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Bennett & Philp Pty Ltd

ABN 63 132 284 372

Incorporating
SR and CB JONES

Level 13, 15 Adelaide Street
BRISBANE QLD 4000

GPO Box 463
BRISBANE QLD 4001

Phone: (07) 3001 2999

Fax: (07) 3001 2989

enquiries@bennettphilp.com.au

www.bennettphilp.com.au

15 April 2014

Our Ref: DAC:111618

EXPRESS POST

Australian Competition and Consumer Commission
PO Box 12241
GEORGE STREET POST SHOP
BRISBANE QLD 4003

AUST COMPETITION &
CONSUMER COMMISSION
BRISBANE
17 APR 2014

Dear Sir / Madam

**NOTIFICATION OF EXCLUSIVE DEALING
APPLICANT: RETAIL MIT PTY LTD ACN 155 773 765**

We act for Retail MIT Pty Ltd.

We enclose by way of lodgement a Form G Notification of Exclusive Dealing together with a cheque in the sum of \$100 on account of the lodgement fee.

Should you have any queries, please do not hesitate to contact us.

Yours faithfully,
BENNETT & PHILP

Contact: Mr David Chung
Direct Line: 07 3001 2965
Email: dchung@bennettphilp.com.au

DIRECTORS

Anthony Bennett
Kenneth Philp
Michael Bigg
Mark O'Connor
Lance Pollard
Brian Smith
Michael Coates
Andrew Lambros
Christopher Ng
Kellie Keenan
Michael Byrom

SPECIAL COUNSEL

Kevin Barratt
Mark Jones
John Harvey
Shane Jones
Maurice Hannan
David Shannon
Greg Moroney

SENIOR ASSOCIATES

Charles Young
Benjamin Ruback
Nicole Murdoch
Claire Holford

ASSOCIATES

Nadia Sabaini

AREAS OF LAW

Commercial Litigation
Insolvency
Personal Injuries
Debt Recovery
Commercial
Insurance
Intellectual Property
Leasing and Mortgages
Property Development
Franchising
Conveyancing
Wills and Estates
Business Services
Defamation and Media

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)

N97327 Retail MIT Pty Ltd ACN 155 773 765

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

The administration and management (in the capacity of franchisor) of an Indian restaurant and takeaway food franchise known as “Miss India”.

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

Unit 6, 6 Qualtrough Street, Woollongabba QLD 4102

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
- (i) Food and food related items, including raw materials such as fresh ingredients, and restaurant services, including takeaway food preparation and packaging.
 - (ii) Plant and equipment used to prepare, package and supply food and food related items.

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)
- (iii) The Applicant grants “Miss India” franchises to franchisees. That is, the Applicant grants to franchisees the right to carry on restaurant businesses under the name “Miss India” and other identifiers (including trade marks) associated with that name.
 - (iv) As a condition of granting a franchise to a franchisee, the relevant franchisee will be obliged to offer a core menu at the relevant restaurant business. In order to do so, the franchisee will be obliged to obtain goods and services from one or more third party suppliers nominated by the Applicant. The third party suppliers from whom the franchisee is obliged to obtain goods and services may change over time and may include associates and related entities of the Applicant.

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)

The classes of persons which are likely to be affected by the conduct are:

- (i) persons who supply goods and services of a similar kind or nature to those required to be obtained by franchisees from the Applicant’s nominated third party suppliers (“**Similar Suppliers**”);
 - (ii) consumers who are potential customers of restaurant businesses operated by franchisees (“**Potential Customers**”).
- (b) Number of those persons:
- (i) At present time:
 - (v) **Similar Suppliers** – As the goods and services required to be obtained by franchisees from the Applicant’s nominated third party suppliers relate to food and food related products (including fresh produce), there is a significant numbers of Similar Suppliers which cannot be readily ascertained.
 - (vi) **Potential Customers** – Any member of the public is a Potential Customer. Consequently, the number of Potential Customers is equal to the total population of the areas within which “Miss India” franchise restaurants are located.

- (ii) Estimated within the next year:
(Refer to direction 6)
 - (i) Similar Suppliers – As above, the number of Similar Suppliers cannot be ascertained given the nature of the goods and services to which the activity relates.
 - (ii) Potential Customers – Within the next year, the Applicant’s franchise network is likely to only cover the State of Queensland. The highest number of Potential Customers with whom the Applicant (by way of its franchised restaurants) is likely to deal is the total population of the State of Queensland (4.7 million people).
- (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:
(Refer to direction 7)

The proposed activity is likely to result in the following public benefits:

- (i) Increased business efficiency of the Applicant’s business and the restaurant businesses operated by franchisees within the Applicant’s franchise network, primarily due to the favourable pricing and terms of trade offered by the Applicant’s nominated third party suppliers to franchisees;
- (ii) Improved quality and consistency of the goods and services offered by franchisees to customers due to the improved quality and consistency of the raw materials used to prepare, manufacture and provide such goods and services (in particular foods items). The Applicant requires franchisees to offer a core menu of at all “Miss India” restaurants which can only be achieved where the raw materials used to offer the core menu are of high and consistent quality;
- (iii) Promotion of competition within the restaurant industry due to franchisees being able to:
 - a. achieve a consistently high standard of presentation, quality and value to their customers; and
 - b. offer goods and services to customers at a competitive price.

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

The Applicant, by its director and the director's family (who participate in the Applicant's business), has extensive experience in the restaurant industry. Such experience has empirically shown that:

- (i) a reduction in the cost of goods sold results in an increase in the efficiency and profitability of a restaurant business;
- (ii) an improvement in the quality and consistency of the raw materials used to prepare goods such as food items results in an improvement in the quality and consistency of such goods; and
- (iii) an increase in the standard of presentation, quality and value of goods and services offered to customers, and a decrease in the price at which those goods and services are offered, results in a higher standard of presentation, quality and value required to be met by competitors.

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 markets which are affected by the proposed activity include:

- (i) for food and food related items – retail and wholesale markets, encompassing food retailers, suppliers and distributors;
- (ii) for the plant and equipment required for the preparation, packaging and delivery of food and food related items – retail and wholesale markets, encompassing kitchen appliance and utensil suppliers and commercial food preparation and packaging equipment suppliers.

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)

The proposed activity may result in the following public detriments (although highly unlikely):

- (i) a reduction in the variety of food and food related items available to be purchased by members of the public, particularly such items falling within Indian cuisine, resulting in a lessening of competition; and
- (ii) a reduction in the number of suppliers of food and food related items and food preparation and packaging plant and equipment, particularly such items which relate to Indian cuisine, resulting in a lessening of competition.

(b) Facts and evidence relevant to these detriments:

If Indian cuisine is viewed as a speciality food, then an increased saturation of "Miss India" restaurants within the geographical areas covered by the Applicant's franchise network may result in a lessening of competition in the markets affected by the proposed activity.

7. Further information

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

Name: Kaushik Pramendra Prasad

Postal Address: PO BOX 361 COORPAROO QLD 4151

Phone: 3391 3333

Dated.....

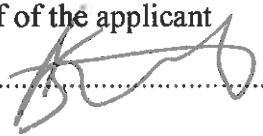
Signed by/on behalf of the applicant

(Signature)

(Full Name)

(Organisation)

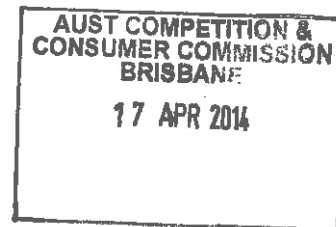
(Position in Organisation)



KAUSHIK PRASAD

Retail MIT P/L

Sole 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.