

Form G
Commonwealth of Australia
Competition and Consumer Act 2010 – subsection 93(1)
**EXCLUSIVE DEALING
NOTIFICATION**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Competition and Consumer Act 2010*, of particulars of conduct of a kind referred to in sub-section 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)

N99748 **JUST CUTS FRANCHISING PTY LTD (A.C.N. 066 461 167) (“JCF”)**

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

JCF IS THE FRANCHISOR OF A NETWORK OF UNISEX HAIR SALONS, TRADING AS “JUST CUTS”.

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

**C/- LEGALVISION ILP PTY LTD
67 FITZROY ST
SURRY HILLS NSW 2010**

2. Notified arrangement

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

SEE THE ANNEXURE TO FORM G

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

SEE THE ANNEXURE TO FORM G

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)

JCF FRANCHISEES.

- (b) Number of those persons;

- (i) At present time:

APPROXIMATELY 93 FRANCHISEES.

- (ii) Estimated within the next year:

(Refer to direction 6)

UNKNOWN/NOT POSSIBLE TO ESTIMATE ACCURATELY.

- (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)

SEE THE ANNEXURE TO FORM G

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

SEE THE ANNEXURE TO FORM G

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)

SEE THE ANNEXURE TO FORM G

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)

SEE THE ANNEXURE TO FORM G

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

SEE THE ANNEXURE TO FORM G

7. Further information

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

**TIMOTHY MAK
LEGALVISION ILP PTY LTD
67 FITZROY ST**

SURRY HILLS NSW 2010
(02) 8077 3193

Dated 11 July 2017

Signed by/on behalf of the applicant



.....
(Signature)

Timothy Mak

.....
(Full Name)

LegalVision, authorised representative of the Applicant

.....
(Organisation)

Practice Leader

.....
(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 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 *Trade Practices Act 1974* 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.

Annexure to Form G**Exclusive Dealing Notification-Third Line Forcing****JUST CUTS FRANCHISING PTY LTD
(A.C.N. 066 461 167)****1. INTRODUCTION**

Just Cuts Franchising Pty Ltd (A.C.N. 066 461 167) (“**JCF/Applicant**”) operates a franchise system (“**JCF Franchise System**”) involving a network of unisex hair salons trading as “Just Cuts” in conjunction with the JCF trade mark and system. In addition to hair salon services, JCF franchisees sell a range of hair care products.

2. BACKGROUND

There are approximately 93 franchisees in the JCF Franchise System.

JCF grants its franchisees and prospective franchisees a non-exclusive licence to operate a JCF franchise in Australia using the intellectual property, system, image and business name in accordance with the terms of the JCF franchise agreement (“**Franchise Agreement**”).

The Franchise Agreement confers on the franchisee the right to supply a range of products and to provide the services associated with the JCF Franchise System. Also included (but not limited to) are manuals, services, know-how, techniques, promotional and management systems owned by JCF.

The primary offer consists of hair cutting services, but another key offer consists of hair care products sold to customers of Just Cuts.

3. MARKET DEFINITION

The relevant market likely to be affected by the proposed conduct (see below) is the market for the provision of hair care products at the retail level (the “**Market**”). The key direct competitors to JCF in the Market include:

- Independently owned hair salons offering specialised hair care products;
- Franchised or licensed stores selling similar hair care products;
- Supermarkets, chemists, hair care retail specialists (such as Hairhouse Warehouse) and other retail outlets selling like products;
- A multitude of online web-based businesses such as Alibaba, EBay and Amazon offering similar products; and
- Increasingly direct-to-market websites from manufacturers such as Sukin and others that allow retail sale from their own websites.

Despite the number of current franchisees in the JCF Franchise System, as a proportion of the total Market, JCF’s market share is insignificant and its share of the general impact on the overall hair and beauty product market would even be smaller than this.

