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22/12/2021

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Via email

Dear Sir / Madam

REDARC Electronic Pty Ltd — Exclusive dealing notification N10000549 — interested party consultation

The Australian Competition and Consumer Commission (**ACCC**) received an exclusive dealing notification from REDARC Electronic Pty Ltd (**Redarc**) on 10 December 2021. The ACCC invites you to comment on the notification.

Redarc's notification relates to its distribution arrangements with its network of authorised distributors (**Distributors**). Distributors are contracted to sell Redarc Products under a Channel Distribution Agreement. Under the notification, Redarc proposes to enter into a Channel Distribution Agreement with current and future Distributors on the condition that Distributors do not engage in advertising, promoting, distributing or selling Redarc Products:

- outside the Nominated Territory and/or Market Channel (including via an excluded market Channel); or
- inside the Nominated Territory and/or Market Channel when the Distributor knows or has reason to believe that the Products may be resold or transferred out of the Nominated Territory or outside of the Market Channel (including via an Excluded Market Channel).

The purpose of this letter is to invite you, as a potentially interested party, to comment on the notified arrangements. Further information about the notification process is provided in the ACCC's [Exclusive Dealing Notification Guidelines](#). If you do not wish to make a submission, no further action is required from you.

Exclusive dealing conduct and the notification process

Broadly, exclusive dealing occurs when one person trading with another restricts the other's freedom to choose with whom, in what or where they deal. Exclusive dealing arrangements breach the *Competition and Consumer Act 2010* (the **Act**) if the restriction is likely to have the purpose, effect or likely effect of substantially lessening competition. By lodging a notification with the ACCC, businesses obtain protection from legal action for exclusive dealing conduct. This protection commences immediately and remains unless or until the ACCC revokes that protection.

The ACCC can only remove the protection from legal action provided by a notification if it is satisfied that the notified conduct:

- has the purpose, effect or likely effect of substantially lessening competition, and
- in all the circumstances, will not result in any likely public benefit(s) which would outweigh any likely public detriment(s).

Details of Redarc's notified arrangements

Redarc is an Australian manufacturer of electronics products including voltage converters, inverters, power supplies, battery chargers, timer relays, LED lighting control systems and trailer braking solutions (**Redarc Products**). Redarc advises that these products are generally of a technical nature and require technical knowledge and expertise to install them for the end user. Redarc Products are installed at the manufacturing stage (**OEM**), or retrofitted in aftermarket applications.

Redarc sell its products through a network of authorised distributors, or direct to the consumer. The notification only relates to Redarc's authorised distributors.

As outlined on page 1 of this letter, Redarc proposes to require that current and future Distributors agree to certain Nominated Territory and Market Channel restrictions.

The *Nominated Territory* is defined to be Australia and New Zealand. Redarc advises that no current or future Distributor would be subject to a narrower Nominated Territory. The *Market Channel* is defined as the markets that a Distributor is authorised to sell and distribute Redarc Products, which may include one or more of:

- Trade – Supply and Fit
- OEM
- National Accounts
- National Retailers
- Online Retailer, and
- Online Re-seller.

A copy of the notification is **attached** to the email, which provides further information about the notified arrangements. Updates on the matter as it progresses will be available on the ACCC's [Notifications public register](#).

Request for submissions

The ACCC invites you to make a submission on the likely effect on competition, or any other public detriment, and the likely public benefits from Redarc's distribution arrangements.

If you intend to provide a submission in relation to Redarc's notification, please do so by **Friday, 4 February 2022**. Submissions should be emailed to exemptions@acc.gov.au with the subject NN10000549 – Redarc – submission'.

Alternatively, if you would like to provide comments orally, please contact Gemma Smith on (03) 9290 1405 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Timetable

The ACCC will progress its assessment of the notification in a timely manner. An indicative timetable is set out below for your information

10 December 2021	Lodgement of notification.
17 December 2021	Public consultation process begins.
4 February 2022	Closing date for submissions from interested parties.
18 February 2022	Notifying party responds to any issues raised in the public consultation process.
March/April 2022	ACCC decision to either issue a draft notice to revoke the notification or to take no further action and allow the notification to stand.

You can forward this letter to any other party who may wish to make a submission to the ACCC regarding the notification.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Gemma Smith on (03) 9290 1405 or exemptions@acc.gov.au.

Yours sincerely



Darrell Channing
Director
Competition Exemptions