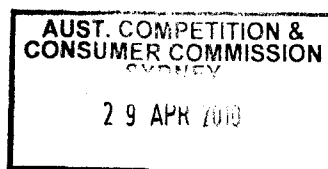


JOHNSON WINTER & SLATTERY
LAWYERS



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Our Ref: A4362
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MARS/PRISM:

29 April 2010

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

Lodged by email: adjudication@accc.gov.au

Dear Mr Chadwick

Third Line Forcing Notifications

We act for Macquarie Bank Limited (MBL).

Please find enclosed the Form G Notification of Exclusive Dealing on behalf of the following entities:

- (a) Priority Pass (A.P.) Ltd;
- (b) Pacific Boating Group Pty Ltd; and
- (c) Australian Wine Selectors Pty Ltd, collectively referred to as **the Partners**.

We have sent a cheque for \$300 as the applicable lodgement fees to the Sydney office of the Commission.

Please contact Anusha Kangatharan or Aldo Nicotra if you require any further information.

Yours sincerely

Johnson Winter & Slattery

Encl

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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 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1. Applicants

a. Name of persons giving notice:

The notification is made on behalf of each of the following corporations:

N94670

N94671

N94672

- Priority Pass (A.P.) Limited (**Priority Pass**) of 1209-1214, 12/F, Cityplaza One, 111 King's Road, Taikoooshing, Hong Kong;
- Pacific Boating Group Pty Ltd (ABN 38 117 497 364) (**Pacific Boating**); and
- Australian Wine Selectors Pty Ltd (ABN 64 056 402 772) (**Australian Wine Selectors**).

Priority Pass, Pacific Boating and Australian Wine Selectors are collectively referred to as **the Partners**.

b. Short description of business carried on by that person:

Priority Pass provides worldwide airport VIP lounge access programs. Customers are able to purchase airport VIP lounge access through Priority Pass Membership irrespective of the airline they travel on and the class of ticket they purchase.

Pacific Boating provides members with a fleet of luxury sports cruisers in the Sydney Harbour, Hawkesbury and Pittwater waterways for an annual subscription fee. Pacific Boating Membership provides members with a range of services to ensure a hassle-free luxury sailing experience. Services supplied by Pacific Boating include removing the boat from the berth for easy access aboard, advising on the weather, providing technical support over the telephone for the duration of the cruise and a 24 hour breakdown service.

Australian Wine Selectors sell premium wines selected by an expert panel of winemakers and tasters and provides delivery to customers across Australia. Australian Wine Selectors choose wines from over 400 producers across different wine regions in Australia.

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

Mr Aldo Nicotra
Partner
Johnson Winter & Slattery
Level 30, 264 George Street
Sydney NSW 2000
Australia

Telephone: (02) 8274 9536
Email address: aldo.nicotra@jws.com.au

2. **Notified arrangement**

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

The relevant goods/services include:

- airport VIP lounge access service;
- luxury sailing service;
- home delivered wine products (**wine products**); and
- credit card products and associated rewards programs.

b. **Description of the conduct or proposed conduct:**

Macquarie Bank Limited (ABN 46 008 583 542) (**MBL**) is a financial services provider offering a full range of investment, commercial banking and retail financial services. In April 2007, MBL began issuing credit cards. MBL's product offering includes the MBL branded Platinum (**MBL Platinum c/c**), Gold and RateSaver credit cards (collectively the three MBL branded credit cards are referred to as **MBL Card**).

From about May 2010, the Partners propose to make marketing offers to MBL Card customers, including discounts and/or promotional offers in relation to their respective goods and services (**MBL discount**).

The notified conduct in which Priority Pass proposes to engage is:

- Priority Pass will offer customers a MBL discount on Priority Pass Membership on condition that the customer pays for the purchase using a MBL Card from MBL.
- Priority Pass will not offer customers a MBL discount on Priority Pass Membership unless the customer pays for the purchase using a MBL Card from MBL.

The notified conduct in which Pacific Boating proposes to engage is:

- Pacific Boating will offer customers a MBL discount on Pacific Boating Membership on condition that the customer pays for the purchase using a MBL Platinum c/c from MBL.
- Pacific Boating will not offer customers a MBL discount on Pacific Boating Membership unless the customer pays for the purchase using a MBL Platinum c/c from MBL.

