

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.

1. Applicant

(a) Name of person giving notice:

N99533 12 Round Pty. Ltd. (ACN 169 373 371) (**The Applicant or 12 Round Fitness**)

(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.

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

c/- Trent Taylor
Holding Redlich Lawyers
Level 1, 300 Queen Street
BRISBANE QLD 4000

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 12 Round Fitness 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' as defined in the franchise agreement as contained in Annexure A (to be kept confidential).

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:

15

(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:

Franchisees

The details of each Franchisee are contained in Annexure B (to be kept confidential). 12 Round Fitness anticipates that it may recruit further Franchisees in the future.

4. Public benefit 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, will provide the following public benefits:

- The Applicant will be able to ensure that all 12 Round 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 12 Round Fitness network when negotiating with Approved 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 12 Round 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 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):

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 market; and

(b) Facts and evidence relating 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.

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 contact telephone details of the person authorised to provide additional information in relation to this notification:

c/- Trent Taylor

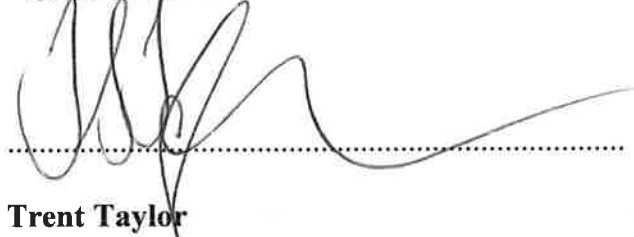
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P: (07) 3135 0500

E: trent.taylor@holdingredlich.com.au

Dated: 22 December 2016

Signed by the applicant giving notice

A handwritten signature in black ink, appearing to be 'Trent Taylor', written over a horizontal dotted line. The signature is fluid and extends to the right of the line.

Trent Taylor
Holding Redlich Lawyers
For the Applicant