

23 February 2012

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MINTER ELLISON - GOLD COAST

BY EXPRESS POST

Australian Competition and Consumer Commission
Level 7, 123 Pitt Street
SYDNEY, NSW 2000

FILE No:
DOC:
MARS/PRISM

Dear Sir/Madam

Form G Notification - Jetts Fitness Pty Ltd

We refer to the above matter and confirm that we act for Jetts Fitness Pty Ltd (ACN 123 921 326) ("Jetts").

We have been instructed to notify the Australian Competition and Consumer Commission in accordance with subsection 93(1) of the *Competition and Consumer Act 2010* (Cth) that Jetts proposes to engage in conduct of a kind referred to in section 47(6) of that Act.

Accordingly, we enclose the following:

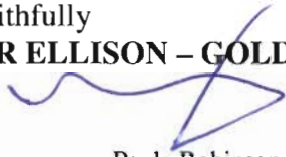
- (a) Form G Notification of Exclusive Dealings; and
- (b) Cheque for \$100 made payable to the Australian Competition and Consumer Commission in payment of the lodgement fee.

We note that the enclosed Form G Notification includes a **Confidential Annexure** containing a list of Jetts current Affiliated Partners. This list is a valuable component of Jetts's intellectual property and contains commercially sensitive information. We therefore request that the list of Affiliated Partners be excluded from the public register on the basis that its inclusion would be severely detrimental to Jetts and its network of franchisees and that its dissemination to the general public, and more specifically Jetts's competitors, would serve little if any public benefit.

If you have any questions or require further information please contact our office.

Yours faithfully

MINTER ELLISON – GOLD COAST



Contact: Paula Robinson Direct phone: 07 5553 9466
Email: paula.robinson@minterellison.com
Partner responsible: Ken Petty
Our reference: KGP SCB HXJ 276135

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:

N95740 Jetts Fitness Pty Ltd ACN 123 921 326 (**Jetts**)

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

Jetts is a Queensland based company which operates as franchisor to a network of franchisees in the fitness industry across Australia. Jetts franchisees operate fitness centres on terms set out in a franchise agreement between Jetts and each franchisee. The fitness centres are open 24 hours, 7 days a week and provide exercise facilities to consumers who have purchased a membership or have paid a casual visit fee.

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

c/- Minter Ellison Lawyers
159 Varsity Parade
Varsity Lakes, QLD 4227

2. Notified arrangement

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

Exercise and fitness facilities and services

(b) Description of the conduct or proposed conduct:

Jetts proposes to offer and/or supply discounted memberships to members, customers or employees of businesses, companies, associations or organisations that are or become Jetts Affiliate Partner (see Annexure 1 for list of Affiliate Partners as at the date of this notice) on the condition that the member, customer or employee presents evidence that they are a member, customer or employee of the Affiliate Partner. Jetts also proposes to refuse to offer or supply discounted memberships to persons who cannot provide such evidence.

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:

Any person who is a member, customer or employee of a Jetts Affiliate Partner

- (b) Number of those persons:

- (i) At present time:

Unknown

- (ii) Estimated within the next year:

Unknown

- (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:

Jetts submits that the proposed conduct is likely to have the following benefits:

- (i) The proposed discounts will make memberships more affordable for members, customers and employees of Jetts Affiliate Partners;
- (ii) The proposed discounts will motivate competitors to offer similar discounts and therefore increase competition and place downward pressure of prices in the industry generally; and
- (iii) More affordable memberships will add to community health and well-being.

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

Self explanatory

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):

The market in which the goods or services described in 2(a) are supplied is the market for exercise and fitness facilities. This market is a national market with hundreds of businesses offering fitness facilities in each state

and territory. Competition in the market is strong and most participants compete on an equal footing.

Jetts Affiliate Partners comprise retailers, motoring associations, health funds and other 'member benefit' organisations all of which are competing for customers or members in competitive markets.

All the aforementioned markets are strong and competitive with a wide variety of suppliers competing for business on an equal footing. Jetts does not have a substantial degree of market power in any of these 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:

Jetts submits that there are no public detriments which will result from the proposed conduct. If a person is averse to Jetts proposed conduct then they have numerous alternatives to choose from in the market for fitness services. Jetts will continue to offer its memberships to consumers at regular price, regardless of whether or not consumers are members, customers or employees of Jetts Affiliate Partners.

The strength of competition in the exercise and fitness facilities market will ensure that the conduct notified herein will remain fair and in the interests of the consuming public.

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

Not applicable

7. Further information

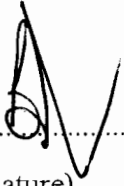
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

c/- Minter Ellison Lawyers Gold Coast
159 Varsity Parade
Varsity Lakes, QLD 4227

Dated..... 07/11/2011

Signed on behalf of the Jetts Fitness Pty Ltd (ACN 123 921 326):




.....
(Signature)

BRENDON LEVENSON
.....
(Full Name)

DIRECTOR
.....
(Position in Organisation)