The notified conduct in which Australian Wine Selectors proposes to engage is:

- Australian Wine Selectors will offer customers a MBL discount on wine products on condition that the customer pays for the purchase using a MBL Card from MBL.
- Australian Wine Selectors will not offer customers a MBL discount on wine products unless the customer pays for the purchase using a MBL Card from MBL.

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:

Actual or potential customers of each Partner.

b. Number of those persons:

(i) at present time

Priority Pass Members: 10 000 – 50 000

Pacific Boating Members: 100-600

Australian Wine Selectors customers: 100 000 – 200 000

(ii) estimated within the next year

Priority Pass Members: 10 000 – 50 000

Pacific Boating Members: 100-600

Australian Wine Selectors customers: 100 000- 200 000

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:

Key public benefits in support of the notification, include:

- improved credit card and associated rewards program offered by MBL;
- increased efficiency in the marketing of the Partner's respective products and services; and
- increased competition for the supply of credit cards, which is largely dominated by the four major banks.

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

Increased product competitiveness

MBL Card customers will benefit from the discounted product offers made by the MBL and the Partners. The discounts are a direct cost savings to the eligible customers. This type of discounted product offering is complementary to the other types of rewards offered by MBL Card, such as providing rewards based on total spend on the credit card. Hence, MBL Card customers will benefit from the cost savings and increased choice offered on the MBL Card rewards program.

Increased efficiency in marketing

A benefit of the notified conduct is that it allows MBL and the Partners to engage in targeted marketing of the relevant products to the different types of MBL Card customers. For example:

- Priority Pass and MBL may choose to focus marketing the Standard Priority Pass Membership to the low cost RateSaver credit cardholders and the Prestige Priority Pass Membership to the MBL Platinum c/c customers; and
- Pacific Boating and MBL may choose to focus marketing the Pacific Boating Membership solely on the MBL Platinum c/c customers.

The allocation of scarce marketing resources to communicate better with target customer group promotes efficiency in the supply of the relevant goods and services.

Increased competition for the supply of credit cards and rewards programs

All credit card providers, including the four major banks, offer credit card products with associated rewards for using their product. The rewards programs offered by credit card providers include special discounts when acquiring from a particular store, one-off discounts or complementary products and offerings. The notified conduct is in direct competition with the rewards programs offered by all credit card providers, particularly the four major banks. We also note that Priority Pass is a rewards partner with the Commonwealth Bank in relation to the credit card product it offers to business credit card customers.¹ As a consequence, the notified conduct increases competition to the four major banks and their comparable credit card offers.

5. Market definition

The relevant markets and/or market segments, for the purpose of this notification only, may comprise:

- national market for the supply and acquisition of airport VIP lounge access;
- market for the supply and acquisition of luxury sailing services in the Sydney Harbour, Hawkesbury and Pittwater waterways;

¹ ACCC Form G Notification of Exclusive Dealing by Commonwealth Bank of Australia and others, N93139 dated 8 October 2007 available via website: www.accc.gov.au.

- national market for the supply and acquisition of wine products delivered directly to customers; and
- national market for the supply and acquisition of credit cards and associated rewards program.

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:**

The relevant conduct will not result in any public detriment.

- b. **Facts and evidence relevant to these detriments:**

The notified conduct increases competition in the relevant markets for the reasons in paragraph 4(a) and (b) above. The notified conduct will not lessen competition in any relevant market.

7. Further information

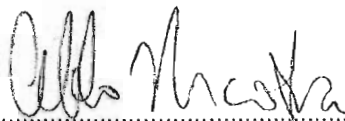
Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Aldo Nicotra
Partner
Johnson Winter & Slattery
Level 30, 264 George Street
Sydney NSW 2000
Australia

Telephone: (02) 8274 9536
Email address: aldo.nicotra@jws.com.au

Dated 29 April 2010

Signed on behalf of the applicant.



.....(Signature)

**Aldo Nicotra
Johnson Winter & Slattery
Partner**