

29 September 2004

~~Strictly commercial in confidence~~

Mr Tim Grinwade
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2602

By post and facsimile: 02 6243 1211

Dear Sir

Canon Australia Pty Ltd ("Canon") and Pioneer Electronics Australia Pty Limited ("Pioneer") offer ("Offer")

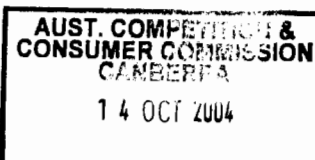
We lodge this notification on our own behalf. We enclose:

1. Notification under section 93(1) of the Trade Practices Act 1974 (Cth) ("**Act**") in the form of completed "Form G – Exclusive Dealing Notification";
2. A cheque in the amount of \$100 being the requisite fee for such notification; and
3. Terms and conditions for the Offer to be communicated to consumers.

Background

Canon and Pioneer are proposing to conduct a joint promotional offer, in which consumers are required to buy a selected Canon Digital Video Camera together with a selected Pioneer DVD Recorder. See below for further details with respect to the proposed offer.

Please note that in accordance with the requirements that each party make a separate Notification with respect to the proposed conduct, you may have already (or will shortly) receive Notification from the other party to this proposed conduct, and a near identical covering letter to this letter. Both Canon and Pioneer have provided to each other the information with respect to their own products. Whilst we cannot make an assurance with respect to the accuracy of the information provided by the other, we understand that they will make a similar assurance with respect to their products independently in their Notification to the ACCC.



Canon is a distributor of Canon products in Australia. Among the products that it distributes are Canon Digital Video Cameras. Canon currently holds approximately 17.4% of the current Australian market share of Digital Video Cameras. To Canon's knowledge, the other major distributors of Digital Video Cameras and their percentage share of the Australian market is as follows: Sony 38.2%, Panasonic 22.9%, JVC 13.7%, Samsung 4.0%, Sharp 2.4% and Hitachi 1.4%.

Pioneer is a distributor of Pioneer products in Australia. Among the products that it distributes are Pioneer DVD recorders. Pioneer currently holds approximately 13% of the current Australian market share of DVD Recorders. To Pioneer's knowledge, the other major distributors of DVD Recorders and their percentage share of the market is as follows: Panasonic 36%, LG 14% and Sony 9%

Offer

The structure of the Offer is as follows:

To be eligible for the AUD\$150 Cash Back, claimants must purchase during the Promotional Period, one (1) of the following models of Canon Digital Video Cameras: MV700i, MV730i or MV750i, plus one (1) of the following models of Pioneer DVD Recorders: DVR310, DVR320, DVR 510, DVR520, or DVR720.

To be eligible for the AUD\$200 Cash Back, claimants must purchase during the Promotional Period, one (1) of the following models of Canon Digital Video Cameras: MVX200i, MVX250i, MVX20i, MVX25i, MVX35i OR MVX3i, plus one (1) of the following models of Pioneer DVD Recorders: DVR310, DVR320, DVR510, DVR520, or DVR720.

To make a claim, the claimants must fully complete the official Claim Form and send it, along with photocopies of their original receipt/s verifying their purchase of the selected Canon Digital Camera and Pioneer DVD Recorder, to "Canon & Pioneer Cash Back Promotion", XXXXX Box, North Sydney, NSW 2060.

The full terms and conditions applicable to the Offer are set out in Annexure A to this letter.

Notified conduct

As a party to this Offer, we are concerned that conduct of the Offer may constitute a contravention of section 47(6) of the Act by giving or allowing or offering to give or allow, a rebate in relation to the supply or proposed supply of goods or services by Canon to consumers on the condition that consumers acquire a good from Pioneer.

Competition issues

It is our submission that the ACCC should not serve a notice under section 93(3A) of the Act because:

- (a) conduct of the Offer will not adversely affect competition in the relevant market;
- (b) conduct of the Offer will result in public benefit; and
- (c) conduct of the Offer will not result in public detriment.

It is our view that the relevant market for the purpose of the Offer and this Notification is the national retail DVD Recorder and Video Camera markets. Both of these markets are highly competitive markets with market share for both detailed above.

Further, any concerns in respect of any artificial inflation of the demand for these items is diminished by the fact that the Offer does not place restrictions upon where or from whom consumers must purchase their DVD Recorder or Video Camera from in order to participate in the Offer. In addition, there are numerous and varied suppliers of these items and consumers are not restricted even to a geographical location in respect of where the items must be purchased thereby reducing the risk of inflated prices for these items.

Further, sufficient information will be available to consumers, in the form of the terms and conditions for the Offer (attached as Annexure A), and clear market communication regarding the Offer will allow consumers to evaluate the Offer.

In addition, this Offer is a one-off and is only being conducted for a limited duration.

Public benefit

In addition to the above, we submit that the Offer provides the opportunity for a genuine saving for consumers on the basis that they receive a cashback if they take up the offer.

