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FILE No:
DOC:
MARS/PRISM:

The General Manager
Adjudication Branch
Australian Competition and
Consumer Commission
GPO Box 3131
Canberra. ACT 2601

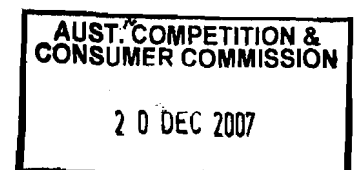
Dear General Manager,

Please find enclosed a cheque for \$100 for the OPSM ACCC application lodgement fee. Please contact me directly if you have any questions regarding the application.

Kind regards,
Jessica
02 9463 3302
Jessica@iclp.com.au



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FORM G

Commonwealth of Australia
Trade Practice 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 in 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.

1. Applicant

(a) Name of persons giving notice:

- (i) Luxottica, trading as OPSM
(OPSM)

N93255

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

- (i) OPSM

Retailers of prescription Eye Glasses and Sunglasses.

- (ii) ICLP

ICLP is a full service agency specialising in partnership marketing. Services include planning, partner identification, liaison with partners to obtain the best deals, end-user communication through marketing and customer contact centres, management of partners to ensure deals are fulfilled, renewed and improved, plus reporting.

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

c/o –Jessica McIntyre
Partnership Manager
International Customer Loyalty Programs Pty Ltd
62 Alexander St
CROWS NEST, NSW 2065

2. Notified arrangement

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

Supplies prescription frames, lenses and sunglasses.

(b) Description of the conduct or proposed conduct:

OPSM will contract with ICLP to make a number of offers to individuals who are holders (**Cardholders**) of a VISA Platinum or VISA Infinite payment card. Cardholders wishing to take advantage of the offers must use their VISA Platinum Card or VISA Infinite Card to purchase the relevant products or services. The offers include:

- (i) Discounts on selected brands of prescription frames, lenses and sunglasses;
- (ii) Discounts on all prescription frames, lenses and sunglasses;
- (iii) Discounts on all OPSM accessories;
- (iv) Exclusive bonus gift voucher for VISA Platinum Cardholders or VISA Infinite Cardholders; and
- (v) Entry into a free prize draw when purchasing with OPSM.

(For convenience, the offers specified in sub-paragraphs (i) to (v) (inclusive) above are hereafter referred to as the **OPSM offers**.)

Access to the OPSM Offers will usually be via a VISA-hosted website or the OPSM website on condition that the Cardholder pays for the OPSM Offers using his or her VISA Platinum or VISA Infinite Card. The purchase price of the products or services will be debited by the member financial institution that issued the relevant card to the Cardholder's account with that financial institution.

The proposed OPSM Offers may constitute third line forcing pursuant to sections 47(6) and/or 47(7) of the *Trade Practices Act* (Cth). This is because it may be argued that the OPSM Offers will only be available to consumers if the consumers acquire the payment services of a VISA Platinum or VISA Infinite card.

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

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

VISA Platinum Cardholders and VISA Infinite Cardholders

(b) Number of those persons:

(i) At present time:

194,000 cardholders hold a VISA Platinum credit card. At present there are no VISA Infinite cards on issue.

(ii) Estimated within the next year:

ICLP does not have access to privileged information for Visa and its members.

(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:

The proposed conduct will be of benefit to the public because:

- (i) the proposed OPSM Offers will provide VISA Platinum Cardholders and VISA Infinite Cardholders, with discounts on various OPSM products.
- (ii) it will promote competition to other Optometrists, by encouraging competitors to make similar offers to their customers.

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

The OPSM Offers are a competitive response to a number of other offers which are currently being made by Optometrists to cardholders of other branded payment cards. These offers will not only result in the benefit of discounted frame & lenses offers being made available to VISA Platinum and VISA Infinite Cardholders, but are also likely to result in further competitive responses by other Optometrists, through offers to VISA's competitors.

5. Market definition

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):

A market in which the services in 2(a) are supplied is the market for the supply of men's and women's prescription frames, lenses and sunglasses. There is a range of Optometrists, including Laubman & Pank and OptomEyes.

A market affected by the conduct includes the market for the acquisition of payment card services. The supply of payment card services is highly competitive and this competition will not be negatively impacted by the notified conduct.

6. Public detriments

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:

No public detriment will arise from the notified conduct, for the following reasons:

- (i) The general public not holding VISA Platinum and VISA Infinite Cards will continue to have access to Optometrists offers which will be made by OPSM to the general public, as well as to offers by OPSM's wide array of competitors;
- (iii) OPSM experiences strong competition from a range of sunglass retailers including for example Laubman & Pank and OptomEyes.

For these reasons, there is no significant detriment to the public as a result of the proposed conduct.

(b) Facts and evidence relevant to these detriments

As noted above, the detriments arising from the OPSM Offers are expected to be insignificant. The range of competition experienced by OPSM is evidenced by a brief review of the following websites of its competitors:

<http://www.laubmanandpank.com.au/>

<http://www.optomeyes.com.au/index.htm>

7. Further information

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

c/o –Jessica McIntyre
Partnership Manager
International Customer Loyalty Programs Pty Ltd
62 Alexander St
CROWS NEST, NSW 2065

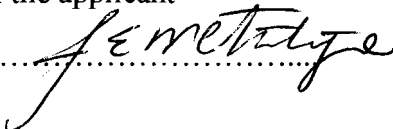
Telephone: (02) 9463 3302

Facsimile: (02) 9966 4774

Email: Jessica.mcintyre@iclp.com.au

Dated: 18 / 12 / 2007

Signed by/on behalf of the applicant

.....
(Signature) 

.....
Jessica Elizabeth McIntyre
(Full Name)

.....
International Customer Loyalty Programs Pty Ltd
(Organisation)

.....
Partnership Manager
(Position in Organisation)