

FILE No:

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MARS/PRISM:

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PO Box 1126  
Royal Exchange, NSW 1223, AustraliaTel: +61 2 9225 0200  
Fax: +61 2 9225 1595  
DX: 218 SYDNEY  
www.bakernet.com

14 May 2009

Our Ref: 897951-v1/AUSSCZ

Mr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Mr Chadwick,

### Exclusive Dealing Notification – AAPC Properties Pty Limited (Franchised Hotels)

We act for AAPC Properties Pty Limited.

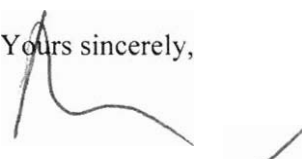
We enclose two exclusive dealing notifications by AAPC Properties Pty Limited pursuant to section 93(1) of the *Trade Practices Act 1974 (Cth) (Act)*. These notifications are lodged in respect of conduct which may constitute exclusive dealing under sections 47(6) and 47(7) of the Act. The notifications are given in the prescribed form and should not be taken as an admission that the conduct would contravene the statutory prohibition.

Pursuant to section 95(2) of the Act, we request that item 3(b)(ii) of each of the enclosed notifications be excluded from the public register as the information contained in those items is commercially sensitive confidential information.

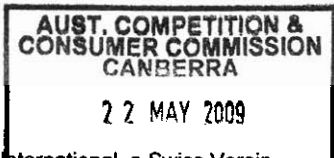
We also enclose two cheques made payable to the Commission in the sum of \$100 each, being the prescribed lodgment fee for each notification.

Please do not hesitate to contact me should you require any further information or if you have any queries concerning the notifications.

Yours sincerely,

  
Penny Ward  
Partner  
+61 2 8922 5167  
pennyj.ward@bakernet.com

Encl



Asia  
Pacific  
Bangkok  
Beijing  
Hanoi  
Ho Chi Minh City  
Hong Kong  
Jakarta  
Kuala Lumpur  
Manila  
Melbourne  
Shanghai  
Singapore  
Sydney  
Taipei  
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Almaty  
Amsterdam  
Antwerp  
Bahrain  
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Munich  
Paris  
Prague  
Riyadh  
Rome  
St. Petersburg  
Stockholm  
Vienna  
Warsaw  
Zurich

North & South  
America  
Bogota  
Brasilia  
Buenos Aires  
Cancun  
Caracas  
Chicago  
Chihuahua  
Dallas  
Guadalajara  
Houston  
Juarez  
Mexico City  
Miami  
Monterrey  
New York  
Palo Alto  
Porto Alegre  
Rio de Janeiro  
San Diego  
San Francisco  
Santiago  
Sao Paulo  
Tijuana  
Toronto  
Valencia  
Washington, DC

## 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)

N93990 AAPC Properties Pty Limited (ABN 17 065 560 885) (*Accor*).

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

Accor is engaged in the management and operation of the Accor group of hotels under the SOFITEL, PULLMAN, GRAND MERCURE, NOVOTEL, MERCURE, ALL SEASONS, IBIS and FORMULE 1, brands in Australia (*Accor Hotels*). As part of its business, Accor grants to third parties licences to operate Accor Hotels in accordance with Accor systems under franchise agreements.

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

Baker & McKenzie  
Solicitors & Attorneys  
AMP Centre  
50 Bridge Street  
Sydney NSW 2000  
Australia

Telephone: (02) 8922 5167  
Facsimile: (02) 9225 1595  
Attention: Penny Ward

### 2. Notified arrangement

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

(i) Risk Management Programme

A risk management/compliance programme known as InterREACT that provides Accor Hotels with information designed to assist Accor Hotels in managing and meeting legislative requirements and Accor policies. InterREACT is provided by InterRISK Pty Limited

The programme is designed around a process of identify, quantify and control and comprises a comprehensive set of questions and solutions specifically designed to meet hotel risk management requirements. While the software is not exclusive to Accor, it is linked by InterRISK to an Accor-specific database.

**(ii) Merchant Facilities**

Accor SA, the ultimate parent company of Accor operates a global website "accorhotels.com". Consumers can book for any Accor Hotel worldwide via this website. In some cases, full payment is taken at the time of reservation. The payment gateway used in respect of payments made via this site is provided by Ogone SA.

In order for Accor Hotels to be listed on the website and consumers to have the benefit of rates that are only available online, the Accor Hotels must use an Ogone SA-certified provider for its merchant facilities. In Australia Westpac Banking Corporation is the only bank certified by Ogone SA. Accordingly, franchisees will be required to procure merchant facilities from Westpac Banking Corporation.

