

AUST. COMPETITION &  
CONSUMER COMMISSION  
PERTH

17 MAR 2005

phillips  
fox

Our ref: DJP:IRF:981682

Contact: Darren Pratt  
Direct Line: (08) 9288 6702  
E.mail: djp@perth.phillipsfox.com.au

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Ho Chi Minh City

15 March 2005

Mr Sam Di Scerni  
Regional Director  
ACCC Perth  
PO Box 6381  
East Perth WA 6892

Dear Sam

**Notification: RAC Insurance Pty Ltd**

We act for RAC Insurance Pty Ltd (RACI) and wish to lodge on behalf of RACI, a notification in respect of conduct that may constitute third line forcing by RACI.

Accordingly, please find enclosed:

- a notification under section 93(1) of the *Trade Practices Act 1974 (TPA)* on behalf of RACI;
- a cheque in the amount of \$100 as payment of the required fees; and
- a submission in support of RACI's notifications, at Annexure 1.

Please feel free to contact either myself or Darren Pratt if you wish to discuss this matter.

Yours sincerely

Iain Freeman  
Partner



Darren Pratt  
Senior Associate

AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA

23 MAR 2005

RAC Marketing and Distribution Pty Ltd  
ABN 092 581 471  
228 Adelaide Terrace, Perth, WA 6000  
GPO Box C140, Perth, WA 6839  
Tel (08) 9421 4472 Fax (08) 9221 1887  
Website: rac.com.au



We're there for you

9<sup>th</sup> March, 2005

Darren Pratt  
Phillips Fox Lawyers  
Level 19, 1 William Street  
Perth  
WA 6000



Your Reference: DJP:IRF:981682

Dear Darren,

Please find attached the signed original Form G and accompanying notifications for immediate submission to the ACCC.

Thankyou for you assistance with this notification.

Regards

Jamin Hirte  
Manager - Pricing & Analysis

## FORM G

Commonwealth of Australia  
Trade Practices Act 1974 – Subsection 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 subsection 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 persons giving notice:  
RAC Insurance Pty Ltd (ACN 094 685 882)
- (b) Short description of business carried on by that person:  
RAC Insurance Pty Ltd carries on the business of providing general insurance.
- (c) Address in Australia for service of documents on that person:  
Darren Pratt, Phillips Fox Lawyers, Level 19, 1 William Street, Perth, Western Australia 6000
- 2 (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates  
RAC Insurance Pty Ltd provides contents insurance in Western Australia.  
RAC Security Services (WA) Pty Ltd monitors alarm systems.
- (b) Description of the conduct or proposed conduct  
RAC Insurance Pty Ltd intends to offer a 15% discount on RAC Insurance's home contents insurance premiums to people who have their home alarm system monitored by RAC Security Services (WA) Pty Ltd.
- 3 (a) Class or classes of persons to which the conduct relates  
RAC Insurance Pty Ltd home contents insurance policy holders who have a monitored alarm system, which is not monitored by RAC Security Systems (WA) Pty Ltd.
- (b) Number of those persons?
- |      |                                |        |
|------|--------------------------------|--------|
| (i)  | At present time                | 5,000  |
| (ii) | Estimated within the next year | 11,000 |
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:  
Not applicable

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

## **Annexure 1 - Submissions in support of notification of exclusive dealing**

- 1 This submission is in support of a notification of exclusive dealing lodged by RAC Insurance Pty Ltd ('RAC Insurance') with the Australian Competition and Consumer Commission ('the Commission').
- 2 In accordance with the Commission's 'Guide to authorisation and notification for third line forcing conduct' (February 1998), this submission identifies the public benefits and detriment likely to result from the notified conduct. It also provides information on relevant products and markets.

### **RAC Insurance**

- 3 RAC Insurance is a joint venture between RACI Pty Ltd (ACN 008 671 805), a wholly owned subsidiary of the RAC and Vero Insurance Limited (ACN 005 297 807) (formerly Royal & Sun Alliance Insurance Australia Limited), a wholly owned subsidiary of the Promina Group Limited.
- 4 The RAC is a non-profit organisation, and cannot trade under the provisions of the Associations Incorporations Act and its Rules. It provides motoring goods and services to members in return for an annual subscription fee. Its subsidiaries have been formed to carry on trading enterprises that provide further services and provide funds to further the provision of benefits. The RAC Group is a mutual incorporated group, and its ultimate members cannot share in its profits under the provisions of the Associations Incorporations Act and its Rules. It operates for the mutual benefit of the ultimate members. Its trading and activities are carried on by the subsidiaries, without maximising profit, for the mutual benefit of RAC members and to provide a wider community service.

### **The notified conduct**

- 5 RAC Insurance proposes to offer customers an additional discount on their contents insurance on the condition that the customer has their alarm system monitored by RAC Security Services ('notified conduct').

