



We have Accredited
Specialists in
BUSINESS LAW
PROPERTY LAW
IMMIGRATION LAW
PERSONAL INJURY LAW
FAMILY LAW

**Matthews Folbigg
Pty Limited**

ACN 078 845 271

PARTNERS

Paul B Matthews
Terence JK Doust
Michael L Levenson
Stephen P Jenkins

ASSOCIATES

Philp Cotsicos
Irene Morozov
Phillip Brophy
Anna Zdrilic
David Fullerton
Jeffrey Brown

CONSULTANTS

Brian C Folbigg
Michael Kah

Level 7, The Barrington
10-14 Smith Street
PO Box 248
Parramatta NSW 2124
Australia

DX 8233 Parramatta
TEL (02) 9635 7966
Tel Int +61 2 9635 7966
FAX (02) 9689 3494

EMAIL (OFFICE):
info@mflaw.com.au

WEBSITE:
www.mflaw.com.au

ABN: 15 904 109 618

MatthewsFolbigg

3 April 2002

The Regional Director
Australian Competition & Consumer
Commission
Level 5, Skygardens
77 Castlereagh St
SYDNEY NSW 2000

Our File: DGF:MJH:13449
Partner: Paul Matthews
Associate: David Fullerton
Solicitor: Melanie Heard
Contact: 9806 7406
Fax: 9689 3494
Email: melanie_heard@mflaw.com.au

Dear Sir/Madam

Re: Traglen Oven Cleaners (Franchising) Pty Ltd - Notification of Exclusive Dealing

We act for Traglen Oven Cleaners (Franchising) Pty Ltd in respect of a Notification of Exclusive Dealing. In this respect, please find enclosed:

- Form G – Exclusive Dealing Notification
- Submissions in Support
- Cheque in the sum of \$2,500.00

Please do not hesitate to contact our office should you require any further information. Thankyou for your assistance in this matter.

Yours faithfully
Matthews Folbigg Pty Ltd

Paul Matthews

Encl.

N:\Docs\13449\041140.doc(MJH)



Liability limited by the Solicitors Scheme,
approved under the Professional Standards Act 1994 (NSW)

THE LAW SOCIETY OF AUSTRALIA
The Law Society of New South Wales

Form G

Commonwealth of Australia
Trade Practices Act 1974 --- Sub-section 93(1)

EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the Trade Practices Act 1974, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d) of that Act in which the person giving notice engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of person giving notice... Traglen Oven Cleaners (Franchising) Pty Ltd ("the Franchisor")
(See Direction 2 on the back of this form)
(b) Short description of business carried on by that person
Franchising the business of dismantling & cleaning & re-assembling & polishing commercial ovens
(c) Address in Australia for service of documents on that person
Matthews Folbigg Solicitors
PO Box 248 PARRAMATTA NSW 2124 (Ref: DCF:13449)

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates
Commercial oven cleaning products & equipment
(b) Description of the conduct or proposed conduct
Requiring all franchisees to purchase a customised trailer, cleaning products & equipment only from the franchisor
(See Direction 4 on the back of this Form)

3. (a) Class or classes of persons to which the conduct relates
All current & future franchisees
(b) Number of those persons--
(i) At present time Nil
(ii) Estimated within the next year 10
(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses
.....
.....
.....

4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice... Paul Matthews - Solicitor
PO Box 248
PARRAMATTA NSW 2124 ph: 02 9635-7966

Dated 5th April 2002

Signed by/on behalf of the applicant giving notice



(Signature)

Paul Barry Matthews

(Full Name)

Solicitor

(Description)

Submissions In Support of Exclusive Dealing Notification

Overview of Business

Traglen Oven Cleaners (Franchising) Pty Ltd ("the Franchisor") is in the process of recruiting a number of franchisees in respect of their commercial oven cleaning business ("the business").

The business is involved in cleaning ovens in pizza shops, restaurants and takeaway food shops. Ovens are dismantled and taken to a specially designed stainless steel trailer and then water blasted with "bi-carb soda granules". The ovens are then re-assembled and polished.

The Franchisor's system is unique in that it uses a one of a kind blasting system incorporating blasting guns that have been specially manufactured in order to suit the specific bi-carb soda granules that are used for cleaning the ovens.

Description of the Proposed Conduct

It is proposed that it will be a term of the Franchise Agreement that the Franchisees will not purchase any cleaning products for use in the business from any other person, or any other entity, other than the Franchisor, in accordance with environmental waste disposal regulations.

Further, the Franchisees are also required to purchase the custom built trailer and blasting guns from the Franchisor.

Submissions in Support of the Proposed Conduct

Public Benefit

The aspect of the business which makes it unique, and differentiates it from other like businesses in the market, is the fact that all products used are environmentally safe,

as opposed to harsh chemicals which can cause both environmental and health problems.

The fact that the products are made from bi-carb soda means that it is a lot more environmentally friendly than other harsh oven cleaning products, and as a result, can be dispersed down drains whereas caustic products can not be.

In order to capitalise upon this factor, the Franchisor has had equipment designed and manufactured so that bi-carb soda granules are able to be used to achieve a safe and effective clean. The custom designed trailer and the blasting guns were both designed for use in conjunction with the bi-carb soda granules.

The benefits to the public of the use of bi-carb soda granules are numerous. The product is non-caustic which means it is suitable for cleaning food related equipment, whereas many cleaning products are not, thereby providing health benefits to the ultimate consumers of the food that is being prepared in the ovens cleaned by the businesses. The Franchisor reports that many customers have given their custom solely due to the fact that food safe cleaning products are used throughout the system.

As the Franchisor will be doing all of the purchasing of the products on behalf of the franchisees and therefore will be purchasing large quantities of product, benefits of reduced cost can be passed to the Franchisees and ultimately to the customers. This will result in lower unit costs for the Franchisees, all of whom are expected to be small businesses themselves, and will assist in containing or lowering prices at all further levels of the supply chain.

Further, the fact that the Franchisor will be handling the purchasing of all products means that customers can be assured of standardised and quality controlled products and services, no matter which Franchisee they are dealing with. This in turn will result in a greater chance of business success for all Franchisees.

As there are numerous benefits to the Franchisees, as a result of the conduct, such as reduced costs and customer satisfaction, which will result in a better chance of

success for their business, ultimately this will benefit the public in terms of greater levels of employment of people within these small businesses.

Further, as the blasting guns and trailer have been custom designed to suit the bi-carb soda granules, the Franchisor is not aware of any other cleaning product which will be suitable for use in this equipment, especially the blasting gun.

Anti-Competitive Effect

It is submitted that any possible anti-competitive effect within the market as a result of this conduct will be minimal. The fact that the equipment used throughout the business is designed to be used in conjunction only with bi-carb soda granules means that the market is contained in any case. The products used are not easily substitutable due to the custom-designed equipment. Thus, the market that will be affected will be purely that pertaining to the provision of bi-carb soda cleaning products and equipment.

As the business is very small at present and will be expanding at a modest pace, it is submitted that the volume of products that will be purchased by the Franchisor for use by the franchisees will be relatively small in relation to the market as a whole. It is not envisaged that the Franchisor will have any significant degree of market power at all in this respect.

The aim of the conduct from the Franchisor's perspective is to ensure a consistent, quality and safe system of cleaning ovens. It is expected that both the Franchisor and its Franchisees will benefit financially if this aim is able to be achieved, as it is apparent that this is what customers are looking for, and will thus result in a successful business.