

18 April 2010

Australian Competition and Consumer Commission
Public Register Office
GPO Box 3131
CANBERRA ACT 2601

COPY BY EMAIL TO: adjudication@accg.gov.au

Dear Sir/Madam,

**M2 Commander Pty Ltd and CAFG Australease Pty Limited
ACCC Notification ("Notification")**

We refer to the above mentioned matter.

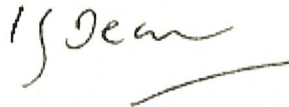
Please find enclosed:

1. Form G (Notification of Exclusive Dealing) ("**Form G**"); and
2. Cheque for the prescribed fee of \$100.00.

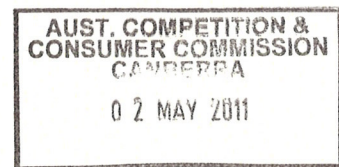
We look forward to hearing from you shortly.

Please contact the writer with any queries.

Yours sincerely

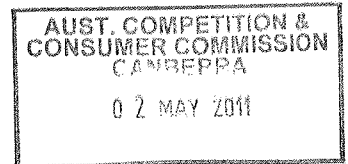


Kellie Dean
Company Secretary
M2 Commander Pty Ltd
encl.



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)

N95381 M2 Commander Pty Ltd (ACN 136 950 082) (“M2”).

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

M2 supplies a range of telecommunications goods and services (together with associated support services) predominantly to small and medium business customers. These include, but are not limited to VPNs, fixed line telephone systems, PABXs.

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

Kellie Dean
Company Secretary
M2 Telecommunications Group
Level 10, 60 City Road
SOUTHBANK VIC 3006

2. Notified arrangement

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

Telecommunications goods and services, predominantly for small and medium business customers (“Services”).

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

M2 will, in connection with offering the Services to its small and medium business customers, provide those customers with a discount on the cost of those customers’ Services (“Discount”) if those customers enter into a finance arrangement with CAFG Australease Pty Limited (ACN 002 306

836) (“CAFGA”), in order to procure finance for the purchase of telecommunications goods (such as handsets, routers and other telecommunications equipment) for use in connection with the Services (“**Relevant Equipment**”).

The value of the Discount will be either a fixed dollar discount (for example, a discount of \$10 off the line rental for each eligible line) or a discount on call rates (the value of which will vary depending on the relevant customer’s usage).

For the avoidance of doubt, M2’s small and medium business customers are not compelled to enter into a finance arrangement with CAFGA and are able to:

- (a) purchase the Relevant Equipment (for use in connection with the Services) outright; or
- (b) purchase the Relevant Equipment (for use in connection with the Services) with finance from any other source of that customer’s election; or
- (c) elect not to purchase the Relevant Equipment,

however, the Discount referred to in this notification may not be available to M2’s small and medium business customers unless a finance arrangement with CAFGA is entered into.

(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)

M2’s small and medium business customers.

(b) Number of those persons:

(i) At present time:

Greater than 50.

(ii) Estimated within the next year:

(Refer to direction 6)

Not known but likely to substantially exceed 50.

- (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)

Under the arrangement with CAFGA, M2's small and medium business customers will be able to receive the Discount on the Services in circumstances where those small and medium business customers elect to enter into a finance arrangement with CAFGA.

It is submitted that the arrangement with CAFGA promotes competition in the market as:

- (i) M2 will providing small and medium business customers with access to cheaper Services, thereby increasing price competition in the market for the Services;
- (ii) the ability for small and medium business customer to obtain a Discount on the Services may provide that customer with the ability to purchase the Services, where, in absence of the Discount, the cost of the Services would be greater, more difficult for the small and medium business customer to service and potentially prohibitive; and
- (iii) by virtue of sub paragraphs (i) and (ii) above, the Discount may provide small and medium businesses with greater disposable income, thereby encouraging the growth of small and medium businesses (and it is noted that the emergence and growth of small and medium businesses is likely to promote competition in the market places in which those small and medium businesses operate).

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

- (i) The acquisition cost of the Relevant Equipment can be in the tens of thousands of dollars. Coupled with the cost of the Services, the cost for small and business consumers can be prohibitive if the Discount is not provided. The ability for small and medium business customers to obtain a Discount in connection with the Services is likely to promote the ability of a small and medium business

customer to acquire the Services and establish and/or grow their business.

- (ii) It is submitted that providing a Discount to small and medium customers will not prejudice or adversely affect those customers.

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 Services are principally supplied to, and acquired by, small to medium business customers.

Significant suppliers of products that are substitutes for, or reasonably similar to the Services include:

- (a) Telstra via 'Telstra Business Centres';
- (b) Optus via 'Optus Business Direct'; and
- (c) Vodafone via 'Vodafone Business Centres'.

Potential acquirers of the Services are small and medium business customers.

There is substantial competition in the relevant market place.

M2 is not aware of any restriction on the supply or acquisition of the Services (other than coverage limitations).

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)

M2 is not aware of any detriment that is likely to arise from the arrangement of providing a Discount on the Services to small and medium business customers, particularly where those customers are not compelled to accept that Discount or enter into a finance arrangement with CAFGA.

(b) Facts and evidence relevant to these detriments:

The arrangement will not result in detriment because of the public benefit set out in Item 4 above.

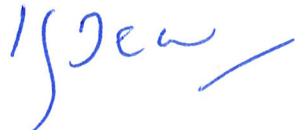
7. Further information

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

Kellie Dean
Company Secretary
M2 Telecommunications Group
Level 10, 60 City Road
SOUTHBANK VIC 3006

Dated: 18 April 2011

Signed by/on behalf of the applicant



Kellie Dean
M2 Commander Pty Ltd
Company Secretary



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.