

FILE No:
DOC:
MARS/PRISM:

**Form G**

Commonwealth of Australia  
*Trade Practices Act 1974 — subsection 93 (1)*

**NOTIFICATION OF EXCLUSIVE DEALING**

(regulation 71)

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

**1. Applicants**

(a) Name of person giving notice:

Vodafone Pty Limited, ACN 062 954 554 (Vodafone) **N93230**

~~Port Adelaide Football Club Limited, ACN 068 839 547 (Port Adelaide)~~

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

Vodafone is engaged in the supply of mobile telecommunications goods and services.

Port Adelaide is a participant in the Australian Football Competitions conducted in Australia by the Australian Football League and is engaged in the supply of football memberships and merchandise.

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

Mariko Smith  
 Lawyer, Vodafone Pty Limited  
 Level 13, 799 Pacific Highway  
 Chatswood NSW 2067

**2. Notified arrangement**

(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 and Port Adelaide memberships.



- (b) Description of the conduct or proposed conduct:

See Attachment B.

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

- (a) Class or classes of persons to which the conduct relates:

Persons who are existing or potential members of Port Adelaide.

- (b) Number of those persons: 110,000

(i) At present time: 110,000

(ii) Estimated within the next year: 110,000

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

**4. Public benefit claims**

- (a) Arguments in support of notification:

See Attachment A.

- (b) Facts and evidence relied upon in support of these claims:

See Attachment A.

**5. Market definition**

Provide a description of the market(s) in which the goods or services described at 2(a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

See Attachment A.

**6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

See Attachment A.

- (b) Facts and evidence relevant to these detriments:

See Attachment A.

**7. Further information**

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mariko Smith

Lawyer, Vodafone Pty Limited

Level 13, 799 Pacific Highway

Chatswood NSW 2067

Dated..... 21 NOVEMBER 2008.....

Signed by/on behalf of the applicant

  
.....  
(Signature)

DIANE KELLY  
.....  
(Full Name)

VODAFONE PTY LIMITED  
.....  
(Organisation)

MARKETING MANAGER - SA  
.....  
(Position in Organisation)

## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

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. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 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. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

## ATTACHMENT A

### 1 Notifying parties

#### **Vodafone Pty Limited (ACN 062 954 554)**

Vodafone Pty Limited (**Vodafone**) is a telecommunications company that supplies telecommunications goods and services to customers in Australia.

#### **Port Adelaide Football Club Ltd (ACN 068 839 547)**

Port Adelaide Football Club (**Port Adelaide**) is a participant in the Australian Football Competitions conducted in Australia by the Australian Football League (**AFL**) and is engaged in the supply of football memberships and merchandise.

### 2 Description of proposed conduct

The proposed conduct is part of a Vodafone/ Port Adelaide marketing initiative to promote Vodafone/ Port Adelaide in connection with Vodafone's sponsorship of Port Adelaide.

The proposed conduct comprises:

1. Vodafone offering to fund a 'cash back' on the cost of a standard 2008 Port Adelaide adult membership, to be paid by Vodafone, on condition that the customer acquires nominated telecommunications products/services from Vodafone. Vodafone will offer 2 'cash back' vouchers that entitles the customer and one of their family members or friends to receive 'cash back'.
2. Vodafone offering:
  - a. New customers 'cash back' on the price of a standard 2008 Port Adelaide adult membership, on the condition that the customer has acquired a Port Adelaide membership for the nominated season and acquires a nominated telecommunications products/services.

Details of the offer will be set out in the advertising and promotional material for the particular offer. The offer will be advertised in media in which the predominant audience will be existing members who have signed up for the 2008 membership or existing members who are yet to sign up for the 2008 membership, such as through direct mail to members, the Port Adelaide website and the Port Adelaide Year Book.

The proposed conduct would include, and is limited to, Vodafone offering 2 x \$125.00 'cash back' vouchers to customers who connect to a 24 month contract in participating Vodafone stores in South Australia on the condition that the customer has acquired a 2008 Port Adelaide membership between [x] December 2007 and 31 May 2008. See Attachment B for full conditions relating to the offer.

Vodafone may refuse to offer the relevant 'cash back' to persons who have not acquired nominated memberships from Port Adelaide during the relevant promotional period.

There is an argument, not necessarily accepted by Vodafone and Port Adelaide, that the proposed conduct may amount to contraventions of s 47(6) and/or s 47(7) of the *Trade Practices Act 1974*.

### 3 Public benefits/public detriments

The proposed conduct will generate public benefits as it will:

- provide customers with substantial savings on Port Adelaide membership; and

- promote competition in the relevant markets by encouraging competitors of Vodafone to offer similar promotional offers.

