

Level 8 Angel Place 123 Pitt Street Sydney NSW 2000
GPO Box 983 Sydney NSW 2001 DX 101 Sydney
Tel 61 2 8233 9500 Fax 61 2 8233 9555
Email sydney@dbglaw.com.au www.dbglaw.com.au

17 December 2004

Australian Competition and Consumer Commission
Adjudication Branch
470 Northbourne Avenue
DICKSON ACT 2602



DIBBS BARKER GOSLING | LAWYERS

Attention: General Manager of the Adjudication Branch

FILE No:	
DOC:	1004/62375
MARS/PRISM:	20918

Dear Sir/Madam

THIRD LINE FORCING NOTIFICATION – COLGATE-PALMOLIVE PTY LIMITED
Our Ref: LEH/ 322290

We **enclose** a Form G Exclusive Dealing Notification (the “Notification”) relating to potential third line forcing on behalf of Colgate-Palmolive Pty Limited (ABN 79 002 792 163).

We also **enclose** a cheque for the sum of \$100 made payable to the ACCC, being the required filing fee.

In addition to the Notification, we enclose a submission (Annexure ‘A’) which provides the ACCC with details of the public benefits and addresses the possibility of any anti competitive detriment, arising from the proposed conduct.

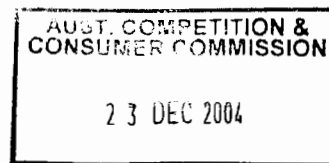
This notification includes material indicated as confidential, in respect of which the notifying party claims confidentiality. Please advise if you consider the maintenance of confidentiality in respect of these materials to be problematic in any way.

Please let me know if you require any further information.

Yours faithfully
Dibbs Barker Gosling

Laura Hartley
Partner
Email: lhartley@dbglaw.com.au
Direct Line: 61 2 8233 9561

Encl



ISO 9001
Quality
Certified

469673 v1 SYDNEY ASINCLAIR 15 12 04
Melbourne
T 61 3 9613 4222
F 61 3 9613 4242
E melbourne@dbglaw.com.au

Brisbane
T 61 7 3100 5000
F 61 7 3100 5001
E brisbane@dbglaw.com.au

Perth
T 61 8 9321 6533
F 61 8 9321 9123
E perth@dbglaw.com.au

Canberra
T 61 2 6201 7222
F 61 2 6257 4011
E canberra@dbglaw.com.au

Form G

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

N91575

**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

Colgate-Palmolive Pty Limited ABN 79 002 792 163

(See Direction 2 on the back of this form)

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

Manufacturer of consumer products, tightly focused on Oral Care, Personal Care, Household Surface Care and Fabric Care

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

Level 15, 345 George Street, Sydney NSW 2000
Attention: Sarah Whitaker (Legal Counsel)

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

Products sold throughout Australia at the following stores:

Grocery:

Woolworths, Coles, Bilo, Metcash/IGA, Action, Franklins, Foodland, Ritchies, Drakes, Dewsons, Foodworks, Foodway, Farmer Jacks, SupaValu, Supa Barn, United 5 Star, SPAR, Fishers, 7-Eleven, Night Owl, Lucky 7, Quix, CSD – Convenience Store Distributors, CCC – Campbells Cash & Carry

Non Grocery:

Priceline, Big W, Kmart, Target, ChemWorld, Soul Pattison, HealthCare, Terry White, ChemMart, Healthsense, Amcal, Guardian, Roy Young, Oze Pharmacy

(each a “Store” and, together, the “Stores”)

(b) Description of the conduct or proposed conduct

Please refer to Attachment A.

(See Direction 4 on the back of this Form)

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

Current and future customers of the Stores

(b) Number of those persons –

(i) At present time Unknown, but more than 50

(ii) Estimated within the next year Unknown, but more than 50

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

Not applicable.....

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

Laura Hartley, Partner, Dibbs Barker Gosling, Lawyers, Level 8 Angel Place, 123 Pitt Street
Sydney NSW 2000

Dated....., 20.....

