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2 November 2009

Mr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

By post and email:
adjudication@acc.gov.au

Dear Mr Chadwick,

Notification of Exclusive Dealing – Travelex Limited

We act for Travelex Limited (*Travelex*).

We enclose a Notification of Exclusive Dealing by Travelex pursuant to section 93(1) of the *Trade Practices Act 1974* (the *Act*). The Notification is lodged in respect of conduct which may constitute third line forcing as defined by sections 47(6) and 47(7) of the *Act*. The notification is given in the prescribed form and should not be taken as an admission that the relevant conduct would contravene the statutory prohibition.

We also enclose a cheque made payable to the Australian Competition and Consumer Commission in the sum of \$100, being the prescribed lodgement fee for the Notification.

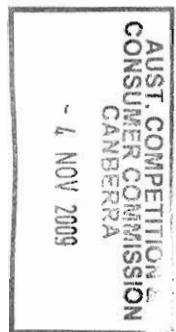
Please contact us should you require any further information about the proposed conduct described in the attached Notification.

Thank you for your assistance.

Yours sincerely,

Stephen Watts
Partner
+61 3 9617 4275
stephen.watts@bakernet.com

Encl



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:**
(Refer to direction 2)

N94310 Travelex Limited ACN 004 179 953 (*Travelex*)

- (b) **Short description of business carried on by that person:**
(Refer to direction 3)

Travelex:

- (a) is authorised under Australian financial services licence (*AFSL*) (No 222444) to provide financial product advice for, and deal in, basic deposit products and non-cash payment products to retail and wholesale clients; and
- (b) provides financial services and products to retail and wholesale clients, predominantly being foreign exchange related products.
- (c) **Address in Australia for service of documents on that person:**

Attention: **Adam Koch**
 General Manager Asia Pacific
 Travelex Retail APAC

CC: **Company Secretary**

Telephone: 61 (02) 8585 7000

Facsimile: 61 (02) 8585 7120

2 Notified arrangement

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

The supply by Travelex (or its authorised representatives) of services (*Arranging Services*) in relation to the supply by HSBC Bank plc (*HBEU*) of retail banking services in the United Kingdom (*UK*) to Australian retail customers who are intending to move to the UK. The Arranging Services involve Travelex making offers to customers to arrange for the issue, variation or disposal of HBEU's basic deposit

products known as HSBC Passport and HSBC Plus or such other names that the accounts are known as from time to time (*HSBC Account*).

Travelex will conduct all activities in relation to the Arranging Services in Australia, under Travelex's AFSL.

HBEU, for its part, will issue, vary or dispose of the HSBC Accounts in accordance with such offers, if they are accepted.

(b) Description of the conduct or proposed conduct:

Travelex offers to supply Arranging Services on the condition that customers acquire either:

- (A) from Heritage Building Society Limited (*Heritage*) a Pounds Sterling denominated pre-paid debit card to the value of £1,000 or greater (*Cash Passport Card*). (Heritage, an Authorised Deposit-taking Institution (*ADI*) regulated by the Australian Prudential Regulation Authority, will issue the Cash Passport Card, which is a financial product regulated under Chapter 7 of the *Corporations Act 2001* (Cth).); or
- (B) a GBP denominated draft to the value of £1,000 or greater from the Bank of New York, London. (*Draft*)

(Refer to direction 4)

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:

(Refer to direction 5)

Australian retail customers who are intending to move to the UK and who wish to open a UK bank account with HBEU.

(b) Number of those persons:

(i) At present time:

None. Travelex has not commenced engaging in the proposed conduct.

(ii) Estimated within the next year:

(Refer to direction 6)

Estimated to be 6,000 in 2009-2010.

(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:

(Refer to direction 7)

The proposed conduct will provide the following public benefits:

- (i) the provision of Arranging Services in Australia will ensure that the HSBC Account in the UK is established prior to the customer's arrival in the UK;
- (ii) providing the Cash Passport Card or the Draft will ensure customers have funds with them in Pounds Sterling when they arrive in the UK;
- (iii) customers will not have to purchase Pounds Sterling from a foreign exchange dealer upon arrival in the UK, thereby avoiding the inconvenience of having to convert their currency to Pounds Sterling when they arrive in the UK and also enabling them to limit their exposure to changes in currency conversion rates between when they apply for their UK Bank Account in Australia and when they arrive in the UK; and
- (iv) the proposed conduct is likely to promote competition between providers of banking services and pre-paid debit cards for retail customers in Australia who wish to open a bank account in the UK. It may encourage other providers to offer similar value-added benefits as part of their service. This in turn will result in more choice and better value-added services for customers.

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

The provision of the Cash Passport Card or the Draft as part of the process of applying for the HSBC Account in Australia is an efficient, convenient and cost-effective method of ensuring available funding for the customer when they arrive in the UK.

Due to regulatory restrictions, generally, only an ADI can issue an EFTPOS enabled pre-paid debit card which can be widely used, such as the Cash Passport Card. Travelex is not an ADI and therefore cannot supply the Cash Passport Card directly to customers. Accordingly, Travelex has arranged for the Cash Passport Card to be issued and supplied by Heritage, an ADI, for the benefit of customers.

By directing customers to acquire the Cash Passport Card from Heritage, Travelex ensures that all regulatory requirements are met in respect of the issue and supply of the Cash Passport Card.

Customers who do not wish to acquire the Cash Passport Card from Heritage will have the option of acquiring the Draft from the Bank of New York.

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)

The markets likely to be affected by the proposed conduct are the market for arranging services in relation to the opening of retail banking accounts and the market for the supply of pre-paid debit cards.

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)

Travelex does not consider there will be any public detriment arising from the proposed conduct.

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

- (i) There are many suppliers in Australia of arranging services in relation to the opening of retail banking accounts, and there are many suppliers of pre-paid debit cards;
- (ii) The proposed conduct only affects those customers in Australia who wish to open a bank account with HBEU in the UK. Customers do not have to open a bank account with HBEU. They can choose from any of a large number of other banks providing retail banking services in the UK. Customers choosing another bank will not be required to take services from Travelex and will not be required to acquire the Cash Passport Card from Heritage or the Draft from the Bank of New York;
- (iii) Customers in Australia who wish to open a bank account with HBEU are not required to acquire the services of Travelex and are not required to acquire either the Cash Passport Card from Heritage or the Draft from the Bank of New York. Instead they can choose to wait until they arrive in the UK and then seek to open a HSBC Account with HBEU directly, without paying a fee or acquiring a Cash Passport Card or Draft;
- (iv) Customers who wish to open a HSBC Account before they travel to the UK do not have to acquire the services of Travelex and do not have to acquire either the Cash Passport Card from Heritage or the Draft from the Bank of New York. Customers can instead choose to open an account by contacting their local HSBC branch in Australia who will provide them with HSBC International Banking Centre contact details to open the account before they arrive in the UK. Customers can also apply online via the following website HSBC.co.uk; and
- (v) The number of retail customers potentially affected by the proposed conduct is insignificant compared to the total number of consumers who require banking products and services.

7 Further information

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

Stephen Watts
Partner
Baker & McKenzie
Level 27, AMP Centre

50 Bridge Street
Sydney NSW 2000

Telephone: +61 3 8922 5175
Email: stephen.watts@bakernet.com

Dated: 2 November 2009

Signed by/on behalf of the applicant



(Signature)

Stephen Watts

Partner, Baker & McKenzie

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.