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6 September 2002

BY COURIER

Mr Tim Grimwade
General Manager
Adjudications Branch
Australian Competition and Consumer Commission
C/- Level 7
Angel Place
123 Pitt Street
SYDNEY NSW 2000

Dear Sir

N1MP (T No1) Pty Ltd (ACN 079 970 291)

We act for MasterCard Australia Limited which is entering into a promotion with the above company.

On behalf of this entity, we lodge the enclosed Notification pursuant to sub-section 93(1) of the Trade Practices Act 1974 (C'ith).

As you will see from the Notification, the conduct in question for this entity concerns the promotional offer of discounts or special offers to customers who use a MasterCard credit card to purchase products and services offered by this entity.

We enclose a cheque in the amount of \$100.00 in payment of the filing fee.

If you require any further information, please contact the undersigned on (02) 9930 7150.

Yours faithfully



Peter Norman

Direct line (61-2) 9930-7150
Direct fax (61-2) 9930-7117
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Partner Peter Norman
Matter 44030.4

Encl.



FILE No:
DOC:
MARS/PRISM:

Form G

Commonwealth of Australia
Trade Practices Act 1974 --- Sub-section 93(1)

NO 31189

**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) or (c) or (9)(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

N1MP (T No1) Pty Ltd (ACN 079 970 291) is a limited liability company which operates various luxury hotels in Australia, including hotels branded with "The Westin" trademark. Its head office is situated at C/- Sheraton on the Park Pty Ltd, Level 5, Sheraton on the Park, 161 Elizabeth Street, Sydney NSW 2000 ("N1MP"). N1MP is a wholly owned subsidiary of Sheraton International Inc, a company incorporated in the United States of America.

(b) Short description of business carried on by that person

N1MP provides hotel and leisure services and products including the provision of luxury accommodation and associated products and services to business and retail guests in Australia.

(c) Address in Australia for service of documents on that person

C/- Peter Norman
COUDERT BROTHERS
Solicitors and International Attorneys
Level 8, Gateway
1 Macquarie Place
Sydney NSW 2000 Australia

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates

N1MP provides hotel accommodation and associated products and services throughout Australia. In particular, N1MP operates the hotels known as:

- (1) "The Westin Sydney" located at No. 1 Martin Place Sydney NSW; and
- (2) "The Westin Melbourne" located at 205 Collins Street Melbourne VIC.

(b) Description of the conduct or proposed conduct

N1MP proposes to enter into arrangements with MasterCard Australia Limited pursuant to which N1MP proposes to:

- (a) offer to give or allow a discount in relation to the supply of accommodation at The Westin Sydney or The Westin Melbourne on condition that the customer also acquires the credit services of MasterCard; and
- (b) offer to give or supply certain holiday and leisure products and services free of charge at The Westin Sydney or The Westin Melbourne on condition that the customer pays for accommodation at The Westin Sydney or the Westin Melbourne using the credit services of MasterCard; and
- (c) refuse to give or allow a discount or provide certain products or services free of charge to a customer who has not acquired or has not agreed to acquire the credit services of MasterCard in relation to the supply of accommodation.

The proposed conduct

N1MP proposes to:

- (a) offer discounts; and
- (b) offer, free of charge, certain gifts and services;

to customers who pay for accommodation at The Westin Sydney or The Westin Melbourne by a MasterCard credit card;

The proposed conduct will be of benefit to the public as it will:

- promote competition amongst tourism and travel operators involved in providing holiday products and services;
- promote Sydney and Melbourne as holiday destinations by encouraging consumers to purchase Sydney or Melbourne holiday and leisure products and services;
- provide individual consumers with the opportunity to obtain luxury accommodation and associated holiday products and services for free or at a discount;
- provide Sydney and Melbourne businesses with potentially increased numbers of consumers holidaying in Sydney and Melbourne and purchasing Sydney and Melbourne holiday products and services;
- promote competition amongst providers of payment services.

The proposed conduct will not lessen competition in the payment services industry or the tourism and travel industry for the Sydney and Melbourne accommodation and holiday products and services markets as:

- the Sydney and Melbourne based tourism and travel industry is very competitive;
- it is not unusual practice for tourism and travel operators to engage in promotions involving discounts on holiday products and services from time to time;
- it is not unusual for providers of payment services to engage in promotions involving discounts on products or services offered by particular merchants as

long as payment for those products or services is made using that payment service;

- the number of consumers who are potentially affected by the proposed conduct is negligible as consumers may obtain other discounts for similar holiday products and services offered by other tourism and travel operators throughout Australia;
- consumers may still acquire Sydney or Melbourne based holiday products and services at the usual price without acquiring MasterCard credit services.

N1MP believes that the benefits from the proposed conduct will outweigh any possible detriment that may arise from the conduct.

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

The public generally.

(b) Number of those persons:

Not applicable.

(i) At present time

Not applicable.

(ii) Estimated within the next year

Not applicable.

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

Not applicable.

4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice

Peter Norman
COUDERT BROTHERS
Solicitors and International Attorneys
Level 8, Gateway
1 Macquarie Place
Sydney NSW 2000 Australia

Dated: 6 September 2002

Signed by/on behalf of the applicant giving notice



.....
Peter Norman
Solicitor

DIRECTIONS

1. If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
2. If the notice is given 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 notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
6. In item 3(b) (ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

NOTICE

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or 9(d) of the *Trade Practices Act 1974* ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7a) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3a) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or 9(a), (b) or (c), of the Act, it comes into force when it is given.