

Our Ref: RW:CC:169327

12 March 2009

Richard Chadwick  
General Manager, Adjudications Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

FILE No:	
DOE:	
MARS/PRISM:	

Dear Sir

**Third line forcing notification  
Workout World Pty Ltd**

We act on behalf of Workout World Pty Ltd.

Workout World Pty Ltd is the franchisor of the Workout World franchise system. This system has 26 franchises (and 8 company owned stores) offering fitness equipment and associated products and services under the "Workout World" brand.

Workout World is working with its franchisees to continue to develop and improve a consistent brand image and customer experience. To assist in achieving this, Workout World proposes to make it a condition of its franchise arrangements that franchisees acquire a number of categories of goods and services from nominated suppliers.

Accordingly, we enclose the following:

1. completed Form G for lodgement on behalf of Workout World Pty Ltd; and
2. our cheque in the amount of \$100 in payment of the relevant lodgement fees.

Yours faithfully  
HWL Ebsworth



**Richard Westmoreland**  
Partner

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Brisbane  
Melbourne  
Norwest  
Sydney

# 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)*

Workout World Pty Ltd (“Workout World”) N93883

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

*(Refer to direction 3)*

Workout World is the franchisor of a network of franchised and company owned stores which specialise in the retail sale of fitness equipment and associated services and products.

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

C/o Richard Westmoreland  
Partner  
HWL Ebsworth Lawyers  
Level 14, Australia Square  
264-278 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:**

This notification relates to the following goods and services:

- (i) Media and advertising services used to promote franchisees’ workout world businesses;
- (ii) Workout World branded products required to be used in franchisees’ businesses to implement the Workout World brand image, such as Workout World branded stationery (eg, business cards, letterhead, envelopes, quotation forms) and staff uniforms;
- (iii) Shop-fitting services;

- (iv) Signage and sign writing services;
- (v) Computer hardware and software and Point of Sale (POS) systems.

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

*(Refer to direction 4)*

Workout World proposes to provide franchise services to franchisees on condition that they purchase products and services of the type described in Item 2(a) from nominated approved suppliers.

**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)*

The Workout World franchisees.

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

**(i) At present time:**

23.

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

*(Refer to direction 6)*

27.

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

Please refer to Annexure A

**4. Public benefit claims**

**(a) Arguments in support of notification:**

*(Refer to direction 7)*

The Workout World franchise network is a growing network of stores providing active competition in the sale of fitness equipment around Australia.

Workout World believes that the competitiveness of its stores in this market is maximised by ensuring that customers perceive all stores as being part of a single professional retail group with a consistent and quality brand image, 'look and feel' and customer experience. Workout World believes this can best be achieved by requiring franchisees to acquire products and services of the type described in Item 2(a) from nominated approved suppliers.

In addition, the notified conduct provides a range of benefits including the following:

- The vetting and appointment of approved suppliers by Workout World provides franchisees with an efficient source of products and services known to meet the standards and specifications required by each franchisee's franchise agreement;
- The nomination of approved suppliers provides reduced costs and increased efficiency for franchisees by enabling centralised negotiation of volume discounts for a range of goods and services; and
- Requiring franchisees to acquire advertising and media services from nominated suppliers enables coordinated marketing and advertising programs to be developed across the whole of the Workout World franchise group. This, in turn, provides more efficient and effective promotion of all Workout World stores than if the marketing spends of those stores were fragmented across separate advertising and media service providers in an uncoordinated way.

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

Refer to 4(a) 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)*

The goods described in 2(a) are all supplied in separate products markets for each of the relevant goods and services.

It is likely that markets for shop fitting and sign writing services may be regional. Some media may also be acquired in regional markets. The geographic scope of the markets for the supply of other affected services is likely to be national.

**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)*

Workout World does not believe the notified conduct is likely to give rise to any public detriment.

Workout World and its franchisees do not account for a competitively significant proportion of purchases in any affected markets. As such, the notified conduct is unlikely to have any anti-competitive effect.

To the extent that there is any effect on prices in affected markets, that effect is likely to be to reduce prices by enabling volume discounts to be negotiated.

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

Please refer to 6(a) above.

**7. Further information**

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

Richard Westmoreland  
Partner  
HWL Ebsworth Lawyers  
GPO Box 5408  
Sydney NSW 2001

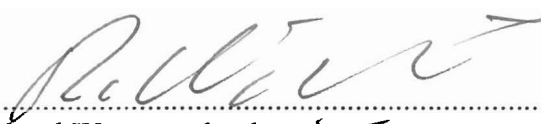
Telephone: (02) 9334 8717

Facsimile: 1300 369 656

Email: [richard.westmoreland@hwlebsworth.com.au](mailto:richard.westmoreland@hwlebsworth.com.au)

Dated.....*17 March 2009*.....

