



Australian
Competition &
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Commission

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NEWS RELEASE

A.C.C.C. ALLEGES BREACH OF UNDERTAKINGS BY ABC LEARNING CENTRES

The Australian Competition and Consumer Commission has commenced proceedings in the Federal Court in Melbourne against ABC Learning Centres Ltd.

The ACCC alleges that ABC persistently failed to comply with the court-enforceable undertakings it gave to the ACCC in December 2004 following its acquisition of the Peppercorn child care group, by not divesting two child care centres as required.

The undertakings required ABC to divest a number of childcare centres in various regions, including two centres in Geraldton, Western Australia, namely the Kidz Retreat and Little Buccaneers child care centres.

The ACCC alleges that between December 2004 and the present, ABC did not divest the two Geraldton centres even though the ACCC agreed to extend the deadline several times, and this has resulted in a breach of the undertakings.

The ACCC further alleges that ABC breached the undertakings by interfering in the role of an agent (who was appointed in 2006 to expedite both sales) and by failing to reasonably assist that person to divest the two centres.

A further alleged breach is that ABC failed to maintain the two Geraldton centres as fully operational competitive going concerns so as to preserve the goodwill in the centres.

The ACCC is seeking the following remedies against ABC:

- declarations that ABC breached its undertakings
- orders directing ABC to comply with the terms of the undertakings
- orders directing ABC to sell the two centres to a person approved by the ACCC (or instead to sell one of the other long day care centres that it owns in Geraldton)
- orders relating to compensation for losses incurred by potential purchasers of the two Geraldton centres
- penalties payable to the Commonwealth, and
- costs.

The Federal Court has scheduled a directions hearing at 9.30 a.m. on 8 August 2008.

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