

Freehills

18 January 2005

Our ref PHH:Patrick Gay
 Phone (02) 9322 4378
 Email patrick.gay@freehills.com
 Matter no 80738461
 Doc no Sydney\004782010

Australian Competition and Consumer Commission
 Level 7, Angel Place
 123 Pitt Street
 SYDNEY NSW 2000

By hand

Dear Sir/Madam

Vodafone Pty Limited ("Vodafone") - third line forcing notification

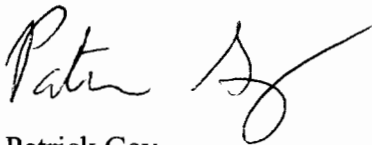
We act for Vodafone.

We enclose for lodgement a notification in relation to conduct which may constitute third line forcing. The notification relates to promotional arrangements involving Vodafone and Von Bibra Motors (Gold Coast Pty Ltd).

We also a enclose cheque for \$100 being the lodgement fee.

If the Commission has any questions or wishes to discuss the notification, please contact me.

Yours faithfully
 Freehills



Patrick Gay
 Senior Associate

FILE No:
DOC: 005/2081
MARS/PRISM: 20998

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FORM G

Regulation 9

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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**
Vodafone Pty Limited ABN 76062954554 (**Vodafone**)
(See Direction 2 on the back of this Form)
- (b) **Short description of business carried on by that person**
Vodafone provides an extensive range of mobile telecommunications services including voice and data communication services.
- (c) **Address in Australia for service of documents on that person**
Attn: General Counsel, Lvl 11, Tower B, 799 Pacific Highway, Chatswood NSW 2067
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates**
The Vodafone post-pay \$79 Super Cap, which provides customers with a variety of Vodafone telecommunications services including up to \$500 worth of standard calls, text messaging services, picture messaging services and voicemail services for a capped fee of \$79 per month, payable in arrears (**Super Cap**).
- (b) **Description of the conduct or proposed conduct**

Vodafone proposes to offer a discount on the Super Cap, namely waiving the second month fee, on condition that an individual purchase a vehicle during the promotional period from Von Bibra Motors (Gold Coast Pty Ltd) ACN 082 787 291 (**Von Bibra**).

There is a promotional agreement between Vodafone and Von Bibra which operates three car dealerships located in Queensland and New South Wales (**Promotional Arrangement**). The addresses of the relevant car dealerships are:

Von Bibra Gold Coast
Auto Village
Expo Park, Nerang Road
Southport, Qld 4215

Von Bibra Harbourn town
Auto Village
610 Oxley Drive
Biggera Waters, Qld 4216

Von Bibra Twintowns
Auto Village
75-79 Wharf St.
Tweed Heads, NSW 2485

The Promotional Arrangement consists of an offer to all individuals who purchase a vehicle at any one of the Von Bibra locations listed above between 1 February 2005 and 31 March 2005. The offer entitles a customer to a promotional discount on the Super Cap. Specifically,

the offer involves the waiving of the \$79 cost of the Super Cap for the second month of service, provided the customer pays for the cost of the Super Cap for the first month.

The proposed conduct will be of benefit to the public as it will:

- promote competition in relevant markets by encouraging competitors of Vodafone and Von Bibra to offer similar promotional benefits; and
- provide customers with the opportunity to obtain additional goods or services at a discount upon the purchase of a vehicle from Von Bibra, representing a real saving to consumers.

The proposed conduct will not substantially lessen competition because:

- customers will be able to acquire the Super Cap from Vodafone at normal rates without any obligation to obtain goods from Von Bibra;
- customers will be able to acquire vehicles from Von Bibra at regular prices without any obligation to obtain goods or services from Vodafone;
- the proposed conduct is part of Vodafone's pro-active competitive market behaviour;
- the proposed conduct does not prevent customers from making normal purchasing decisions based on price and quality for any product;
- customers may acquire products and services equivalent to offered vehicles and telecommunication services from a range of other suppliers; and
- competition in markets for the provision of telecommunications services and vehicles is vigorous and there are many suppliers in these markets.

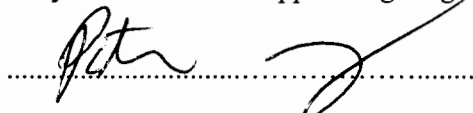
Vodafone believes that the benefits of the proposed conduct outlined above outweigh any possible detriment considered to arise from the conduct.

(See Direction 4 on the back of this Form)

3. (a) **Class or classes of persons to which the conduct relates**
Members of the general public.
- (b) **Number of those persons-**
- (i) **At present time**
None
- (ii) **Estimated within the next year**
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. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice**
Patrick Gay, Freehills, MLC Centre, 19-29 Martin Place, Sydney NSW 2000

Dated 18 January 2005.

Signed by/on behalf of the applicant giving notice



Patrick Gay

Solicitor