Description of the conduct or proposed conduct:

*(Refer to direction 4)*

Accor proposes to offer franchise agreements on the condition that franchisees acquire services relating to assessment of compliance from InterRISK Pty Limited and merchant facilities from Westpac Banking Corporation (*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)*

Accor franchisees, being persons who are authorised under a franchise agreement to operate an Accor Hotel in Australia.

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

**(i) At present time:**

44

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

*(Refer to direction 6)*



EXCLUDED FROM  
PUBLIC REGISTER

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

Refer to Annexure A –attached.

#### 4. Public benefit claims

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

- (i) The conduct will benefit the public, because:

- consumers are under no obligation to acquire services from Accor franchisees;
- the conduct will improve the compliance and quality of service offered by Accor Hotels to consumers as it is aimed at ensuring compliance with both legislative requirements and Accor policies; and
- consumers will have the benefit of booking online and, from time to time, taking advantage of rates that are only available if accommodation is booked and paid for online.

- (ii) The conduct will not lessen competition in the markets for the relevant products and services or result in any conceivable detriment to the public because:

- consumers are under no obligation to acquire services from Accor franchisees, and may obtain hotel services from a range of other suppliers;
- the Suppliers may and do offer the relevant services to a number of other organisations and competitive products are available; and
- competition in the hotel, compliance and banking markets is vigorous and there are many competitors.

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

**InterREACT:**

- introduces a consistent approach to the on-going management of risk and ensures uniform, customised standards are met in all participating Accor Hotels
- has been developed to provide hotels with information that will assist hotels meet statutory and corporate requirements
- is an audit tool that is simple to use and therefore effective

- covers a broad spectrum of issues related to compliance and can be customised as required
- incorporates a built-in monitoring procedure

In addition, InterRISK Pty Limited arranges for specialists to make regular visits to assist, confirm and educate Accor franchisee staff.

**Merchant Facilities:**

By procuring merchant facilities from Westpac Banking Corporation, Accor franchisees will be able to make use of the online booking facility on the Accor website. The online booking facility:

- allows consumers to have the benefit of room rates that may not be available via other distribution channels
- provides a secure system for use of credit cards.

**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)*

Hotel, compliance and banking markets.

**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)*

Accor does not consider that the proposed conduct will result in or is likely to result in any public detriment as:

- consumers are under no obligation to acquire services from Accor franchisees;
- Accor franchisees will not be required to pay a higher than normal price for the Suppliers' products and services;
- Accor considers that the benefits to franchisees from being able to offer consumers the benefit of the Supplier's programs outweighs the cost of Accor's franchisees' participation in the Supplier's programs; and
- the cost of Accor's franchisees' participation in the Supplier's programs will not increase the rates charged by Accor's franchisees to consumers for hotel services.

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

While there will be costs to Accor's franchisees for participation in the Supplier's programs, Accor considers such costs to be outweighed by the benefits franchisees will be able to offer to consumers.

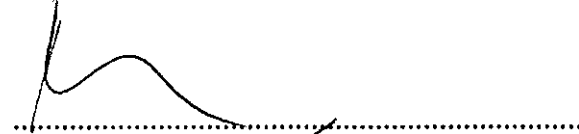
**7. Further information**

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

Penny Ward  
Partner  
Baker & McKenzie  
AMP Centre  
50 Bridge Street  
Sydney NSW 1223  
Australia

Dated 14 May 2009

Signed on behalf of the applicant



(Signature)

Penny Ward  
Partner, Baker & McKenzie

## **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 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 (item 3(c))

Hotel Name	Franchisee Name	Address
All Seasons Pavilion	Tunstee Pty Ltd t/as The Pavilion Motor Inn (ACN 002 387 984)	22-30 Kincaid Street, Wagga Wagga, 2650 NSW
All Seasons Ki-ee	East Coast Holidays Pty Ltd ACN 106 031 029	Corner William & Joffre St Port Macquarie 2444 NSW
All Seasons Cairns Gateway Resort	Cairns Gateway Resort Pty Ltd ACN 113 270 054	1-21 Anderson Rd Cairns 4870 QLD
All Seasons Victoria	Schwartz Family Co Pty Limited ACN 001 531 335	215 Little Collins Street Melbourne 3000 VIC
All Seasons Kingsgate	Kildair Hotels Pty Limited ACN 065 866 417	131 King Street Melbourne 3000 VIC
All Seasons Eco Lodge Phillip Island	Tiecor Pty Limited ABN 48 112 640 552	2124 Phillip Island Tourist Road, Phillip Island Cowes 3922 VIC
All Seasons Margaret River	Classic Choice Pty Ltd ACN 067 099 898	Wallcliffe Road Margaret River 6005 WA
All Seasons Sanctuary Golf Resort	Southern Golf Pty Ltd ACN 100 816 724	Old Coast Road, Pelican Point Bunbury 6000 WA
All Seasons Albany	Country Manor Hospitality Pty Ltd ABN 19 082 465 594	369 Albany Highway Albany 6330 WA
All Seasons Port Stephens Salamander Shores	Rowpau PTY Limited CAN 128 436 957	147 Soldiers Point Road, Soldiers Point, Port Stephens, Australia, 2317
Ibis Melbourne Little Bourke Street	Beyara Pty Ltd ACN	600 Little Bourke Street, Melbourne Vic 3000
Novotel Lake Crackenback Resort	Lake Crackenback Resort Management Pty Ltd ACN 003 858 419	Alpine Way, Thredbo Valley 2627 NSW
Novotel Rockford Darling Harbour	Bandwagon Australia Pty Limited ACN 105 930 345	17 Little Pier Street Sydney 2000 NSW
Novotel Rockford Palm Cove Resort	Rockford Indigo (Hotels) Pty Ltd ACN 112 805 375	Coral Coast Drive Palm Cove 4879 QLD
Novotel Vines Resort Swan Valley	The Vines (WA) Pty Limited ACN 009 274 720	Verdelho Drive The Vines 6969 WA
Novotel Ningaloo Resort	SBR Management Pty Ltd ACN 112 052 801	Sunrise Beach, Exmouth 6707 WA
Grand Mercure The	Vintage Resort 01 PTY Limited CAN 106 114	Cnr Vintage Dr &



