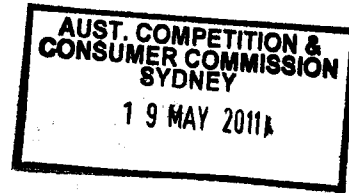


Our Ref: RHW:207823

19 May 2011

Mr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
Level 20
175 Pitt Street
SYDNEY NSW 2000



FILE No:
DOC:
MARS/PRISM:

Dear Sir

Form G - Notification of Third Line Forcing Exclusive Dealing

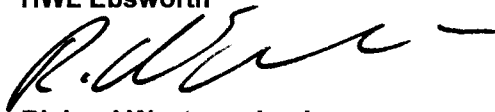
We act for Zambrero Pty Ltd (**Zambrero**) and enclose on behalf of Zambrero:

1. Form G - Notification of Exclusive Dealing for lodgement; and
2. our client's cheque in the amount of \$100 for the filing fee.

By way of background, Zambrero is the franchisor of a network of Mexican fast food restaurants. To ensure the integrity and consistency of its menu products, franchisees may be required by Zambrero to purchase particular ingredients to be used in the franchised restaurants from suppliers nominated by Zambrero.

The nominated supplier will be subject to review by Zambrero on a regular basis to ensure that franchisees continue to obtain high quality ingredients and that consumers subsequently obtain high quality menu products. Currently the only supplier nominated by Zambrero is Fresh Mex Sauces Pty Ltd which supplies a range of condiments and marinated meats to franchisees.

Yours faithfully
HWL Ebsworth



Richard Westmoreland
Partner

Writer: Fiona Young | (02) 9334 8743 |
E-mail: fiona.young@hwlebsworth.com.au
Postal: GPO Box 5408 Sydney, New South Wales 2001
Address: Level 14, Australia Square, 264-278 George Street, Sydney, New South Wales 2000
Facsimile: 1300 369 656 (Australia) | +61 3 8615 4301 (International)
DX: DX 129 Sydney

Brisbane
Melbourne
Norwest
Sydney

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — 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 *Competition and Consumer Act 2010*, 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)

N95406 Zambrero Pty Ltd (ACN 125 085 930) (Zambrero)

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

Zambrero is the franchisor of a network of Mexican fast food restaurants.

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

Stuart Cook
Chief Executive Officer
Zambrero Pty Ltd
No 1 Lewers Close
North Lyneham ACT 2602

2. Notified arrangement

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

Ingredients to be used in the operation of franchised Zambrero restaurants including, without limitation, meats and condiments (**Ingredients**).

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

As a condition of its franchise arrangements, Zambrero may require its franchisees to purchase particular Ingredients from suppliers nominated by Zambrero.

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)

Zambrero franchisees.

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

- (i) **At present time:**

9 franchised stores.

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

Not known.

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

Refer to Annexure A.

4. Public benefit claims

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

The proposed conduct will provide the following public benefits:

- The ability of Zambrero to ensure that all Zambrero restaurants deliver consumers consistency in the quality and taste of the Ingredients and menu products. This benefits consumers. It also enables Zambrero to promote its franchised businesses more effectively, benefiting franchisees and increasing their ability to compete effectively in the highly competitive restaurant market;
- Competitive costs for franchisees through the ability of Zambrero to negotiate competitive purchase prices from nominated suppliers.

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

Please refer to item 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)

It is likely that a range of separate markets will exist for different categories of Ingredients that may be acquired from suppliers nominated by Zambrero. These markets may be regional or national in scope.

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)

For the following reasons, Zambrero does not believe that the notified conduct will give to any public detriments:

- Zambrero and its franchisees do not account for a competitively significant proportion of sales or purchases in any relevant market. As such, the notified conduct is unlikely to be capable of generating any anti-competitive effects;

- Ingredients produced by the nominated supplier are subject to Zambrero's strict requirements relating to quality, quantity, preparation and storage. This ensures that the integrity and quality of the Ingredients and menu products are not compromised and are consistent across the franchised businesses;
- Suppliers nominated by Zambrero will be subject to regular review to ensure that they continue to provide high quality products to franchisees at competitive prices.

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

Please refer to item 6(a) above.

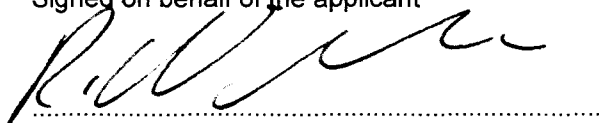
7. Further information

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

Richard Westmoreland
HWL Ebsworth
Level 14, Australia Square
264-278 George Street
Sydney NSW 2000
Phone: (02) 9334 8717
Email: richard.westmoreland@hwlebsworth.com.au

Dated: 19 May 2011

Signed on behalf of the applicant



Richard Westmoreland
Partner, HWL Ebsworth



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 *Competition and Consumer Act 2010* 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
Zambrero Franchisees

Store	Franchisee	Contact	Store Address
1. Gungahlin	Colin Grant Michael Chant		Shop 23, Marketplace Gungahlin, Hibberson Street, Gungahlin ACT
2. Civic	Steven MacDougall		12 Alinga Street, Canberra City ACT 2600
3. Braddon	Katie Radojkovic	EXCLUDED FROM PUBLIC REGISTER	29 Lonsdale Street, Braddon, ACT,
4. Woden	Thilaka Athugala		20 Bradley Street Phillip ACT 2609
5. Oxford Street	Jamie Shaw		Shop 1, 107-111 Oxford Street, Darlinghurst, NSW 2010
6. Rundle Street	Chris Scott		Shop 2, 214-216 Rundle Street, Adelaide, SA, 5000
7. Erindale	Michael Hardy Emma Brill		Shop 28, Erindale Shopping Centre, Wanniassa, ACT 2903
8. Manuka	Kurt Gruber		17 Franklin Street, Manuka, ACT 2603
9. Gold Coast	John Stevenson Reani Stevenson		56 Griffith Street, Coolangatta QLD 4225