

28 May 2012

FILE No:

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Your ref:
Our ref: BMGM/WAS/5193657

All correspondence to:
PO Box 453
Collins Street West
MELBOURNE VIC 8007

Adjudication Branch
Australian Competition and Consumer
Commission
GPO Box 3131
Canberra ACT 2601

Contact
Bianca Guerrieri +61 3 9605 0923
Email: bguerrieri@millsoakley.com.au

Partner
Warren Scott +61 3 9605 0984
Email: wscott@millsoakley.com.au

Attention: The General Manager

Dear Sir/Madam

Jetts Fitness Pty Ltd – Third Line Forcing Notification

We act for Jetts Fitness Pty Ltd (ACN 123 921 326).

We enclose the following:

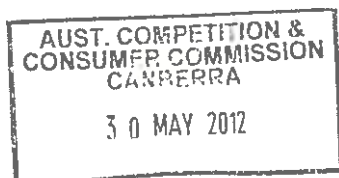
- Exclusive Dealing Notification Form G, for lodgement on behalf of our client; and
- cheque in the sum of \$100.00 being payment for the lodgement fee.

If you have any questions or require further information please do not hesitate to contact Bianca Guerrieri on +61 3 9605 0923 or bguerrieri@millsoakley.com.au.

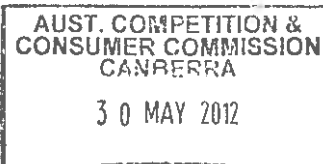
Yours faithfully

WARREN SCOTT
PARTNER

Enc



Form G
Commonwealth of Australia
Competition and Consumer Act 2010 – sub-section 93(1)



EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 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

N95884 Jetts Fitness Pty Ltd (ACN 123 921 326) ("***the Applicant***").

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

The Applicant, acting as franchisor, operates a franchise network of fitness centres across Australia. The fitness centres provide exercise facilities to consumers, with a membership, 24 hours per day, 7 days a week.

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

c/- Warren Scott
Mills Oakley Lawyers
Level 6, 530 Collins Street
MELBOURNE VIC 3000

2. Notified arrangement

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

This notification relates to the acquisition by Jetts franchisees ("**Franchisees**") of certain products and services to be offered for sale to consumers, and used by the Franchisees in the operation of their business ("**Products and Services**").

(b) Description of the conduct or proposed conduct

The Applicant will require all current Franchisees and future Franchisees, to acquire the Products and Services from 'Approved Suppliers' and 'Core Suppliers' as defined in the franchise agreement.

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

All current Franchisees

(b) Number of those persons

(i) At present time

120

(ii) Estimated within the next year

30.

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

N/A

4. Public benefits claims

(a) Arguments in support of notification; and

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

The proposed conduct, requiring Franchisees to purchase Products and Services from Approved Suppliers and Core Suppliers, will provide the following public benefits:

- The Applicant will be able to ensure that all Jetts fitness centres will have high quality Products and Services which will provide a safer environment for consumers.
- Franchisees will be likely to have access to the Products and Services at a more competitive price, as the Applicant will have the buying power of the entire Jetts franchise network when negotiating with Approved Suppliers and Core Suppliers. As a result, savings may be passed on to consumers.
- All Franchisees will offer a consistent range of Products and Services which will ensure that all consumers will receive a consistent experience in any Jetts fitness centre they attend. This will lead to a better customer experience.
- Franchisees will not be required to negotiate with suppliers on individual terms which will allow Franchisees to focus on operating their businesses, and delivering high quality service to their customers.

- The public benefits listed above, will also allow Franchisees to be more competitive in the fitness industry, which will in turn increase competition in the fitness industry and ultimately benefit consumers.

5. Market definition

Provide a description of the market(s) in which the goods or services described in 2(a) are supplied or acquired and other affected markets including: significant supplier and acquires; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services:

The markets that may be affected by the proposed conduct include:

- the market for the supply of wholesale fitness products and services; and
- the market for the supply of shop fit out products and services.

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; and

(b) Facts and evidence related to these detriments:

Franchisees

The proposed conduct will remove the opportunity for Franchisees to choose which supplier they purchase the Products and Services from. However, Franchisees will benefit from the proposed conduct as they will have access to the Products and Services at a competitive price, and will not have to negotiate with suppliers individually.

Consumers

The proposed conduct will not have an effect on consumers, as consumers can purchase the Products and Services from any fitness facility they choose. Further, the proposed conduct may result in consumers having access to the Products and Services at a more competitive price due to the savings passed on to the Franchisees by Approved Suppliers and Core Suppliers.

Suppliers

The proposed conduct will not allow other suppliers to compete for the business of the Franchisees in the supply of the Products and Services. However, the effect on wholesale suppliers of the Products and Services will be minimal given the number of other competitors operating businesses similar to the Applicant's franchisees.

7. Further information

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

c/- Warren Scott
Mills Oakley Lawyers
Level 6,530 Collins Street
MELBOURNE VIC 3000

Telephone: 03 9605 0984

Facsimile: 03 9670 9111

Email: wscott@millsoakley.com.au

Dated: 28 May 2012

Signed by the applicant giving notice

A handwritten signature in blue ink, appearing to be 'W. Scott', is written over a horizontal line.

**Warren Scott
Mills Oakley Lawyers
For the Applicant**

