access Canberra communicated with Pink Frosting to conciliate a number of complaints. Since that time, Access Canberra has continued to receive further complaints of a similar nature about the conduct of Pink Frosting.

At this stage, Access Canberra has not formed a view about what, if any, further action it will take in response to these complaints. To assist Access Canberra with its investigation of these complaints, I would be grateful if you could please provide the requested information and documents at **Annexure B** by no later than **5:00 PM on 4 March 2019**. In addition to responding to these requests, please provide any further information and documents that you consider will assist with our understanding of these complaints.

If you have any questions regarding this letter, please contact Stephen O'Rourke on (02) 6207 7124 or by email to stephen.o'rourke@act.gov.au.

Yours sincerely

Rohan Connor
Senior Manager
Investigations, Compliance and Enforcement

Schedule 2 of the *Competition and Consumer Act 2010*, the *Australian Consumer Law*

Section 36 – Wrongly accepting payment

- (1) A person must not, in trade or commerce, accept payment or other consideration for goods or services if, at the time of the acceptance, the person intends not to supply the goods or services.

Note: A pecuniary penalty may be imposed for a contravention of this subsection.

- (2) A person must not, in trade or commerce, accept payment or other consideration for goods or services if, at the time of the acceptance, the person intends to supply goods or services materially different from the goods or services in respect of which the payment or other consideration is accepted.

Note: A pecuniary penalty may be imposed for a contravention of this subsection.

- (3) A person must not, in trade or commerce, accept payment or other consideration for goods or services if, at the time of the acceptance:
- (a) there are reasonable grounds for believing that the person will not be able to supply the goods or services:
 - (i) within the period specified by or on behalf of the person at or before the time the payment or other consideration was accepted; or
 - (ii) if no period is specified at or before that time—within a reasonable time; and
 - (b) the person is aware or ought reasonably to be aware of those grounds.

Note: A pecuniary penalty may be imposed for a contravention of this subsection.

- (4) A person who, in trade or commerce, accepts payment or other consideration for goods or services must supply all the goods or services:
- (a) within the period specified by or on behalf of the person at or before the time the payment or other consideration was accepted; or
 - (b) if no period is specified at or before that time—within a reasonable time.


Note: A pecuniary penalty may be imposed for a contravention of this subsection.

- (5) Subsection (4) does not apply if:
- (a) the person's failure to supply all the goods or services within the period, or within a reasonable time, was due to the act or omission of another person, or to some other cause beyond the person's control; and
 - (b) the person took reasonable precautions and exercised due diligence to avoid the failure.


- (6) Subsection (4) does not apply if:
- (a) the person offers to supply different goods or services as a replacement to the person (the **customer**) to whom the original supply was to be made; and
 - (b) the customer agrees to receive the different goods or services.

- (7) Subsections (1), (2), (3) and (4) apply whether or not the payment or other consideration that the person accepted represents the whole or a part of the payment or other consideration for the supply of the goods or services

Not for publication



Not for publication



From: "Connor, Rohan"
Sent: 14/02/2019 5:58 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Thanks Steve. I'll sign the letter when I'm in the office tomorrow morning and then we can email it out.

From: O'Rourke, Stephen
Sent: Thursday, 14 February 2019 4:57 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Rohan,

I don't have any comments or concerns with your amendments, I think that covers everything very well. I think if all requested information/documentation is provided we will have a good understanding of the issues and potential next steps.

Thanks for your help with drafting this.

Cheers,
Steve.

From: Connor, Rohan
Sent: Thursday, 14 February 2019 12:54 PM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Steve,

Thanks again for your time on this.

I've made some suggested changes to the attached request for information and documents, please see attached. Could you please take a look and let me know if you have any comments or concerns? You just need to be comfortable that with the requested information and documents we would be in a position to determine whether there have been any contraventions of the ACL. Of course we can make further requests if necessary, but best to request what you need upfront.

