

Our Ref: 106069
Your Ref: Adjudication Branch

14 December 2011

Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:
DOC:
MARS/PRISM:

Dear Sir/Madam,

Notification of Exclusive Dealing

Please find enclosed the following:

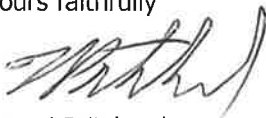
1. Notification of Exclusive Dealing (Form G).
2. Submission in support of the notification under section 93(1) of the *Competition and Consumer Act 2010* (Cth).
3. Cheque for \$100 in respect of the filing fee for the Notification of Exclusive Dealing.

The notifying person is Stork Maternity ABN 57885037876.

We confirm that we have the written consent of each of the notifying persons to make the notifications on their behalf.

If you have any questions regarding this matter, please do not hesitate to contact us.

Yours faithfully



Jacqui Pritchard
Marketing Specialist
Hume Building Society
T: 02 6051 3336 | F: 02 6051 3255
E: jpritchard@humebuild.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:
(Refer to direction 2)

N95661 **Stork Maternity ABN 57885037876.**

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

Retail Maternity Products.

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

c/- Yelena Davis 465B Dean Street, Albury NSW 2640

2. Notified arrangement

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

Maternity Products

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

(Refer to direction 4)

Stork Maternity propose to offer members of Hume Building Society Limited ('Hume') the following discounted offers on their services which are not otherwise available to members of the public.

- **10% off Full prices maternity products excluding SRC range of shorts.**

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)

Actual and potential customers of the Stork maternity, who are also members of Hume.

- (b) Number of those persons:

- (i) At present time:

Hume's membership is estimated to be in excess of 54,000 people.

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

Hume's membership is estimated to be in excess of 54,000 people.

- (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)

Customers who acquire goods or services from the nominated notifying business will receive benefits in the form of discounts or special offers.

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

The benefits will only be available to those customers who are already members of Hume and participate in the Hume Member Value Program. The benefit is that the goods or services will be acquired at a lower cost or with a special offer, which would not be available if the goods or services were acquired from another business.

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 markets for the various services supplied by the notifying business are competitive and there are many goods retailers and service providers that can supply and provide these goods and services to customers.

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)

No detriments can be found. There is no compulsion for Hume's members to acquire goods or services from a notifying business and the members are free to choose whichever goods retailer or service provider they wish and acquire whatever goods or services they wish. However, to be entitled to receive the benefits from the notifying businesses, they must be a member of Hume.

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

The market place has many suppliers of the various goods and services provided by the notifying business.

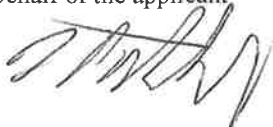
7. **Further information**

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

**Jacqui Pritchard
492 Olive Street
ALBURY NSW 2640
Ph: (02) 6051 3336**

Dated.....14/12/2011.....

Signed on behalf of the applicant





(Signature)

Jacqui Pritchard

(Full Name)

Home Building Society

(Organisation)

Marketing Specialist

(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 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 *Competition and Consumer Act 2010* 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.

**SUBMISSION TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
IN SUPPORT OF A NOTIFICATION UNDER
SECTION 93(1) OF THE *COMPETITION AND CONSUMER ACT 2010***

1. Introduction

1.1 This submission is in support of a notification under section 93(1) of the *Competition and Consumer Act 2010* (Cth) ('CCA') in relation to conduct which potentially falls within section 47(7) of the CCA. The applicable test to be applied by the Commission is outlined in section 93(3A) of the CCA, under which the Commission assesses whether the likely benefit to the public resulting from the relevant conduct will outweigh any likely detriment to the public.

2. The proposed arrangement

- 2.1 The notifying persons ('the Notifying Businesses') are businesses that propose to enter into the Hume Member Value Program with Hume Building Society Limited ('Hume'), under which the Notifying Businesses agree to provide to discounts or special offers of specified goods or services to members of Hume, upon the member providing proof of membership.
- 2.2 To be eligible for entry into the Hume Member Value Program, a business must have a relationship with Hume through an active S9 Business Transaction Account with weekly deposits being made or through a sponsorship agreement.
- 2.3 In return for providing the discounts or special offers to members of Hume, the Notifying Businesses will be able to advertise their products or services on Hume's website during the period that their discount or special offer is valid.
- 2.4 The Notifying Businesses will not be making any payments to Hume and Hume will not be making any payments to the Notifying Businesses in relation to the Hume Member Value Program.

