

1 October 2009

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MARS/PRISM:

Australian Competition and Consumer Commission  
Level 7, Angel Place  
123 Pitt Street  
SYDNEY NSW 2000

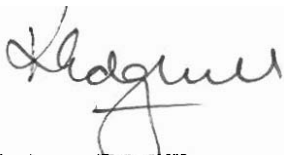
Dear Sir

**Independent Purchasing Company (Australasia) Limited - Third Line Forcing Notification**

Please find enclosed:

1. Form G - Notification of Exclusive Dealing lodged on behalf of Independent Purchasing Company (Australasia) Limited (IPCA); and
2. Cheque in the sum of \$100 being the lodgement fee for the enclosed Notification.

Yours sincerely  
**TRUMAN HOYLE**



**Kathryn Edghill**  
Partner  
Email: [kedghill@trumanhoyle.com.au](mailto:kedghill@trumanhoyle.com.au)

***Encl.***

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Corporate  
Technology  
Communications  
Media  
Energy  
Industrial

## 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)

N94242 INDEPENDENT PURCHASING COMPANY (AUSTRALASIA) LIMITED -  
ABN 18 082 169 060 (IPCA)

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

IPCA conducts the business of negotiating supply arrangements (as principal and not as agent) for the benefit of Subway franchisees in, inter alia, Australia.

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

Truman Hoyle Lawyers  
Level 11, 68 Pitt Street  
SYDNEY NSW 2000

Attention: Kathryn Edghill  
Tel: (02) 9226 9869  
Fax: (020) 9226 9899  
Email: [kedghill@trumanhoyle.com.au](mailto:kedghill@trumanhoyle.com.au)

#### 2. Notified arrangement

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

The services to which this notice relates are:

- (a) the negotiation and entry into supply arrangements by IPCA for the benefit of Subway franchisees in Australia;
- (b) the provision of web-based business portal services for the storage, sharing, management and communication of information between trading partners.
- (b) Description of the conduct or proposed conduct:

IPCA will require suppliers and distributors who wish to acquire its services for the purposes of supplying or distributing goods or services to Subway franchisees in Australia, to become members of International Compliance Information Exchange (ICIX) Pty Ltd and ICIX North America, LLC (iCiX) and to establish their own business site with iCiX (**Conduct**). iCiX is a web-based business portal which allows members to store, share and manage documentation, information and communication between trading partners.

*(Refer to direction 4)*

**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)*

Suppliers, potential suppliers, distributors and potential distributors of goods and/or services to Subway franchisees in Australia.

- (b) Number of those persons:

- (i) At present time:

Currently 160 suppliers across Australia and New Zealand

- (ii) Estimated within the next year:

Approximately an additional 20 suppliers

*(Refer to direction 6)*

- (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)*

The public benefits which will flow from the Conduct include:

- (a) reduction in transaction time and costs for both IPCA and its suppliers and distributors arising from, for example, the ability to access and place documents for common use on the iCiX site. One example is audit reports. Suppliers are commonly obliged to obtain or facilitate (and pay for) an assessment of the same matters for multiple parties. By placing a report on the site, reference may be made to that report by other parties, possibly avoiding the need to obtain duplicate or additional reports. Similarly, the iCiX system will allow access to generic documents and specifications;
- (b) the promotion of efficiencies and certainty for parties to a transaction. Such certainty arises from the ability to exchange and execute agreements electronically, the iCiX system's ability to archive documents for future reference and retrieval and access to product specifications and other compliance requirements;
- (c) security of information, arising from use of an independent third party site to store and record documentation. The parties have the ability to maintain confidentiality to materials placed on the site through restricting access to nominated individuals;
- (d) facilitation and management of compliance with food safety, quality assurance and other requirements and the enhancement of risk management, through access to the most appropriate and up to date information stored on the site.

The Conduct will not only benefit IPCA, its suppliers and distributors but also Subway franchisees in Australia, Subway Systems Australia (the Australian Subway franchisor) and the broader community who are customers of Subway franchisees.

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

IPCA refers to the iCiX website at [www.icix.com](http://www.icix.com) for further details of the benefits flowing from use of the system.

## 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)*

The markets in which the services described at 2(a) are supplied or acquired are:

- (a) the national market for the supply and acquisition of procurement services; and
- (b) the national market for the supply and acquisition of web-based business portal services.

In respect of the market referred to in (a) above, procurement services are supplied and acquired by a vast and diverse number of parties, including those who supply and acquire the goods and services which are the subject of the procurement as well as third party procurers. Similarly, in respect of the market referred to in (b) above, there is a vast and diverse number of providers and acquirers of web-based business portal services, including businesses which host their own business portal services.

**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)*

IPCA does not consider there to be any public detriments flowing from the Conduct. In particular, the minimal cost of membership of iCiX (currently \$220 p.a.) is likely to be recouped in the transaction and compliance cost savings which can be achieved through use of the system. Also, the numbers of suppliers and distributors participating in the Conduct will be very small, relative to the overall size of the markets affected by the Conduct. Accordingly, IPCA believes that competition in those markets will not be affected to any material extent by the Conduct.

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

N/A

7. Further information

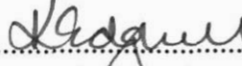
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Truman Hoyle Lawyers  
Level 11, 68 Pitt Street  
SYDNEY NSW 2000

Attention: Kathryn Edghill  
Tel: (02) 9226 9869  
Fax: (020) 9226 9899  
Email: [kedghill@trumanhoyle.com.au](mailto:kedghill@trumanhoyle.com.au)

Dated..... 1 OCTOBER 2009 .....

Signed by/on behalf of the applicant

  
.....  
(Signature)

KATHRYN EDGHILL  
.....  
(Full Name)

TRUMAN HOYLE  
.....  
(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.