Cheers, Rohan

From: O'Rourke, Stephen
Sent: Monday, 11 February 2019 3:31 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting: Show Cause letter [DLM=For-Official-Use-Only]

Hi Rohan,

Please find attached amended show cause letter to Pink Frosting including attachments.

Happy to further discuss.

Kind regards,
Steve.

From: "Connor, Rohan"
Sent: 15/02/2019 6:21 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Subject: RE: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Good work on getting this one out.

From: O'Rourke, Stephen
Sent: Friday, 15 February 2019 3:36 PM
To: Louise Curtis <louiselollypotz@gmail.com>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Good afternoon Louise,

Please find attached correspondence to Pink Frosting including annexures.

If you have any questions please contact me on (02) 6207 7124 or at stephen.o'rourke@act.gov.au

Kind regards,

Stephen O'Rourke | Senior Investigator
Investigations and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



ACT
Government

**Access
Canberra.**

From: "Connor, Rohan"
Sent: 18/02/2019 11:41 PM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>; "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Thanks Steve

From: O'Rourke, Stephen
Sent: Tuesday, 19 February 2019 10:07 AM
To: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: FW: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

See below, response to email (19/02/19).

Cheers,
Steve.

From: Louise Curtis [<mailto:louiselollypotz@gmail.com>]
Sent: Tuesday, 19 February 2019 9:36 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Subject: Re: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

No worries, it won't be until the end of the week as I am interstate until Thursday.

Louise Curtis

CEO

Lollypotz

Pink Frosting

Hamperesque

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

02 5105 8354 (Lollypotz)

02 5100 7567 (Pink Frosting)

On Tue, Feb 19, 2019 at 9:31 AM O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au> wrote:

Good morning Louise,
Thank you for your prompt response to our correspondence provided on Friday 15 February 2019.
Could you please direct the courier delivering the Annexures to attend Level 3, Cosmopolitan building, Woden (21-23 Bowes St, Phillip ACT) and to call me on (02) 6207 7124 upon arrival.
If you have any questions please contact me on the above phone number or via email.
Kind regards,
Stephen O'Rourke | Senior Investigator
Investigations and Enforcement
Access Canberra | ACT Government



Access
Canberra.

From: Louise Curtis [mailto:louiselollypotz@gmail.com]
Sent: Sunday, 17 February 2019 11:42 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: Re: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Dear Stephen,

Thanks for your letter dated 15 February. Attached is response. Annexures are detailed and lengthy and will be delivered to your office in hard copy during the week by courier.

Kind regards,

Louise Curtis

CEO

Lollypotz

Pink Frosting

Hamperesque

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

02 5105 8354 (Lollypotz)

02 5100 7567 (Pink Frosting)

On Fri, Feb 15, 2019 at 3:35 PM O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au> wrote:

Good afternoon Louise,

Please find attached correspondence to Pink Frosting including annexures.

If you have any questions please contact me on (02) 6207 7124 or at stephen.o'rourke@act.gov.au

Kind regards,

Stephen O'Rourke | Senior Investigator

Investigations and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: "Connor, Rohan"
Sent: 18/02/2019 10:39 PM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Subject: RE: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Thanks Steve

From: O'Rourke, Stephen
Sent: Tuesday, 19 February 2019 9:32 AM
To: Louise Curtis <louiselollypotz@gmail.com>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: RE: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Good morning Louise,

Thank you for your prompt response to our correspondence provided on Friday 15 February 2019.

Could you please direct the courier delivering the Annexures to attend Level 3, Cosmopolitan building, Woden (21-23 Bowes St, Phillip ACT) and to call me on (02) 6207 7124 upon arrival.

If you have any questions please contact me on the above phone number or via email.

Kind regards,

Stephen O'Rourke | Senior Investigator
Investigations and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: Louise Curtis [<mailto:louiselollypotz@gmail.com>]
Sent: Sunday, 17 February 2019 11:42 AM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Subject: Re: Pink Frosting - Show Cause Letter [DLM=For-Official-Use-Only]

Dear Stephen,

Thanks for your letter dated 15 February. Attached is response. Annexures are detailed and lengthy and will be delivered to your office in hard copy during the week by courier.

