

FILE No:

DOC:

MARS/PRISM:

**ClarkeKann**  
LAWYERS

Office Brisbane  
Contact Wenny Lim  
Direct Line 07 3001 9231  
Email w.lim@clarkekann.com.au  
Our ref jdt:wyl:403865

9 October 2008

General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON 2602

Dear Sir/ Madam

**Notification of Exclusive Dealing  
Good Price Pharmacy Management Pty Ltd**

We act on behalf of Good Price Pharmacy Management Pty Ltd.

We enclose the following:

1. Form G (Notification of Exclusive Dealing in relation to third line forcing conduct), lodged on behalf of our client; and
2. a cheque in the amount of \$100 being the lodgement fee.

Please contact Wenny Lim of this office on 07 3001 9231 if you have any queries in relation to this matter.

Yours faithfully

  
**John Toigo**  
Partner  
Corporate & Commercial

**CK**

**BRISBANE**  
LEVEL 7  
300 QUEEN STREET  
BRISBANE 4000  
GPO Box 2249  
BRISBANE 4001  
AUSTRALIA

TEL: 61 7 3001 9222  
FAX: 61 7 3001 9299

**SYDNEY**  
LEVEL 5  
19 PITT STREET  
SYDNEY 2000  
PO Box R232  
ROYAL EXCHANGE  
NSW 1225  
AUSTRALIA

DX 10148  
STOCK EXCHANGE - SYDNEY NSW

TEL: 61 2 9336 8600  
FAX: 61 2 9336 8699

www.clarkekann.com.au

**AUST. COMPETITION &  
CONSUMER COMMISSION**

15 OCT 2008

# Form G

Commonwealth of Australia  
Trade Practices Act 1974 — subsection 93 (1)

## NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

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

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

- (a) **Name of person giving notice** (Refer to direction 2)

N 93623

Good Price Pharmacy Management Pty Ltd ACN 130 365 801 ("GPPM").

- (b) **Short description of business carried on by that person** (Refer to direction 3)

GPPM is establishing a network of franchised pharmacies under the name "Good Price Pharmacy Warehouse" ("GPP Warehouse"), which offers a comprehensive range of pharmaceutical, health and beauty products and services.

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

ClarkeKann Lawyers  
Level 7  
300 Queen Street  
Brisbane 4000

### 2. Notified arrangement

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

This notice relates to the arrangement entered into or to be entered into by GPPM with franchisees in which franchisees are required to:

- (i) purchase various pharmaceutical, health and beauty products from authorised suppliers; and
- (ii) maintain such products in such quantities as GPPM may reasonably require from time to time.

- (b) **Description of the conduct or proposed conduct** (Refer to direction 4)

GPPM will negotiate deals with authorised suppliers for the supply of pharmaceutical, health and beauty products to each GPP Warehouse franchise. The authorised suppliers will in each case be selected based on the following:

- (i) the products supplied are appropriate for sale in a GPP Warehouse franchise;
- (ii) their ability to ensure efficient supply of the relevant products to all franchisees; and
- (iii) their ability to supply products at competitive rates.

Clause 8.2 of the franchise agreement entered or to be entered into with franchisees requires the franchisees to purchase goods and services from these authorised suppliers. The clause provides that:

- (i) *The Franchisor shall provide to the Franchisee a list of Authorised Suppliers, which may be updated or amended by the Franchisor from time to time. These suppliers have been chosen by the Franchisor because they provide to franchisees benefits such as the ability to service a large chain of shops, display and promotional support, efficient billing, rebates and discounts, product obsolescence protection and product liability warranties.*
- (ii) *A Franchisee wishing to make purchases from a supplier other than an Authorised Supplier must obtain approval from the Franchisor.*
- (iii) *If the Franchisor is satisfied in its absolute discretion, after investigation, that the new supplier will not detract from the Store Image, quality and pricing policies associated with the Store System and can offer significant benefits, that supplier may be listed by the Franchisor as an Authorised Supplier.*

**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** (Refer to direction 5)

GPP Warehouse franchisees.

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

- (i) **At present time:**

Nil

- (ii) **Estimated within the next year:** (Refer to direction 6)

30

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

Not applicable.

#### 4. Public benefit claims

(a) **Arguments in support of notification** (*Refer to direction 7*)

- (i) The concept behind the GPP Warehouse franchise is that it is a “no frills”, bulk buying discount “big box” pharmacy whose market differentiation is everyday low prices.
- (ii) By requiring GPP Warehouse franchisees to purchase from authorised suppliers, costs savings are passed on to the franchisees, who will in turn pass the savings to customers, ensuring that prices of goods and services across the franchised network remain competitive and in accordance with the GPP Warehouse concept.
- (iii) The proposed arrangement will ensure that the range and quality of products provided by GPP Warehouse franchisees will be consistent throughout the franchised network. Accordingly, customers that visit any of the franchised stores are assured of consistency of the range, brands and quality of goods.
- (iv) Business efficacy will be enhanced because franchisees do not have to source and negotiate deals regarding the supply of products individually.
- (v) The value of the business name will be increased because of the consistent range and quality of products.

(b) **Facts and evidence relied upon in support of these claims:**

As above.

#### 5. Market definition

**Provide a description of the market(s) in which the goods or services described at 2(a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):** (*Refer to direction 8*)

- (a) The pharmacy retail services market including suppliers of pharmaceutical, health and beauty products who are not authorised suppliers of GPPM could be affected. However, the effectiveness of the operation of the GPP Warehouse franchise is reliant on the proposed arrangements set out in this notification.
- (b) Without the proposed arrangements, GPP Warehouse franchisees would be able to acquire products from suppliers of their choosing, and suppliers could compete for the businesses of the franchisees individually. GPPM does not consider that this would significantly increase the level of competition in the relevant market, but would tend to cause disparity between the products available from different franchisees and move away from the concept of the GPP Warehouse franchise.
- (c) It is expected that GPP Warehouses will face strong competition from other pharmacies, and accordingly there is a very large part of the market that is available to be accessed by suppliers who are not authorised suppliers of GPPM.
- (d) It should be noted however, that suppliers are able to negotiate with GPPM to become authorised suppliers of the GPP Warehouse franchise.

**6. Public detriments**

- (a) **Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets** *(Refer to direction 9)*

GPPM does not consider that there is likely to be any significant detriment to the public as a result of this notification because:

- (i) the public is able to take advantage of the benefits flowing from the consistent range of products and promotions across all GPP Warehouses; and
- (ii) market supply of the pharmaceutical, health and beauty products will not be significantly affected because consumers who do not wish to purchase the products available from GPP Warehouses have the option to purchase the products elsewhere.

- (b) **Facts and evidence relevant to these detriments:**

Not applicable


**7. Further information**

- (a) **Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:**

John Toigo  
Partner, ClarkeKann Lawyers  
Level 7, 300 Queen Street  
Brisbane 4000  
Telephone: 07 3001 9222  
Facsimile: 07 3001 9299  
Email: [j.toigo@clarkekann.com.au](mailto:j.toigo@clarkekann.com.au)

Dated 9 October 2008.

Signed ~~by~~/on behalf of the applicant



(Signature)

**John Dominic Toigo**

(Full Name)

**ClarkeKann Lawyers**

(Organisation)

**Partner**

(Position in Organisation)

## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.