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Doc Id: let accc 22.04.04.doc

**RIGBY
COOKE**
LAWYERS

28 April 2004

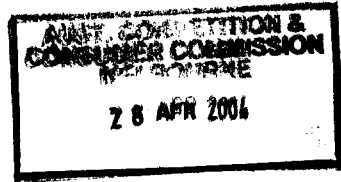
FILE No:
DOC: D04/19474
MARS/PRISM: 19469

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~~CONFIDENTIAL~~ †

Mr Paul Palisi
Adjudication Branch
ACCC
P.O. Box 1199
DICKSON ACT 2602



By Hand Delivery at Melbourne Branch

Dear Mr Palisi

**Exclusive Dealing Notification
Show Your Card and Save Program**

We refer to your telephone conversation with Marilyn Awad on 15 April 2004 and to our telephone conversation with Tania Mayrhofer of 22 April 2004.

We act for AMS Rewards Pty Ltd.

On behalf of our client, we enclose an Exclusive Dealing Notification in relation to the "Show Your Card and Save Program" (the "SYCS Program"), together with a cheque for \$100.00 in payment of the lodgement fees.

The Notification is supported by a Submission.

The details of the SYCS Program are commercially sensitive information. If the details of the program are made publicly available prior to the launch of the program, competitors of the parties involved will receive an unfair advantage and AMS Rewards will not achieve its marketing objectives.

To this end AMS Rewards requests that the Submission in Support be kept confidential and not placed as part of the materials that are available for inspection on the public register of Notifications lodged with the ACCC.

We also confirm that once new participants (retailers and service providers) agree to become involved in the SYCS Program, our client does not need to prepare a new Notification in relation to such new participants, and that it will suffice if our client simply advises the ACCC in writing of the details of such new participants.

Mr Paul Palisi
Adjudication Branch
ACCC

28 April 2004

We look forward to receipt of confirmation of this Notification and acceptance of our request for confidentiality.

Please do not hesitate to contact Marilyn Awad on (03) 9321 7841 if you have any queries.

Yours sincerely



Ian Rosenfeld
Partner



Marilyn Awad
Associate

Encs

FORM G

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) 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

AMS Rewards Pty Ltd (ACN 101 647 401)

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

AMS Rewards Pty Ltd (hereinafter referred to as "AMS Rewards") will be operating a member benefit program as described under paragraph 2(b).

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

AMS Rewards Pty Ltd
 C/- Rigby Cooke Lawyers
 Level 13
 469 LaTrobe St
 Melbourne Victoria 3000
 Attention: Mr Ian Rosenfeld

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

Facilitating a member benefit program described under paragraph 2(b), to be named the "Show Your Card and Save Program" (hereinafter referred to as the "SYCS Program").

(b) Description of the conduct or proposed conduct

Under the SYCS Program, a person who is a member of one of the Australian Motoring Organisations specified under paragraph 3(a) (hereinafter referred to as the "AMOs") or a member of an affiliated International Motoring Organisation, will be entitled to receive special benefits and discounts from various retailers and service providers (hereinafter referred to as "State and National Partners") and the AMOs, upon presentation of a membership card or other membership verification.

"International Motoring Organisations" are organisations operating abroad that provide similar services to the services provided by the AMOs.

State and National Partners will:

- (i) supply or offer to supply goods or services;
- (ii) supply or offer to supply goods or services at a particular price; and/or

- (iii) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply of goods or services

to the person on the condition that the person is a member of one of the AMOs (or of an affiliated International Motoring Organisation).

State and National Partners may also refuse to:

- (i) supply or offer to supply goods or services;
(ii) supply or offer to supply goods or services at a particular price; and/or
(iii) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply of goods or services

to the person unless the person is a member of one of the AMOs (or of an affiliated International Motoring Organisation).

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

Those persons who are members of the AMOs (or of an affiliated International Motoring Organisation).

