

NETGEAR®

Connect with Innovation™

FILE No:

DOC:

MARS/PRISM:

2nd November 2006

**Authorisations and Notifications
Australian Competition and Consumer Commission
Level 7, Angel Place
123 Pitt Street
Sydney NSW 2001**

Re: Notification of Third Line Forcing Exclusive Dealing

Dear Sir/Madam

I enclose Form G, Exclusive Dealing Notification pursuant to section 93(l) of the Trade Practices Act 1974, together with a bank cheque in the sum of \$1000.

Please do not hesitate to contact me should you require further information or if you have any queries about the notification,

Yours faithfully

Regards,



Ryan Parker
Director of Service Provider Business & Partnerships

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY

20 DEC 2006



Form G

Commonwealth of Australia
Trade Practices Act 1974 ---- Sub-section 93(1)
**EXCLUSIVE DEALING
NOTIFICATION**

N92738

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**
Netgear International, Inc. ("NETGEAR") (39 092 286 998)
- (b) **Short description of business carried on by that person**
The NETGEAR group manufactures networking hardware products which are supplied to businesses and individual consumers via its channels to market.
- (c) **Address in Australia for service of documents on that person**
NETGEAR
Level 11, Zenith Tower II
821 Pacific Highway
Chatswood NSW 2067
Australia

Phone: (02) 8448 2072
Fax: (02) 8448 2010
Attention: Legal Counsel
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates.**
NETGEAR ADSL Modems, ADSL Gateways and Broadband Routers and associated accessories
- (b) **Description of the conduct or proposed conduct**
NETGEAR proposes to enter into arrangements with Telstra Corporation Ltd and in particular, BigPond Broadband, to which NETGEAR proposes to :
 - (a) give or allow, or offer to give or allow, persons a discount, allowance, rebate or credit in relations to the supply of a NETGEAR product on the condition that the person purchase the NETGEAR product and sign up to BigPond Broadband in the manner prescribed; or
 - (b) refuse to give or allow a discount, allowance, rebate or credit in relation to the supply of a NETGEAR product to a person for the reason that the person has not acquired the NETGEAR product and sign up to BigPond Broadband in the manner prescribed.

The amounts of the discount, allowance, credit or rebate offered by NETGEAR will vary over time from product to product and model to model.

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

 - reduce costs to the customers who may be otherwise unable to negotiate discounts, rebates, allowances, credits or other benefits in relation to NETGEAR products on their own behalf.
 - provide both business and individual consumers with the opportunity to obtain NETGEAR products at discounted rates.
 - promote competition in the relevant markets by encouraging competitors to offer similar offers or other value added services.

The proposed conduct will not lessen competition in the markets for the relevant products and services and will be pro-competitive as:

 - consumers will be able to acquire the same NETGEAR products at usual prices without the need to sign up for BigPond Broadband. NETGEAR products are compatible with all Broadband providers operating in Australia and around the world.
 - competition in the networking hardware and associated provision of Broadband services markets is vigorous and there are many competitors.
 - consumers may acquire the relevant products and broadband services from a range of other suppliers; and
 - consumers will be provided with a further incentive to purchase NETGEAR products, thus increasing competition in the markets for networking hardware and associated broadband services.

The applicant believes that the likely benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

3. (a) **Class or classes of persons to which the conduct relates**
The public generally.
- (b) **Number of those persons—**
- (i) At present time
Greater than 200
- (ii) Estimated within the next year
Greater than 1000
- (c) **Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses**
Not applicable
4. **Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice**

NETGEAR
Level 11, Zenith Tower II
821 Pacific Highway
Chatswood NSW 2067
Australia

Dated 14 Dec 2001

Signed on behalf of the applicant giving notice

(Signature)

R. J. R. PARKER

(Full Name)

Dir.

(Description)

See our privacy statement at <http://www.accc.gov.au/content/index.phtml?itemId=3763>

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 subsection 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 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.