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15 September 2014

Our Ref: SC
Your Ref: Gavin Jones

Attn: Mr. Gavin Jones
ACCC
Director – Mergers & Adjudication Group
Level 35,
360 Elizabeth Street,
MELBOURNE VIC 3000
BY EMAIL: gavin.jones@acc.gov.au

Dear Gavin,

RE: FORM G APPLICATION – MYAFSA.COM.AU

Attached is a copy of the completed Form G. Thank you for your ongoing assistance and help. You have been great to deal with. The payment of \$1,000 is being made by EFT into account: (BSB: 032-730 & Ac: 146550). I will forward a copy of payment by email also.

Any questions, please feel free to call or email me.

Yours faithfully,

Steven Clare (LLM Hons) – Solicitor Director
THINK FRANCHISE & COMMERCIAL LAWYERS
Contact: (ph) +61 2 8249 4611; Fax: +61 2 8249 4001
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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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice:
(Refer to direction 2)

- ~~N97787 1. Anania Enterprises Pty Ltd - (ABN: 17157949507)~~
- ~~N97788 2. Ladybird Gifts Pty Ltd - (ABN: 56093922412)~~
- ~~N97789 3. Mindare Digital Pty Ltd - (ABN: 55146230042)~~
- ~~N97790 4. Thinksmart Marketing Pty Ltd - (ABN: 31168955918)~~
- ~~N97791 5. Move Mountains Pty Ltd - (ABN: 62111966397)~~
- ~~N97792 6. Communico Services Pty Ltd - (ABN: 27139057079)~~
- ~~N97793 7. Small Medium Business Institute Pty Ltd - (ABN: 55145010171)~~
- ~~N97795 8. Lyonesse Australia Pty Ltd - (ABN: 71154275546) WITHDRAWN 17/09/14 GQ~~
- ~~N97796 9. QLBS Australia Pty Ltd - (ABN: 23164204246)~~
- ~~10. Watershed Creative Agency Pty Ltd - (ABN: 58153319245)~~

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

Using the same order set out above, it is as follows:

1. Business Mentoring;
2. Luxury gifts;
3. Ecommerce;
4. Marketing Services;
5. Training, consultancy & team building;
6. Holiday travel booking;
7. Referral marketing;
8. Loyalty card program;
9. Business health checks; and
10. Brand development.

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

*C/- Think Franchise & Commercial Lawyers
3, Spring Street,
SYDNEY NSW 2000*

2. Notified arrangement

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

The acquisitions by members of MyAFSA.com.au from the applicants of:

- 1. The applicants seek to promoted their goods and or services via the business known as MyAFSA.com.au (in affiliation with MyAFSA.com.au under contract) and in doing so they intend to offer their goods and or services at a discounted price to members of MyAFSA.com.au. Where members of MyAFSA.com.au normally pay a fee to become members of MyAFSA.com.au.*

All of the above listed businesses providing businesses services and or products (at membership discounted prices) in their related field as seen above:

- a. For example, this includes business mentoring and coaching, gifts, ecommerce, marketing services, training consultancy, travel services, referral marketing, loyalty program, online business health checks and brand development.*

- (b) Description of the conduct or proposed conduct:

The supply or offer to supply of goods or services (at discount or other benefit) by the applicants to persons who are paid members of the website and business known as: www.myafsa.com.au Which is owned and operated by IQ4U Australia Pty Ltd ATF the AFSA trust – ABN: 46 153 848 143.

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)

Members of MyAFSA.com.au.

- (b) Number of those persons:

- (i) At present time:

At the present time, the membership base is modest and intended to grow further over the next 12 months. Please also refer to the confidential attachment marked "A".

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

At the present time, the membership base is modest and intended to grow further over the next 12 months. Please also refer to the confidential attachment marked "A".

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

At the present time, the membership base is modest and intended to grow further over the next 12 months. Please also refer to the confidential attachment marked "A".

4. Public benefit claims

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

MyAFSA.com.au is an initiative by business to help businesses network, learn, grow & succeed. The initiative is intended to create a community in which people can work together and help each other – when they would not otherwise have the chance to gain business.

MyAFSA.com.au has a focus on franchising. Franchising is said to be worth \$131 billion to the Australian economy (see Foreword of attached Griffith University Report). Many SME businesses cannot obtain business into the franchising community, as this is often not possible for them (for various commercial reasons) and nor is it an industry that is well understood for those who are outside of it.

Often the franchising industry is starved of new business and competition. Franchisors and franchisees often seek new business in which to trade with, and thus the applicants are seeking to provide opportunities for that to take place. It is well known that the retail segment has suffered in various ways. It is well known that some franchisors are not well equipped to help their franchisees. MyAFSA.com.au is intended to help in this regard.

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

The Griffith University Report of 2012. A copy of which is attached.

It is well known that most SME's within the Australian economy have great difficulty in running their businesses and competition trading (many fail in the first 3 years) and that any opportunity to help them grow is much needed in the current economic climate. Any system which also provides opportunities for small to medium business to do business and to improve their good and or services for consumers, will be beneficial for the end consumer and others involved in the membership group.

So too have franchisors struggled to provide value to their franchisees and franchisees have often not been satisfied with the arrangements they have entered into. Arising with complaints to the ACCC. Which has had a negative flow through to the general public, through the services or goods those franchisees deliver.

The Government has responded by introducing changes to the law, by virtue of a new Franchising Code of Conduct (due 1 January 2015) – and as such, MyAFSA is similar in that it seeks to better the stance of all in franchising and business, however it uses a business model to achieve this aim, in line with the Australian Government's approach.

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)

The affected markets are:

The franchising sector & the SME sector. Both of which are an extremely large. The first being said to be worth \$131 Billion to the Australian GDP and the latter is said to be the majority of the Australian economy. Of which, we are attracting but a small fraction.

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)

It is submitted that there will be no detriment to the public resulting or likely to result from the notified conduct. As mentioned above, the markets are vast and there cannot reasonably be any negative detriments in any conceivable way. Only positive impacts can be had for those involved.

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

N/A.

7. Further information

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

*Steven Clare
C/- Think Franchise & Commercial Lawyers*

3, Spring Street,
SYDNEY NSW 2000

Dated... 0/9/14

Signed by/on behalf of the applicant .


.....
Steven Clare
Think Franchise & Commercial Lawyers
Director

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.