3. The Markets

- 3.1 The markets for goods and services affected by the conduct or proposed conduct are as follows:
- (a) Bicycle goods and services
 - (b) Public entertainment
 - (c) Lighting goods
 - (d) Trophies, giftware and promotional goods and services
 - (e) Optical goods and services
 - (f) Domestic and industrial plumbing services
 - (g) Baked goods
 - (h) Hairdressing services
 - (i) Travel Accommodation
 - (j) Fashion.

3.2 For the reasons outlined below, the conduct or proposed conduct will increase competition in the market and be pro-competitive.

4. **Public benefits**

4.1 The public benefits of the conduct or proposed conduct are:

- (a) the arrangements enhance competition in the various goods and services markets listed in 3.1 above, by providing price discounts or special offers on the acquisition of goods or services which would not otherwise be available;
- (b) other goods or service providers may make similar arrangements with other competitors to offer similar discounts to their customers, thereby competing with the Notifying Businesses;
- (c) improving a consumer's range of choice by placing discounts in the market;
- (d) the ability of the Notifying Businesses to offer discounts on certain goods or services to members of Hume, allows the Notifying Businesses and Hume to differentiate themselves in the various markets; and
- (e) customers of the Notifying Businesses and members of Hume having access to discounted competitive pricing.

4.2 There is nothing in the conduct or proposed conduct which prevents or restricts the Notifying Businesses from offering the same or a different discount or special offer to another customer who is not a member of Hume. Some or all of the Notifying Businesses may already provide a similar discount arrangement to certain group of customers.

4.3 The Notifying Businesses submit that there is nothing in the proposed conduct which will result in any detriment being suffered by the public.

5. **Conclusion**

5.1 There will not be any anti-competitive detriment from the proposed conduct, as members of Hume will still be free to acquire products and services from whoever they choose. However, there should be a significant public benefit in the Notifying Businesses providing discounts or special offers on their products and services to members of Hume, both in terms of the benefits offered to consumers and in terms of the likelihood of increased competition amongst providers of similar products and services.

5.2 The Notifying Businesses submit that the public benefits of their proposed arrangement with Hume pursuant to the Hume Member Value Program and the consequential offering of benefits by the Notifying Businesses to members of Hume outweighs any public detriment, and that this notification should therefore be accepted by the Commission under section 93(1) of the CCA.

Langes+
26 May 2011



Jacqui Pritchard

From: marketing@humebuild.com.au
Sent: Friday, 9 December 2011 11:23 AM
To: Marketing
Subject: Hume Member Value Program Business Registration

The following information has been submitted from the HumeBuild:

Business name :	Stork Maternity
ABN :	57885037876
Hume member number :	572843
Contact name :	Yelena Davis
Title/position :	Proprietor
Contact phone :	02 60234800
Contact fax :	02 60234822
Business address :	465B Dean Street Albury NSW 2640
Email address :	sales@storkmaternity.com.au
Website :	www.storkmaternity.com.au
Business phone no. to be listed on Hume's website :	02 60234800
Please upload your business logo :	0_09Dec2011112200_Stork_Maternity_current.png
Is this a once off or an ongoing discount? :	Ongoing
If your offer is a once off special, please state the from and to date :	
Please write your offer here (max 50 words) :	10% off any purchase including maternity clothing, maternity bra's, nursing wear, nappy bags, baby carriers
Please write any term and conditions that may apply to this offer (max 100 words) :	This 10% off promotion applies to full priced items only and does apply to discounted or sale items or the SRC range of shorts
Please provide business profile (max 100 words) :	At Stork Maternity we aim to help you enjoy and feel truly beautiful during your pregnancy by providing an extensive range of maternity clothing and nursing wear for expectant and new mothers as well as a range of sought after items for your new baby. We will provide you with a comfortable shopping experience, expert knowledge and fantastic customer service as well as providing a bra fitting service and advice on what to expect when your expecting. We also offer on-line shopping through our website www.storkmaternity.com.au
I have read the Member Value Program terms and conditions information and agree to continue with my application:	Yes
I consent to Hume notifying the Australian Competition and Consumer Commission ("ACCC") of my participation in the Hume Member Value Program for the purposes of obtaining immunity from prosecution in respect of the third line forcing provisions of the Competition and Consumer Act 2010. I also consent to Hume debiting my \$9 account for the amount of \$100 being the notification fee charged by the ACCC:	Yes

-----Safe Stamp-----
Your Anti-virus Service scanned this email. It is safe from known viruses.
For more information regarding this service, please contact your service provider.