We take this opportunity to reassure the ACCC that the retail sale price and the recommended or suggested retail prices for our products which will be the subject of this Offer will not be increased in order to absorb or nullify the potential cashback. Understandably, we cannot make an assurance with respect to the other party to this offer, but we understand that they will make a similar assurance with respect their products independently in their Notification to the ACCC.

Accordingly, we take the view that there is no public detriment associated with the Offer.

Conclusion

For the reasons discussed above, we believe that the overall public benefit for the Offer is significant and that it does not pose any anti-competitive threat or public detriment, particularly as the promotional offer is only for a limited duration.

Accordingly, we submit that it is appropriate for the ACCC not to serve a notice under section 93(3A) of the Act in respect of the Offer.

We trust that sufficient information has been provided in order to allow the ACCC to consider the Offer. However, if you have any queries or require any further information please contact Simone Owen, National Marketing Manager on 03 9586 6300

Yours faithfully



Simone Owen
National Marketing Manager
Pioneer Electronics Australia Pty Limited

Canon & Pioneer Cash Back promotion – DRAFT Terms and Conditions

1. Information on how to claim your cash back form part of these Terms and Conditions.
2. Offer is open to Australian residents (individuals or companies) only. Employees and their immediate families of the Promoters, Canon and Pioneer resellers and distributors and their agencies are ineligible. The actual Canon and Pioneer resellers and distributors are also ineligible.
3. Promotion opens 1 November 2004 and finishes 31 January 2005 (“Promotional Period”). All claims must be received by last mail received on 28 February 2004. Claims received after this date will be deemed invalid and ineligible to receive the Cash Back.
4. To be eligible for the AUD\$150 Cash Back, claimants must purchase during the Promotional Period, one (1) of the following models of Canon Digital Video Cameras: MV700i, MV730i or MV750i, plus one (1) of the following models of Pioneer DVD Recorders: DVR310, DVR320, DVR510, DVR520, or DVR720.
5. To be eligible for the AUD\$200 Cash Back, claimants must purchase during the Promotional Period, one (1) of the following models of Canon Digital Video Cameras: MVX200i, MVX250i, MVX20i, MVX25i, MVX35i OR MVX3i, plus one (1) of the following models of Pioneer DVD Recorders: DVR 310, DVR320, DVR 510, DVR520, or DVR720.
6. **If the claimant decides to take up this offer, then the goods purchased for purposes of taking up this offer cannot be used for the purposes of qualifying for another promotional offer that is conducted by either of the Promoters.**
7. To make a claim, the claimants must fully complete the official Claim Form and send it, along with photocopies of their original receipt/s verifying their purchase of the selected Canon Digital Camera and Pioneer DVD Recorder, to “Canon & Pioneer Cash Back Promotion”, XXXXX Box, North Sydney, NSW 2060. Only photocopies of original detailed printed receipt/s verifying purchase of the products will be accepted. **Hand written receipts or delivery dockets will not be accepted.** “Claim Form” means the official document containing these Terms and Conditions, which must be used by claimants to claim the Cash Back from the Promoters.
8. A maximum of 3 claims per claimant is permitted. Only one claim permitted per purchase of a relevant Canon Digital Camera and Pioneer DVD Recorder.
9. The Cash Back will be issued to the person or organisation as named on the Claim Form and paid directly in to the claimant’s account as stated on the Claim Form. All cash backs will be paid by EFT (Electronic Funds Transfer) transactions directly into the account stated on the claim form. It is the responsibility of the claimant to provide correct banking details. Delays and non-payment of claims that arise as a result of supplying incorrect banking details are the responsibility of the claimant. The claimant accepts this as a condition of this promotion.
10. No responsibility is accepted for late, lost or misdirected mail.

11. The Promoters' decision on all matters pertaining to this Promotion is final and binding and no correspondence will be entered into, except as otherwise stated in these Terms and Conditions.
12. Cash Back is not transferable or assignable.
13. Please allow 60 days from the date that the claim is received for processing.
14. The Promoters reserve the right to verify the validity of all claims and to disqualify any claimant for submitting a claim, which is not in accordance with these Terms and Conditions, or for tampering with the claim process. Claims will be deemed invalid if the same receipt number is used for more than one claim.
15. Claims will not be accepted on back-ordered products. The Promoters reserve the right to refuse any claims if products are returned.
16. Liability for any tax as a result of the Cash Back being provided to a claimant pursuant to this Promotion shall be the sole responsibility of the claimant. It is recommended that claimants should contact their own accountant or taxation advisor in this regard.
17. The Promoters shall not be liable for any loss or damage whatsoever which is suffered (including, without limitation to, indirect or consequential loss), or for any personal injury suffered or sustained, as a result of participation in this promotion, except for any liability which cannot be excluded by law.
18. All entries become the property of the Promoters. The Promoters respect the privacy of all personal information collected during the course of the promotion and the Promoters will deal with all personal information in accordance with the *Privacy Act 1988* (C'th) and in accordance with their respective privacy policy. The Promoters' privacy policy may be viewed at: www.canon.com.au and at www.pioneeraus.com.au. The Promoters collect claimants' personal information in order to conduct the promotion. Unless you advise otherwise, you consent to the Promoters using the information contained within the Claim Form to conduct future marketing and promotional activities. Please note that your bank account details will only be used to transfer the money. This may include sending you information with respect to the Promoters' products and services and future promotions in any manner including via electronic messages. The Promoters may also share the personal information contained within the Claim Form with their service providers who have agreed to protect the privacy of this information. A request to access, update or correct any information should be directed to the Promoters' Privacy Officer, details of which can be found at the relevant above website.
19. These Terms and Conditions shall be governed by and construed in accordance with the laws in force in New South Wales, Australia.
20. The Promoters are Canon Australia Pty Ltd, 1 Thomas Holt Drive, North Ryde, NSW 2113. ABN. 66 005 002 951 and Pioneer Electronics Australia Pty Ltd, 178-184 Boundary Road, Braeside, VIC 3195. ABN. 49 005 017 087

