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Our ref SHS:0230526



LAWYERS

12 October 2007

By hand

Scott Gregson
General Manager, Adjudication
Australian Competition & Consumer Commission
c/- Level 7, Angel Place
123 Pitt Street
Sydney NSW 2000

FILE No:
DOC:
MARS/PRISM:

Gilbert + Tobin

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Dear Mr Gregson,

Notification of third line forcing

We enclose a notification in relation to third line forcing on behalf of Vodafone Pty Limited, ACN 062 954 554 (**Vodafone**) and the Brisbane Bears-Fitzroy Football Club Limited, ACN 054 263 473 (**Brisbane Lions**). This notification is made under s 93(1) of the *Trade Practices Act 1974*.

This notification includes Confidential Schedule 1, in respect of which the notifying parties claim confidentiality. We believe this confidential material to be non-controversial, given the details provided elsewhere in the notification. We therefore request that Confidential Schedule 1 be excluded from the public register.

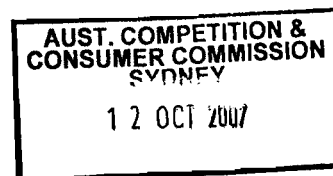
We also enclose a cheque for \$200 being the required filing fees for Vodafone and the Brisbane Lions.

Please contact me if you require any further information.

Yours sincerely,

Gilbert + Tobin

Simon Snow
Partner
Gilbert + Tobin
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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 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.

Please follow directions on back of this form

1 Applicants

(a) Name of persons giving notice:

Vodafone Pty Limited, ACN 062 954 554 (**Vodafone**) N93170

Brisbane Bears-Fitzroy Football Club Limited, ACN 054 263 473 (**Brisbane Lions**) N93169

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

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

The Brisbane Lions 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:

Simon Snow
Partner, Gilbert + Tobin
Level 37, 2 Park Street
Sydney NSW 2000

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 Brisbane Lions memberships.

(b) Description of the conduct or proposed conduct:

See Attachment A.

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 the Brisbane Lions.

(b) Number of those persons:

(i) At present time: unknown, but substantially greater than 50.

- (ii) Estimated within the next year: unknown, but substantially greater than 50.
- (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.

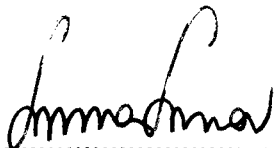
7 Further information

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

Simon Snow
Partner, Gilbert + Tobin
Level 37, 2 Park Street
Sydney NSW 2000
T +61 2 9263 4246

Dated 12 October 2007

Signed by/on behalf of the applicants



.....
Simon Snow
Gilbert + Tobin
Partner

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 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.

Brisbane Bears-Fitzroy Football Club Limited (ACN 054 263 473)

Brisbane Bears-Fitzroy Football Club Limited (**Brisbane Lions**) 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/Brisbane Lions marketing initiative to promote Vodafone/Brisbane Lions in connection with Vodafone's sponsorship of the Brisbane Lions.

The proposed conduct comprises:

1. Vodafone offering to fund a rebate on the cost of Brisbane Lions memberships, to be paid through the Brisbane Lions, on condition that the customer acquires nominated telecommunications products/services from Vodafone. If membership of the Brisbane Lions exceeds a set target, then the Brisbane Lions will contribute to the cost of the rebate for some additional members in excess of this target in accordance with Confidential Schedule 1.
2. Vodafone offering:
 - a) new customers a rebate or discount off the price of nominated Vodafone services, including mobile telecommunications goods and services, on the condition that the customer acquires, or has acquired, a Brisbane Lions membership for the nominated season;
 - b) existing Vodafone Contract Customers free Vodafone Brisbane Lions alerts, mobile phone accessories and/or any other discounts or rebates on nominated telecommunications products/services on condition the customer acquires, or has acquired, a Brisbane Lions membership for the nominated season; and/or
 - c) existing Vodafone Prepay Customers free Vodafone Brisbane Lions alerts and/or discounts or rebates on any other nominated telecommunications products/services on condition the customer acquires, or has acquired, a Brisbane Lions membership for the nominated season.

Details of the offers will be set out in the advertising and promotional material for particular offers, including:

- (a) details of the relevant Vodafone telecommunications goods and services and the amount of any rebate available in accordance with the particular offer;
- (b) details of the relevant rebate available on Brisbane Lions memberships; and
- (c) the period during which the offer will be available.

For example, the proposed conduct would include, but would not be limited to, Vodafone offering a free handset to customers who connect to a 24 month cap contract with Vodafone and a 50% rebate on Brisbane Lions membership on the condition that the customer acquires, or has acquired, a 2008 Brisbane Lions membership between late October 2007 and March 2008.

Vodafone may refuse to offer the relevant rebate to persons who have not acquired nominated memberships from the Brisbane Lions during the relevant promotional period. Similarly, the Brisbane Lions may refuse to offer the relevant rebate to persons who have not acquired nominated products and/or services from Vodafone.

There is an argument, not necessarily accepted by Vodafone and the Brisbane Lions, 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 the cost of Vodafone telecommunications goods and services;
- provide customers with substantial savings on Brisbane Lions memberships; and
- promote competition in the relevant markets by encouraging competitors of Vodafone to offer similar promotional rebates.

Vodafone and the Brisbane Lions also consider that the proposed conduct will not result in any lessening of competition because:

- 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 Brisbane Lions membership;
- the customer is free at all times to acquire a Brisbane Lions membership at normal rates without any 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.

**EXCLUDED FROM
PUBLIC REGISTER**

CONFIDENTIAL SCHEDULE 1

