

FILE No:

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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(6) or (7) of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) Name of person giving notice:

N94160 FOXTEL Management Pty Limited (ACN 068 671 938) ("FOXTEL").

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

FOXTEL provides subscription television services to members of the general public.

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

Eloise Schnierer
Legal Counsel
FOXTEL Management Pty Limited
5 Thomas Holt Drive, North Ryde, NSW, 2113
Ph: (02) 9813 7610
Fax: (02) 9813 7606

2. Notified arrangement

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

Subscription television services.

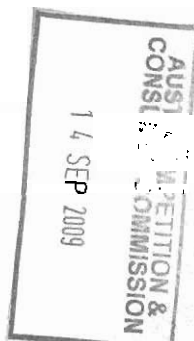
(b) Description of the conduct or proposed conduct:

FOXTEL intends to commence an exclusive promotion with the Commonwealth Bank on 21st September 2009 which will be available to existing Commonwealth Bank home load customers. It is proposed that Commonwealth Bank home load customers will be eligible to receive a discounted FOXTEL Service subscription.

This offer will be made available to Commonwealth Bank customers who are existing FOXTEL subscribers, as well as new FOXTEL subscribers.

The offer to new FOXTEL subscribers who subscribe to a 12 month direct debit contract with FOXTEL to receive the FOXTEL Service comprises:

- i. a free standard metropolitan city installation of the standard digital set top unit or FOXTEL iQ set top unit, valued at \$100.00; and



- ii. one month of the Platinum package valued at \$110.00
(the "New Subscriber FOXTEL Offer")

Existing FOXTEL subscribers who wish to upgrade to Multiroom will be offered a free standard metropolitan city installation of a standard digital set top unit in a second room, valued at \$25.

(the "Existing Subscriber FOXTEL Offer")

The New Subscriber FOXTEL Offer and the Existing Subscriber FOXTEL Offer are collectively referred to as the FOXTEL Offers. In each case, new and existing subscribers will be required to subscribe to the Get Started (or entry level).

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:
Commonwealth Bank home load customers who wish to take advantage of the FOXTEL Offers.
- (b) Number of those persons:
 - (i) At the present time – Nil
 - (ii) Estimate within the next year – 150
- (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 as it will:

- provide existing and new Commonwealth Bank home load customers with the ability to take up one of the FOXTEL Offers at a genuine saving on the total price of the FOXTEL Service than if they were to subscribe in the normal course; and
- result in savings when upgrading to Multiroom in the case of existing subscribers.

The proposed conduct does not have any anti-competitive effect in the markets for the relevant products and services as:

- the FOXTEL Offers are intended to stimulate demand for FOXTEL's subscription television services;
- the FOXTEL Offers do not limit the genuine choice of consumers who wish to subscribe to the FOXTEL service. Consumers may elect to subscribe to the FOXTEL Service independently of the

FOXTEL Offers if the terms of the FOXTEL Offers do not appeal to these consumers.

- there is no obligation on a Commonwealth Bank home loan customer to take up the FOXTEL Offers; and
- there is no loss of transparency in the pricing of the products which would prevent a customer from making an informed decision about the promotion.

The public benefits arising from the proposed conduct will clearly outweigh any possible public detriment.

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):

The relevant market likely to be affected by the proposed conduct is the market for the provision of home loans and the banking industry.

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:

FOXTEL considers that limited public detriment results from the proposed conduct as consumers are not forced to purchase a Commonwealth Bank home loan in order to subscribe to the FOXTEL Service. Consumers can still subscribe to the FOXTEL Service from FOXTEL directly and they can purchase home loans from other suppliers.

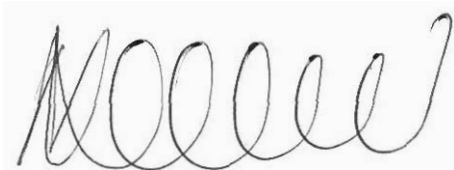
7. Further information

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

Eloise Schnierer
Legal Counsel
FOXTEL Management Pty Limited
5 Thomas Holt Drive, North Ryde, NSW, 2113
Ph: (02) 9813 7610
Fax: (02) 9813 7606

Dated 9 September 2009

Signed by/on behalf of the applicant

A handwritten signature in black ink, appearing to read 'Lynette Ireland', written in a cursive style. The signature is contained within a light grey rectangular box.

Lynette Ireland
FOXTEL Management Pty Limited
Director of Legal