

# Freehills

FILE No:
DCC:
MARS/PRISM:

25 November 2005

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Matter no 80965252  
Doc no Sydney\004967048

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

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 proposed promotional arrangements involving Vodafone and certain participating Vodafone dealers.

We also enclose a 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

Enc

25 NOV 2005

**FORM G**

Regulation 9

[Front of Form]

COMMONWEALTH OF AUSTRALIA

N.31486

*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: Vodafone 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 supply of mobile telecommunications goods and services.

**(b) Description of the conduct or proposed conduct**Promotional arrangements are contemplated between Vodafone and certain Vodafone dealers (**Participating Vodafone Dealers**).Vodafone will from time to time offer consumers a rebate in respect of certain mobile telecommunications goods (e.g. handsets) (**Promotional Goods**) on the condition that the consumers:(a) enter into, or renew, a service contract with Vodafone in respect of the provision of mobile telecommunication services (**Vodafone Account**); and

(b) acquire the Promotional Goods from Participating Vodafone Dealers.

The rebate will be given by Participating Vodafone Dealers on behalf of Vodafone. Vodafone will subsequently reimburse those dealers.

Full details explaining the terms and conditions of any promotion will be available from Participating Vodafone Dealers. Available details will include:

(a) terms and conditions of the applicable Vodafone Account including early termination fees;

(b) details of the Promotional Good to which the rebate applies; and

(c) the amount of the rebate.

**By way of example, the following promotional activity is contemplated**

Where a consumer enters into 24 month service contract with Vodafone in respect of a specified call plan it is proposed they will be entitled to receive a rebate (the value of which may vary from time to time) from Vodafone on certain mobile handsets acquired from Participating Vodafone Dealers.

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

- promote competition in relevant markets by encouraging competitors of Vodafone and competitors of Participating Vodafone Dealers to offer similar promotional benefits; and
- provide customers with the opportunity to obtain goods at a discount resulting in savings to consumers.

**The proposed conduct will not substantially lessen competition because:**

- competition in markets for the provision of telecommunications services and products is vigorous and there are many suppliers in these markets which could provide similar promotional rebates;
- customers will be able to acquire Promotional Goods at regular prices without any obligation to accept Vodafone's telecommunication services offers;
- customers will continue to be able to enter into contracts for the provision of Vodafone's telecommunications services offers without any obligation to obtain goods to which the rebate applies from Participating Vodafone Dealers;
- 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; and
- customers may acquire products and services equivalent to offered goods and telecommunication services from a range of other suppliers.

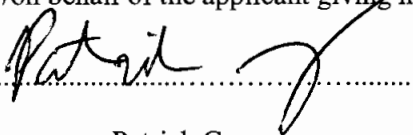
Vodafone submits that the benefits of the proposed conduct outlined above substantially outweigh any possible detriment considered to arise from the conduct.

**(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 25 November 2005.

Signed by/on behalf of the applicant giving notice

A handwritten signature in black ink, appearing to read 'Patrick Gay', is written over a horizontal dotted line.

Patrick Gay

Solicitor

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### **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 sub-section 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 sub-section 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 sub-section 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 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 sub-section 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 sub-section 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 sub-section 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.