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23rd November 2007

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

General Counsel's Office
American Express
Australia Limited
175 Liverpool Street
Sydney NSW 2000 Australia
Tel: 9271 3346
Fax: 9271 2393

Dear Sir / Madam

Third Line Forcing Notification

American Express Australia Limited ABN 92 108 952 085 (**American Express**) has entered into an arrangement with Emeis Cosmetics Pty Ltd ABN 56 007 409 001 trading as Aesop ("Aesop") pursuant to which American Express will, during a promotional period, American Express Cardmembers a discount voucher for future purchases with Aesop using their American Express card

We enclose for your attention:

- an Exclusive Dealing Notification Form relating to the above arrangement for lodgment; and
- the applicable lodgment fee of \$100.

We understand that Aesop will also lodge a notification relating to this offer.

We would be grateful for your confirmation of receipt. If you have any questions in relation to this matter, please do not hesitate to contact myself on (02) 9271 3283.

Yours faithfully

Megan Perez
Legal / Admin Assistant
General Counsel's Office

Email: megan.a.perez@aexp.com
Fax: (02) 9271 2393



Form G

Commonwealth of Australia

Trade Practices Act 1974 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

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. Applicant

- (a) Name of person giving notice:

(Refer to direction 2)

American Express Australia Limited N93232
ABN 92 108 952 085

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

(Refer to direction 3)

American Express Australia Limited (**American Express**) conducts a payment services business, predominantly as an issuer of credit and charge cards and provider of merchant acquiring services.

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

Megan Perez
Legal/Admin Assistant, General Counsel's Office
American Express Australia Limited
Level 28, 175 Liverpool Street
Sydney NSW 2000

Fax (02) 9271 2393

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

This notice relates to the provision of:

- payment card products and services provided by American Express to customers in Australia ("**American Express Products**"); and
- skincare products and consultations provided by Emeis Cosmetics Pty Ltd (ABN 56 007 409 001) trading as 'Aesop' ("**Aesop**").

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

(Refer to direction 4)

The proposed conduct is to offer American Express customers attending the Aesop stand in the Qantas Frequent Flyer Lounge at Melbourne Domestic Airport during 9th December 2007 - 31st December 2007 ("**promotion period**") a voucher valid for 6 months, offering a 10% discount for their next American Express purchase with Aesop.

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:
(Refer to direction 5)

American Express customers attending the Aesop stand at the Qantas Frequent Flyer Lounge at Melbourne Domestic Airport from 9th December 2007 - 31st December 2007.

- (b) Number of those persons:

- (i) At present time:
Nil

- (ii) Estimated within the next year:
(Refer to direction 6)

It is expected that there will be approximately 200 persons affected by the notified conduct within the next year.

- (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:
(Refer to direction 7)

The proposed conduct offers significant benefits to American Express customers by giving them the opportunity to obtain a 10% discount voucher for future purchases of skincare products or consultations from Aesop using their American Express Card.

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

The proposed conduct results in eligible American Express customers receiving a 10% discount voucher when they visit the Qantas Frequent Flyer Lounge at Melbourne Domestic Airport during the promotion period. This voucher, valid for 6 months, can be used for a future purchase made using the American Express Card.

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):
(Refer to direction 8)

The market for the provision of payment card products and services in Australia is highly competitive. Retail customers have a significant number of product options available to them, including charge and credit cards provided

by Diners Club and American Express and credit or debt cards offered by all financial institutions on the Visa and MasterCard networks. Payment card issuers compete in relation to a broad range of product dimensions including:

- card fees;
- interest rates;
- interest free periods;
- transaction fees;
- member services; and
- reward programs.

The market for skincare products and consultations is competitive and widely available through beauty clinics, large and small discount retailers and premium retail chains. There are a large number of competitive offers available to the public in respect of the provision of skincare products and consultation services at any given time.

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:

(Refer to direction 9)

American Express submits that there is no likely detriment to the public resulting from the proposed conduct, and that the proposed conduct would have a negligible effect on competition in the markets noted above in clause 2(a).

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

The proposed conduct:

- in no way limits the genuine choice of customers in choosing whether to obtain a payment card from American Express or any other payment card issuer, and the proposed conduct does not otherwise affect other qualities of the card, such as pricing.
- will not lessen competition as customers will be under no obligation to acquire card services from American Express and customers will be able to purchase Aesop skincare products and consultation services at the standard prices without acquiring any products or services from American Express..

7. Further information

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

Megan Perez
Legal / Admin Assistant , General Counsel's Office
American Express Australia Limited
Level 28, 175 Liverpool Street
Sydney NSW 2000

Tel: (02) 9271 3283
Fax: (02) 9271 2393
Email: Megan.A.Perez@aexp.com

Dated 23 November 2007

Signed by/on behalf of the applicant


.....
(Signature)

Megan Perez

American Express Australia Limited

Legal / Admin Assistant

DIRECTIONS

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.