

Allens Arthur Robinson

16 December 2010

The General Manager
Australian Competition and
Consumer Commission
Level 7, Angel Place
123 Pitt Street
Sydney NSW 2000

By Hand

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY

17 DEC 2010

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FILE No:

DOC:

MARS/PRISM:

Dear Sir / Madam

Form G - Exclusive Dealing Notification

Please find attached a **Form G Exclusive Dealing Notification** and supporting submission in relation to potential third line forcing conduct by Nationwide News Pty Limited under the Trade Practices Act 1974 (Cth) (the **Act**). We also enclose the notification filing fee of \$100.

The applicant submits that in relation to the statutory test under section 93(3A) of the Act, no public detriment will result from the conduct but there will be clear public benefits.

If you have further questions in relation to this notification, please do not hesitate to contact the author of this letter.

Yours faithfully


Jacqueline Downes
Partner
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Our Ref JODS:CBCS:201290418

cbcs A0116307104v1 201290418 16.12.2010

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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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of persons giving notice:

(Refer to direction 2)

N95217

Nationwide News Pty Limited (**NWN**)

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

(Refer to direction 3)

NWN carries on the business of publishing The Daily Telegraph and The Sunday Telegraph. Please refer to the submission in support of the notification for further details.

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

2 Holt Street, Surry Hills, New South Wales, Attention: Ian Philip

2. Notified arrangement

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

1. Goods and services supplied by NWN being advertising services (**Advertising Services**).
2. Goods and services supplied by the Real Estate Institute of New South Wales Limited (**REINSW**) being industry representation services.

(b) Description of the conduct or proposed conduct:

(Refer to direction 4)

NWN proposes to offer discounted rates on Advertising Services to real estate agents who are members of the REINSW. .

The proposed conduct will commence in mid-January 2011 and is expected to run for a period of 12 months.

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)

Persons who are real estate agents who wish to take advantage of the offer of the Advertising Services.

(b) Number of those persons:

(i) At present time:

Nil.

(ii) Estimated within the next year:

Several thousand.

(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)

Please refer to the submission in support of the notification.

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

Please refer to the submission in support of the notification.

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)

Please refer to the submission in support of the notification.

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)

Please refer to the submission in support of the notification.

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

Please refer to the submission in support of the notification.

7. Further information

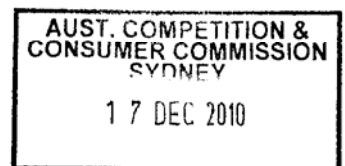
- (a) **Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:**

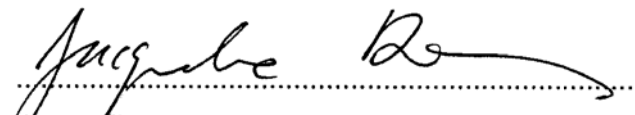
2 Holt Street, Surry Hills, New South Wales

Attention: Ian Philip 02 9288 3393

Dated **16 December 2010**

Signed on behalf of the applicant




Jacqueline Downes
Partner
Allens Arthur Robinson

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.

**Nationwide News Pty Limited –
Notification of Exclusive Dealing
Submission to the ACCC**

16 December 2010

1 Introduction

This submission is provided in relation to a Notification of Exclusive Dealing lodged by Nationwide News Pty Limited (**NWN**).

2 Background

2.1 **NWN**

NWN is the publisher of The Daily Telegraph and The Sunday Telegraph newspapers in New South Wales (the **Newspapers**).

2.2 **REINSW**

Real Institute Institute of New South Wales Limited (**REINSW**) is an industry association representing the interests of real estate agents in New South Wales.

2.3 **NWN Services/Goods**

NWN supplies advertising services in the Newspapers including real estate advertising services (**Advertising Services**).

3 The conduct

3.1 **Description of the conduct**

NWN proposes to offer discounted rates on Advertising Services to real estate agents who are members of the REINSW. .

The proposed conduct will commence in mid-January 2011 and is expected to run for a period of 12 months.

3.2 **Rationale for the notified conduct**

NWN's rationale for engaging in the conduct is to attract advertisers to use Advertising Services who might not otherwise acquire them.

NWN understands that REINSW's rationale for promoting the conduct is to attract real estate agents as members of REINSW, who might not otherwise be members, and to retain and reward its existing members.

4 Markets

4.1 Markets

Relevant markets include:

- the market for real estate agent industry association representation services in New South Wales; and
- the market for the supply of advertising services in New South Wales.

4.2 Suppliers and acquirers

NWN is not aware of significant suppliers of services competitive with the REINSW services. Real estate agents are the significant acquirers of those services.

Suppliers of advertising services include News, John Fairfax Publications Pty Limited and various other publishers and distributors.

Real estate agents are significant acquirers of Advertising Services.

5 Public benefits and detriment

5.1 Introduction

NWN submits that the benefit to the public likely to result from the notified conduct would outweigh any detriment to the public likely to result from the conduct.

5.2 Benefits to the public

(a) Competition

The notified conduct would promote competition in relevant markets by encouraging other providers of services to offer competitive value added benefits.

(b) Consumers

The notified conduct would provide a clear benefit to consumers who use real estate agents who have access to the discounted rates offered to REINSW members.

5.3 Detriment

The notified conduct would not result in public detriment, anti-competitive or otherwise, for the following reasons:

- (a) Real estate agents who are members of the REINSW would be under no obligation to accept any NWN offer.
- (b) Real estate agents would be free to acquire Advertising Services without any obligation to acquire services from the REINSW.
- (c) The notified conduct would have no appreciable effect on competition between competitive service providers. In particular, other service providers would be able to provide similar value added benefits.
- (d) The market for the supply of advertising services is highly competitive. Consumers have a significant number of product options available to them. Suppliers of advertising services compete in a broad range of product dimensions, including associated editorial content, pricing, database search functionality and advertising formats (including ad sizes and paper stock).
- (e) The notified conduct would have no appreciable effect on competition between providers of advertising services.