Kind regards,

Louise Curtis

CEO

Lollypotz

Pink Frosting

Hamperesque

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

02 5105 8354 (Lollypotz)

02 5100 7567 (Pink Frosting)

On Fri, Feb 15, 2019 at 3:35 PM O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au> wrote:

Good afternoon Louise,

Please find attached correspondence to Pink Frosting including annexures.

If you have any questions please contact me on (02) 6207 7124 or at stephen.o'rourke@act.gov.au

Kind regards,

Stephen O'Rourke | Senior Investigator

Investigations and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: "Connor, Rohan"
Sent: 10/12/2018 5:39 AM
To: "O'Rourke, Stephen" <Stephen.O'Rourke@act.gov.au>
Subject: RE: Investigation Strategy Review discussion (8:30am, Tuesday 11/12) [DLM=For-Official-Use-Only]

Thanks Steve

From: O'Rourke, Stephen
Sent: Monday, 10 December 2018 4:38 PM
To: Snowden, David <David.Snowden@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: Investigation Strategy Review discussion (8:30am, Tuesday 11/12) [DLM=For-Official-Use-Only]

Good afternoon David,

Please find attached, Investigation Strategy Reviews providing an overview of the following matters:

Out of Scope

3. Pink Frosting – Alleged contraventions of s36 of the ACL.

Kind regards,
Steve.

Stephen O'Rourke | Senior Investigator
Investigations, Compliance and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



From: [Connor, Rohan](#)
To: [Prescott, Aidan](#); [O'Rourke, Stephen](#)
Subject: RE: Outstanding Complaints against Pink Frosting [SEC=UNCLASSIFIED]
Date: Thursday, 15 November 2018 4:05:08 PM

I think this changes things significantly. Let's chat about next steps tomorrow.

From: Prescott, Aidan
Sent: Thursday, 15 November 2018 4:00 PM
To: O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: FW: Outstanding Complaints against Pink Frosting [SEC=UNCLASSIFIED]

Hey guys

Please see below.

Cheers

Aidan

From: Louise Curtis [<mailto:louiselollypotz@gmail.com>]
Sent: Thursday, 15 November 2018 2:33 PM
To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Cc: PinkFrosting Info <info@pinkfrosting.com.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>; Joseph Thomas <josephpt007@gmail.com>
Subject: Re: Outstanding Complaints against Pink Frosting [SEC=UNCLASSIFIED]

Hi Wendy/Aidan,

My sincere apologies for delay in response - I have been involved in our hideous legal battle with our ex landlord, and it has taken me away from the business for a considerable length of time.

Re the four outstanding matters, these have been resolved to the following extent:

Julianne Percival - refunded to her account

Robyn Churchland - refunded to her account

Remonda Kiryaco - refunded to her credit card

Amelia Junger - this was refunded to the customer on 18 July. Customer claims that she hasn't received it and she cancelled her card. We have confirmed with our bank that the refund went to through to her account.

We continue to be impacted by fake and poor/incorrect reviews on Product Review -

Wendy you were going to come back to me as to whether anything could be done re this?

It is at the point of us getting our lawyers involved because we have no chance to move forward whilst old customers continue to damage us online. Did you get anywhere with this?

We now have a Manager looking after all matters in relation to returns/refunds/complaint emails - his name is Joseph Thomas - please feel free to contact Joseph (and cc myself) in any further queries you may have.

Kind regards,

Louise Curtis

CEO

Lollypotz

Pink Frosting

Hamperesque

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

02 5105 8354 (Lollypotz)

02 5100 7567 (Pink Frosting)

On Wed, Oct 3, 2018 at 4:01 PM Harrison, Wendy Maree

<WendyMaree.Harrison@act.gov.au> wrote:

Hi Louise

Access Canberra is still awaiting information in relation to a number of complaints as per the emails from Investigator Prescott dated 4 August 2018, 14 August 2018 and 5 September 2018.

