

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)

N99933 SOTE Pty Ltd ACN 163 185 064

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

SOTE Pty Ltd is the franchisor for the brand/system Salts of the Earth. The Salts of the Earth system provides salt therapy rooms where clients come to sit and breathe in salt air. Clients have the option to pay casually or join up to management plans, which allow them unlimited access 7 days a week. Salts of the Earth also sell complementary product to its service that can provide a significant contribution to the profitability of the franchised centre. SOTE, the franchisor provides to its franchisee's use of intellectual property (including copyright, trademarks and designs) as well as certain methods, procedures, standards and other protocol.

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

David Lindsay
CEO
Salts of the Earth
89 Victoria Ave
Albert Park, VIC 3206

2. Notified arrangement

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

This notice concerns:

The supply of branded Salts of the Earth product to Salts of the Earth franchisees to

sell within their businesses.

(b) Description of the conduct or proposed conduct:

The conduct specifically involves the grant of Salts of the Earth franchises to franchisees on the condition that the franchisees purchase Salts of the Earth branded product;

I. Manufactured for and supplied by SOTE Pty Ltd (the franchisor);

II. For sale in all Salts of the Earth franchised centres in Australia.

The relevant requirements of the franchisees are set out in the Salts of the Earth franchise agreement and operations manual.

(Refer to direction 4)

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)

- Salts of the Earth Franchisees.
- SOTE Pty Ltd (Franchisor).

(b) Number of those persons:

(i) At present time:

- 25 Salts of the Earth centres.
- One supplier being SOTE Pty Ltd (Franchisor).

(ii) Estimated within the next year:

(Refer to direction 6)

- 10 new franchised Salts of the Earth centres

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

Franchisees;

1. Melissa Hadaway, 62 Jackson Crt, Doncaster East VIC 3109
2. Andrew Davey, 5/43-45 Treloar Lane, Pakenham VIC 3810
3. Sean Ewinger, 277 Glenferrie Rd, Malvern VIC 3144
4. Marie Vastani, 473 Hampton St, Hampton, VIC 3188
5. Kenneth Kong, 241a Beach St, Frankston VIC 3199
6. Colleen Balfour, 1/469 Olive St, Albury NSW 2640
7. Jacqueline Cameron, 56 - 58 Watton Street, Werribee, VIC 3030

8. Simone Ledwidge, 90 Edwards Rd, Kennington, VIC 3550
9. Leanne Read, Shop 6, 58-60 Albert St, Sebastopol, VIC 3356
10. Nada Quach B3, 1042 Western Hwy, Caroline Springs, VIC 3023
11. Valarie Butler, Suite 4, 767 Mount Alexander Rd, Moonee Ponds, VIC 3039
12. Maria Tolani & Sophia Vitellone, 500 Plenty Rd, Mill Park, VIC 3082
13. Angelina Vukobrat, 352 Pakington St, Newtown, VIC 3220
14. Julie Nichol, 106 Lower Plenty Rd, Rosanna, VIC 3084
15. Chrissie Abella, 1B Baines Cres, Torquay, VIC 3228
16. Kristina Russell, Shop 3, 19-21 Hanover St, Oakleigh VIC 3166
17. Rebecca Taranto, 72 Maroondah Hwy, Croydon, VIC 3136
18. Natalie Swenser, 2/230 Dorset Rd, Boronia, VIC 3155
19. Sarah Wheatley, 2 Prindiville Dr, Wangara, WA 6065
20. Cathy Beckman, 1/131 Commercial East, Mt Gambier, SA 5290
21. Elisa Kupresanin, 1, 76 Henry St, Penrith, NSW 2750
22. Kasia Bednarczyk, Shop 1, 282-288 Princes Hwy, Sylvania, NSW 2224
23. Robyn Miller, 11/286 New Line Rd, Dural, NSW 2158
24. Lauren Peterson, 22 Caravel Cres, Shell Cove, NSW 2529
25. David Lindsay, 89 Victoria Ave, Albert Park, VIC 3206

Supplier

SOTE Pty Ltd, 89 Victoria Ave, Albert Park, VIC 3206

4. Public benefit claims

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

SOTE Pty Ltd have developed tailored recipes for our branded Salts of the Earth product that can only be supplied by SOTE Pty Ltd. These products have been designed with our clients health in mind, and having a franchise partner supply an unapproved product to the Salts of the Earth clientele can have detriment consequences to the entire Salts of the Earth network. All Salts of the Earth products have been made with natural ingredients and are certified as Australian Made (licence ID 8900).

