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22 January 2010

Dr Richard Chadwick
General Manager, Adjudication Branch
Australian Competition & Consumer Commission
c/- Level 7
123 Pitt Street
SYDNEY NSW 2000

**AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY**

25 JAN 2010

By Email: adjudication@accc.gov.au

FILE No:

DOC:

MARS/PRISM:

Dear Dr Chadwick

Notifications of Exclusive Dealing – Third Line Forcing

Our Ref: LEH: 3516146

We act for Ricegrowers Limited (**Ricegrowers**).

We **enclose** a Notification of Exclusive Dealing by Ricegrowers Limited under section 93(1) of the Trade Practices Act 1974 (**Notification**).

The Notification is lodged in respect of conduct which may constitute third line forcing as defined by sub-sections 47(6) and 47(7) of the Act.

We also **enclose** a cheque made payable to the Australian Competition & Consumer Commission in the sum of \$100 for the prescribed lodgement fee.

Please do not hesitate to contact us should you require any further information in relation to the Notification.

Yours sincerely

DibbsBarker

Laura Hartley

Partner

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Encl.

14423776 v1 Sydney 22 01 10

Brisbane

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Canberra

T 61 2 6201 7222 F 61 2 6257 4011

Perth

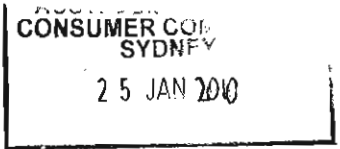
T 61 8 9265 6000 F 61 8 9265 6099

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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 subsection 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in 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 persons giving notice (Refer to direction 2)

N94456

Ricegrowers Limited (ABN 55 007 481 156) trading as SunRice of 37 Yanco Avenue, Leeton NSW 2705 (**SunRice**)

(b) Short description of businesses carried on by those persons (Refer to direction 3)

SunRice manufactures, distributes, markets and sells or offers for sale various human food products including rice and rice products and animal feed products.

(c) Address in Australia for service of documents on those persons

c/- Ms Laura Hartley
DibbsBarker
Level 8, 123 Pitt 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 notice relates to the supply of rice cake products (**Products**) to retail customers.

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

For 6 weeks (**the Promotional Period**) SunRice will provide retail customers with the opportunity to enter a promotion to win a prize on condition that they purchase 2 of the Products from a Woolworths store. The conduct might be characterised as SunRice:

- supplying or offering to supply a right to enter a promotion or supplying a prize on condition that a consumer will acquire 2 of the Products from Woolworths; or
- refusing to give or offer to give a right to enter a promotion or refusing to supply a prize for the reason that the consumer has not acquired 2 of the Products from Woolworths.

The conduct described above may be construed as falling within the prohibitions contained in sections 47(6) and 47(7) of the *Trade Practices Act 1974 (Cth) (TPA)* and accordingly SunRice wishes to notify the conduct under section 93(1) of the TPA.

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*)

Consumers of the Products.

(b) Number of those persons

(i) At present time

Consumers - substantially in excess of 50.

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

As above.

(c) Where the number of persons stated in items 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*)

We submit that the Commission should not serve a notice under section 93(3A) of the TPA because the conduct in question will not adversely affect competition in any relevant market and the conduct in question will result in public benefits and no identifiable public detriment.

The notified conduct comprises the offer of benefits to consumers who wish to take part in the promotion. The conduct in no way limits the genuine choice of consumers in choosing whether to acquire the Products or competitive products from other manufacturers. By retaining the genuine choice of consumers, the conduct is not inherently anti-competitive.

Moreover, the notified conduct is pro-competitive and will generate a number of public benefits, as:

- consumers acquiring the Products during the Promotional Period will do so with the advantage of being able to enter the promotion and possibly win a prize;
- it will encourage other manufacturers of competitive products to offer similar promotions, thereby encouraging competition in the relevant markets.

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

As above.

5. Market definition (*Refer to direction 8*)

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)

SunRice considers the relevant markets to be the market for the wholesale supply and distribution of snack foods in Australia and the market for the retail supply of snack foods in Australia.

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*)

SunRice does not believe that the proposed conduct will have any adverse effect on competition in any relevant market. There will be no detriment in any of the relevant markets. The fact that Products must be purchased from Woolworths for the right to enter the promotion is for a limited duration - the Promotional Period. There is no restriction on other wholesalers being involved in similar promotions with competitors of SunRice.

During the Promotional Period, consumers will be able to purchase the Products and receive the benefit of the right to enter the promotion and possibly win a prize. Consumers remain free to purchase the Products as well as other competing brands of product in their discretion from Woolworths. Consumers also remain free to purchase such of the Products ranged by retail stores other than Woolworths and competing brands of products from retail stores other than Woolworths.

Overall the conduct discussed above is of net public benefit in the relevant market.

(b) Facts and evidence relevant to these detriments

As above.

7. Further information

(a) Name and address of persons authorised by the person giving this notice to provide additional information in relation to this notice

c/- Ms Laura Hartley
DibbsBarker
Level 8, 123 Pitt Street
SYDNEY NSW 2000

Signed by/on behalf of the applicant

Dated: 22-1-10

L. Hartley
.....
(Signature)

LAURA ELIZABETH HARTLEY
.....
(Full Name)

DIBBS BARKER
.....
(Organisation)

PARTNER
.....
(Position in Organisation)

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
25 JAN 2010

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.