Please see below:

- Julianne Perceval – (391925/392723) - Advises that she is still waiting for reimbursement for postage costs totalling \$41.70 . It appears Pink Frosting has advised the consumer that they would reimburse the consumer. Please see the attached image. Can you please let me know when you have completed this payment?
- Remonda Kiryacos – (397280) - By searching the tracking number she has provided (Qj0000242123) on the FastWay website, it appears it has been returned to sender and signed off by an employee at Pink Frosting. See attached image. Can you please let me know if you are willing to provide the consumer a refund for the goods that have allegedly not been supplied?
- Amelia Junger – (391730) - Consumer advised Pink Frosting that her card that had been used for payment had been cancelled due to fraud but had provided her BSB and account number for the refund to be processed into. Can you advise what card/bank account the refund was processed to? If the refund has been provided to the cancelled card, are you willing to provide the consumer a refund to her bank account?
- Robyn Churchland – (396221) - Consumer has advised that she is still awaiting a reimbursement of \$13.80 for the cost of the return postage of items. Are you willing to reimburse the consumer?

Louise, we would be most grateful if you could confirm the current status with the above matters. We would like to close these matters down, however are unable to do so pending your advice.

If you wish to discuss the matters, please do not hesitate to give me a call. Otherwise I await your advice that these issues have been resolved.

Kind regards

Wendy Harrison | A/G Senior Manager

Phone: 02 6205 0894 | e: wendymaree.harrison@act.gov.au

Investigations, Compliance & Enforcement | Chief Minister Treasury and Economic Development Directorate | Access Canberra ACT Government

Cosmopolitan Centre, 21 Bowes Street, Woden ACT 2606 | | www.act.gov.au/accessCBR

cid:image009.jpg@01D31C1B.E0820B30



cid:image003.jpg@01CF2E1F.6AC457B0



This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From:"Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Sent:07/01/2019 1:15 PM

To:"Connor, Rohan" <Rohan.Connor@act.gov.au>

Subject:Accepted: Pink Frosting - subpoena

From: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Sent: 08/01/2019 5:39 PM
To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Cc: "Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject: RE: Media Enquiry: Pink Frosting [SEC=UNCLASSIFIED]

Thanks again for taking the time set out this information, Wendy. It'll also be helpful for our meeting next week.

Cheers, Roh

From: Harrison, Wendy Maree
Sent: Tuesday, 8 January 2019 2:56 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Subject: RE: Media Enquiry: Pink Frosting [SEC=UNCLASSIFIED]

Rohan

Louise advised AC that she had to move to new premises following on from a storm which caused substantial damage to the previous premises. She claimed that the subsequent move and dispute with the landlord over repairs to the previous premises etc, caused major problems with supplies and stock and these issues were the subject of court proceedings.

Access Canberra has not visited her premises since meeting with her on 18 July 2018 at which time she presented a folder listing all complaints and showing the status of refunds. The only refunds that hadn't been processed were ones wherein the consumer had requested a charge back as this results in the consumer receiving a double refund. She did highlight issues with this process and stated she would not refund anyone who advised they were seeking a charge back. She also stated she had been in contact with NSW Fair Trading and was actively working with them to resolve any complaints received by them. She blamed the issues with the flooding and damage to the previous premises for the influx of complaints and also felt that consumers panicked if there was a delay in orders due to the number of bad reviews on the product review websites about Pink Frosting and its former owners. She had engaged a business reputation expert to assist her in moving forward from the damage to the name caused by the previous owners and was extremely confident that the new ordering systems and the change of premises would resolve the issues relating to supply etc.

There are no standing guidelines or agreements with Pink Frosting/Louise Curtis.