<b>Hotel Name</b>	<b>Franchisee Name</b>	<b>Address</b>
Vintage	916	McDonalds Rd Rothbury 2320 NSW
Grand Mercure Kiama Blue	Kiama Blue Pty Ltd ACN 107 049 981	31 Shoalhaven Street Kiama 2533 NSW
Grand Mercure Hunter Valley Gardens	Rowpaul Pty Ltd ACN 128 436 957	Cnr Broke & MacDonald Road Polkolbin 2320 NSW
Grand Mercure Hills Lodge	The Hills Lodge Pty Limited ACN 002 590 105	Cnr Windsor & Salisbury Rds Castle Hill 2154 NSW
Grand Mercure Apartments Allegra Hervey Bay	Tennyson Investments Pty Ltd ACN 094 362 615	468 The Esplanade Hervey Bay 4655 QLD
Grand Mercure Azure Sea	Artiz Villa Investments Pty. Ltd. ACN 092 490 107 and Woodbridge Development & Investments Pty Ltd ACN 100 955 851 jointly and severally	8 Rain Forest Place Airlie Beach 4802 QLD
Grand Mercure Suites Mackay	Sinadel Pty Ltd ACN 103 298 406	9 Gregory Street Mackay 4740 Qld
Grand Mercure Rockford Esplanade	Drift Palm Cove (Management) Pty Ltd ACN 108 007 245	Cnr of Veivers Road & Williams Esplanade Palm Cove 4879 Qld
Grand Mercure Links Lady Bay	Lady Bay Hotel Pty Ltd ACN 008 173 831	1 St Andrews Boulevard Normanville 5204 SA
Grand Mercure Hotel Mount Lofty House	Mount Lofty House Country Estate Pty Ltd ACN 007 617 058	74 Summit Road Crafers 5152 SA
Grand Mercure Pinnacle Valley	A.P.V.C Limited ABN 54 093 338 141	1 Mimosa Drive Pinnacle Valley (via Mansfield) 3723 VIC
Grand Mercure Chalet Mt Buller	Mt. Buller Chalet Hotel Pty Limited ABN 59 056764 026	Lot 207, Mt Buller Alpine Resort, Mt Buller 3723 VIC
Grand Mercure Forest Resort	A.P.V.C Limited ABN 54 093 228 141	1500 Midland Hwy Creswick 3363 VIC
Grand Mercure Flinders Lane	A.P.V.C Limited ABN 54 093 228 141	Flinders Lane Melbourne 3000 VIC
Grand Mercure Docklands	MAB Corporation Pty Limited ACN 065 207 230	St. Mangos Lane, Docklands Melbourne 3000 VIC
Grand Mercure Busselton	A.P.V.C Limited ABN 54 093 228 141	553 Bussell Highway Busselton 6280 WA
Mercure Centro Port	Buller Street Developments PTY Limited ACN	103 William Street Port

