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Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

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Dear Sir / Madam

**Third Line Forcing Notification (Form G)**

We act for Red Rooster Foods Pty Ltd in relation to the above matter.

Please find **enclosed** the Third Line Forcing Notification (Form G) together with a cheque for \$100 for the lodgement fee.

If you have any queries regarding this matter, please don't hesitate to contact us or our client's contact as indicated in the Notification.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Tamra Seaton'.

Tamra Seaton  
Partner  
Norton Rose Australia

APAC-#11102646-v1

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## 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.

#### 1. Applicant

(a) Name of person giving notice:

N95515 **RED ROOSTER FOODS PTY LTD ACN 008 754 096** of 1 Whipple Street, Balcatta, Western Australia ("**Red Rooster**").

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

Red Rooster is in the business of operating restaurant and takeaway food outlets and granting Red Rooster franchisees the right to operate a Red Rooster business ("**Franchised Business**") on the terms set out in the franchise agreement between the parties. The Franchised Business involves the retail sale of chicken, chips, hot and cold beverages, chicken products, seafood, chicken burgers, rolls and wraps, egg and bacon burgers and wraps, salads, desserts, vegetables and garlic bread and other related products nominated by Red Rooster from time to time ("**Products**").

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

C/- Mr Brett Dingli, Red Rooster Foods Pty Ltd, 1 Whipple Street, Balcatta, Western Australia, 6021.

#### 2. Notified Arrangement

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

The notification relates to:

- all computer and point of sale systems software and relevant information technology and all related machinery and equipment including any computer hardware and also includes (but is not limited to) back office software which incorporates sales, inventory, product and employee management functions ("**POS**")
- all services supplied by third party service providers relating to the installation modification, repair, maintenance, upgrading,



and replacement of POS and the provision of ADSL / Broadband services to access internet based back office and training systems ("**Services**"),

That Red Rooster directs its Red Rooster franchisees must use in their Franchised Business;

(b) Description of the conduct or proposed conduct:

See Annexure "A" (parts 1 & 2).

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

(a) Class or classes of person to which the conduct relates:

Persons who are franchisees or will become franchisees of Red Rooster and who are granted the right to operate a Franchised Business on the terms set out in the franchise agreement between the parties.

(b) Number of those persons:

(i) At present time: 98

(ii) Estimated within the next year: 20

(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:

See Annexure "A" (part 3).

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

See Annexure "A" (part 3).

**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):

See Annexure "A" (part 4).

**6. Public Detriments**

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- (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:

See Annexure "A" (part 5).

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

See Annexure "A" (part 5).

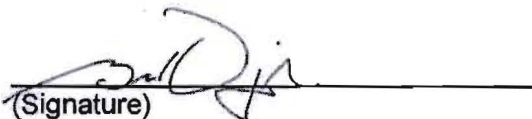
**7. Further Information**

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

Mr Brett Dingli  
In-House Legal Counsel  
Red Rooster Foods Pty Ltd  
1 Whipple Street  
Balcatta, WA 6021

Dated: 5 AUGUST. 2011

Signed by/on behalf of the applicant

  
(Signature)

BRETT CHARLES DINGLI  
(Full Name)

RED ROOSTER FOODS PTY LTD  
(Organisation)

COMPANY SECRETARY.  
(Position in Organisation)



## ANNEXURE "A"

### SUBMISSION TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION REGARDING THIRD LINE FORCING NOTIFICATION

#### 1. DESCRIPTION OF THE CONDUCT OR PROPOSED CONDUCT

*(Refer to Section 2(b) of Form G)*

1.1 The conduct to which this notification relates is the requirement for Red Rooster franchisees to use and acquire:

- POS; and
- Services

from third party suppliers who have been approved by Red Rooster ("**Nominated Suppliers**").

1.2 Red Rooster franchises are granted to Red Rooster franchisees on the condition, among other things, that they agree to:

1.2.1 only use equipment in the Franchised Business which has been approved by Red Rooster from time to time as meeting Red Rooster's standard for design, function, performance, serviceability and warranty; and

1.2.2 acquire POS and Services specified by Red Rooster from Nominated Suppliers.

1.3 In addition, Red Rooster may specify that POS and/or Services are to be acquired from Red Rooster.

1.4 If at any time either Red Rooster's Nominated Supplier or Red Rooster is unable to supply POS and/or Services, the Red Rooster franchisees may acquire them from an alternative supplier (subject to Red Rooster's approval as to the quality of those goods or services, that the alternate supplier is capable of supplying the necessary quantity and that the POS integrates with Red Rooster's computer systems) until Red Rooster's Nominated Supplier or Red Rooster is again able to supply the POS and/or Services.