Signed by/on behalf of the applicant giving notice

.....
(Signature)

.....
(Full name)

.....
(Description)

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

Colgate-Palmolive Pty Limited ABN 79 002 792 163

(See Direction 2 on the back of this form)

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

Manufacturer of consumer products, tightly focused on Oral Care, Personal Care, Household Surface Care and Fabric Care

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

Level 15, 345 George Street, Sydney NSW 2000
Attention: Sarah Whitaker (Legal Counsel)

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

Products sold throughout Australia at the following stores:

Grocery:

Woolworths, Coles, Bilo, Metcash/IGA, Action, Franklins, Foodland, Ritchies, Drakes, Dewsons, Foodworks, Foodway, Farmer Jacks, SupaValu, Supa Barn, United 5 Star, SPAR, Fishers, 7-Eleven, Night Owl, Lucky 7, Quix, CSD – Convenience Store Distributors, CCC – Campbells Cash & Carry

Non Grocery:

Priceline, Big W, Kmart, Target, ChemWorld, Soul Pattison, HealthCare, Terry White, ChemMart, Healthsense, Amcal, Guardian, Roy Young, Oze Pharmacy

(each a “Store” and, together, the “Stores”)

- (b) Description of the conduct or proposed conduct

Please refer to Attachment A.

(See Direction 4 on the back of this Form)

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

Current and future customers of the Stores

.....

(b) Number of those persons –

(i) At present time Unknown, but more than 50

(ii) Estimated within the next year Unknown, but more than 50

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

Not applicable.....

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

Laura Hartley, Partner, Dibbs Barker Gosling, Lawyers, Level 8 Angel Place, 123 Pitt Street

Sydney NSW 2000

Dated....., 20.....

Signed by/on behalf of the applicant giving notice

.....
(Signature)

.....
(Full name)

.....
(Description)

ANNEXURE "A"

SUBMISSION

1. Introduction

Colgate-Palmolive Pty Limited manufactures and supplies various grocery products to each of the Stores which operate throughout Australia.

Under joint marketing initiatives, Colgate-Palmolive Pty Limited engages in various promotions from time to time with the entities that own and operate each of the Stores.

2. Proposed conduct

The proposed conduct comprises offers by Colgate-Palmolive Pty Limited and the supply by Colgate-Palmolive Pty Limited pursuant to such offers, of various different types of prizes (in connection with joint promotional activity of Colgate-Palmolive Pty Limited and an owner of a Store) on the condition that the offeree has purchased Colgate-branded products from the relevant Store.

The proposed promotional activity involves consumers who shop at the Stores. The consumers will be informed, for example, via promotional material present in the Stores such as posters or catalogues, on leaflets or materials attached to shelving, in newspapers or on product packs that they will be entitled to enter into a prize draw (run by Colgate-Palmolive Pty Limited) on the condition that they purchase a specified number of specified Colgate-branded products from the Store in question.

The Colgate-branded product that will be specified in the proposed promotions will vary from time to time, and between Stores.

Pursuant to the proposed promotions, the consumer will be required to provide evidence (to Colgate-Palmolive Pty Limited) of its purchase of the Colgate-branded products. The required evidence of purchase will be either barcodes (from the purchased products) or a Store receipt.

Upon production of proof of purchase of the specified product from the specified Store, the consumer will then be entered into a prize draw.

3. Likely effect of proposed conduct

Colgate-Palmolive Pty Limited considers that the proposed conduct is likely to result in public benefit because:

- (a) Through Colgate-Palmolive Pty Limited's proposed conduct, customers of the Stores have the opportunity to participate in the promotion(s) run by Colgate-Palmolive Pty Limited in conjunction with the relevant Store operator and may be entitled to win prizes as a result. Consumers are therefore benefited as they are potentially entitled to be supplied with prizes free of charge.

- (b) Through Colgate-Palmolive Pty Limited's proposed conduct, customers of the Stores will benefit from a culture of discounting. Colgate-Palmolive Pty Limited considers that the promotions will increase the level of discounting in the supply of grocery products to the public.
- (c) Through Colgate-Palmolive Pty Limited's proposed conduct, suppliers of grocery product will be encouraged to introduce new and innovative methods of attracting and retaining consumer custom and Colgate-Palmolive Pty Limited considers that this will result in greater competition in the supply of grocery products to the public.

Colgate-Palmolive Pty Limited considers that no detriment to the public is likely to arise from its proposed conduct because:

- (a) There will continue to be a wide choice open to customers of the Stores in relation to the acquisition of products from suppliers who are in competition with the Store operators because there are numerous supermarkets and other stores located throughout Australia.
- (b) Consumers are able to purchase goods at the Stores and not participate in the promotions.

Colgate-Palmolive Pty Limited considers that the proposed promotions will have the effect of increasing competition between retailers in both the grocery and non grocery sectors and that both sectors are rapidly becoming increasingly competitive markets.

Confidentiality has been granted for the confidential attachment.