

Family Day Care pricing arrangements

Advice from the Australian Competition and Consumer Commission

# Summary

The Australian Competition and Consumer Commission (ACCC) was approached by the Department of Education to clarify concerns about whether the setting of fees by Family Day Care (FDC) Services (Services) for the provision of services by educators on a Service’s behalf may raise concerns under the competition provisions of the *Competition and Consumer Act 2010* (the CCA).

In summary, the ACCC considers that fee setting by educators and Services in accordance with the requirements of the Family Assistance Law and the Education and Care Services National Law, is unlikely to raise competition concerns under the CCA.

# Background

The ACCC provided high level information in 2006 to the then National Family Day Care Council of Australia (NFDCCA, now Family Day Care Australia), which in general terms explained that the fixing of prices by competitors is prohibited under the CCA. This communication was circulated by the NFDCCA to its members in a NFDCCA Scheme Bulletin in 20 January 2006. The ACCC’s communication was a high level application of the CCA and did not take account of the detailed requirements of family assistance law to be an approved child care service, or the requirements of the Education and Care Services National Law to be an approved service, as the National Law did not exist at this time.

The ACCC understands this communication may still be referred to by the Family Day Care sector and may be a source of confusion.

With the benefit of additional relevant information about the family assistance law and the Education and Care Services National Law, the ACCC considers that:

1. the setting of fees by Services for FDC services provided by educators on the Service’s behalf would not contravene the price fixing provisions of the CCA
2. the mutual agreement between a Service and an educator as to the price for FDC services provided by the educator on behalf of the Service would also not raise concerns under the CCA.

# Agreements between services or between educators may raise concerns

Services and educators should note, however, that the making of agreements between Services in relation to prices for FDC services, or the making of agreements between educators in relation to the fees they charge Services for providing FDC services, may raise competition concerns.

# How to contact the ACCC

If you have any questions about this information, please [contact the ACCC via its website](http://www.accc.gov.au) at [www.accc.gov.au](http://www.accc.gov.au/)

or through its Infocentre on 1300 302 502.

## How to contact the Department of Social Services

If you have any questions in relation to the operation of approved FDC services, please see the information available on the [Department of Social Services](www.dss.gov.au) website at:

[www.dss.gov.au](https://www.dss.gov.au/)

or email familydaycare@dss.gov.au.