### **Possible applications of Trade Practices Act**

- 6 The notified conduct may contravene section 47(6) and/or 47(7) of the Trade Practices Act 1974 (Cth).

### **Market**

- 7 The notified conduct relates to the market for monitored alarm systems in Western Australia. RAC Security Services (WA) Pty Ltd's share of the relevant market is dependant on how broadly or narrowly that market is defined.

### **Public Benefit**

- 8 The proposed conduct is a competitive response by RAC Insurance. RAC Insurance believes that the conduct is likely to result in public benefit for the following reasons:

- 8.1 It will promote competition amongst providers of both contents insurance and monitored alarms by encouraging competitors in those markets to offer similar discounts and benefits. Similar offers are made by other insurance providers in Australia and do not appear to have lessened competition elsewhere.
- 8.2 Customers can have their alarm monitored by RAC Security Services and receive a discount on their contents policy with RAC Insurance, which is a saving in cost when compared to separately purchasing a monitored alarm service and contents insurance in competitive markets.
- 8.3 Monitored alarms are likely to reduce the risk of theft of premises fitted with the alarm and in turn, monitored alarms are likely to reduce the insurance risk of the premises and help to keep insurance premiums lower.

### **Public Detriment**

- 9 RAC Insurance believes that there is no detriment to the public likely to arise from the notified conduct because:
  - 9.1 Consumers are not compelled to acquire both products together or at all and may purchase either product separately. Consumers will retain the freedom to buy the products separately.
  - 9.2 Competition in the relevant market is vigorous and there are many competitors who are able to provide the relevant products and services.
  - 9.3 There will continue to be a wide choice open to customers in the purchase of contents insurance and/or the monitoring of their alarm systems. Further, pricing in the relevant markets is transparent and consumers are able to make an informed choice in relation to suppliers.

### **Public benefit verses public detriment**

- 10 RAC Insurance submits that the proposed conduct is likely to result in a benefit to the public that outweighs any likely public detriment.

### **Market Position**

- 11 RAC Insurance does not have sufficient market power in the relevant market to force a member of the public to obtain RAC contents insurance. Customers with monitored alarms would be in a position to make an informed decision on whether to obtain contents insurance from RAC Insurance or another competitor in the relevant market.
- 12 An analysis of the proposed offer reveals that there is no compulsion on members of the public to have their alarm system monitored by RAC Security Services, beyond that which can be characterised as a normal exercise of a person's consumer discretion to acquire the most value for his or her consumer dollar.

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**Conclusion**

- 13 On the basis of the above submissions, we consider that the notified conduct has minimal, if any, public detriment. On the other hand, we consider that the notified conduct would lead to public benefits of the type discussed above. Accordingly, we consider that the public benefits likely to arise out of the notified conduct would outweigh the public detriment and this notification should be allowed to stand.
- 14 For these reasons, we submit that the Commission should not serve a notice under section 93(3A) of the TPA in respect of this notification.

Dated: January 2005

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Iain Freeman

Phillips Fox Lawyers



**Fax**



**To:** Jill Gilbert **Fax no:** 02 8234 1211

**Company:** ACCC Canberra

**From:** Darren Pratt

**Our ref:** DJP:981682.doc

**Date:** 21 March 2005 **Total no. of pages:** 3

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Adelaide  
 Brisbane  
 Canberra  
 Melbourne  
 Perth  
 Sydney  
 Auckland  
 Wellington  
 Hanoi  
 Ho Chi Minh City

Dear Ms Gilbert

**RAC Notification**

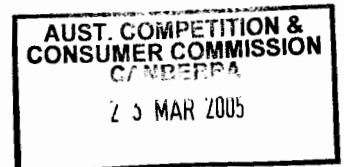
Please find enclosed, as requested, the signed Form G in the above matter.

Yours sincerely

*pp*

Darren Pratt  
Senior Associate

Encl



Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.



**FORM G**

Commonwealth of Australia  
Trade Practices Act 1974 – Subsection 93(1)

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1 (a) Name of persons giving notice:

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

RAC Insurance Pty Ltd carries on the business of providing general insurance.

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

Darren Pratt, Phillips Fox Lawyers, Level 19, 1 William Street, Perth, Western Australia 6000

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

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RAC Security Services (WA) Pty Ltd monitors alarm systems.

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(b) Number of those persons?

(i) At present time 5,000

(ii) Estimated within the next year 11,000

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses: Not applicable

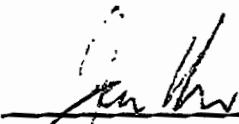


4 Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

Darren Pratt of Phillips Fox Lawyers, Level 19, 1 William Street, Perth, WA 6000

Dated: 24 FEB 2005

Signed on behalf of the persons giving this notice

  
\_\_\_\_\_  
(Signature)  
JAMES HOW

(Full Name)  
GENERAL MANAGER

(Description)