Access Canberra did not provide any advice on capping refunds. Louise advised that refunds were processed once it was confirmed the complainant hadn't received the order unless they undertook to seek a charge back but asserted that all other refunds were processed quickly.

Lisa Turnbull of NSW Fair Trading is the appropriate contact officer if Nate wishes to discuss the matters and her contact details are p 2.2(a)(ii) or email - [lisa.turnbull@2.2\(a\)\(ii\)](mailto:lisa.turnbull@2.2(a)(ii))

Happy to provide any further information and hope the above is helpful.

Regards

Wendy

From: Leslie, Nate
Sent: Tuesday, 8 January 2019 12:55 PM
To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: CMTEDDMedia <CMTEDDMedia@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>
Subject: RE: Media Enquiry: Pink Frosting [SEC=UNCLASSIFIED]

Hi Wendy and Rohan,

So to thrash this out a bit further, I think our key questions are:

- Is Access Canberra aware of the circumstances following the storm?
- Does Access Canberra visit her every two months?
- Are there any standing guidelines or agreements between Access Canberra and Louise Curtis?
- Did Access Canberra advise to put a cap on refunds?

Also, do we have colleagues we could talk to at NSW just to ensure that we are all on the same page?

Thanks,

Nate

Nate Leslie | Senior Strategic Communications and Media Officer, Access Canberra

Phone: 6207 0280 | Mobile: 0409 605 979 | nate.leslie@act.gov.au

Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 5, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au/accessCBR



From: Leslie, Nate

Sent: Tuesday, 8 January 2019 12:48 PM

To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Connor, Rohan <Rohan.Connor@act.gov.au>

Cc: CMTEDDMedia <CMTEDDMedia@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>

Subject: FW: Media Enquiry: Pink Frosting [SEC=UNCLASSIFIED]

Hi Wendy & Rohan,

Further to the enquiry I just got off the phone with the journalist, who has told me the following:

Are you able to clarify this with me? They are following up with NSW and ASIC.

Please give me a call on 0409 605 979 when you have a chance.

Thanks,

Nate

Nate Leslie | Senior Strategic Communications and Media Officer, Access Canberra

Phone: 6207 0280 | Mobile: 0409 605 979 | nate.leslie@act.gov.au

Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 5, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au/accessCBR



From: Rolfe, John [<mailto:john.rolfe@news.com.au>]
Sent: Tuesday, 8 January 2019 12:45 PM
To: Leslie, Nate <Nate.Leslie@act.gov.au>
Subject: Re: Media Enquiry: Pink Frosting [SEC=UNCLASSIFIED]

As discussed this is what I was told this morning Nate...

Pink Frosting owner and CEO Louise Curtis says fair trading authorities contacted her at the start of 2018. She has fortnightly conversations with fair trading authorities and "they come to my office every two months". She says her company's problems stem from a storm in November 2017. The landlord did not repair the damage and Pink Frosting has suffered a hit of \$800,000 since. She said she disclosed her company's financial difficulties to ASIC and was advised to attempt to trade out of the poor cash flow situation. She says a "guideline" has been put in place that includes a limit on the dollar-value of refunds processed each day. She has to record and report that. She wouldn't say what the limit was. She said "a lot" of customers seek a refund at the same time as putting in a bank dispute. Those customers are not given refunds because they would be repaid twice, she said.

I'd like to know what Fair Trading says about these claims, especially that she has the ok to put a cap on refunds. I've also asked NSW Fair Trading and am about to ask ASIC.

Regards, John

JOHN ROLFE
Cost of Living Editor and Public Defender columnist



2.2(a)(ii)
E john.rolfe@news.com.au W NewsCorpAustralia.com

Proudly supporting [1 degree](#), A News Corp Australia initiative.



On Mon, 7 Jan 2019 at 16:50, Rolfe, John <john.rolfe@news.com.au> wrote:

Thanks Nate. I'm surprised action hasn't been taken already, to be honest.