Signed on behalf of the applicant:



Richard Westmoreland  
Partner  
HWL Ebsworth Lawyers

## 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.

**Annexure A  
Current Franchisees**

<b>Trading Name and Franchisee Name</b>	<b>Address</b>
<b>Workout World – Aspley</b> Trinh Nguyen Greg Couldwell	Shop 18, Aspley Homemaker Centre, 825 Zilmere Road, Aspley QLD 4034
<b>Workout World – Auburn</b> Company Owned	G09, 92 Parramatta Road, Lidcombe NSW 2141
<b>Workout World – Bankstown</b> Paul Sawaqed	Shop 1A, Christie’s Homemaker Centre, 173-185 Canterbury Road, Bankstown NSW 2200
<b>Workout World – Blacktown</b> Jason Scerri Ben Green	Shop F3, Blacktown Mega Centre, Cnr Blacktown and Bungarribee Roads, Blacktown NSW 2148
<b>Workout World – Brookvale</b> Company Owned	Level 1, 557-579 Pittwater Road, Brookvale NSW 2100
<b>Workout World – Bundall</b> Company Owned	76 Upton Street, Bundall QLD 4217
<b>Workout World – Campbelltown</b> Darrin Voss	Shop 10, Home Base Campbelltown, 24-24A Blaxland Road, Campbelltown NSW 2560
<b>Workout World – Camperdown</b> Partly Company Owned: Mark Garrahy Steven To	113-117 Parramatta Road, Camperdown NSW 2050
<b>Workout World – Cannington</b> Paul Innes Elaine Kennedy	1489 Albany Highway, Beckenham WA 6112
<b>Workout World – Castle Hill</b> Ben Green Ebaine Reid	Shop LG/6 Hills Homemaker Centre, 18 Victoria Avenue, Castle Hill NSW 2067
<b>Workout World – Clarkson</b> Loren Dawson	Shop 61, Key Largo Drive, Clarkson WA 6030
<b>Workout World – Cranbourne</b> David Kitto	Shop 6A, Cranbourne Homemaker Centre, Cnr Thompsons Rd & Gippsland Highway, Cranbourne VIC 3977
<b>Workout World – Essendon</b> Company Owned	299 Pascoe Vale Road, Essendon VIC 3040
<b>Workout World – Fyshwick</b> Brett Piggins Dean Piggins	101-103 Newcastle Street, Fyshwick ACT 2609
<b>Workout World – Fortitude Valley</b> Greg Couldwell Trinh Nguyen	Shop 21, Homemaker City North, 650 Wickham Street, Fortitude Valley QLD 4000
<b>Workout World – Hobart</b> Marcin Rotter Rene Rotter	Unit B6, 66 Kennedy Drive, Harvey Norman Centre , Cambridge Park TAS 7170

<b>Workout World – Hoppers Crossing</b> Andrew Morton	Unit 6A, Harvey Norman Centre , 201-219 Old Geelong Road, Hoppers Crossing VIC 3029
<b>Workout World – Jindalee</b> Greg Couldwell Trinh Nguyen	Shop 27-34 Jindalee Homemaker Centre, Goggs Road, Jindalee QLD 4074
<b>Workout World – Kawana</b> Darrin Voss	Shop 3A, Kawana Home Central, Kawana Way, Britinya QLD 4575
<b>Workout World – Liverpool</b> Darrin Voss	Shop 3-4 Liverpool Mega Centre, 2-20 Cumberland Highway, Liverpool NSW 2170
<b>Workout World – Logan</b> Company Owned	Shop 3, the Mega Centre, 3523 Pacific Highway, Slacks Creek QLD 4127
<b>Workout World – Malaga</b> Kristie Dignam David Dignam	Unit 3, 24 Kent Way, Malaga WA 6090
<b>Workout World – Mentone</b> David Kitto	203 Napean Highway, Mentone VIC 3194
<b>Workout World – Mount Barker</b> Brock Gifford Ian Gifford	Shop H, the Hills Homemaker Centre, 6 Dutton Road, Mount Barker SA 5031
<b>Workout World – Mornington</b> David Kitto	Unit 4, 175-179 Tyabb Road, Mornington VIC 3931
<b>Workout World – Newcastle</b> David Skinn Denise Skinn	Shop 4, 395 Hillsborough Road, Warners Bay NSW 2282
<b>Workout World – Nunawading</b> Company Owned.	Home HQ, Shop 3B, 372-394 Whitehorse Road, Nunawading VIC 3131
<b>Workout World – Penrith</b> Ben Green	Shop 3B, 233 Mungoa Road, Penrith NSW 2750
<b>Workout World – Port Macquarie</b> Sue Lewis	Unit 3, 12 Jindalee Road, port Macquarie NSW 2444
<b>Workout World – Taren Point</b> Partly Company Owned: Mark Garrahy	Unit 1D, 126 Taren Point Road, Taren Point NSW 2229
<b>Workout World – Tuggerah</b> Jeff Cashmore	T38 Homemaker Supa Centre, Cnr Wyong Road & Bryant Street, Tuggerah NSW 2259
<b>Workout World – Wollongong</b> Partly Company Owned: Jocelyn Hurt	2/281 Crown Street, Wollongong NSW 2500