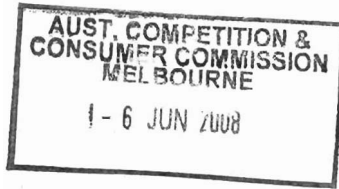




**MILLS
OAKLEY
LAWYERS**



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All correspondence to:
PO Box 453
Collins Street West
MELBOURNE VIC 8007

Contact

Warren Scott 03 9605 0984
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Partner

Andrew Walker 03 9605 0912
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6 June 2008

Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:	
DOC:	
MARS/PRISM:	

Dear Sir/Madam

Brabus PA Franchising Pty Ltd – Exclusive Dealing Notification

We act for Brabus PA Franchising Pty Ltd, the franchisor of the Price Attack franchise network.

We also act for Brabus Investments Pty Ltd, the master franchisee of the Price Attack franchise network.

We enclose the following:

1. Form G – Exclusive Dealing Notification for Brabus PA Franchising Pty Ltd;
2. Form G – Exclusive Dealing Notification for Brabus Investments Pty Ltd;
3. our office cheque for \$200 made payable to the Australian Competition and Consumer Commission being the lodgement fees for the 2 notifications.

If you have any questions or require further information please do not hesitate to contact Warren Scott on 03 9605 0984 or wscott@millsOakley.com.au.

Yours faithfully

**WARREN SCOTT
MILLS OAKLEY LAWYERS**

Enc

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.

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

N93428 Brabus Investments Pty Ltd ACN 050 020 918 (BI).

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

BI is the master franchisee of the Price Attack franchise network in South Australia and the Northern Territory.

Pursuant to its master franchise agreement, BI holds a licence in respect of a unique system for the retail sale of hair care, body care, nail care, skin care, cosmetics and beauty products and accessories and the provision of various services such as hair cutting, eyebrow tinting, lip waxing and other beauty related services (**Price Attack business**).

The franchisees of the Price Attack franchise network are granted the right to establish and operate a Price Attack business using the intellectual property, the system and the brand of Price Attack on the terms and conditions set out in the franchise agreement (**Franchise Agreement**).

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

c/- Warren Scott
Mills Oakley Lawyers
Level 4/121 William Street
MELBOURNE VIC 3000

2. **Notified arrangement**

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

The notification relates to the supply by BI to the franchisees of the right operate a Price Attack business on the condition that they:

(i) acquire hardware related to their point of sale from Shortcuts Software Australia Pty Ltd ABN 57 082 814 800 of 66 – 68 Bowen Street, Springhill, Queensland 4000 (**Shortcuts**);

(ii) acquire a licence to use the specified point of sale software from Shortcuts;

- (iii) obtain installation services from Shortcuts in relation to the point of sale hardware and software;
 - (iv) enter into a maintenance contract with Shortcuts; and
 - (v) obtain internet services from Telstra.
- (b) **Description of the conduct or proposed conduct**

Computer System

The Computer System is tailored to the Price Attack business.

As a result, the Price Attack franchisees will be required to purchase the point of sale hardware and software licences from Shortcuts (including installation) and enter into an agreement with Shortcuts for ongoing maintenance of the system.

Accordingly, BI will require its franchisees in South Australia and Northern Territory to purchase the point of sale hardware and software licences from Shortcuts (including installation) and enter into an agreement with Shortcuts for ongoing maintenance of the system.

Internet Service

As part of the point of sale system, internet connection is required. For the efficient management of the system Shortcuts requires that all stores using the Shortcuts system use Telstra as their internet service provider. BI will therefore require franchisees to use Telstra as their internet service provider in respect of the point of sale system.

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 franchisees.
 - (b) **Number of those persons**
 - (i) **At present time**

There are currently 135 Price Attack franchisees.
 - (ii) **Estimated within the next year**

There will be approximately 150 Price Attack franchisees.
 - (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

Computer System

The purpose of the proposed conduct is to:

- (a) maintain consistency in the Computer System used by all franchisees in the operation of the Price Attack businesses;
- (b) ensure that the franchisee's Computer System is compatible with Price Attack's Computer System;
- (c) ensure that the franchisee's Computer System meets Price Attack's standards;
- (d) ensure that confidential information is secured from unauthorised access or use;
- (e) provide all franchisees with improved and consistent support levels; and
- (f) standardise franchisee training and staff training thereby lowering the training costs and as a result decrease costs to the consumers.

Shortcuts specialises in providing computer systems for the hair and beauty salon and spa industries and in particular Shortcuts provides computer systems for multi-site hair and beauty salon businesses. Shortcuts understands the needs of hair and beauty salon businesses and the hair and beauty salon franchise systems. Using Shortcuts will provide BI and the franchisees with competitive advantages enabling them to compete with other hair salon businesses, supermarkets and department stores and thereby increase competition in the market. In particular their system will provide greater access to useful supply chain information that will potentially give rise to more favourable arrangements with suppliers.

