

**TOO HIGH A PRICE TO PAY –  
PRICELINE FRANCHISEES TO FILE CLASS ACTION LAWSUIT IN PURSUIT OF FAIRER  
FRANCHISE AGREEMENTS**

**(1) WHAT IS THE ACTION ABOUT?**

A group of dissatisfied current and former Priceline franchisees claims that their franchise agreements are unfair and unlawful because:

1. They give Priceline a level of control over their pharmacies which, they assert, breaches State legislation; and
2. The agreements limit their profitability and fetter the franchisees' ability to make the best decisions for their business.

Levitt Robinson Solicitors is the law firm acting on the franchisees' behalf. For more about Levitt Robinson, please see point (g) below or visit their website [www.levittrobinson.com](http://www.levittrobinson.com)

**The overarching goal of the proceedings will be to produce a new, fairer relationship between Priceline and its franchisees.**

The representative proceedings will be a fully funded, Opt-In class action. Only individuals who sign a funding agreement will benefit from a positive outcome. You do not have to pay to participate and you have no financial exposure, even if the matter is unsuccessful. Your only contribution will come out of your 'winnings'.

While the Lead Applicants are named in the proceedings from the outset, you only have to identify yourself when the time comes to assess your individual compensation. This usually happens at around the time of a mediation or before there is a distribution, settlement or verdict in favour of Group Members (those of you who Opt-In to the Class Action).

## **(2) HOW DOES THIS AFFECT ME?**

If you were a franchisee of a Priceline Pharmacy at any time from, and including, 18 November 2010, situated in NSW, QLD or VIC, you may be eligible to be group member.

If you were a franchisee of a Priceline Pharmacy prior to that date, we encourage you still to register and we will assess your eligibility, on the basis of your individual history.

## **(3) NEXT STEPS**

To participate in the Class Action, you MUST opt-in by registering with us and signing a Funding Agreement. You can opt-in to the class action by contacting us at [contact@classpr.com](mailto:contact@classpr.com)

## **(4) WHAT ARE THE CLAIMS?**

The franchise agreements between you and Priceline contain provisions that may breach the current legislative framework which governs pharmacies in NSW, QLD and VIC.

Examples of the features in the franchise agreements by which Priceline is able to exert control over your pharmacy, involve Priceline pharmacists being required to:

1. Stock the Merchandise Range, which is determined by Priceline;
2. Place orders through the Auto-Replenishment system;
3. Only order through API;
4. Comply with Priceline's Visual Merchandising systems to ensure compliance with the Brand Alignment Reward Scheme; and
5. Price items as determined by Priceline.

If these provisions are found to contravene the legislation, they could be deemed void and unenforceable. The amounts you paid to Priceline in compliance with these provisions could then be refunded to you.

Further, if you have lost the opportunity to acquire stock from API's competitor at a better price and/or have been unable to obtain rebates from alternative suppliers, you may be able to recover damages for the loss of this opportunity.

## **(5) INFORMATION FOR CURRENT FRANCHISEES**

The action is not aimed at devaluing or damaging the Priceline brand or your substantial investment in it. The objective is to add value to the investment made by current franchisees by pressuring Priceline to provide fairer terms and to pay damages for any proven infringing conduct, to compensate you for your loss of profits.

The loss of profits claims is available to former franchisees as well.

Your identity will be disclosed to Priceline, only with your consent, when the stage is reached of your lawyers having to inform Priceline of what they claim to be your individual damages, namely the compensation to which you may be entitled, so that Priceline can assess your position with respect to liability and quantum.

## **(6) INFORMATION FOR FORMER FRANCHISEES**

If you believe you have suffered damage as a result of the operation of the Priceline Pharmacy Franchise Model or have not received or are not receiving what you deserve from running your pharmacy, joining this Class Action could well be your best hope of achieving commercial justice.

