

Freehills

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18 October 2001

Our ref BDK
Phone 9288 1406
Matter no 20772055

Doc no Melbourne003923863

Ms Joanne Palisi
Australian Competition & Consumer Commission
PO BOX 1199
DICKSON ACT 2602

Dear Ms Palisi,

Diners Club International ("Diners Club") Notification of Exclusive Dealing

We act for Diners Club International, and enclose a further Exclusive Dealing Notification (Form G), relating to "bonus points" to be given to Diners Club members if they acquire services or goods from "bonus partners" of Diners Club, using their Diners Club card.


We have advised our client that we believe there are strong arguments that the provision of the vouchers will not breach Section 47(6) because there is no element of "compulsion" involved, as discussed in the judgments in the case of *SWB Family Credit Union Ltd v Parramatta Tourist Services Pty Ltd* (3 ATPR 40-180).

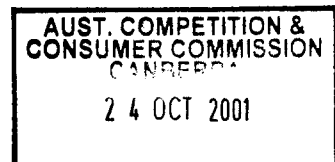
However, our client has instructed us to lodge a Notification, to ensure there is no breach of the TPA.

With reference to the test that must be satisfied pursuant to Section 93(3)A, we submit there is no public detriment, but there is a public benefit in that it is anticipated that a considerable number of Diners Club cardholders will receive benefits from receipt of the additional "bonus points".

A cheque for \$1,000.00 in payment of the filing fee is enclosed.

Yours faithfully
Freehills


Brian Kewley
Special Counsel



Enclosures

[Front of Form]

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Sub-section 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 *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47 (2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b), (c), or (d), of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of person giving notice:**
Diners Club International (“Diners Club”).
- (b) **Short description of business carried on by that person:**
Credit card services
- (c) **Address in Australia for service of documents on that person:**
Freehills
Level 46
101 Collins Street
MELBOURNE VIC 3000
DX 240 MELBOURNE
Ref: BDK
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**
Rewards for use of the credit card.
- (b) **Description of the conduct or proposed conduct:**
Diners Club is arranging for its members to receive “bonus points” if they use their Diners Club cards when acquiring services or goods from what Diners Club terms its “bonus partners”. The present such partners are –

- Avis Australia
- Mirvac Hotels Pty Ltd
- Six Continents Hotel Group
- Winemakers Choice Pty Ltd.

There will be further such partners in the future. The "bonus partners" will state that if Diners Club cards are used to acquire services or goods from them, then they will earn additional bonus points from Diners Club. They will then arrange for those points to be added by Diners Club, and will make a payment to Diners Club for those points.

3. (a) **Class or classes of persons to which the conduct relates:**

Diners Club cardholders.

(b) **Number of those persons:**

(i) **At the present time:**

Approximately 400,000.

(ii) **Estimate within the next year:**

Unable to estimate.

(c) **Where number of persons stated in Item 3(b)(i) is less than 50, their names and addresses:**

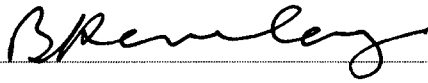
Not applicable.

4. **Name and address of person authorised by that person giving this notice to provide additional information in relation to this notice:**

Attention: Brian Kewley
Freehills
Level 46
101 Collins Street
MELBOURNE VIC 3000
DX 240 MELBOURNE
Ref: BDK

Dated this 22nd day of October 2001

Signed on behalf of the person giving this notice



(Signature)

Brian Kewley

(Full Name)

Special Counsel - Freehills

(Description)