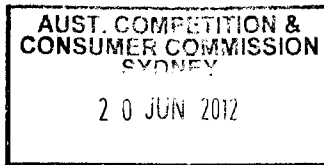


Contact Christine Lau
Direct E-mail ccylau@tan-tan.com.au
Our Ref CL:15671/11
Your Ref

TAN & TAN
LAWYERS & CONSULTANTS



18 June 2012



Emirates House
Level 3, 257 Collins Street
Melbourne Victoria 3000 Australia

Telephone (61) (3) 9663 8818
Facsimile (61) (3) 9663 9668

Website www.tan-tan.com.au
E-mail enquiries@tan-tan.com.au

Australian Competition and Consumer Commission
GPO Box 3648
SYDNEY, NSW 2001

BY REGISTERED POST

Dear Sir/Madam,

FILE No:
DOC:
MARS/PRISM:

Form G Notification – Ajisen Melbourne Restaurants Pty Ltd

We act on behalf of Ajisen Melbourne Restaurants Pty Ltd (“Ajisen”).

We now enclose the following for your attention:

1. Form G and Annexures

We enclose the following by way of lodgement:

- (a) Form G;
- (b) Annexures to Form G; and
- (c) Cheque for \$100.00 on account of lodgement fees.

2. Request for confidentiality

We note that the enclosed Annexure contains extracts of our client’s subfranchise agreement which our client requests to be excluded from the public register.

The contents of the subfranchise agreement constitute a significant valuable element of our client’s intellectual property and as such should be excluded from the public register.

Public dissemination of such contents will damage Ajisen’s business and commercial viability in the following areas:

- (a) loss of intellectual property;
- (b) loss of trade secrets;
- (c) use of intellectual property and trade secrets by competitors of Ajisen; and
- (d) damage to brand image through misuse of the intellectual property.

The damage to Ajisen’s business and its subfranchisees will significantly outweigh the benefit of providing these documents to the public.

Affiliated Offices

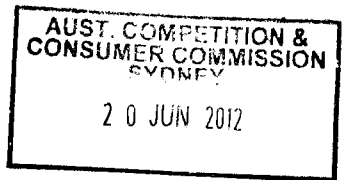
Bangkok Beijing Brisbane Calcutta Chongqing Dalian Hong Kong Istanbul Johor Kuala Lumpur Kuching Lahore
London Manila Mumbai New Delhi Perth Seoul Siburo Singapore Suzhou Sydney Taipei Tel Aviv

Should you have any further queries, please do not hesitate to contact our office.

Yours faithfully



TAN & TAN



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:**

N95989

Ajisen Melbourne Restaurants Pty Ltd (ACN 151 031 113) (“Ajisen Melbourne Restaurants”)

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

Ajisen Melbourne Restaurants has the right pursuant to a Head Franchise Agreement with Shigemitsu Industry Co. Limited (“Head Franchisor”) and Ajisen Overseas Franchising Company Limited (“Franchisor”) to grant subfranchises within the State of Victoria, Australia, to operate a restaurant system for the retailing of a limited menu of uniform and quality food products, including marketing and selling noodle with a unique soup base, under the trade marks set out in Annexure A.

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

Ajisen Melbourne Restaurants Pty Ltd
130 Bourke Street
Melbourne VIC 3000

Attention: Irene Lau Hui Ee

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 acquisition by subfranchisees of Ajisen Melbourne Restaurants of:

- (a) Approved Products; and
- (b) Approved Ingredients

Where:

“Approved Ingredients” means those ingredients and supplies which meet the standards and specifications of quality set out in the Manual.

“Approved Products” are defined to mean those products specified in the Manual and prepared in the precise manner specified therein using only Approved Ingredients to be supplied by the Subfranchisee to customers as described in detail in this Agreement and the Manual.

(b) Description of the conduct or proposed conduct:

The Ajisen Melbourne Restaurants’ subfranchisees will be required to purchase Approved Products and Approved Ingredients only from Ajisen Melbourne Restaurants or an Approved Supplier, under the Franchisor’s label/brand. (Please refer to Annexure B).

By having Ajisen Melbourne Restaurants provide the Approved Products and Approved Ingredients or appointing Approved Suppliers, Ajisen Melbourne Restaurants seeks to ensure:

- (i) consistency in the Ajisen restaurant system, for the overall benefit of the brand and all Ajisen company operated and subfranchisee stores;
- (ii) consistency in the product types offered to Ajisen restaurants;
- (iii) consistency in the product type offered and services provided to customers of Ajisen restaurants;
- (iv) consistency in the quality and unique soap base noodle products offered to all Ajisen restaurants and by all the Ajisen restaurants to customers;
- (v) consistency in compliance with food safety, food handling and other health regulations by all Ajisen restaurants and seek to increase customers’ loyalty to the Ajisen restaurants and the Ajisen brand;
- (vi) increased ability to deliver consistent products and services and competitive pricing for Ajisen restaurants and customers for products and services offered.