JOHN ROLFE
Cost of Living Editor and Public Defender columnist



2.2(a)(ii)

E [john.rolfe@2.2\(a\)\(ii\)](mailto:john.rolfe@2.2(a)(ii)) W NewsCorpAustralia.com

Proudly supporting [1 degree](#), A News Corp Australia initiative.



On Mon, 7 Jan 2019 at 16:46, Leslie, Nate <Nate.Leslie@act.gov.au> wrote:

Hi John,

I hope this email finds you well.

Just to let you know I have commenced follow up on your Pink Frosting enquiry, I will be in touch when I have followed up with our business area.

Kind regards,

Nate

Nate Leslie | Senior Strategic Communications and Media Officer, Access Canberra

Phone: 6207 0280 | Mobile: 0409 605 979 | nate.leslie@act.gov.au

Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 5, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au/accessCBR



This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message or responsible for delivery of the message to the addressee, you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments which does not relate to the official business of the sending company must be taken not to have been sent or endorsed by that company or any of its related entities. No warranty is made that the e-mail or attachments are free from computer virus or other defect.

From: "Connor, Rohan"
Sent: 08/01/2019 4:13 AM
To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: Meeting with Pink Frosting

From: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Sent: 08/01/2019 1:12 PM
To: "McMahon, Ben" <Ben.McMahon@act.gov.au>; "Connor, Rohan" <Rohan.Connor@act.gov.au>; "Azize, Michael" <Michael.Azize@act.gov.au>
Cc: "Niehus, Rachel" <Rachel.Niehus@act.gov.au>; "Prescott, Aidan" <Aidan.Prescott@act.gov.au>
Subject: RE: Pink Frosting [SEC=UNCLASSIFIED]

Rohan

I've spoken with Lisa Turnbull and confirmed we are currently looking at the entity and are happy for her to advise the media to contact Access Canberra. They are not actively looking at the trader at this point but will keep in touch with us regarding any complaints received. She notes from AC Link, Access Canberra has contacted other ACL regulators and she will note this in the media response.

She will come back to us if she needs any additional information.

Regards

Wendy

From: McMahon, Ben
Sent: Tuesday, 8 January 2019 11:44 AM
To: Connor, Rohan <Rohan.Connor@act.gov.au>; Azize, Michael <Michael.Azize@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Cc: Niehus, Rachel <Rachel.Niehus@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: FW: Pink Frosting [SEC=UNCLASSIFIED]
Importance: High

Hi Michael/Rohan/Wendy

FYI and potential response.

Cheers

Ben McMahon | A/g Manager

Phone: 02 6207 0535

Business Engagement Education Compliance | Access Canberra | ACT Government

21 Bowes Place, Woden | PO Box 158, Canberra ACT 2601 | www.act.gov.au

From: Lisa Turnbull [<mailto:lisa.turnbull@act.gov.au>] 2.2(a)(ii)
Sent: Tuesday, 8 January 2019 11:42 AM
To: Prescott, Aidan <Aidan.Prescott@act.gov.au>; Niehus, Rachel <Rachel.Niehus@act.gov.au>
Cc: McMahon, Ben <Ben.McMahon@act.gov.au>
Subject: Pink Frosting
Importance: High

Aidan/Rachel/Ben

I am not too sure who is best placed to answer this. NSW Fair Trading has received a media request relating to Pink Frosting. I note on ACLINK Access Canberra has been looking at the entity. Can you let me know if Access Canberra is still looking at the entity and if we are able to advise the media that they should contact Access Canberra?

Appreciate your early advice; happy to call one of you if that is easier?

Thank you

Lisa Turnbull
Manager, National Projects, Fair Trading Operations
NSW Fair Trading | Department of Finance, Services and Innovation

[e lisa.turnbull](mailto:lisa.turnbull@dfsi.nsw.gov.au) | www.fairtrading.nsw.gov.au
Level 4, Barrington Building, 10 Smith Street, Parramatta NSW 2150



This email message and any attached files is confidential and intended solely for the use of the individual or entity to whom it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this email in error, delete all copies and notify the sender.

