

Our ref: mds.1143904

22 September 2011

Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra Act 2601

By Registered Post

Dear Sir/Madam

FILE No:
DOC:
MARS/FILE No:

**Third Line Forcing Notification (Form G)**

We act for First Class Taxis Pty Ltd.

Please find by way of lodgement:

- 1 Form G Notification of Exclusive Dealing by First Class Taxis Pty Ltd; and
- 2 Cheque for notification lodgement fee in the amount of \$100 made payable to the Australian Competition and Consumer Commission.

Please do not hesitate to contact our office should there be any enquiries.

Yours faithfully

  
Michael Sing  
Managing Director  
Michael Sing Lawyers Pty Ltd



## Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010 — 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 *Competition and Consumer Act 2010*, 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. Applicant

- (a) Name of person giving notice:

N95566 First Class Taxis Pty Ltd

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

First Class Taxis Pty Ltd is a taxi management company. Part of its business model is to bail taxi cabs under its management to taxi drivers. It has grown from 1 taxi licence under management in 1995 to today managing and leasing 73 taxi licences on the Gold Coast. This business success in the very competitive taxi industry has been achieved by setting in place major infrastructure, workforce and IT resources. The continued success of First Class Taxi Pty Ltd's business is based upon the continual monitoring of taxi driver (Bailee) performance. This includes financial, Occupational Health & Safety (OH&S), fatigue monitoring, extensive driver training as well as 24/7 driver and breakdown support facilities. The end result is the continual increase in service levels and satisfaction from the travelling public. First Class Taxis Pty Ltd offers full mechanical, panel beating, Roadworthy Certificates and LPG Certificates to the taxi industry and public.

An integral part of First Class Taxis Pty Ltd is the ability to have all taxi jobs either allocated via the Gold Coast Cabs dispatch center or hail jobs recorded on the in car MT Data dispatch computer. The job then can be verified via taximeter operation or EFTPOS transaction receipt. First Class Taxis Pty Ltd management business relies heavily upon the ability to have the MT Data dispatch computer hardwired to the meter, and the meter then hardwired to the EFTPOS terminal.

First Class Taxis Pty Ltd is a taxi management business and does not act in any capacity as a network call centre or dispatch centre. It does not sub lease taxi licences or operate a set pay-in operation. All Bailees operate on a commission basis with Full Comprehensive Insurance and Personal Accident Injury insurance coverage.

- (c) Address in Australia for service of documents on that person:  
C/- Michael Sing Lawyers Pty Ltd, 9 Ouyan Street, Bundall QLD 4217.

## **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 use, and/or acquisition of EFTPOS (Electronic Funds Transfer at Points of Sale) terminals and services that are used in taxi cabs to process passenger fares.

In this notice, EFTPOS Services relates to the electronic recording, storage and auditable accounting system associated with each EFTPOS system transaction.

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

First Class Taxis Pty Ltd proposes to require each Bailee to use and/or acquire EFTPOS Facilities only from a supplier approved by First Class Taxis Pty Ltd ("Approved Supplier").

First Class Taxis Pty Ltd will reasonably approve suppliers that satisfies all of the following criteria:

- provide a charge account system which gives passengers a line of credit to pay for taxi fares and related charges;
- provide a payment system which allows the Bailee to process non-cash payment systems and other payment systems as mandated by law;
- provide processing services which facilitate the distribution between First Class Taxis Pty Ltd and the Bailee of passenger fares received by way of EFTPOS;
- provide EFTPOS terminals that will be hardwired to taxi cab meters so as to allow real time visibility and recording of all transactions by First Class Taxis Pty Ltd; and
- provide a payment system which does not permit payment of any monies into an account other than accounts designated by First Class Taxis Pty Ltd.

("Criteria")

**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:

The Bailees (taxi cab drivers).

- (b) Number of those persons:

- (i) At present time:

280

- (ii) Estimated within the next year:

The number of vehicles under management and leasing at First Class Taxis Pty Ltd has remained steady for the last 2 years and based on current economic climate First Class Taxis Pty Ltd envisages this will remain about the same for the next few years.

As such the number of active Bailees will remain about the same 280.

- (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:

**TRANSPARENCY AND ACCOUNTABILITY**

Taxi passengers as end customers of First Class Taxis Pty Ltd, as well as members of the general public, will benefit from a transparent and accountable EFTPOS system.