<b>Hotel Name</b>	<b>Franchisee Name</b>	<b>Address</b>
Macquarie	093 912 666	Macquarie 2444 NSW
Mercure Hotel Welcome	Prime Assets Pty Ltd 007 434 826ACN	265-281 Little Bourke Street, Melbourne Vic
Swanston Hotel Melbourne	Colivon Pty Ltd ACN 006 624 264	195 Swanston Street, Melbourne Vic 3000
Sofitel Reef Casino	Casinos Austria International (Cairns) Pty Ltd ACN 062 222 011	35-41 Wharf Street, Cairns 4870 QLD
The Crossley Hotel	Pinna Pty Ltd ACN 005 314 812	51 Little Bourke Street, Melbourne Vic
The Grand Hotel Melbourne	Fulbright Pty Ltd ACN 072 818 967	33 Spencer Street, Melbourne Vic
Artique Resort	Freshwater Point Management Pty Limited ACN 116 475 855	Cnr of Surfers Paradise Boulevard & Enderley Ave Surfers Paradise 4217 Qld
Rockford Adelaide	Townhouse Investments Pty Ltd ACN 095 403 688	164 Hindley Street Adelaide 5000 SA
Olims	Schwartz Family Co Pty Ltd ACN 001 531 335	Cnr of Ainslie and Limestone Avenue Braddon 2618 ACT
Urban Brisbane	Work Exchange Bureau Pty Ltd ACN 055 625 735	345 Wickham Terrace, Brisbane Qld
Urban St Kilda	Urban St Kilda Pty Ltd ACN 129 150 394	35-37 Fitzroy Street, Melbourne Vic
Urban St Leonards	Prime Assets Pty Ltd ACN 007 434 826	194 Pacific Highway, St Leonards NSW 2065

## Form G

Commonwealth of Australia  
*Trade Practices Act 1974 - subsection 93 (1)*  
**NOTIFICATION OF EXCLUSIVE DEALING**

To the Australian Competition and Consumer Commission:

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PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

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

N93991 AAPC Properties Pty Limited (ABN 17 065 560 885) (*Accor*).

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

Accor is engaged in the management and operation of the Accor group of hotels under the SOFITEL, PULLMAN, GRAND MERCURE, NOVOTEL, MERCURE, ALL SEASONS, IBIS and FORMULE 1, brands in Australia (*Accor Hotels*). As part of its business, Accor enters into management agreements with owners of hotels to manage and operate those hotels as Accor Hotels.

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

Baker & McKenzie  
Solicitors & Attorneys  
AMP Centre  
50 Bridge Street  
Sydney NSW 2000  
Australia

Telephone: (02) 8922 5167  
Facsimile: (02) 9225 1595  
Attention: Penny Ward

### 2. Notified arrangement

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

(i) Risk Management Programme

A risk management/compliance programme known as InterREACT that provides Accor Hotels with information designed to assist Accor Hotels in managing and meeting legislative requirements and Accor policies. InterREACT is provided by InterRISK Pty Limited

The programme is designed around a process of identify, quantify and control and comprises a comprehensive set of questions and solutions specifically designed to meet hotel risk management requirements. While the software is not exclusive to Accor, it is linked by InterRISK to an Accor-specific database.

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Description of the conduct or proposed conduct:

*(Refer to direction 4)*

Accor proposes to offer management agreements on the condition that owners acquire services relating to assessment of compliance from InterRISK Pty Limited and merchant facilities from Westpac Banking Corporation (*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)*

Owners of hotels who enter into management agreements under which Accor manages and operates the owner's hotel as an Accor Hotel in Australia.

- (b) Number of those persons:

(i) At present time:  
 EXCLUDED FROM PUBLIC REGISTER

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

- (i) The conduct will benefit the public, because:

- consumers are under no obligation to acquire services from Accor Hotels;
- the conduct will improve the compliance and quality of service offered by Accor Hotels to consumers as it is aimed at ensuring compliance with both legislative requirements and Accor policies; and
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- (b) Facts and evidence relied upon in support of these claims:

**InterREACT:**

- introduces a consistent approach to the on-going management of risk and ensures uniform, customised standards are met in all participating Accor Hotels
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Hotel, compliance and banking markets.

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*(Refer to direction 9)*

Accor does not consider that the proposed conduct will result in or is likely to result in any public detriment as:

- consumers are under no obligation to acquire services from Accor Hotels;
- Accor Hotel owners will not be required to pay a higher than normal price for the Suppliers' products and services;
- Accor considers that the benefits to Accor Hotel owners from being able to offer consumers the benefit of the Supplier's programs outweighs the cost of participation in the Supplier's programs; and
- the cost of Accor Hotel owners' participation in the Supplier's programs will not increase the rates charged by Accor Hotel owners to consumers for hotel services.

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

While there will be costs to Accor Hotel owners for participation in the Supplier's programs, Accor considers such costs to be outweighed by the benefits owners will be able to offer to consumers.

**7. Further information**

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

Penny Ward  
Partner  
Baker & McKenzie  
AMP Centre  
50 Bridge Street  
Sydney NSW 1223  
Australia

Dated 14 May 2009

Signed on behalf of the applicant



.....  
(Signature)

Penny Ward  
Partner, Baker & McKenzie

## **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.

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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.