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:

Ajisen Melbourne Restaurants, Ajisen Melbourne related entities, the Head Franchisor, Franchisor, Ajisen Melbourne Restaurants’ subfranchisees.

- (b) Number of those persons:**
- (i) At present time:**
- (A) Ajisen Melbourne Restaurants;
 - (B) Shigemitsu Industry Co Ltd - Head Franchisor;
 - (C) Ajisen Melbourne Pty Ltd (holding company of Ajisen Melbourne);
 - (D) Ajisen Overseas Franchising Company Limited (“Franchisor”)
- (ii) Estimated within the next year:**
- (A) Potential Subfranchisee: 1
 - (B) Ajisen Melbourne Restaurants;
 - (C) Head Franchisor;
 - (D) Ajisen Melbourne Pty Ltd (holding company of Ajisen Melbourne);
 - (E) Ajisen Overseas Franchising Company Limited (“Franchisor”)
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:**
- (A) Names of directors of the potential subfranchisee:
- Full name : CHEN, Ying
Address : 10 Astley Crt, Vermont South VIC 3133
- Full name : WONG Cho Man
Address : 7A Marama St, Blackburn South VIC 3130
- (B) Ajisen Melbourne Restaurants – 130 Bourke Street Melbourne
 - (C) Shigemitsu Industry Co Ltd – 920-9 Toshima-Machi Kumamoto City Kumamoto, 861-8031, Japan
 - (D) Ajisen Melbourne Pty Ltd – 130 Bourke Street Melbourne
 - (E) Ajisen Overseas Franchising Company Limited – Unit Nos 707-709, 7th Floor, Lu Plaza, 2 Wing Yip Street, Kwun Tong, Kowloon, Hong Kong

4. Public benefit claims

(a) Arguments in support of notification:

(Refer to direction 7)

Ajisen Melbourne considers that the public benefit to be derived from the Conduct outweighs any public detriment, for the following reasons:

- (i) to ensure consistency of the quality and safety of the Approved Products and Approved Ingredients being sold to the public, particularly given the consumable nature of the products;
- (ii) to provide assistance to Ajisen restaurants to satisfy and meet the expectations and demands of customers of the Ajisen restaurant brand;
- (iii) to ensure customers obtain a uniform and consistent experience across all the Ajisen restaurants;
- (iv) to reduce and manage any potential product risks, by ensuring Approved Products are HACCP Australia Food Safety accredited, so that at every stage of the production chain, the necessary steps are in place to ensure food safety standards are adhered to;
- (v) to assist the promotion of the Ajisen restaurant brand in Victoria and via other subfranchisors nationally when uniform products and services are offered from all Ajisen restaurants.

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

It is submitted that the claims to benefits set out in this Notice are supported by:

- (i) the nature of the Approved Products and Approved Ingredients which involve the use of a unique soup base, the subject of intellectual property rights owned by the Head Franchisor;
- (ii) principles of marketing, food hygiene and safety principles;
- (iii) the requirement to purchase the Approved Products and Approved Ingredients from Ajisen Melbourne Restaurants is essential to the successful operation of the franchise network, both in terms of establishing and maintaining brand loyalty, value and market reputation.

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)

Ajisen Melbourne Pty Ltd, a related entity of Ajisen Melbourne, currently operates two Ajisen restaurants in Victoria, with 1 potential subfranchisee.

The relevant market likely to be affected by the Conduct is the market for Japanese Noodle Café/Restaurants (the "Market"), which is very broad. The key competitors to Ajisen restaurants include:

- (a) Independently owned Japanese restaurants (of which there are many);
- (b) Japanese noodle shops (such as Ramen Ya);
- (c) Ito Japanese Café;
- (d) Various Asian noodle shops;
- (e) Kokoro Ramen

As a proportion of all Japanese and Asian restaurants and cafes that offer similar products to Ajisen restaurants, its market share would be insignificant.

Ajisen restaurants as a group is a minor participant in the Market with insignificant market share of the Japanese restaurant and café market generally.

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)

Ajisen Melbourne submits that there are no substantial public detriments of the proposed arrangement.

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

7. Further information

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


Irene Lau Hui Ee
Director

130 Bourke Street

Melbourne VIC 3000

Dated..... 18/6/12

Signed by/on behalf of the applicant


.....

(Signature)

Vine Langhinze
.....

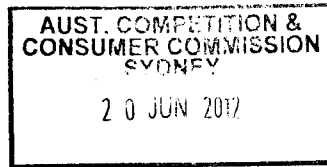
(Full Name)

Ajisen Melbourne Restaurant Pty Ltd
.....

(Organisation)

Director
.....

(Position in Organisation)



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 *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.