Vodafone and Port Adelaide also consider the proposed conduct will not result in any lessening of competition because:

is specifically limited in time to a 6 month period;

it is focused primarily in South Australia;

- the customer is free at all times to acquire the relevant telecommunications goods and services from Vodafone at normal rates without any obligation to purchase a Port Adelaide membership;

the customer is free at all times to acquire a Port Adelaide membership at normal rates without the obligation to acquire products/services from Vodafone; and

- the customer is free at all times to acquire telecommunications goods and services from a wide range of other suppliers.

Vodafone's proposed conduct provides a tangible benefit to customers and will not lessen competition. Further, it causes no detriment to customers or to any competitor of Vodafone beyond legitimate competitive conduct.

#### **4 Markets affected**

The relevant markets in which to consider Vodafone's proposed conduct are the markets in which mobile telecommunications goods and services and AFL club memberships are supplied, focusing primarily in South Australia.

## ATTACHMENT B

### Vodafone Pty Limited Port Adelaide Football Club Offer

1. Information on offer and how to claim forms part of these terms and conditions. Submission of a claim is deemed acceptance of these terms and conditions.
2. Offer is only open to Australian residents aged 18 years and over who are 2008 members of the Port Adelaide Football Club ("PAFC") and have received 2 original Vodafone offer coupons in their 2008 PAFC Member Rewards Booklet ("Eligible Person"). Employees (and their immediate families) of the Promoter, the PAFC and companies or agencies associated with this offer are ineligible to participate. By accepting this offer claimants represent that they are eligible to accept the offer.
3. Offer is not available to existing Vodafone Contract Cap or Plan customers who upgrade to a 24 month contract Cap or Plan but is available to existing Vodafone prepay customers who upgrade to a 24 month contract Cap or Plan. Customers who take up the cash back offer will not be eligible to enter the "Why are you the biggest Port Adelaide Football Club fan" competition.
4. To claim 1 x \$125 cash back, Eligible Persons must visit a participating South Australian Vodafone store\* between xx/12/2007 and 5pm AEDST on 31/05/2008 ("Offer Period") and either:

#### **A - Connect to Vodafone on a 24 month contract**

- (a) connect to a Vodafone Contract Cap or Plan for 24 months;
- (b) present an original cash back coupon (photocopies or facsimile will not be accepted) together with their 2008 PAFC Membership Card to the Vodafone representative upon which the Eligible Person will receive \$125 and a cash back receipt;
- (c) sign the cash back receipt indicating that they have received the cash back; and
- (d) indicate on the cash back receipt whether they wish to receive email and/or SMS updates from PAFC.

**OR**

#### **B - Connect a friend/family member to Vodafone on a 24 month contract**

- (a) accompany a friend or family member ("Friend") who connects to a Vodafone Contract Cap or Plan for 24 months during the Offer Period;
  - (b) present an original cash back coupon (photocopies or facsimile will not be accepted) together with their 2008 PAFC Membership Card to a Vodafone representative upon which the Friend will receive \$125 and the Eligible Person will receive a cash back receipt;
  - (e) sign the cash back receipt indicating that the Friend has received the cash back; and
  - (f) indicate on the cash back receipt whether the Friend wishes to receive email and/or SMS updates from PAFC.
5. All valid claims received during the Offer Period will each receive \$125 cash back in the form of cash (either to the Eligible Person in the case of A above or to the Friend in the case of B above). Offer is not transferable or exchangeable. The Promoter's decision in relation to any aspect of the offer is final and no correspondence will be entered into.
  6. Only 2 claims in total permitted per Eligible Person's 2008 PAFC membership.

7. The Promoter reserves the right to verify the validity of claims and claimants (including a claimant's identity and address) and to disqualify any claimant who submits a claim that is not in accordance with these terms and conditions or who tampers with the claim process. Failure by the Promoter to enforce any of its rights at any stage does not constitute a waiver of those rights.
8. If for any reason whatsoever beyond reasonable control of the Promoter, the offer is not capable of being conducted as reasonably anticipated, the Promoter reserves the right, in its sole discretion, unless to do so would be prohibited by law, to (a) disqualify any claimant; and/or (b) suspend, modify, terminate or cancel the offer.
9. The Promoter collects personal information in order to conduct the offer and may, for this purpose, disclose such information to third parties, such as PAFC. Claiming a cash back is conditional upon providing the information requested. If a claimant "opts in" on their cash back receipt, the Promoter may also use the claimant's information for promotional, marketing and publicity purposes. Claimants should direct any request to access, update or correct their personal information to the Promoter. All claims become the property of the Promoter.
10. The Promoter is Vodafone Pty Limited of 799 Pacific Highway, Chatswood NSW 2067 (ABN 76 062 954 554).

\*Participating SA Vodafone stores: Arndale, Burnside, Colonnades, Elizabeth Centre, Glenelg, Golden Grove, Marion 1, Marion 2, Myer Adelaide, Norwood, Rundle Mall 1, Rundle Mall 2, Tea Tree Plaza and West Lakes