

FORM 1 - EXCLUSION PROVISIONS:

To the Fiji Commerce Commission:

Application is made under sub-section 129A (1) of the Decree for an authorization under that section.

***to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be an exclusionary provision.**

***to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision whether the contract or the arrangement was made or understanding arrived at before or after this provision.**

***(Strike out whichever is not applicable)**

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of applicant.....
.....

(See Direction 2 on the back of this Form)

(b) Short description of business carried on by applicant.....
.....

(c) Address in Fiji for service of documents on the applicant.....
.....
.....

2. (a) Brief description of the provisions of the contract, arrangement or understanding, and where already made, it's date:.....
.....
.....

(b) Brief description of those provisions of the contract, arrangement or understanding that, are, or would or might be, exclusionary provisions
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.....

(c) Names and address of other parties or proposed parties to contract, arrangement or understanding -
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.....

3. Names and addresses (where known) of parties and other persons on whose behalf application is made-

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4. (a) Grounds for grant of authorization:

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.....

5. This application for authorization may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements of understandings, that are or will be in similar terms to the abovementioned contract arrangement or understanding.

(a) Is this application to be so expressed?
.....

(b) If so, the following information is to be furnished:

(i) the names of the parties to each other contract, arrangement or understanding.....
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(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application
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(see Direction 5 and Notice 2 on the back of this form)

Name and address of person authorised by the applicant to provide additional information in relation to this application

.....

Date....., 20..... Signed by/on behalf of the applicant

.....
(Signature)

.....
(Full Name)

.....
(Description)

DIRECTIONS

1. 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 it on behalf of the applicant.
2. Where the application is made 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 application and the application is to be signed by a person authorized by the corporation to do so.
3. In item 1(b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
4. Furnish with the application particulars of the contract, arrangement or understanding in respect of which the authorization is sought. Those particulars shall be furnished –
 - (a) in so far as the particulars or any of them have been reduced to writing – by lodging a true copy of the writing; and
 - (b) in so far as the particulars or any of them have not been reduced to writing- by lodging a memorandum containing a full and correct statement of the particulars that have been reduced in writing.
5. Where the application is made also in respect of other contracts, arrangements or understandings which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings, vary in their terms from the contract, arrangement or understanding referred to in item 2.

NOTICES

1. In relation to item 4, your attention is drawn to sub-section 129 C (7) of the Decree which provides as follows:

“(7) The Commission shall not:

 - (a) make a determination granting:
 - (i) an authorization under subsection 129(A)(1) in respect of a provision of a proposed contract, arrangement or understanding that is or may be an exclusionary provision; or
 - (ii) an authorization under subsection 129A(4) in respect of proposed conduct; or
 - (iii) an authorization under subsection 129A(6) in respect of proposed conduct to which subsection 47 applies

unless it is satisfied in all the circumstances that the proposed provision or the proposed conduct would result, or be likely to result, in such a benefit to the public that the proposed contract or arrangement should be allowed to be made, the proposed understanding should be allowed to be arrived at, or the proposed conduct should be allowed to take place, as the case may be; or

(b). make a determination granting an authorization under subsection 129A(1) in respect of a provision of a contract, arrangement or understanding that is or may be an exclusionary provision unless it is satisfied in all the circumstances that the contract, arrangement or understanding should be allowed to be given effect to.”

2. If an authorization is granted in respect of a proposed contract, arrangement or understanding the names of the parties to which are not known at the date of the application, the authorization shall, by sub-section 129A(3) of the Fair Trading Amendment Act 1998, be deemed to be expressed to be subject to a condition that any party to the contract, arrangement or names of all the parties to the contract, arrangement or understanding.