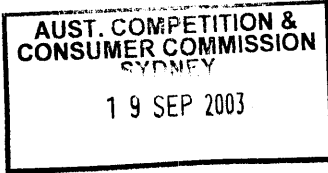


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Our client ref: LXW:SHS:231634
Direct line: 02 9263 4246
Email: ssnow@gtlaw.com.au
Partner: Luke Woodward

LAWYERS

2 Park Street
Sydney NSW 2000
Australia
GPO Box 3810
Sydney NSW 2001
DX 10348 SSE
email@gtlaw.com.au
www.gtlaw.com.au
Facsimile + 61 2 9263 4111
Telephone + 61 2 9263 4000

BY HAND

19 September 2003

Mr Tim Grimwade
General Manager, Adjudication Branch
Australian Competition and Consumer Commission
c/- Sydney Office
Level 7, Angel Place
123 Pitt Street
SYDNEY NSW 2000

Dear Mr Grimwade

DINERS CLUB THIRD LINE FORCING NOTIFICATION

We act for Diners Club Pty Ltd (**Diners Club**).

We enclose a Form G Application for Notification under section 93(1) of the *Trade Practices Act 1974* for consideration by the Australian Competition and Consumer Commission (**Commission**), together with a cheque in the amount of \$100, being the relevant fee payable to the Commission.

The Notification relates to a new charge card to be launched by Diners Club, the ANZ Rewards Diners Club Card.

If you have any questions in relation to this Notification, please contact Luke Woodward on 9263 4014 or Simon Snow on 9263 4246.

Your sincerely,

Luke Woodward / Simon Snow

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(6) of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of person giving notice:**

Diners Club Pty Ltd.

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

The provision of charge card services.

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

Gilbert + Tobin, Lawyers
Level 37, 2 Park Street
Sydney NSW 2000
Attention: Mr Simon Snow

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

Reward points for use of a charge card called the ANZ Rewards Diners Club Card.

(b) **Description of the conduct or proposed conduct:**

Please see Attachment A.

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

ANZ Rewards Diners Club cardholders.

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

(i) **At present time:**

Nil.

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

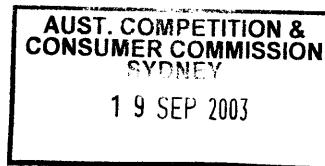
The number of persons who will become cardholders over the next year is not presently known.

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

Not applicable.

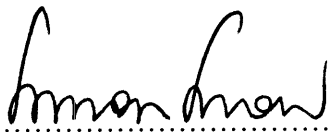
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**

Mr Simon Snow
Gilbert + Tobin, Lawyers
Level 37, 2 Park Street
Sydney NSW 2000
Telephone: (02) 9263 4006
Facsimile: (02) 9263 4111



Dated: 19 September 2003

Signed on behalf of the person giving this notice


.....

Simon Snow
Gilbert + Tobin
for and on behalf of Diners Club Pty Ltd

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 subsection 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 subsection 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 subsection 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 a notice under subsection 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) of (9)(a), (b) or (c), of the Act, it comes into force when it is given.

ATTACHMENT A

1. Introduction

Diners Club Pty Limited (**Diners Club**) operates a charge card scheme in Australia. The Diners Club scheme is a closed loop scheme in that Diners Club both issues charge cards to cardholders and performs the acquiring function for merchants.

2. Proposed conduct

Diners Club proposes to launch a new charge card called the ANZ Rewards Diners Club Card (**ARDC card**). The ARDC card is designed for customers who already hold an ANZ Telstra Visa card. The ANZ Telstra Visa card is a credit card issued by Australia and New Zealand Banking Group Limited. Holders of the ARDC card will be offered the opportunity to earn reward points on the reward points program linked to the ANZ Telstra Visa card by using the ARDC Card for transactions. The ARDC card will not have a separate reward points program. Reward points earned by using the ARDC card will be credited directly to the cardholder's ANZ Telstra Visa card reward points program upon payment of each ARDC card account in accordance with the Diners Club terms and conditions.

There is an argument, not necessarily accepted by Diners Club, that the proposed conduct may amount to third line forcing on the basis that the supply of reward points by Diners Club constitutes a service.

3. Likely effect of proposed conduct

Diners Club believes that there is no detriment to the public likely to arise from its proposed conduct because:

- (a) consumers that would not be eligible to earn reward points through using the ARDC card have the freedom to choose from a wide range of other charge and credit card products that provide an opportunity to earn reward points; and
- (b) the relevant terms of the ARDC card will be clearly disclosed in writing to prospective customers, including the fact that reward points will only be credited towards a reward point program linked to an ANZ Telstra Visa card held by the cardholder.

Diners Club believes that the proposed conduct is likely to result in public benefit because:

- (a) eligible customers will benefit from the ability to accrue reward points through using the ARDC card for transactions; and
- (b) competition will be promoted by encouraging competitors to offer similar benefits.