This email is subject to copyright. No part of it should be reproduced, published, communicated or adapted without the copyright owner's written consent. No employee or agent is authorised to conclude any binding agreement on behalf of the Department of Finance, Services and Innovation (DFSI) by email without express written confirmation.

The views or opinions presented in this email are solely those of the author and do not necessarily represent those of the DFSI. DFSI accepts no liability for any loss or damage arising from the use of this email and the recipient should check this email and any attached files for the presence of viruses.

From: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Sent: 08/01/2019 11:45 AM
To: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Subject: FW: For Review: Media Enquiry - Pink Frosting [SEC=UNCLASSIFIED]
Attachments: Media Response - News Corp - Pink Frosting.docx

From: Leslie, Nate
Sent: Tuesday, 8 January 2019 10:22 AM
To: Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>
Cc: CMTEDDMedia <CMTEDDMedia@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>
Subject: For Review: Media Enquiry - Pink Frosting [SEC=UNCLASSIFIED]

Hi Wendy,

Further to Rohan's email yesterday, I have updated the media response.

Would you please be able to take a quick look?

Once I have your feedback I will proceed with approvals.

Kind regards,

Nate

Nate Leslie | Senior Strategic Communications and Media Officer, Access Canberra
Phone: 6207 0280 | Mobile: 0409 605 979 | nate.leslie@act.gov.au
Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government
Level 5, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 |
www.act.gov.au/accessCBR



From: Connor, Rohan
Sent: Monday, 7 January 2019 5:34 PM
To: Leslie, Nate <Nate.Leslie@act.gov.au>
Cc: CMTEDDMedia <CMTEDDMedia@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>; Harrison, Wendy Maree <WendyMaree.Harrison@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>; O'Rourke, Stephen <Stephen.O'Rourke@act.gov.au>; Azize, Michael <Michael.Azize@act.gov.au>
Subject: RE: For Review: Media Enquiry - Pink Frosting [SEC=UNCLASSIFIED]

Hi Nate,

On review, I've made a few changes to my wording, please see attached.

Happy for you to accept/reject as you please. I don't need to see this again before it goes up the line.

As always, grateful if you could email us the final approved version for our records.

Ta, Rohan

From: Leslie, Nate
Sent: Monday, 7 January 2019 5:22 PM
To: Connor, Rohan <Rohan.Connor@act.gov.au>
Cc: CMTEDDMedia <CMTEDDMedia@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>
Subject: For Review: Media Enquiry - Pink Frosting [SEC=UNCLASSIFIED]

Hi Rohan,

As per our previous emails, I have put together the attached response using your notes.

Please take a look and let me know any of your thoughts, I will then forward it on for approvals one I have heard from you.

Thanks,

Nate

Nate Leslie | Senior Strategic Communications and Media Officer, Access Canberra

Phone: 6207 0280 | Mobile: 0409 605 979 | nate.leslie@act.gov.au

Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 5, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au/accessCBR



Date: 7 January 2019

Issue: Pink Frosting

Journalist: John Rolfe

Contact details (email/phone): john.rolfe@news.com.au 0403 209 389

Media outlet: News Corp

Hi Emily, could you please give me a ring about ACT-based business Pink Frosting? It's causing quite a bit of trouble for consumers across Australia. I'm wondering what is being done about it.

Response:

Access Canberra is currently investigating a number of complaints about the ACT based business Pink Frosting.

While the individual circumstances of each complaint varies, a common concern has been the alleged failure of Pink Frosting to supply goods in a reasonable timeframe, which may raise concerns under the Australian Consumer Law.

As part of ongoing enquiries, Access Canberra has been in contact with other Australian Consumer Law regulators throughout Australia.

Access Canberra urges anyone who is currently experiencing problems with Pink Frosting to contact Access Canberra on 13 22 81.

Fair Trading is part of Access Canberra, the one-stop shop for the ACT Government's customer and regulatory services.