## **(7) OPTING-IN DOES NOT REQUIRE YOU TO MAKE ANY OUT OF POCKET CONTRIBUTION TO THE PROCEEDINGS**

As the Class Action is being externally funded by a litigation funder, you will NOT be required to outlay any of your own funds towards the legal fees and other expenses of the Class Action. In the event the Class Action is unsuccessful, you will not be responsible for any adverse costs orders and will not have any out-of-pocket expenses.

In the event that the Class Action is successful (or settles on terms favourable to you), all legal fees and expenses will be deducted from the award of damages before distribution to group members, after the Funder's 30% take. You will then benefit from the other 70% net share of damages from the settlement sum, to which you will then be entitled pro rata to the size of your individual claim.

## **(8) LEAD APPLICANTS**

The Lead Applicants operated two (2) Priceline pharmacies in Sydney. Their case is representative in that it highlights what are alleged to be the unfair and unlawful terms of Priceline's franchise agreements.

The claim alleges that Priceline has had a tendency to "over-promise and under-deliver"; a lack of transparency with respect to in-store pricing and rebates; poor inventory management; and an overly prescriptive Brand Alignment Scheme.

The class action will plead that this has and has had a negative impact on your pharmacy's profitability and hurt your bottom line.

Because one of the Lead Applicants has an interest in a third, independent pharmacy, they were able to compare the profitability of the independent outlet to their Priceline stores. See the graphs below, which immediately follow at (11), which tell it all.