4. DESCRIPTION OF THE CONDUCT OR PROPOSED CONDUCT

(a) The Approved Suppliers

- (i) In accordance with the JCF Franchise System and **the** Franchise Agreement JCF requires franchisees to use only suppliers that are either JCF or other suppliers approved by JCF, for the provision of the products and/or services in the conduct of the franchise business.
- (ii) JCF and the approved suppliers are in the business of supplying goods and services which are of a quality, consistency and type that JCF considers essential to the successful operation of a JCF franchise, as well as the proper maintenance of the JCF brand. Products that JCF sells reflect on the brand and the services its network provides and accordingly consistency of product offer is essential to the integrity and value associated with the brand.
- (iii) The additional approved supplier to be approved in this Form G application is JUSTICE HAIRCARE PROFESSIONAL PTY LTD ABN: 52163805052 which is proposed to provide hair care products to network.

(b) The Conduct

Franchisees are required to purchase the products ("**Just Cuts Products**") from Justice Haircare Professional Pty Ltd, a company approved by JCF to be the supplier of hair care products to the network ("**Conduct**").

5. PUBLIC BENEFIT AND DETRIMENT

The provision of retail hair care products is a competitive market with a large number of participants at the retail level. JCF considers that the requirement to purchase products from a particular supplier with specialist branded products under the Justice brand is essential to create a brand identity to the product range and to ensure consistent quality in the product offer in the face of intense competition from online products and from other retailers including large chemists such as Chemist Warehouse and others. The move to a banner brand is considered essential to ensure the successful operation of the franchise network, for reasons that include the quality and consistency of the products and services, the uniformity of the JCF offering to the market, public safety and the JCF market reputation and brand value.

(a) Public Benefit

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

- (i) consistent product offer to customers ensures consistency of quality and ease of stocking and pricing, providing increased efficiencies throughout the network;
- (ii) control over the suppliers used for the products assists JCF to ensure price competitiveness in the face of intense online and retail competition;
- (iii) uniformity over product and service ranges allows JCF franchisees to advertise products and services as a group, thereby avoiding an inconsistent market presence and consumer uncertainty as to the type and quality of the JCF offering.

(b) Public Detriment

We see no public detriment arising from the Conduct.

Prices remain competitive given the intense (and increasing) online competition.

Quality will be enhanced and made consistent throughout the network

The simplification of product range will increase efficiencies and save costs, allowing more competitive pricing now and into the future.

Intense price competition from a large range of competing products will ensure competitive pricing. And if a particular prospective franchisee was in any way concerned about the “restriction” on purchase of supply, there are many other franchise opportunities in the Market that are available to the prospective franchisee, ensuring that this Conduct must remain fair and reasonable if franchisees are to be recruited in this space. Accordingly, the notified conduct will not give JCF or its franchisees the ability to reduce services or increase prices for products without losing business.

Hair care products can be purchased by consumers at any of a vast range of outlets including supermarkets, chemists, other hair salons, department stores, specialty hair care retailers and online and the proportion of total sales accounted for by JCF and its franchisees is not significant as a proportion of the total market. Accordingly, the notified conduct will not result in any loss of choice for consumers and could not result in any increase in prices paid by consumers.

The prices charged by JCF’s suppliers and the quality of their products will be subject to regular reviews by JCF to ensure that they continue to be competitive. In addition if they are not priced appropriately the intense competition from both online websites offering similar products and other retails such as Chemist Warehouse consistently discounting similar products will ensure these products will simply be unsold rather than the consumer being in any way disadvantaged.

Moreover hair salons can choose to remain independent and not associate with any retail buying group, and the vast bulk of hair salons are completely independent of any such grouping. Finally may other franchise systems (including Hairhouse Warehouse) continue to actively recruit and remain available to any prospective franchisee who wishes to market a greater range of hair care products.



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Signed on behalf of the
Applicant

Timothy Mak
Practice Leader,
LegalVision ILP Pty Ltd