BACKGROUND/SENSITIVITIES (not for distribution):

Nil.

Action officer: Nate Leslie

Cleared by (Business Unit Head):

Date:

Cleared by:

From: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Sent: 10/01/2019 12:52 PM
To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: FW: Investigation Strategy Review discussion (8:30am, Tuesday 11/12) [DLM=For-Official-Use-Only]
Attachments: Investigation Strategy Review - 2018.11.22 - Draft - Pink Frosting (Latest Draft).docx, Out of Scope

From: Connor, Rohan
Sent: Tuesday, 11 December 2018 4:03 PM
To: Warre, Tanja <Tanja.Warre@act.gov.au>
Subject: FW: Investigation Strategy Review discussion (8:30am, Tuesday 11/12) [DLM=For-Official-Use-Only]

From: O'Rourke, Stephen
Sent: Monday, 10 December 2018 4:38 PM
To: Snowden, David <David.Snowden@act.gov.au>
Cc: Connor, Rohan <Rohan.Connor@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>
Subject: Investigation Strategy Review discussion (8:30am, Tuesday 11/12) [DLM=For-Official-Use-Only]

Good afternoon David,

Please find attached, Investigation Strategy Reviews providing an overview of the following matters:

Out of Scope

3. Pink Frosting – Alleged contraventions of s36 of the ACL.

Kind regards,
Steve.

Stephen O'Rourke | Senior Investigator
Investigations, Compliance and Enforcement
Access Canberra | ACT Government
Phone 02 6207 7124 | Fax 02 6207 0538
Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601



**Access
Canberra.**

From: "Connor, Rohan"

Sent: 10/01/2019 1:54 AM

To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Subject: FW: Todays Meeting (11/12/18) with David Snowden [DLM=For-Official-Use-Only]

From: O'Rourke, Stephen

Sent: Tuesday, 11 December 2018 3:17 PM

To: Azize, Michael <Michael.Azize@act.gov.au>

Cc: Warre, Tanja <Tanja.Warre@act.gov.au>; Connor, Rohan <Rohan.Connor@act.gov.au>; Nicholas, Andrew <Andrew.Nicholas@act.gov.au>; Prescott, Aidan <Aidan.Prescott@act.gov.au>

Subject: Todays Meeting (11/12/18) with David Snowden [DLM=For-Official-Use-Only]

Good afternoon all,

Please see below, notes from our meeting with David Snowden this morning (11/12) regarding our current matters and strategy review. I note that moving forward we will be holding case strategy review meetings on monthly basis.

Kind regards,

Steve.

Pink Frosting:


Issues:

- Alleged contravention of s36 of the *Australian Consumer Law*.
- Need to meet with trader to raise the issues of further complaints in relation to the same issues as previously addressed.
- A large number of affected consumers, nationally as the business has an online presence.

Outcome:

- **Agreed with recommendation** to pursue a possible enforceable undertaking; and
- Meet with the trader prior to 25 December 2018 to discuss issues and possible regulatory action (*enforceable undertaking*).

Out of Scope



Stephen O'Rourke | Senior Investigator

Investigations, Compliance and Enforcement

Access Canberra | ACT Government

Phone 02 6207 7124 | Fax 02 6207 0538

Cosmopolitan Building, 21-23 Bowes St, Woden | PO Box 158, Canberra ACT 2601

From: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Sent: 14/01/2019 10:38 PM
To: "Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>
Subject: Canceled: Meeting with Pink Frosting
Importance: High

From:"Connor, Rohan"

Sent:14/01/2019 11:38 AM

To:"Harrison, Wendy Maree" <WendyMaree.Harrison@act.gov.au>

Subject:Canceled: Meeting with Pink Frosting

Importance:High

From: "Harrison, Wendy Maree"
Sent: 08/01/2019 4:23 AM
To: "Connor, Rohan" <Rohan.Connor@act.gov.au>
Subject: Accepted: Meeting with Pink Frosting