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.

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of person giving notice..... PIONEER ELECTRONICS AUSTRALIA
PTY LTD

(See Direction 2 on the back of this form)

(b) Short description of business carried on by that person
MANUFACTURE & DISTRIBUTION OF AUDIO VISUAL
HOME ENTERTAINMENT PRODUCTS

(c) Address in Australia for service of documents on that person
178-184 BOUNDARY ROAD, BRAESIDE 3115

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates
DVR310 DVR320 DVR510 DVR520 DVR720

(b) Description of the conduct or proposed conduct
CASH BACK PROMOTION

(See Direction 4 on the back of this Form)

3. (a) Class or classes of persons to which the conduct relates
PIONEER AUDIO VISUAL DIVISION

(b) Number of those persons--
(i) At present time 13% market share

(ii) Estimated within the next year..... 20% market share

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

4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice..... SIMONE OWEN, NATIONAL
MARKETING MANAGER

Dated, 19.....

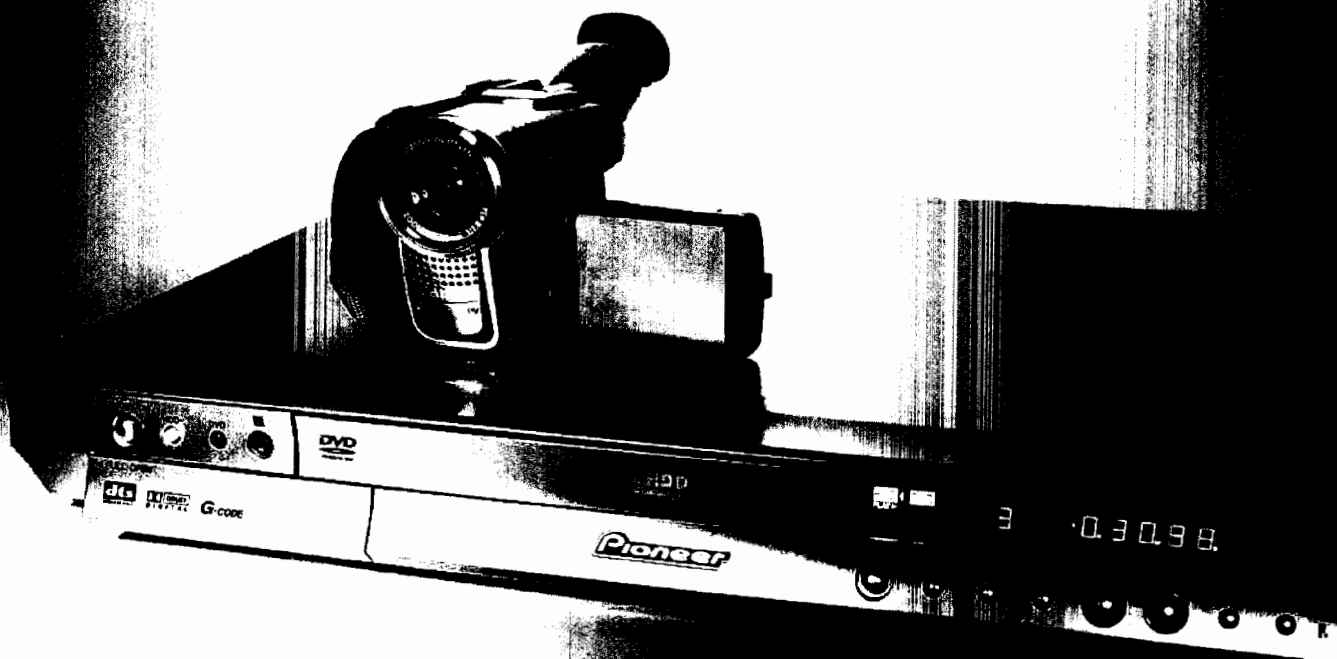
Signed by/on behalf of the applicant giving notice

Simone Owen
(Signature)

(Full Name)

National Marketing Manager
(Description) -Ar

**Buy a Pioneer
DVD RECORDER,
get up to \$200
CASHBACK*
on a Canon
DV CAMERA.**



PULL THE PLUG ON YOUR VCR

**Ask for all the details on your favourite
recording stars at the counter.**