

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)

N95104

Alison Tehan of Liquorland (Australia) Pty Ltd ACN 007 512 414
(Liquorland)

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

Liquorland retails alcoholic beverages, soft drinks and snack foods. It operates under the Liquorland, First Choice Liquor Superstore (1st Choice) and Vintage Cellars brands.

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

Registered address: Wesfarmers House, 40 The Esplanade, Perth WA 6000

For this Authorisation: Alison Tehan, Coles Liquor, PO Box 2000, Glen Iris Vic 3146

2. Notified arrangement

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

- Beer manufactured by Foster's Australia Limited ACN 004 056 106 (Foster's), and newspapers supplied by News Limited ACN 007 871 178.

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

Liquorland proposes to enter into a temporary promotion with Foster's and News Limited ACN 007 871 178. As part of this promotion Liquorland will offer one free Foster's beer beverage to customers in

New South Wales, Victoria, Queensland, parts of Western Australia, South Australia and the Australian Capital Territory who purchase a participating hard copy newspaper, remove a voucher from the newspaper and present the voucher (along with proof of age as required) to a Liquorland, 1st Choice or Vintage Cellars employee in a participating Liquorland, 1st Choice or Vintage Cellars store within the offer period (within either 24 or 48 hours of the voucher being printed in the newspaper, depending on the newspaper).

As an additional component of the promotion, at the time of providing the free beer beverage to a customer, Liquorland will also provide the customer with a coupon entitling the customer to a discount off the purchase price of a carton of a specified Foster's beer beverage. This discount coupon must be redeemed at a participating Liquorland, 1st Choice or Vintage Cellars store within the time period specified on the coupon.

Liquorland will refuse to give the free beer beverage and discount coupon to customers who cannot provide the newspaper voucher (along with proof of age as required). Liquorland will therefore refuse to give the free beer beverage and discount coupon unless a consumer has previously purchased a participating hard copy newspaper.

The promotion will be advertised on one occasion in January 2011.

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)

Future purchasers of beer and hard copy newspapers.

- (b) Number of those persons:

- (i) At present time:

Not known, but substantially greater than 50, although drawn from an estimated group of 1.8 million possible newspaper purchasers and also limited to persons over 18 years of age.

- (ii) Estimated within the next year:
(Refer to direction 6)

Not known, but 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 as it will:

- promote competition in the market for the retail supply of beer by encouraging competitors to offer similar promotions;
- promote competition in the market for the manufacture of beer by encouraging competitors to engage with retailers in similar promotions;
- promote competition in the market for hard copy newspapers by encouraging competitors to engage with consumer goods suppliers in similar promotions;
- provide consumers with additional benefits in the purchase of participating newspapers; and
- the promotion expands the supply of beer at effectively reduced average prices.

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

See 2(b).

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 state based and mainland territory markets in Australia in which hard copy newspapers are supplied.

The national retail market in Australia in which beer is supplied.

The national retail market in Australia in which beer is supplied is highly competitive. Liquorland is constrained in this market by large competitors including Woolworths (Woolworths Liquor, Dan Murphy's and BWS) and other suppliers including Cellarbrations, Bottlemart, Local Liquor and The Bottle-O

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)

Liquorland does not consider that the proposed conduct will result in or is likely to result in any public detriment as:

- consumers are free to acquire Foster's beer at the usual price from Liquorland without the need to acquire participating hard copy newspapers from News Limited;
- consumers are not required to purchase the participating hard copy newspapers from any identified retailer;
- competition in the beer market is vigorous with several competitors in the market; and
- whilst the state based markets for hard copy newspapers exhibit varying degrees of competition, the short term nature of the promotion means that in any case hard copy newspaper markets will not be significantly affected.

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

See above.

7. Further information

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

Alison Tehan, Coles Liquor, PO Box 2000, Glen Iris Vic 3146

Dated 22 October 2010

Signed on behalf of the applicant



.....
Alison Tehan
Licensing & Regulatory Manager

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 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.