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28 June 2005

Mr Tim Grimwade  
General Manager – Adjudication  
Australian Competition & Consumer Commission  
PO Box 1199  
Dixon ACT 2602

Dear Mr Grimwade

**Application for notification of exclusive dealing**

For the abundance of caution, we have enclosed one Form G application and supporting submission for notification of exclusive dealing for third line forcing under section 93(1) of the Trade Practices Act 1974 (Cth) (the **Act**) for FOXTEL Management Pty Limited on behalf of the FOXTEL Partnership (**FOXTEL**). The promotion which FOXTEL proposes to commence is outlined in the enclosed notification.

There is an inherent public benefit in the conduct because it will provide consumers who would like FOXTEL iQ with the ability to take up the service sooner than would otherwise be possible by means of a deferred payment plan. The conduct will result more flexible payment terms for customers and will increase competition in the markets for both products.

In addition, the proposed conduct will stimulate demand for FOXTEL's subscription television services, demand for credit services at the nominated credit provider and may promote competition in similar markets by encouraging other suppliers of similar credit related services to offer value-added services.

We enclose a cheque on behalf of FOXTEL Management in the amount of \$100 representing lodgement fees.

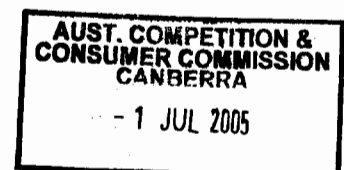
If you have any questions in relation to this notification, or require any additional information please contact Clint Dal Santo on 02 9200 1332.

Yours sincerely



**James Edwards**  
Senior Legal Counsel  
FOXTEL Management Pty Ltd

Encl.



**FOXTEL** 

**FORM G**

Regulation 9

**COMMONWEALTH OF AUSTRALIA**

*Trade Practices Act 1974 - Sub-section 93(1)*

**EXCLUSIVE DEALING:**

**NOTIFICATION**

To the Australian Competition & Consumer Commission:

Notice is 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(6) or (7), of that Act in which the person giving notice engages or proposed to engage.

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1. (a) **Name of person giving notice:**  
FOXTEL Management Pty Limited (ACN 068 671 797) (**FOXTEL**).
  - (b) **Short description of business carried on by that person:**  
FOXTEL provides channels as part of the supply of subscription television services.
  - (c) **Address in Australia for service of documents on that person:**  
James Edwards  
Senior Legal Counsel  
FOXTEL Management Pty Limited  
Wharf 8, Pyrmont, NSW, 2009  
Ph: (02) 9200 1354  
Fax: (02) 9200 1016
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2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**  
Subscription television services.
  - (b) **Description of the conduct or proposed conduct:**  
FOXTEL intends to commence a promotion during July 2005 (continuing indefinitely) offering GE Money customers who are not current FOXTEL iQ subscribers a deferred payment plan when they subscribe to FOXTEL iQ on a 24 month direct debit plan.
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3. (a) **Class or classes of persons to which the conduct relates:**  
Members of the public who are GE Money customers, are not FOXTEL iQ subscribers, wish to become FOXTEL iQ subscribers and wish to take advantage of the promotion.

**(b) Number of those persons:**

- (i) At the present time – Nil.
- (ii) Estimate within the next year – approximately 500.

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

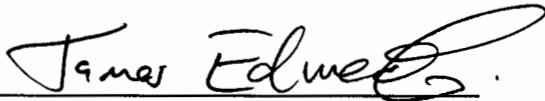
Not applicable.

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

James Edwards  
Senior Legal Counsel  
FOXTEL Management Pty Limited  
Wharf 8, Pyrmont, NSW, 2009  
Ph: (02) 9200 1354  
Fax: (02) 9200 1016

**Dated:** 2005

**Signed** on behalf of the person giving this notice:



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James Edwards  
Senior Legal Counsel  
FOXTEL Management Pty Limited

## **SUBMISSION IN SUPPORT OF NOTIFICATION BY FOXTEL MANAGEMENT PTY LIMITED IN RELATION TO THIRD LINE FORCING CONDUCT**

### **The Proposed Conduct**

FOXTEL intends to commence a promotion during July 2005 (continuing indefinitely) offering GE Money customers, who are not current FOXTEL iQ customers, the ability to access a deferred payment plan when they subscribe to FOXTEL iQ on a 24 month direct debit plan (**the Offer**).

It is proposed that after a GE Money customer who is new to FOXTEL Digital with FOXTEL iQ or is a current FOXTEL Analogue customer upgrading to FOXTEL Digital with FOXTEL iQ calls FOXTEL and proceeds to installation, the customer will be able to, for a period of between three and six months after taking up the offer, incrementally pay off the amount relating to the installation of, access to and first months programming on FOXTEL iQ.

Alternatively, it is proposed that after a GE Money customer who is a current FOXTEL Digital customer calls FOXTEL and proceeds to installation of FOXTEL iQ, the customer will be able to, for a period of between three and six months after taking up the offer, incrementally pay off the amount relating to the installation of and access to FOXTEL iQ.

It is proposed that the Offer will continue indefinitely.

### **Trade Practices Act**

It is possible that the proposed conduct described above might involve conduct of the kind in section 47(6) of the Trade Practices Act 1974 (Cth) (**the Act**) on the basis that FOXTEL is supply a service (s 47(6)(a)) or giving a discount or credit (s 47(6)(c)) on the condition that the subscriber is a GE Money customer.

Similarly, the conduct may fall within section 47(7) of the Act if FOXTEL refuses to supply the service or provide the discount or credit because a person is not a GE CreditLine customer.

### **Public Benefit**

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

- provide GE Money customers who would like FOXTEL iQ with the ability to take up the service on more flexible payment terms than if they were to take up the service separately;
- result in the ability to take up the offer sooner than would otherwise be possible for GE Money customers and will increase competition in the markets for subscription television services; and
- promote competition by encouraging other suppliers of credit related services to offer value-added services.

The proposed conduct does not have any anti-competitive effect in the markets for the relevant products and services as:

- the Offer is intended to stimulate demand for FOXTEL's subscription television services and increase demand for subscription television services;
- there are a number of other potential suppliers of subscription television services and credit related products from whom consumers will still be able to acquire such products;
- the offer does not limit the genuine choice of GE Money customers to subscribe to FOXTEL iQ. Non-subscribers are able to choose whether to subscribe to FOXTEL iQ at the standard installation rate, or to accept the promotional offer;
- there is no obligation on a GE Money customer to take up the offer; and
- there is no loss of transparency in the pricing of the products which would prevent a customer from making an informed decision about the promotion.

The public benefits arising from the proposed conduct will clearly outweigh any possible public detriment.