With the supply of Himalayan salt products, lamps and edible salt, there are many risks;

- Salt does not carry food grade certification.
- Lamps are not supplied with Australian certified electrical leads and meet the criteria of the legislation.

With this in mind, from a quality control point of view and protection for our network and clients, it is very important that SOTE Pty Ltd (the franchisor) supplies these products into the Salts of the Earth network.

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

There are a number of benefits to franchisees and to the clients arising from the notified conduct:

Consistency of Approach: Becoming a client at a Salts of the Earth centre allows that client access to all Salts of the Earth centres throughout Australia. In this context it is important that the clients experience in one centre is consistent with and duplicated in all other centres. The approved branded Salts of the Earth product will satisfy the standards required by the Franchisor ensuring safety for the client.

Franchisee: Having a professionally branded product that is manufactured with SOTE Pty Ltd's own recipe will further enhance the Salts of the Earth brand and deliver quality customer satisfaction from the product. Also, having Salts of the Earth branded product in the houses of our clients provides a remarketing strategy for Salts of the Earth services and product that will assist in the increase of franchisee profitability.

Salts of the Earth client: The majority of Salts of the Earth clientele across our franchised network, suffer from both respiratory and skin conditions. It is essential that the franchisor has a decisive say in what product can and cannot be supplied as it is to the detriment of the Salts of the Earth network. All product manufactured for and supplied by SOTE Pty Ltd are all made with natural ingredients and our ranges have fragrance free options for those clients with hyper sensitivity. These products that are supplied by the franchisor have been manufactured with the Salts of the Earth client in mind.

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 products described are supplied in the market of skin care and natural salt products.

There are no suppliers that provide formulated products that are similar to the SOTE

product range, as these products are produced with our own recipes.

There are a number of Himalayan salt lamp and edible salt suppliers in the market, however, they will not have the ability to supply Salts of the Earth branded product that meets all electrical standards in Australia.

While other suppliers do supply substitute products, SOTE Pty Ltd believes these other suppliers will be only marginally impacted (if impacted at all) by the notified conduct. Salt therapy is a relatively new industry in Australia. There are a number of single owned small businesses practising salt therapy that can be targeted by other suppliers. Market share is unknown yet due to the age of the market.

Some current other salt therapy providers;

- Salt Sanctuary
- Salt Rooms
- Salt Cave
- Salt Haven
- Salt Therapy NQ
- Illawarra Salt Rooms
- Saltuary
- The Salt Spot

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)

NIL

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

Franchisees: The notified conduct will remove some choice away from Salts of the Earth franchisees with respect to their choice of product, in that they will only be able to purchase the authorised product from SOTE Pty Ltd (the franchisor). Despite this, SOTE submits that the above noted benefits will significantly outweigh any disadvantage. In addition, franchisees do not have to enter into a franchise agreement with SOTE; they may operate their own independent business.

Consumers: SOTE believes that clients will dramatically benefit from the notified

conduct as they will be purchasing higher quality product Made in Australia from natural ingredients.

Other suppliers: The notified conduct will not allow non-approved product suppliers to compete for the business of franchisees in the supply of product that is outlined in the operations manual for Salts of the Earth centres, however, detrimental impact on suppliers will be minimal given the number of competitors operating salt therapy businesses. Suppliers of skin care products and Himalayan salt products also have a large number of other markets within which they operate.

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: David Lindsay

Email: david@saltsoftheearth.com.au

Phone: (03) 9078 5634

Address: 89 Victoria Ave, Albert Park, VIC 3206

Dated: 27/9/17

Signed by/on behalf of the applicant



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(Signature)

David Lindsay
(Full Name)

SOTE Pty Ltd
(Organisation)

CEO
(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.