

ACCC 'prolonging RFG investigation'

By **ELI GREENBLAT**, SENIOR BUSINESS REPORTER

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Lawyers for embattled the Retail Food Group have savaged the competition regulator for what they view as a protracted and vague investigation, with a recent letter sent by the government agency to aggrieved Retail Food franchisees slammed as greatly overstepping the regulator's remit.

In a scathing 23-page letter sent by Arnold Bloch Leibler partner Zaven Mardirossian to Australian Competition & Consumer Commission executive general manager, enforcement division, Rami Greiss, and obtained by The Australian, the law firm representing Retail Food claims the ACCC will find it difficult to get evidence to prove a case and was dragging along the investigation to the harm of all franchisees.

The high-powered ABL law firm also claimed new Retail Food management had addressed or was addressing all the issues that had caused a scandal around the business years before and the ACCC investigation was only hurting management attempts to resuscitate franchisee earnings as the pandemic hit sales.

But the biggest swipe against the ACCC was reserved for a letter it sent to as many as 300 franchisees updating them on the investigation, with ABL describing it as the regulator fishing for business or attempting to be seen as a "friend of the franchisees", which is at odds with its role as an independent regulator.

Retail Food Group, which has been at the centre of allegations of insider trading, mistreating franchisees, breaches of consumer law and market disclosure fails, owns a stable of food chains such as Michel's Patisserie, Donut King, Gloria Jean's and Brumby's Bakery. Its shares crashed by more than 90 per cent after wages and other scandals.

The ACCC has been investigating the company for about two years, and as part of that spoke to franchisees. Last month it sent a letter to as many as 300 franchisees that opened with the line, "Hi, how are you doing in this brave new COVID-19 world?"

The letter from ACCC's "Retail Food Group Investigation team" was quite folksy, at one point saying, "we've progressed quite a few of these to draft witness statements and our external barristers (the ones who wear wigs in court) are reviewing those statements".

It said once the review was done the ACCC would know which witnesses would be relied upon in the case it was hoping to file in the Federal Court in June. It also offered franchisees information on business advice and mental health services.

"The communication seeks to present the ACCC as a 'friend of the franchisees' who is able to help them with financial advice so as to assist them during the period of the coronavirus outbreak," the letter from Mr Mardirossian said. "This goes far beyond the remit of the ACCC. The ACCC is not a friend of the franchisees. It is a government-funded regulator responsible solely for administering the competition legislation."

Mr Mardirossian said in his letter the ACCC communication undermined the efforts his client was making to assist franchisees during the pandemic and therefore creates a "culture among franchisees that is adverse towards our client".

"The clear purpose of the communication — including its highly conversational and informal tone — is designed to solicit complaints from franchisees so as to further the ACCC's investigation.

"The ACCC is not yet able to frame with any form of precision its allegations against our client."

The ACCC was unavailable for comment.

ELI GREENBLAT, SENIOR BUSINESS REPORTER

Eli Greenblat has written for The Age, Sydney Morning Herald and Australian Financial Review covering a range of sectors across the economy and stockmarket. He has covered corporate rounds such as telecommunica... [Read more](#)