EFTPOS terminals that satisfy the Criteria can be hardwired into taxi cab meters. Every meter total can then be automatically transposed to the EFTPOS terminal for the option of electronic payment at the end of the journey. If the passenger elects to pay by EFTPOS then a receipt will be issued to confirm the successful transaction. A copy of the receipt will be given to the passenger and a further copy will be printed for the Bailee. At the completion of the shift the Bailee will place all EFTPOS transaction receipts into their pay-in envelope. These receipt numbers will also be recorded in the Bailee pay-in computer entry.

The Approved Suppliers will also send a weekly report of all transactions occurring in all vehicles with details of time, amount and Driver Authority numbers.

Taxi passengers will benefit from these records because the records will be used for dispute resolution and anti fraud confirmation. Currently, First Class Taxis Pty Ltd handles an average of five (5) EFTPOS transaction disputes per week. The recording system outlined above allows First Class Taxis Pty Ltd to manually locate these disputed receipts and verify the transaction status. Thus, the Criteria allows for auditable processes to occur when the need arises.

This recording system and the ensuing transparency and accountability cannot be achieved with an EFTPOS terminal that is not hardwired to the taxi cab meter.

The general public will also benefit from the recording system described above because the records will be used for ATO Auditing, PAYG and GST reporting, as well as for the yearly Queensland Transport Operator Accreditation auditing.

The system will also assist in ensuring the personal accountability of Bailees to the ATO, Department of Immigration & Citizenship, or other authorities.

## **QUALITY CONTROL**

Taxi passengers, as well as the Bailees, will also benefit from better quality control.

The proposed arrangement will enable First Class Taxis Pty Ltd to:

- Ensure consistency, uniformity and quality in the EFTPOS terminal and maintenance services used by the Bailees. This will allow for a consistent product standard.
- Ensure the compatibility of the EFTPOS transaction recording with the software and IT resources used by First Class Taxis Pty Ltd and Bailee pay-in system. This will enhance system compatibility, efficient installation and integration.
- Ensure EFTPOS information and data in a form acceptable to First Class Taxis Pty Ltd is automatically provided to First Class Taxis Pty Ltd without disruptions caused by terminal and system malfunctions. This will allow First Class Taxis Pty Ltd to reduce the costs in the short and long term monitoring. This will result in a reduction in the costs

associated with enforcing its financial reporting requirements. These financial reports include ATO PAYG and GST. These financial reporting requirements are also required at audits conducted yearly by Queensland Transport. Back of house efficiencies and savings are an essential and integral part of the success of First Class Taxis Pty Ltd as a business.

- Make it easier and more cost effective for First Class Taxis Pty Ltd to provide training and address any queries that Bailees may have regarding the EFTPOS terminal and services. This cost would increase if all Bailees were using different terminals and transaction reporting systems.
- Ensure that the public and Bailee receive the benefits of improved security and functionality for EFTPOS processing and recording. Arrangements with Approved Suppliers will ensure sufficient warranties and compliance with Australian Standards. By ensuring minimum standards, First Class Taxis Pty Ltd is able to minimise the likelihood of product problems.

The Bailees will benefit from the quality control benefits described above because those benefits will help maintain business efficiency. The Bailees' earnings are directly proportionate to the takings that they receive from each shift, and since business efficiency will ensure that the Bailees have more time to focus on providing high quality service to the traveling public, the benefits will ultimately flow to the Bailees.

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

First Class Taxis Pty Ltd relies on the descriptions and arguments set out in items 1(b) and 4(a).

## **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 can reasonably be defined as the market for the supply of EFTPOS services in Australia.

The EFTPOS market has grown significantly. Almost all businesses require EFTPOS facilities, the market is large and includes all major banks and financial institutions. The taxi industry is not immune to the penetration of EFTPOS facilities. The industry has Cabcharge, TaxiEpay (Westpac), GM EFTPOS (St George), CabFare (National Billing Groups), Taxi Awards Pty Ltd to name a few.

## **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:

First Class Taxis Pty Ltd considers that the proposed arrangement will result in limited, if any, public detriment because of the following reasons (categorised into relevant sections of the public):

### Customers (Taxi Passengers)

- Taxi passengers are charged a surcharge for using the mobile EFTPOS facility in a taxi. Currently all terminal providers charge a flat 10%. This surcharge has remained the same even as more entrants have come into the market. Therefore the level of competition in the relevant market will most likely not have a financial impact on taxi passengers. Any financial benefit comes from the ability of First Class Taxis Pty Ltd to negotiate more favourable trading terms and supply conditions.
- The proposed conduct will not foreclose to any extent the customers' ability to choose whether they wish to pay for the taxi journey with cash, or a credit card, or a debit card, or an approved voucher system e.g. Cabcharge, TaxiEpay etc.

### Bailees

- Subject to legal requirements, the Bailees can still decide which supplier they want to use, provided that the supplier they choose is one of the Approved Suppliers.
- If the Bailees wish to use a supplier that is not one of the Approved Suppliers, they can also approach First Class Taxis Pty Ltd for that supplier to be added to the Approved Supplier list, provided that the Criteria are met.

Suppliers and Approved Suppliers

- The purpose of the proposed arrangement is not to deny any EFTPOS Supplier but to have quality control over the product and services associated with it.
- Suppliers have the ability at any time to approach First Class Taxis Pty Ltd to be added to the Approved Supplier list where the Criteria are met. First Class Taxis Pty Ltd will not unreasonably refuse a supplier's request to be placed upon the Approved Suppliers list if the product conforms to the Criteria.

(b) Facts and evidence relevant to these detriments:

Annexed to this notice and marked "A" are copies of tax invoices from two competing EFTPOS suppliers, showing that both competitors impose the same 10% service fee.

7. Further information

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

Shane Smith

P O Box 2499, BURLEIGH DC QLD 4220

(07) 5522 1525

Dated.....22nd September 2011.....

Signed by/on behalf of the applicant

.....Shane Smith.....  
(Signature)

.....SHANE ROBERT SMITH.....  
(Full Name)

.....FIRST CLASS TAXIS PTY LTD.....  
(Organisation)

.....Director.....  
(Position in Organisation)



"A"

**CABCHARGE  
TAX INVOICE**

GOLDCOASTCABS 131008  
TAXI [REDACTED] QLD

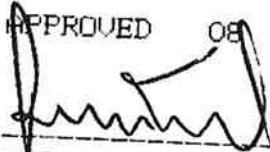
MERCHANT ID: [REDACTED]  
TERMINAL ID: [REDACTED]  
CLIENT ID: [REDACTED]  
DRIVER DA: [REDACTED]  
DRIVER ABN: [REDACTED]

PICK UP :SUBURBS  
DEST :BROADBEACH  
CARD:376049 005  
EXPIRY: 02/12  
AMEX CHARGE A/C

FARE \$17.20  
OTHER CHARGES \$0.00

Extras:

TOTAL FARE \$17.20  
INC. GST  
SERVICE FEE \$1.72  
GST ON SERVICE FEE \$0.17  
TOTAL AUD \$19.09

APPROVED 08  


SIGNATURE:  
\*\*\* DRIVER RECEIPT \*\*\*  
11/09/11 15:16 044022

Live taxiEpay

TAX INVOICE  
EFTPOS FROM WESTPAC

TAXI ID [REDACTED]  
 DRIVER ID [REDACTED]  
 TRANSACTION 0809110101  
 TIME 08SEP11 18:43  
 PICK UP Suburbs  
 DROP OFF Suburbs  
 FARE \$30.45  
 OTHER CHARGES \$0.00  
 (inc. GST)  
 SERVICE FEE \$3.05  
 GST ON SVC. FEE \$0.31  
 -----  
 TOTAL \$33.81

\*-----EFTPOS-----\*  
 TERMINAL ID [REDACTED]  
 MERCHANT ID [REDACTED]  
 INV/ROC 000262  
 TIME 08SEP11 18:42  
 STAN 000361  
 MASTERCARD CREDIT  
 MasterCard  
 AID: A0000000041010  
 TC ADE17F4FDD5A018B  
 CARD .....6175(C)  
 AUTH ID R07429  
 SALE \$33.81  
 TOTAL AUD\$33.81

APPROVED 00

\*-----\*

\*\*\*DRIVER COPY\*\*\*

Live taxiEpay

SHIFT REPORT

-----BATCH START-----  
 BATCH NUMBER [REDACTED]  
 SOFTWARE TaxiPOS 100  
 TAXI ID [REDACTED]  
 DRIVER ID [REDACTED]  
 MERCHANT ID [REDACTED]  
 TERMINAL ID [REDACTED]

END OF SHIFT REPORT

STATUS UPLOADED  
 START 08SEP11 13:36  
 STOP 09SEP11 01:19

VISA 46223...092  
 FARE \$22.60 APPROVED 00  
 08SEP11 15:29 000261

MASTERCARD 51636...175  
 FARE \$30.45 APPROVED 00  
 08SEP11 18:42 000262

DINERS 36173...873  
 FARE \$34.85 APPROVED 08  
 08SEP11 23:01 000263

TOTALS

VISA 1  
 \$22.60  
 MASTERCARD 1  
 \$30.45  
 DINERS 1  
 \$34.85

-----  
 TOTAL 3  
 \$87.90  
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-----BATCH END-----