The AMOs are:

- Royal Automobile Club of Victoria (RACV) Limited (ACN 004 060 833);
- Royal Automobile Club of Queensland Limited (ACN 009 660 575);
- Royal Automobile Association of South Australia Incorporated (ARBN 020 001 807);
- National Roads and Motorists' Association Limited (ABN 77 000 010 506);
- Royal Automobile Club of WA Inc (ACN 212 133 120);
- Royal Automobile Club of Tasmania Limited (ACN 009 475 861);
- The Automobile Association of Northern Territory Inc (ABN 13 431 478 529).

(b) Number of those persons

- (i) At present time

Total number of persons who are members of the AMOs = approximately 6 million

- (ii) Estimated within the next year

Total number of persons who are estimated to become new members of the AMOs within the next year = approximately 20 – 50,000 net gain

(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

Mr Ian Rosenfeld
Rigby Cooke Lawyers
Level 13
469 LaTrobe St
Melbourne Victoria 3000

Phone: 03 9321 7888
Fax: 03 9321 7900

Dated: 28/4/04

Signed by/on behalf of the applicant giving notice


.....
(Signature)

IAN ROSENFELD
Rigby Cooke Lawyers
13/469 La Trobe Street, Melbourne
Current Practitioner under the
Legal Practice Act 1996

.....
(Full Name)
SOLICITOR ON BEHALF
OF APPLICANT
.....
(Description)



**SUBMISSIONS IN SUPPORT OF NOTIFICATION OF EXCLUSIVE DEALING LODGED BY THE
PARTNERS AND CLUBS IN ACCORDANCE WITH SECTION 93(1) OF THE TRADE
PRACTICES ACT 1974**

1. Notification

This submission is in support of the exclusive dealing notification by AMS Rewards Pty Ltd (ACN 101 647 401) ("AMS Rewards") and separate exclusive dealing notifications to be made by the Australian Motoring Organisations specified in paragraph 2 below ("the AMOs") and other companies. The proposed conduct notified in each case is conduct in connection with the "Show Your Card and Save Program" (hereinafter referred to as the "SYCS Program") to be facilitated by AMS Rewards, being a company wholly owned by the AMOs.

Various retailers and service providers and the AMOs intend to enter into an arrangement with AMS Rewards pursuant to which members of the AMOs or members of an affiliated International Motoring Organisation, will be entitled to receive special benefits and discounts from such retailers and service providers upon presentation of a membership card or other membership verification.

If the ACCC requires further information with respect to the proposed conduct or in connection with this notification, the parties concerned would like to be given an opportunity to provide that information.

2. Parties to the Proposed Conduct

The AMOs are:

- Royal Automobile Club of Victoria (RACV) Limited (ACN 004 060 833);
- Royal Automobile Club of Queensland Limited (ACN 009 660 575);
- Royal Automobile Association of South Australia Incorporated (ARBN 020 001 807);
- National Roads and Motorists' Association Limited (ABN 77 000 010 506);
- Royal Automobile Club of WA Inc (ACN 212 133 120);
- Royal Automobile Club of Tasmania Limited (ACN 009 475 861);
- The Automobile Association of Northern Territory Inc (ABN 13 431 478 529)

The AMOs will enter into an agreement with AMS Rewards whereby they will, amongst other things:

- promote the SYCS Program; and
- recruit and manage retailers and service providers on a State level in the AMO's own respective State to participate in the SYCS Program (hereinafter referred to as the "State Partners"). It is the responsibility of the AMOs to enter into agreements with the State Partners.

AMS Rewards will recruit and manage retailers and service providers on a National level to participate in the SYCS Program (hereinafter referred to as the "National Partners"). AMS Rewards will enter into agreements with the National Partners (to be negotiated on a case by case basis) in relation to the National Partner's participation in the SYCS Program (hereinafter referred to as the "National Partner Agreement").

CONFIDENTIALITY GRANTED

3. The Proposed Conduct – the SYCS Program

Under the National Partner Agreement, the National Partners will be required to supply special benefits and/or discounts to members of the AMOs or affiliated International Motoring Organisations upon presentation of a membership card or other membership verification at the point of purchase, or upon quotation of membership details (name and membership number) for phone or internet acquisitions. Each National Partner will be promoted as an official partner of the SYCS Program and will be entitled to use the branding (including trademarks) of the SYCS Program.

