

FILE No:
DOC:
MARS/PRISM:



20 November 2009

General Counsel's Office

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

**American Express
Australia Limited**
American Express House
12 Shelley Street
Sydney NSW 2000 Australia
Tel: (61 2) 9271 3283
Fax: (61 2) 9271 2393

Dear Sir / Madam

Third Line Forcing Notification

American Express Australia Limited ABN 92 108 952 085 (**American Express**) has entered into an arrangement with selected American Express Merchant participating in the American Express Selects® program (**Selects Partners**) pursuant to which American Express will offer incentives to American Express Cardmembers who make purchases with the Selects Partners.

We enclose for your attention:

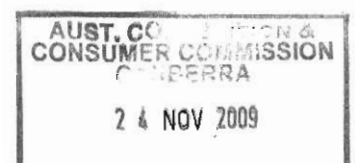
- an Exclusive Dealing Notification Form relating to the above arrangement for lodgment; and
- the applicable lodgment fee of \$100.

We would be grateful for your confirmation of receipt. If you have any further queries do not hesitate to contact me on (02) 9271 3283.

Yours faithfully

Megan Perez
General Counsel's Office

Email: Megan.A.Perez@aexp.com
Telephone: (02) 9271 3283
Facsimile: (02) 9271 2393



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:

N94331

American Express Australia Limited ABN 92 108 952 085

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

American Express Australia Limited (**American Express**) conducts a payment services business, predominantly as an issuer of credit and charge cards and provider of merchant acquiring services.

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

Megan Perez
General Counsel's Office
American Express Australia Limited
Level 1 / 12 Shelley Street
Sydney NSW 2000
Fax (02) 9271 2393

2. Notified arrangement

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

This notice relates to the provision of:

- payment card products and services provided by American Express to customers in Australia ("**American Express Products**"); and
- various American Express Merchants participating in the American Express Selects® incentive offer from time to time ("**Selects Partners**") including retailers, travel service providers and restaurants, entertainment service providers.

(b) Description of the conduct or proposed conduct:

The proposed conduct offers a range of incentives to eligible American Express Cardmembers who make purchases with Selects Partners. Incentives include 10% - 20% discount on purchase; bonus gift with purchase; 'buy one get one free' offer or bonus American Express Membership Rewards Points.

For example, an eligible American Express Cardmember may receive a discounted subscription or complimentary service or Bonus American

Express Membership Rewards when using their American Express Card to purchase a subscription from Foxtel.

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:
American Express customers who make purchases with Selects Partners.
- (b) Number of those persons:
 - (i) At present time: Nil
 - (ii) Estimated within the next year:
It is expected that there will be approximately 25,000 within the next year.
- (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 offers public benefits by promoting competition among providers of payment card products and services and encouraging other payment card products and services suppliers to offer value add services. The proposed conduct may also promote enhanced competition within the consumer retail and services markets.
- (b) Facts and evidence relied upon in support of these claims:
The proposed conduct offers existing and new American Express customers the opportunity to obtain a benefit such as a genuine discount, bonus offer or gift with purchase by using their American Express card with a Selects Partner.

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 market for the provision of payment card products and services in Australia is highly competitive. Retail customers have a significant number of product options available to them, including charge and credit cards provided by Diners Club and American Express and credit or debt cards offered by all financial institutions on the Visa and MasterCard networks. Payment card issuers compete in relation to a broad range of product dimensions including: card fees; interest rates; interest free periods; transaction fees; member services; and reward programs.

The consumer retail and services markets represented by **Selects Partners** provide consumers and the public with a vast choice of suppliers and products. At any given time there are many competitive offers and incentives available to the public including discounts, rebates, bonuses, promotional gifts etc.

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:

American Express submits that there is no likely detriment to the public resulting from the proposed conduct, and that the proposed conduct would have a negligible effect on competition in the markets noted above in clause 2(a). There is no obligation on American Express Cardmembers to acquire any goods or services from any of the Selects Partners.

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

The proposed conduct:

- in no way limits the genuine choice of customers in choosing whether to obtain a payment card from American Express or any other payment card issuer, and the proposed conduct does not otherwise affect other qualities of the card, such as pricing.
- will not lessen competition as customers will be under no obligation to acquire card services from American Express and customers will be able to make purchases with Selects Partners or their competitors without acquiring any products or services from American Express.

7. Further information

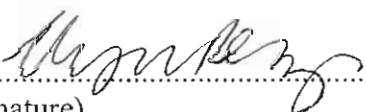
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Megan Perez
General Counsel's Office
American Express Australia Limited
Level 1 / 12 Shelley Street
Sydney NSW 2000

Tel: (02) 9271 3283
Fax: (02) 9271 2393
Email: Megan.A.Perez@aexp.com

Dated 20 November 2009

Signed by/on behalf of the applicant


.....
(Signature)

(Full Name) Megan Perez

(Organisation) American Express Australia Limited

(Position in Organisation) Paralegal, General Counsel's Office