## **(9) WHO ARE THE LAWYERS RUNNING THE CLASS ACTION?**

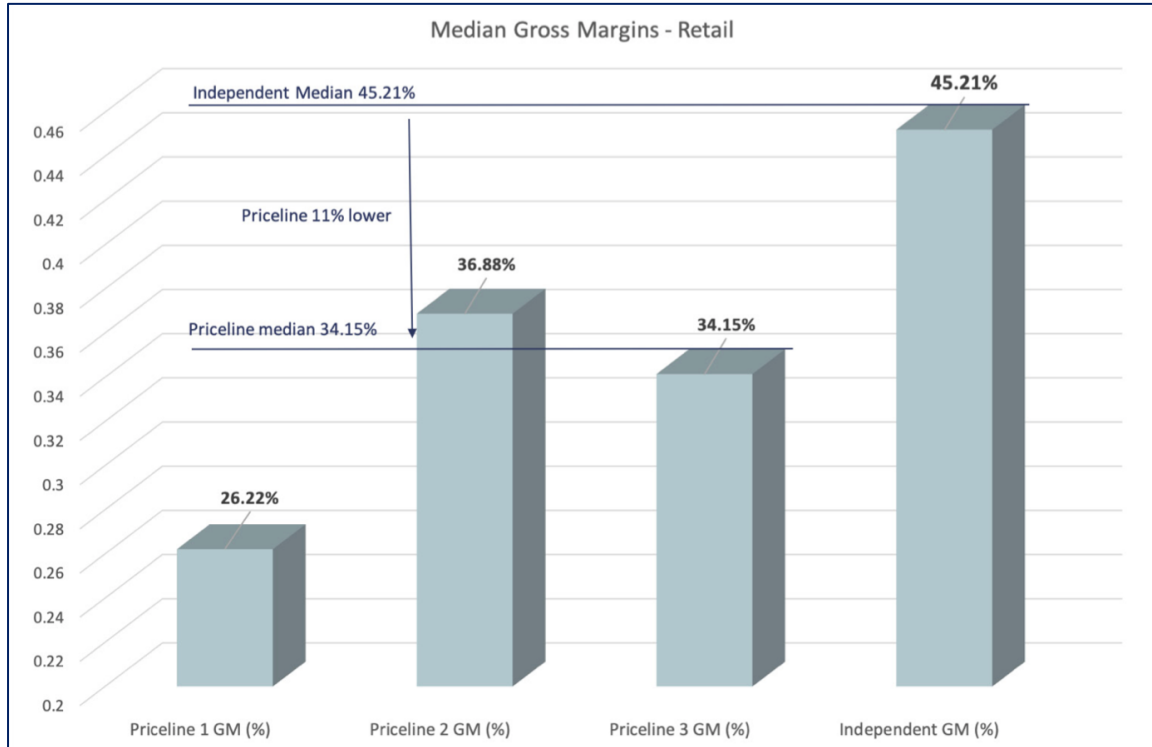
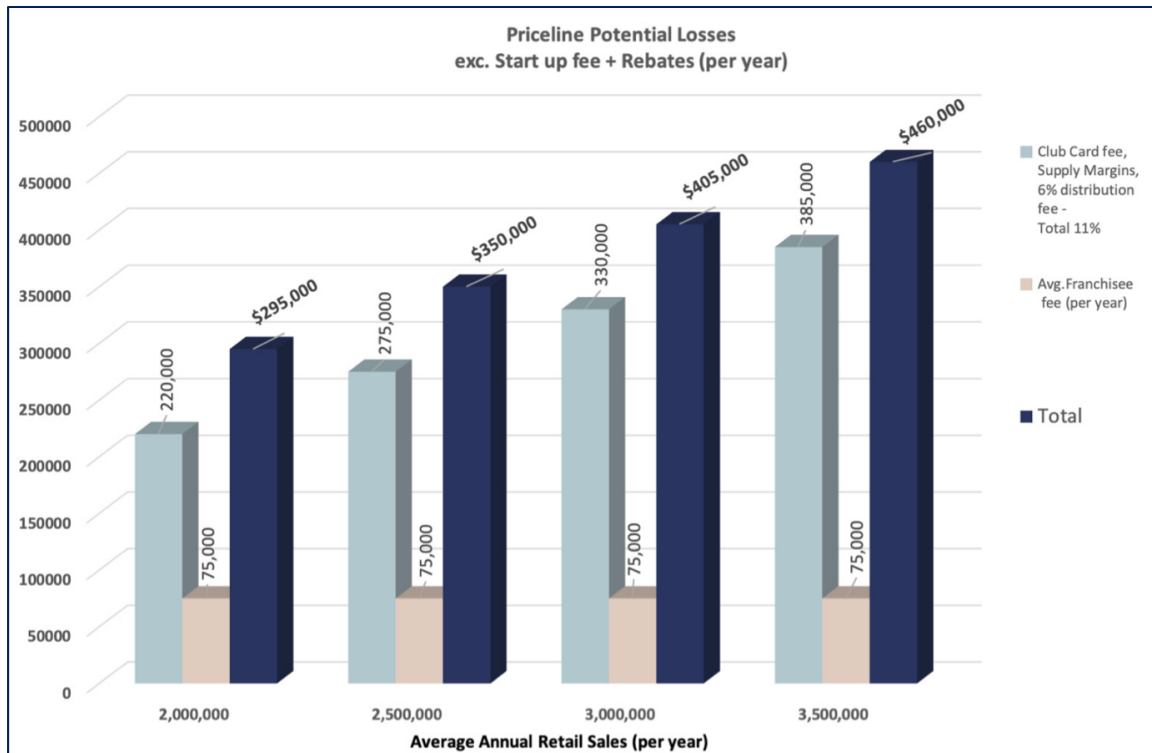
Sydney-based firm Levitt Robinson have run seven (7) class actions from start to finish. All seven have been successful, with five substantial settlements and two succeeding in Court, after trial.

Levitt Robinson has a track record of taking on some of the hardest cases against the most powerful defendants and delivering justice for their clients in an efficient and cost-effective way.

## **(10) WHAT IF MY COMPANY HAS BEEN DEREGISTERED OR IS IN LIQUIDATION?**

If your company is currently deregistered or in liquidation, you should contact Levitt Robinson Solicitors on (02) 9286 3133 who may be able to have it re-registered or enter into an agreement with the Liquidator.

## 11. PRICELINE POTENTIAL LOSSES PER YEAR (EXCLUDING CLAIMS FOR START-UP FEES AND REBATES) <sup>1</sup>



<sup>1</sup> The data is compiled from actual accounts of Lead Applicant's two Priceline pharmacies and one independent pharmacy over a 6-year period from 2014 until 2020.