Similarly, the AMOs will have separate agreements with the State Partners, whereby each State Partner will be required to supply special benefits and/or discounts to members of the AMOs or affiliated International Motoring Organisations upon presentation of a membership card or other membership verification, or upon quotation of membership details. Again, each State Partner will be promoted as an official partner of the SYCS Program and will be entitled to use the branding (including trademarks) of the SYCS Program.

The AMOs will, in their own right, also offer special benefits and discounts under the SYCS Program to members of the AMOs or affiliated International Motoring Organisations through the AMOs own retail products and services.

AMS Rewards is the architect and promoter of the SYCS Program. AMSR does not, in its own right, supply and products or services to end consumers. It simply facilitates the SYCS Program.

The special benefits and discounts will vary according to each State Partner, each National Partner and the AMOs. However, they may include percentage or dollar discounts off certain products and services, free products or services with the purchase of a particular product or service or free added features (such as free delivery of products).

Under the SYCS Program, State Partners and National Partners will supply goods or services and/or give or allow a discount in relation to the supply of goods or services to a person because that person is a member of one of the AMOs (or of an affiliated International Motoring Organisation).

Similarly, State Partners and National Partners may refuse to supply goods or services or refuse to give or allow a discount in relation to the supply of goods or services to a person because that person is not a member of one of the AMOs (or of an affiliated International Motoring Organisation).

4. Possible Application of the *Trade Practices Act 1974*

On one interpretation, the special benefits and/or discounts offered or given by the State Partners and the National Partners to members of the AMOs (or members of affiliated International Motoring Organisations) is conditional upon the requirement that the customer must first have become a member of one of the AMOs (or a member of an affiliated International Motoring Organisation). Arguably, therefore, the provisions of sections 47(6) and 47(7) of the *Trade Practices Act* may apply.

It is submitted, however, that there is no element of compulsion forcing or requiring a customer to acquire membership with one of the AMOs (or an affiliated International Motoring Organisation).

However, in order to be entitled to receive the special benefits and/or discounts, the customer must be a member of an AMO or affiliated International Motoring Organisation.

As stated above, AMS Rewards is not engaging in any conduct that may be caught under section 47(6) or 47(7). AMS Rewards simply facilitates the SYCS Program.

Although, AMS Rewards does not admit that the proposed conduct is "exclusive dealing" within the meaning of either section 47(6) or 47(7) of the *Trade Practices Act*, out of prudence it has decided to notify the relevant proposed conduct.

It is intended that the AMOs will separately notify in relation to the SYCS Program. Similarly, it is intended that the State Partners and National Partners will separately notify once they agree to become participants to the SYCS Program.

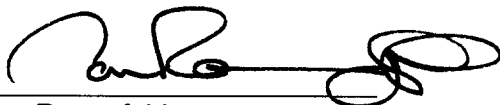
5. Public Benefit and Public Detriment

AMS Rewards submits that the proposed conduct is not likely to have any detriment to the public and that, the benefit to the public of the SYCS Program outweighs the detriment to the public, if any, that the SYCS Program may have.

- There is no compulsion for consumers to participate in the SYCS Program. Customers are given a genuine choice whether to: (1) purchase goods or services supplied by State Partners and National Partners without being a member of an AMO; or (2) purchasing goods or services supplied by State Partners and National Partners as a member of an AMO; or (3) purchasing similar or equivalent goods or services from retailers or service providers that are not participants in the SYCS Program.
- The fact that consumers can purchase goods or services supplied by State Partners and National Partners at a saving or with an added benefit by being a member of an AMO has positive benefits in terms of consumer welfare.
- The SYCS Program also has positive benefits in terms of competition as it will encourage retailers and service providers who are not participants of the program to improve their offerings to the general public.

In summary, for the reasons set out in this submission, AMS Rewards is of the view that the public will benefit from the SYCS Program and that there is no detriment to the public likely to arise from the SYCS Program.

Dated: 28/4/04



Ian Rosenfeld
Rigby Cooke Lawyers
Legal Representative of AMS Rewards Pty Ltd