



Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne VIC 3000
Attn: Joanne Palisi

11 March 2010

FILE No	
DOC: J	
MARS/PRISM:	

Dear Ms Palisi,

Third Line Forcing Notification for Rayco Electrical Pty Ltd - sub-sections 47(6) and (7) of the Trade Practices Act 1974

We have confirmed that the trustee entity for the Ian and Kay Ray Family Trust is Rayco Electrical Pty Ltd (ACN 005 970 409).

We have enclosed an updated cover letter and Form G. We have not enclosed a cheque with this letter as we previously submitted a lodgement fee of \$100 with respect to this dealer on 23 February 2010.

Please contact me on (03) 9643 4069 if you have any queries or comments.

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Bodger".

Amanda Bodger
Partner
Direct Line +61 3 9643 4069
Direct fax +61 3 9643 5999

MALLESONS STEPHEN JAQUES

Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne VIC 3000

11 March 2010

Dear Sir/Madam,

Third Line Forcing Notification - sub-sections 47(6) and (7) of the Trade Practices Act 1974

As you are aware, Telstra Dealers and Telstra Licensed Shops (“TLS”) are independent third parties authorised by Telstra to sell Telstra products and services. You will also be aware that over the years Telstra has lodged many notifications on behalf of Telstra Dealers and TLS to have authorised conduct pursuant to which certain Telstra Dealers and TLS participate in campaigns and offer goods or services to customers on condition that they acquire or agree to acquire telecommunications services or products, or particular telecommunications services plans from Telstra.

I refer, by way of example only, to Telstra’s letter to the Commission dated 3 May 2002 (“**May 2002 Letter**”), and the Commission’s letter to Amanda Bodger of Mallesons Stephen Jaques dated 30 September 2002 (“**Commission Response**”).

The May 2002 Letter:

- (a) stated that certain Telstra Dealers proposed to offer a range of goods or services to consumers on condition that they acquire mobile services from Telstra (“**May 2002 Notified Conduct**”); and
- (b) enclosed notices in relation to the Notified Conduct in accordance with sub-section 93(1) of the *Trade Practices Act (Cth)* 1974 (“**Trade Practices Act**”).

The Commission Response notified Telstra that immunity from the Trade Practices Act came into effect in relation to the May 2002 Notified Conduct on 17 May 2002, and that, on the basis of the information provided to the Commission, the Commission did not intend to take any further action in relation to the matter at that stage.

Since that time, Telstra has lodged a number of further notifications on behalf of Telstra Dealers and TLS with respect to similar conduct.

The current notice

This letter encloses one new notice that Telstra is lodging in accordance with sub-section 93(1) of the Trade Practices Act on behalf of Rayco Electrical Pty Ltd (ACN 005 970 409) (“**Dealer**”).

The Dealer wishes to engage in the conduct set out in the notice and has authorised Telstra to lodge the notice enclosed with this letter.

Level 50 Bourke Place 600 Bourke Street Melbourne VIC 3000 Australia
DX 101 Melbourne ABN 22 041 424 954 mel@mallesons.com www.mallesons.com

T +61 3 9643 4000

F +61 3 9643 5999

Please contact me on (03) 9643 4069 if you have any queries or comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Bodger', with a long, sweeping flourish extending to the right.

Amanda Bodger

Partner

Direct Line +61 3 9643 4069

Direct fax +61 3 9643 5999

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)

N94560 **Rayco Electrical Pty Ltd (ACN 005 970 409)**

Rayco Electrical Pty Ltd (ACN 005 970 409) (“**Dealer**”) operates a Telstra Dealership with Telstra’s authorisation and has been appointed by Telstra to promote the sale of, and extend the demand for, Telstra telecommunications services and related goods and services.

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

Dealer supplies a range of consumer products to retail customers. These include mobile phones, cordless phones, fax machines, phone cards, other telecommunications equipment, software, hand held computers, data products and internet starter packs.

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

Amanda Bodger
Mallesons Stephen Jaques
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 9643 4069

2 Notified arrangement

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

Dealer will offer a range of telecommunications and related goods or services (including mobile phones, cordless phones, fax machines, phone cards, other telecommunications equipment, software, hand held computers, data products and internet starter packs) (“**Dealer Products**”) and/or promotional goods or services (including vouchers, cinema tickets, electrical goods and accessories and food

items) (“**Promotional Products**”) to customers on condition that they acquire telecommunications services and/or related goods or services from Telstra.

- (b) Description of the conduct or proposed conduct:

Dealer proposes to:

- (i) supply or offer to supply a Dealer Product and/or Promotional Product to retail customers on the condition that the customer acquires or agrees to acquire telecommunications services or products or particular telecommunications services plans from Telstra;
- (ii) refuse to supply or refuse to offer to supply a Dealer Product and/or Promotional Product to retail customers for the reason that the customer has not acquired or has not agreed to acquire telecommunications services or products or particular telecommunications services plans from Telstra;
- (iii) give or allow or offer to give or allow a discount, allowance, rebate or credit in relation to a Dealer Product and/or Promotional Product to retail customers on the condition that the customer acquires or agrees to acquire telecommunications services or products or particular telecommunications services plans from Telstra.

(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)

Retail customers (including small and medium enterprise customers).

- (b) Number of those persons:

- (i) At present time:
Substantially greater than 50.
- (ii) Estimated within the next year:
(Refer to direction 6)
Substantially greater than 50.

- (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 be of benefit to the public because it will allow retail customers to acquire Dealer Products and/or Promotional Products at a discount or at a lower cost. It may also lead to better network support and may encourage greater innovation from other telecommunications providers.

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

Dealer Products include mobile phones, cordless phones, fax machines, phone cards, other telecommunications equipment, software, hand held computers, data products and internet starter packs. Promotional Products include vouchers, cinema tickets, electrical goods and accessories and food items. These are valuable products to many consumers and the ability to acquire them at a discount or at a lower cost may be a significant benefit to the individual consumer.

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)

There are a number of markets that may be relevant including the markets for the supply to retail consumers of phones (fixed and mobile), fax machines, hand held computers and other similar communications devices.

These markets are characterised by strong competition. There are several leading retailers of these products as well as many smaller competitors.

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)

There are no public detriments likely to result from the proposed conduct.

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

The proposed conduct will not lessen competition because:

- (i) the retail markets for the Dealer Products and Promotional Products are characterised by large numbers of competitors and very intense competition; and
- (ii) Dealer does not have a substantial degree of market power in any relevant market.

The benefits from the proposed conduct will outweigh any possible detriment considered to arise from the proposed conduct.

7 Further information

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

Amanda Bodger
Mallesons Stephen Jaques
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 9643 4069

Dated 11 March 2010

Signed by/on behalf of the applicant



(Signature)

Amanda Bodger

(Full Name)

Mallesons Stephen Jaques

(Organisation)

Partner

(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.