

## **Representation Plan For Real Quik Convenience Store Ltd.**

### **Fact**

Conglomerated Nanyu Tobacco Ltd (**Nanyu**) and Real Quik Convenience Store (**Real Quik**) concluded the Distribution Agreement on Dec 1, 2010. The disputed Bill 275 in Gondwana came into force on Jan 1, 2013. The Bill made most of the obligations under the Agreement impossible to perform. **PARTIES** failed to renegotiate the contractual terms therefore **Real Quik** was left with no choice but to terminate the Agreement on May 1, 2013, and **Nanyu** claimed for liquidated damage. **Real Quik** refused to pay since the Agreement was frustrated by factors they cannot be reasonably expected to control and foresee. **Real Quik** was not liable for the termination penalty. Regarding the dispute, **Nanyu** applied for arbitration on Jan 12, 2014.

### **Nature of the Dispute**

The implementation of Bill 275 constituted a hardship for **Real Quik** to comply with the obligations. **Real Quik** had requested for renegotiation multiple times, however **Nanyu** refused to modify certain terms therefore gave rise to the dispute. As **Nanyu's** brand value has depreciated and the Tobacco Products have been commoditized due to the Plain Packaging requirements of Bill 275, it has harmed the equilibrium of the Agreement. The relation between **PARTIES** could not continue until reasonable amendments be made to retain a balance between **PARTIES**.

**Issue in Dispute**

1. Whether **PARTIES** are willing to renegotiate the contractual obligations under the Distribution Agreement.
2. Whether **PARTIES** can reach an agreement with regard to the amount of liquidated damage if the Agreement was terminated.

**Our Interest**

1. Continue the long-lasting cooperating relationship with **Nanyu**.
2. Take necessary measures to preserve the retail market of tobacco products.
3. Reasonable amendments to the Distribution Agreement (purchase obligations, display requirements, dispute resolution clause etc.)
4. **Real Quik** is not willing to pay the amount of liquidated damage under the Agreement for the termination.

**Our Negotiation Strategy**

**Real Quik** will ask if **Nanyu** is willing to make some amendments to the clauses under the Distribution Agreement.

If **PARTIES** agree on this matter, **Real Quik** will propose appropriate modifications to the Agreement in order to meet the realistic condition in Gondwana's tobacco market, and come up with some ways to promote the tobacco industry.

If agreements on the modification cannot be reached, **Real Quik** will move on to request for a reduction on the requested amount of liquidated damage.