



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/988
Contact Officer: Ilona Balint
Contact Number: (02) 6243 1113

22 August 2008

Mr Murray Deakin
Partner
Middletons
Locked Bag 1
Royal Exchange NSW 1225

Dear Mr Deakin,

**Third line forcing notification N93443 lodged by
Vodafone Pty Limited**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 18 June 2008. The notification has been placed on the ACCC's public register.

Vodafone Pty Limited (Vodafone) has described the conduct as follows:

Vodafone proposes to develop, support and promote over time a range of product promotions with its authorised dealers to promote the sale of Vodafone goods and services.

Vodafone notes that these product promotions will be organised between Vodafone and dealers which are authorised by Vodafone to sell Vodafone goods and services.

Under these product promotions, Vodafone will from time to time offer customers a financial benefit in respect of the effective price payable for:

- *a particular Device; or*
- *telecommunications services,*

on the condition that the customer enters into, or renews, a service contract with Vodafone in respect of the provision of telecommunication services and purchases the Device from a Vodafone Authorised Dealer.

The financial benefit will be made available to participating customers in the form of a discount, allowance, rebate or credit in relation to the supply of the particular Device and/or telecommunications services which are the subject of the product promotion. The specific details of the financial benefit to be offered to customers will be specified in the promotional material developed to support the particular product promotion and will be available from Vodafone Authorised Dealers participating in the promotion. These details will include:

- *the particular Device to which the relevant promotion relates;*
- *the Vodafone telecommunications services to be provided, including the terms and conditions of those services; and*
- *the period for which the particular promotion will be available.*

By way of example, a product promotion would include, but would not be limited to Vodafone waiving two months access fee on a 24 month 1GB Data Bundle to customers who purchase a laptop computer from a Vodafone Authorised Dealer.

Legal immunity conferred by the notification came into force on 2 July 2008.

I note your advice by email on 24 June 2008 that Vodafone is only seeking immunity for itself under the notification. As you are aware a notification for exclusive dealing can only be lodged by the party engaging in the conduct. Should Vodafone Authorised Dealers be at risk of engaging in conduct of a kind as described in subsections 47(6) and (7) of the Act they may wish to consider lodging notifications describing such conduct.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Ilona Balint on (02) 6243 1113.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch