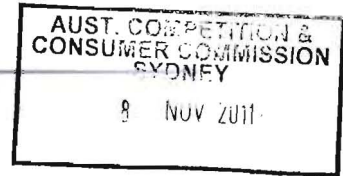


# ANZARUT & HOLM LAWYERS



Our ref: TYCO001-028: PRH  
Your ref:

8 November 2011

FILE No:	
DC	
MARS/PRISM:	

Dr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
Level 20  
175 Pitt Street  
Sydney NSW 2000

Dear Dr Chadwick,

## **Tyco Australia Pty Ltd – Exclusive Dealing Notification**

I act for Tyco Australia Pty Ltd and enclose the following documents for your assessment:

- 'Form G' Exclusive Dealing Notification; and
- a cheque for the filing fee in the amount of **\$100.00**

Please note that this notification relates to reciprocal conduct to that notified by Security365 Pty Ltd in September 2011 (N95574).

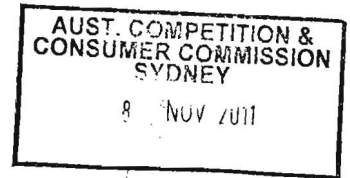
If you wish to discuss any aspects of this notification, or require any additional information, please do not hesitate to contact me on (02) 9261 2702.

Yours sincerely

A handwritten signature in blue ink, appearing to read "P. Holm".

**Paul Holm**  
Director

Direct Line: +61 2 9261 2702  
Email: prh@anzarut.com.au



## 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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### 1. Applicant

- (a) Name of person giving notice:

N95624 Tyco Australia Pty Ltd (ABN 80 008 399 004) trading as ADT Security (**ADT**)

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

The supply of electronic security services to residential and business customers throughout Australia.

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

C/- Paul Holm

Anzarut & Holm Pty Ltd

Level 3, 117 York Street

Sydney NSW 2000

#### 2. Notified arrangement

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

The notification relates to:

- (i) goods: being the supply of security doors, physical barrier systems and alarm systems; and

(ii) services: being remote alarm monitoring services.

(b) Description of the conduct or proposed conduct:

ADT proposes to supply or offer to supply electronic monitoring of alarms and related services at a particular price, or to give a discount or rebate on such supply, on the condition that the customer also acquires alarm installation and/or security doors and/or physical barrier systems from **Security365 Pty Ltd** (ABN 98 140 453 363) or its duly appointed franchisees.

Alternatively ADT proposes to refuse to supply or offer to supply electronic monitoring of alarms at a particular price, or to offer any discount or rebate, for the reason that the customer has not acquired alarm installation and/or security doors and/or physical barrier systems from **Security365 Pty Ltd** (ABN 98 140 453 363) or its duly appointed franchisees.

### 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:

Security365 and its duly appointed franchisees; and

All persons wishing to acquire monitored alarms and security doors in Australia.

(b) Number of those persons:

(i) At present time:

Franchisees: 0; and

Approximately 8.8 million (the approximate total number of households and commercial business premises in Australia).

(ii) Estimated within the next year:

Franchisees: 3

Number of households: 8.8 million

(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:

The conduct described in 2(b) above is a direct benefit to consumers and will be of public benefit because:

- (i) It will enable customers a 'one stop shop' for acquiring complementary home and business security products (monitored alarm and security doors);
  - (ii) Customers may be eligible for a reduced package price if they acquire the bundle of goods and services via a Security365 franchisee.
- (b) Facts and evidence relied upon in support of these claims:
- (i) Customers for home or business security products will commonly want static security measures, such as security doors, in addition to a monitored alarm. Currently such services are generally not offered as a bundle and therefore the customer must acquire each good/service separately from different suppliers and does not have any opportunity to access the benefits of acquiring these goods/services as part of a package via a single point of supply.

## 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 relevant markets are:

- (i) the national retail market for supply and installation of alarms and security doors; and
- (ii) the national retail market for supply of alarm monitoring services.

## 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:

ADT submits that there will be no detriment to the public from the conduct in question. Competitive markets exist for supply of these goods and services and this offer merely increases consumer choice and competition in the relevant markets.

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

- (i) The arrangement will not prevent competitors from competing effectively; and
- (ii) will increase consumer choice, potentially reduce the cost of acquiring the bundle of security products and thereby increase competition in each relevant market.

## 7. Further information

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

Paul Holm

Anzarut & Holm Pty Ltd

PO Box 66 QVB

Sydney NSW 1230

Tel: (02) 9261 2702

Dated 8 November 2011

Signed by/on behalf of the applicant

(Signature)

PAUL RUTHERFORD HOLM

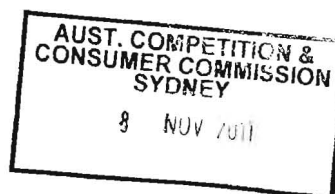
(Full Name)

Anzarut & Holm

(Organisation)

Director

(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 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.