

4 JUL 2007

# BLAKE DAWSON WALDRON

L A W Y E R S

Level 36  
Grosvenor Place  
225 George Street  
Sydney NSW 2000

www.bdw.com

Tel + 61 2 9258 6000  
Fax + 61 2 9258 6999

DX 355 Sydney

Locked Bag N6  
Sydney NSW 1225  
Australia

**Partner**

Ayman Guirguis  
Telephone (02) 9258 6262

**Contact**

Melissa Trotter  
Senior Associate  
Telephone (02) 9258 5949

**Our reference**  
AAG.MET

4 July 2007

FILE No:

DOC:

MARS/PRIEM

Mr Scott Gregson  
General Manager, Adjudication  
PO Box 1199  
DICKSON ACT 2602

**BY HAND**

Dear Mr Gregson

**Price Attack Franchising Pty Ltd – third line forcing notification**

We act for Price Attack Franchising Pty Ltd.

We enclose a copy of our client's Exclusive Dealing Notification together with the required filing fee.

If you have any questions in relation to the Notification, please do not hesitate to contact Ayman Guirguis on (02) 9258 6262 or Melissa Trotter on (02) 9258 5949.

Yours sincerely



**Ayman Guirguis**

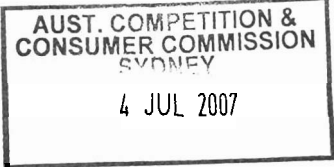
Partner

Tel: 9258 6262

ayman.guirguis@bdw.com

SYDNEY  
MELBOURNE  
BRISBANE  
PERTH  
CANBERRA  
PORT MORESBY  
SHANGHAI

Associated Office  
JAKARTA



**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.

N93055

1. (a) **Name of person giving notice**

Price Attack Franchising Pty Ltd (**Price Attack**)

(b) **Short description of business carried on by that person**

Price Attack is the franchisor of the Price Attack franchise network. It also operates a number of Price Attack owned corporate stores. Price Attack is a hair care retail chain, with about 130 franchised stores nationwide. Price Attack sells a large range of professional hair care, beauty, skincare, electrical appliances, hair accessories and home hairdressing products. Price Attack stores also include a hair salon.

(c) **Address in Australia for service of documents on that person**

c/o- Ayman Guirguis  
Partner  
Blake Dawson Waldron  
Level 35, Grosvenor Place  
225 George Street  
SYDNEY NSW 2000

2. **Notified arrangement**

(a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates**

Hair care salon services and hair care products.

(b) **Description of the conduct or proposed conduct**

*Background*

Cosmetic Suppliers Pty Ltd (trading as Wella Australia) ACN 000 303 391 (**Wella**) supplies professional salon products. Price Attack is a customer of Wella and currently purchases a range of hair care and other products from Wella.

Wella and Price Attack propose to enter into a Salon Purchasing Agreement in Australia.

*Proposed conduct*

Pursuant to the Salon Purchasing Agreement, Wella will provide Price Attack and Price Attack franchisees with a range of benefits including discounts and rebates in relation to its purchase of specified Wella products and/or services for Price Attack and all of its franchisees on the condition that its corporate stores and franchisees exclusively acquire specified products and/or services from Wella.

In order to give effect to the proposed Salon Purchasing Agreement, Price Attack will require, as part of its arrangements with its franchisees, that they purchase the specified products and services from Wella.

The proposed conduct may constitute third line forcing pursuant to sections 47(6) and 47(7) of the *Trade Practices Act 1974* (Cth).

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

**(a) Class or classes of persons to which the conduct relates**

Price Attack, Wella and Price Attack Franchisees.

**(b) Number of those persons-**

**(i) At present time**

130

**(ii) Estimated within the next year**

135

**(c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses**

Not applicable.

**4. Public benefits claims**

The proposed Salon Purchasing Agreement will provide the Price Attack franchise with a consistency of quality of hair care product across all of the Price Attack retail stores as well as a consistent 'look and feel' across the stores. Clearly, Price Attack customers will benefit from the consistency of quality between Price Attack stores.

The proposed offer is a pro-competitive response by Price Attack in conjunction with Wella to the similar offers made by its competitors. Competition between Price Attack and other providers of hair salon services and hair care products is expected to continue, and the notified conduct is expected to spawn further pro-competitive responses from Price Attack's competitors, which will be of benefit to consumers.

The cost savings associated with the proposed Salon Purchasing Agreement will also assist in lessening the pressure on Price Attack to increase prices.

For the reasons set out in paragraph 6 below, there is no significant detriment to the public as a result of the proposed conduct. Any minimal detriment is outweighed by the public benefits outlined above.

## 5. **Market definition**

The markets that may be affected by the proposed conduct include:

- (a) the market for the supply of hair care and other beauty products to retailers. In addition to Wella, the significant suppliers in this market include:
  - (i) L'Oreal;
  - (ii) Henkel;
  - (iii) Dateline;
  - (iv) Goldwell;
  - (v) Saber; and
  - (vi) Petra Haircare.
- (b) the market for the supply of hair treatment services to the public. The significant suppliers in this market include:
  - (i) Toni & Guy;
  - (ii) Hairhouse Warehouse;
  - (iii) numerous independent operators.

## 6. **Public detriments**

The effect of any third line forcing will be insignificant for the following reasons:

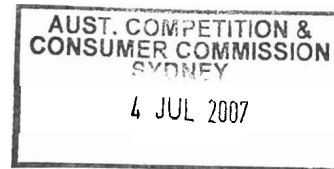
- (i) in respect of the market for supply of hair care and other beauty products to retailers:
  - there is no impediment to other hairdressers obtaining Wella products; and
  - there is a multiplicity of hair salons and providers of hair care and beauty products to whom competitors of Wella will be able to offer goods or services;
- (ii) in relation to the market for supply of hair treatment services to the public, again, there is a multiplicity of hair salons and providers of hair care and beauty products such that consumers who do not wish to use Wella products may obtain these services from other suppliers;

- (iii) Price Attack will continue to provide its exclusive "Peppa" brand and other products for which Wella does not have a comparative product to customers; and
- (iv) the total period of the agreement between the parties is only for 36 months.

7. **Further information**

- (a) **Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice**

Ayman Guirguis  
Partner  
Blake Dawson Waldron  
Level 35, Grosvenor Place  
225 George Street  
SYDNEY NSW 2000



Telephone: 02 9258 6262  
Facsimile: 02 9258 6111  
Email: ayman.guirguis@bdw.com

Dated *4 July*, 2007

Signed ~~by~~ on behalf of the applicant giving notice

  
.....  
(Signature)

**Ayman Adel Guirguis**  
(Full Name)

**Partner, Blake Dawson Waldron**  
(Description)