#### 2. THE PURPOSE OF THE CONDUCT OR PROPOSED CONDUCT

2.1 The purpose of the conduct or proposed conduct referred to in item 1.1 is not to lessen competition in the relevant market or markets but to ensure uniformity of the type, quality, compatibility and reliability of POS and/or the Services used by Red Rooster franchisees including but not limited to the uniformity and compatibility of the POS used by Red Rooster franchisees.

**3. PUBLIC BENEFIT CLAIMS**  
(Refer to Section 4 of Form G)

Red Rooster submits that the conduct or proposed conduct has considerable public benefit by increasing efficiency and reducing costs for Red Rooster franchisees as well as providing consistent data, thereby allowing Red Rooster to be a more attractive and competitive participant in the food service industry as follows:

- 3.1 POS and the associated Services will provide numerous benefits for Red Rooster franchisees including new front counter, back office and reporting capabilities in local languages, nationwide. POS will also provide additional and improved functionality for front counter, back office and has been designed to easily integrate with payroll and accounting packages to streamline franchisees' businesses;
- 3.2 POS is simple to operate and will run on POS computer systems that have industry standard operating systems and therefore have the appropriate processor, and other hardware components. It will simplify training of new employees which will save franchisees' time and money and may help reduce employee turnover;
- 3.3 POS will assist Red Rooster franchisees to enhance their customer service by improving the speed and accuracy of the ordering process. The software has been specifically designed for order flow and includes features such as combinations or other bundled products and promotions. The new interface is intuitive and easy to use with buttons that are large and easy to read. Faster and more accurate throughput of orders will also minimise the loss of customers;
- 3.4 POS will also assist Red Rooster franchisees to improve scheduling of employees and standardise inventory to provide better controls on usage, improved ordering capabilities and tracking of transfers of stock. This will assist franchisees to better control costs and minimise waste;
- 3.5 POS includes standardised benchmark reporting across Red Rooster which will assist Red Rooster franchisees in their decision making processes and allows a Red Rooster franchisee to track their store's performance against like stores and its markets;
- 3.6 POS provides better fraud prevention as the interface will eliminate many of the current opportunities for employee theft and introduces new alerts for Red Rooster franchisees;
- 3.7 POS will reduce the administrative burden on Red Rooster franchisees as Price Look Up codes (PLU) will be automatically downloaded and weekly reporting will be virtually eliminated. The software will permit Red Rooster franchisees to implement inventory, simple menu management and essential reports via back office. It will also give Red Rooster franchisees greater flexibility to manage their business from their home office including:

- 3.7.1 Ability for franchisees who own more than one store to manage the back office for each store through their home office; and
- 3.7.2 Ability for franchisees who own more than one store to combine and export data on all stores.; and
- 3.8 The chosen POS platform will be directly supported by the service provider who will have a strategic roadmap for maximising the lifespan of the POS system.
- 3.9 POS will reduce overheads in ongoing POS hardware and software support through the ability to leverage group buying power to ensure best possible pricing, and centralised support for maintenance of product and pricing information thus obviating the need for franchisees to resource these functions for each respective franchise group.

#### **4. MARKET DEFINITION**

*(Refer to Section 5 of Form G)*

- 4.1 Red Rooster submits that the relevant market is the nationwide market for the supply and acquisition of POS and the Services.
- 4.2 Based on investigations made by Red Rooster, this markets is highly competitive and there is a large number of participants.

#### **5. PUBLIC DETRIMENTS**

*(Refer to Section 6 of Form G)*

- 5.1 Red Rooster submits that there is no public detriment that results from the conduct or proposed conduct.
- 5.2 Red Rooster submits that the conduct or proposed conduct will not lessen competition in the market place.
- 5.3 The notified conduct is not likely to have any effect on the price of POS. The food service industry remains competitive, with a large number and variety of potential users of POS. The use of POS by Red Rooster franchisees will not adversely affect competition in the relevant market.
- 5.4 To the extent that the conduct or proposed conduct contravenes section 47 of the Act, Red Rooster submits that the public benefits resulting from the conduct or proposed conduct outweigh any public detriment caused by the conduct or proposed conduct.