Better arrangements with suppliers and efficiencies in the supply chain promote value at the consumer level.

Internet Services

The purpose of requiring the franchisees to obtain internet services from Telstra is to ensure that the internet connection is the same throughout the Price Attack franchise network and therefore ensure efficiency in management.

Generally

The requirement that the franchisees obtain the point of sale software and related hardware, installation, maintenance and support services from Shortcuts and to obtain internet services from Telstra drives efficiencies in the network. This decreases costs for the franchisee's business and therefore creates opportunities for greater value to consumers. Decreasing the costs to franchisees assists them to compete with other national hair dressing chains, supermarkets, department stores and others.

5. Market definition

The relevant market is the supply of computer hardware and software to retailers in Australia. This market seems to be highly competitive as there are a number of participants in the market.

6. Public detriments

Computer System

The detrimental effect of any third line forcing in relation to Shortcuts will be insignificant for the following reasons:

- (a) Price Attack has many competitors including independent hair dressers, national networks of hair dressers, supermarkets, department stores and others with who consumers can elect to shop; and
- (b) there are numerous providers of point of sale software and hardware.

Internet Services

The detrimental effect of any third line forcing in relation to requiring Price Attack franchisees to use Telstra as their internet service provider will be insignificant for the same reasons as set out above.

For the reasons set out in paragraphs 4 and 6, 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.

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**

c/- Warren Scott
Mills Oakley Lawyers
Level 4/121 William Street
MELBOURNE VIC 3000

Telephone: 03 9605 0984
Facsimile: 03 9670 9111
Email: wscott@millsoakley.com.au

Dated: 6 June 2008

Signed on behalf of the applicant giving notice



Warren Scott
Mills Oakley Lawyers
For Brabus Investments Pty Ltd



FORM G
Commonwealth of Australia
Trade Practices Act 1974 – Sub-section 93(1)
EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition and Consumer Commission:

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

N93429 Brabus PA Franchising Pty Ltd ACN 128 193 359 (**Price Attack**).

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

Price Attack owns or licences a unique system for the retail sale of the hair care, body care, nail care, skin care, cosmetics and beauty products and accessories and the provision of various services such as hair cutting, eyebrow tinting, lip waxing and other beauty related services (**Price Attack business**).

The franchisees of the Price Attack franchise network are granted the right to establish and operate a Price Attack business using the intellectual property, the system and the brand of Price Attack on the terms and conditions set out in the franchise agreement (**Franchise Agreement**).

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

c/- Warren Scott
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MELBOURNE VIC 3000

2. **Notified arrangement**

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

Computer System

The Computer System is tailored to the Price Attack business.

As a result, the franchisees will be required to purchase the point of sale hardware and software licences from Shortcuts (including installation) and enter into an agreement with Shortcuts for ongoing maintenance of the system.

Internet Service

As part of the point of sale system, internet connection is required. For the efficient management of the system Shortcuts requires that all stores using the Shortcuts system use Telstra as their internet service provider. Price Attack will therefore require franchisees to use Telstra as their internet service provider in respect of the point of sale system.

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 franchisees.

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

(i) **At present time**

There are currently 135 Price Attack franchisees.

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

There will be approximately 150 Price Attack franchisees.

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

Not applicable.

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Computer System

The purpose of the proposed conduct is to:

- (a) maintain consistency in the Computer System used by all franchisees in the operation of the Price Attack businesses;
- (b) ensure that the franchisee's Computer System is compatible with Price Attack's Computer System;
- (c) ensure that the franchisee's Computer System meets Price Attack's standards;
- (d) ensure that the Price Attack confidential information is secured from unauthorised access or use;
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5. Market definition

The relevant market is the supply of computer hardware and software to retailers in Australia. This market seems to be highly competitive as there are a number of participants in the market.

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Computer System

The detrimental effect of any third line forcing in relation to Shortcuts will be insignificant for the following reasons:

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Internet Services

The detrimental effect of any third line forcing in relation to requiring Price Attack franchisees to use Telstra as their internet service provider will be insignificant for the same reasons as set out above.

For the reasons set out in paragraphs 4 and 6, 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.

7. Further information

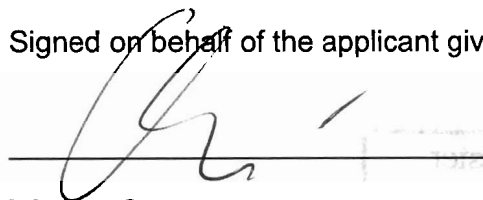
- (a) **Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice**

c/- Warren Scott
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MELBOURNE VIC 3000

Telephone: 03 9605 0984
Facsimile: 03 9670 9111
Email: wscott@millsoakley.com.au

Dated: 6 June 2008

Signed on behalf of the applicant giving notice



**Warren Scott
Mills Oakley Lawyers
For Price Attack**

