

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:

Singtel Optus PTY Limited ABN 90 052 833 200 (Optus) N94218

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

Optus is an integrated telecommunications services provider. Optus specialises in a broad range of communications services including mobile, local, national and long distance telephony, business network services, internet and satellite services and subscription television.

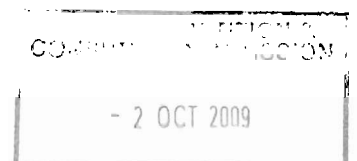
(c) Address in Australia for service of documents on that person:

1 Lyonpark Road, Macquarie Park NSW 2113

2. Notified arrangement

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

- Hewlett-Packard Australia Pty Ltd (HP):
 - Laptops (including Netbooks and Notebooks)
- SingTel Optus, Small and Medium Business:
 - Optus Wireless Broadband internet service. The customer receives an Optus Sim card and a USB Modem (if the customer has an embedded modem in their laptop a USB modem is not required as they can insert the Sim card into the laptop).
- Pinpoint Pty Ltd
 - VISA universal gift card administrator.



(b) Description of the conduct or proposed conduct:

If a Small and Medium Business (**SMB**) customer (with an ABN) purchases a HP laptop from a HP sales channel partner store, they will be eligible for a 'Cash Back' offer if they sign up to and activate to a 2GB or above Optus SMB Wireless Broadband plan over 24 months, to the value of approximately \$39.99 per month. Total Min cost is \$959.76. Offers will vary between \$29.99 per month to \$59.99 per month depending on the amount of data the customer chooses (**Offer**). Only one 'Cash Back' is available per laptop purchased. The Offer will only be available for a limited time up until December 31 2009. However, the offer may be extended until 1 July 2010.

When a customer purchases a HP laptop, they will be informed of the Offer by the HP sales representative. The customer will be given advertising material containing details of the Offer. If the customer wishes to take up the Offer, the HP sales representative will log the customer's request and an Optus representative will contact the customer at a later stage. Alternatively, the customer may contact Optus directly at a later stage. The customer has 30 Days from the date they purchased the HP laptop to take advantage of the Offer. If the customer decides to take up the offer, an Optus sales representative will perform a Credit Check and a Service Quality check to make sure that Optus Wireless Broadband has sufficient coverage to meet the customer's needs. The Optus sales representative will consult the customer on the most suitable Wireless Broadband plan and can sign them up over the phone to take up the Offer if they so wish.

After the sale and activation, Optus will initiate the 'Cash Back' offer for the customer through Pinpoint Pty Ltd. The customer does not have to initiate the 'Cash Back' claim process by going to a web site or calling in to claim the offer. The customer will receive the 'Cash Back' amount in the form of a VISA gift card from Pinpoint within 30 days of activation to the Optus Wireless Broadband service. The VISA Gift Card has a 12 month expiry.

One VISA gift card will be sent to the customer per offer, pre-loaded with \$100 - \$150 (depending on the offer) to spend however the customer likes, wherever VISA pre-paid cards are accepted. The card will be activated for the customer, so it is ready to spend as soon as the customer has signed the back of the card. To use the card the customer will need to swipe it, choose CREDIT and sign the docket – it does not have a PIN. To check the cards balance or transaction history or to read the complete FAQs or terms and

conditions of using the card, the customer can visit www.universalgiftcard.com.au. Alternatively, they can phone 1800 174239.

There is no obligation for the customer to sign up to VISA to obtain or use the VISA gift card, nor will the customer's details be sent to VISA for any marketing activities

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:

The Offer will only be available to Small and Medium Business customers with an ABN who purchase an HP laptop.

(b) Number of those persons:

(i) At present time:

N/A. This offer is not yet available.

(ii) Estimated within the next year:

Estimated take up of the offer is:

- Stage 1) November – December 31 2009, 600 per month or 1200 in total.
- Stage 2) January 2010 – July 1 2010, 900 per month or 5400 in total.
- Total offer take up is estimated at 6,600 offers.

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

N/A

4. Public benefit claims

(a) Arguments in support of notification:
(Refer to direction 7)

- The Offer entitles the customer to \$100 - \$150 Cash Back when they purchase and activate a Wireless Broadband plan with Optus SMB after purchasing a Laptop from HP. This is a significant saving for the customer.
- The customer is not forced to take up the Offer. The customer is free to purchase Wireless Broadband from another provider of their choice.
- There is no pressure on the customer to decide whether to take the Offer at the point of sale. The customer is able to go away and

consider their options, and to contact Optus in their own time if they choose to.

- The customer is not forced to purchase the products together. The laptop can be purchased without taking Optus Wireless Broadband, and similarly, Optus Wireless Broadband can be purchased without the HP laptop. However, the discount is only available to customers who purchase an HP laptop, and then purchase and activate Optus Wireless Broadband within 30 days.
- This Offer confers a significant benefit on the customers and will likely result in increased competition in the relevant markets for the supply of complementary products - wireless broadband and laptops.
- There is no obligation for the customer to sign up to VISA to obtain or use the VISA gift card, nor will the customer's details be sent to VISA or Pinpoint for any marketing activities.

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

The above claims are supported by the structure of the Offer, as described above.

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)

- Acquirers/customers:
 - Small and Medium Businesses only (must have an ABN)
- Suppliers of the Offer;
 - SingTel Optus Pty Limited: Wireless Broadband
 - Pinpoint Pty Ltd: VISA gift card
 - HEWLETT-PACKARD AUSTRALIA PTY LTD: Laptop (Notebooks and Netbooks)
- Other significant suppliers:
 - Telstra, VHA & inet
 - Apple, Dell, , Sony Vaio, Toshiba, Asus, Acer, Lenovo
- The relevant markets are:

- the national market for the supply of laptops (netbooks and notebooks); and
- the national market for the supply of wireless broadband.
- Substitutable products are:
 - PC desktops, laptops, netbooks, notebooks manufactured and sold by other suppliers
 - Dial up, fixed broadband and wireless broadband supplied by other telecommunications companies.
- Restrictions on supply
 - Geographic: Optus Wireless Broadband coverage only works in certain areas (see www.optus.com.au/coverage for coverage information). The product may not be suitable for all SMB customers. Eligible customers wishing to take the Offer will be given a Service Quality check to ensure the product is suitable for their needs.
 - Financial Eligibility. All wireless broadband customers must pass a credit check before they can purchase the service.
 - As stated above, the Offer is only available to certain types of customers, i.e. SMB customers with an ABN.

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)

None.

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

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7. Further information

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

Mr Peter MacGregor

1 Lyonpark Road, Macquarie Park, NSW 2113 Australia

+61 2 8082 8559

Dated... 01-10-2009

Signed by/on behalf of the applicant


.....
(Signature)

PETER CHRISTOPHER MACGREGOR
.....
(Full Name)

SINGTEL OPTUS
.....
(Organisation)

PRODUCT MARKETING MANAGER - INTERNET (SMB)
.....
(Position in Organisation)

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 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.