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FILE No:
DOC:
MARS/PRISM:

20 December 2011

Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Sir/Madam

Form G – Notification of Exclusive Dealing

Please find enclosed our Application Form G - Notification of Exclusive Dealing and cheque for the fee of \$100.00.

Yours faithfully



Stephen Mordecai
Senior Corporate Counsel

Encl



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)

N95665

Marsh Pty Ltd (ABN 86 004 651 512, AFSL 238983)(“Marsh”)

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

Marsh is a subsidiary of a U.S company, Marsh Inc. Marsh Inc. is a world leader in delivering risk and insurance services and solutions to clients. Global risk management consulting, insurance broking and insurance program management services are provided for business, professional service organisations and private clients under the Marsh name.

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

Level 4, 555 Lonsdale Street, Melbourne, VIC, 3000

2. Notified arrangement

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

Insurance Broking services for personal insurance products, being Home (three different policy options available), Residential Landlords, Pleasure-craft, Caravan & trailer insurance, are being offered to existing customers of Marsh who participate in the BMW Motor Vehicle Insurance facility.

(b) Description of the conduct or proposed conduct:

The conduct may be described as:

- Marsh offering a discount/reward on condition both that (i) the customer engages Marsh for additional services; and (ii) is a member of the BMW Motor Vehicle Insurance facility;
- Marsh refusing to offer a discount/reward in relation to its services by reason of the fact that the customer is either (i) not engaging Marsh for additional services; or (ii) not a member of the BMW Motor Vehicle Insurance facility.

Marsh wishes to increase competition by launching a Multi Policy Reward program to its approximately 22,000 existing BMW Motor Vehicle Insurance facility customers, by offering certain additional insurance products (see above product list). If one of the eligible policies is accepted by the existing BMW Motor Vehicle Insurance customer (cover bound and premium paid), they will receive a Multi Policy Reward of 7% of the base premium, which is then deducted from their next BMW Motor Vehicle Insurance renewal.

This discount/reward will not be available to Marsh's customers unless they are BMW customers purchasing insurance via Marsh in the BMW Motor Vehicle Insurance facility.

The discount/reward is funded from Marsh's broking commission.

Further details of the arrangement are outlined within the attached BMW Multi Policy Reward Terms & Conditions.

There will be no compulsion for customers to purchase any insurance policy and they will be free to obtain alternative insurance quotes or no insurance at all if they so choose.

(Refer to direction 4)

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)

Customers of Marsh's Private Client Services practice, who do not insure with the BMW Motor Vehicle Insurance facility, will not be offered the BMW Multi Policy reward.

The proposed arrangements will provide customers of Marsh's Private Client Services practice who participate in the BMW Motor Vehicle Insurance facility with the opportunity for lower cost insurance in relation to certain additional insurance products (see above product list).

(b) Number of those persons:

(i) At present time: approximately 20,000

(ii) Estimated within the next year: approximately 21,000
(Refer to direction 6)

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

N/A

4. Public benefit claims

(a) Arguments in support of notification:
(Refer to direction 7)

Potential for increased competition on pricing in relation to the additional insurance products specified above. Marsh's customers will enjoy a cost saving on the total price of the insurance policies if purchased separately in competitive markets. Those purchasers of such insurance policies might not otherwise be able to negotiate a discount/reward. Marsh's customers may be encouraged to purchase insurance policies they might not otherwise purchase in light of the reduced pricing, which has a knock-on public benefit.

Marsh will continue to arrange the insurance policies for its customers outside the BMW Motor Vehicle Insurance facility.

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

The notified conduct above is similar to other 'loyalty programs', in the broader market for the supply of retail goods and services in Australia, which we believe have previously been recognised as not having an anti-competitive effect.

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 national market for supply of insurance broking services.

The national market for the supply of insurance policies in the categories specific above.

The vast majority of all policies which will be issued as part of the BMW Multi Policy Reward program, will be for residential Home & Contents insurance. So the market for Home & Contents insurance is of particular relevance.

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)

The discount/reward may have the effect of encouraging customers to use Marsh's services instead of a competing broker or product provider. Marsh believes that the conduct will have little, if any, public detriment as consumer choice is maintained. Potentially very small brokers or product providers may find it harder to offer such a Multi Policy discount/reward but such an impact is impossible for Marsh to quantify.

Marsh considers that there is no material anticompetitive detriment because other insurance providers are already offering Multi Policy discounts / rewards to their customers and Marsh's total current share of the market for the insurance policies in question is modest.

(b) Facts and evidence relevant to these detriments:

We consider that only a minor segment of the overall market for the specified insurance products will be affected by the Marsh conduct. All the insurance policies will remain readily available to purchasers on competitive terms through alternative sources. Marsh will continue to arrange the insurance policies for its customers outside the BMW Motor Vehicle Insurance facility.

7. Further information

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

Melissa Pert, National Manager, Private Client Services

Phone 03 9603 2363 / e-mail melissa.pert@marsh.com

Stephen Mordecai, Senior Corporate Counsel

Phone 02 8864 8656 / e-mail stephen.mordecai@marsh.com

Dated..... 13 December 2011

Signed by/on behalf of the applicant


.....
(Signature)

MICHAEL MCSWEENEY
.....
(Full Name)

MARSH PTY LTD
.....
(Organisation)

Company Secretary
.....
(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.

