



25 January 2012

Our Ref: KE:JK:93470

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MARS/PRISM:

Adjudication Branch
Australian Competition and Consumer Commission
Level 20
175 Pitt Street
SYDNEY NSW 2000

Dear Sirs,

Vodafone Pty Ltd: Form G – Notification of Exclusive Dealing

We act for Vodafone Pty Ltd (**Vodafone**). Vodafone propose to run competitions from time to time in which consumers will be eligible to win prizes upon purchasing selected Vodafone products from participating third party retailers.

Please find **enclosed** the following:

1. Form G – Notification of Exclusive Dealing;
2. Cheque for the lodgement fee in the amount of \$100.00.

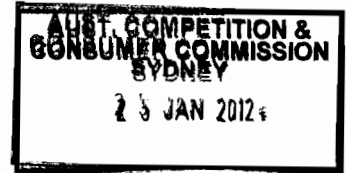
Should you require any further information, please do not hesitate to contact me.

Yours faithfully
TRUMAN HOYLE

Kathryn Edghill
Partner
Email: kedghill@trumanhoyle.com.au

Level 11, 68 Pitt Street
Sydney NSW 2000
Doc Ref: 447050_1.DOC
Telephone +61 2 9226 9888
Facsimile +61 2 9226 9899
DX 263 Sydney
www.trumanhoyle.com.au

Legal and Regulatory Advisers to the New Economy



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)

N95686

Vodafone Pty Ltd (ACN 062 954 554) of Level 4, 40 Mount Street, North Sydney NSW 2060 (**Vodafone**)

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

Vodafone is a provider of mobile telecommunications goods and services.

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

Kathryn Edghill

Truman Hoyle Lawyers

Level 11, 68 Pitt 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 goods are those products supplied and distributed in Australia by Vodafone and its related bodies corporate, including Vodafone prepaid mobile phone, Vodafone prepaid mobile broadband products, Vodafone prepaid mobile phone and broadband recharge products; multimedia, data and mobile telecommunications services (**Eligible Vodafone Products**).

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

Vodafone proposes to run competitions from time to time for a limited promotional period, in which consumers who purchase Eligible Vodafone Products from specified participating third party retailers in Australia will

be eligible to participate in the competitions to win certain prizes **(Promotion)**.

Each Promotion will be either a game of skill or a game of chance. In order to enter the Promotion, entrants will be required to provide relevant details contained within the Eligible Vodafone Product such as serial numbers or activation codes, or otherwise provide their mobile phone numbers or Vodafone account details.

The nature and value of the prizes will vary for each Promotion and may include small items of low value, event tickets, vouchers, Vodafone branded merchandise, or other items of larger value including travel prizes.

(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 who purchase Eligible Vodafone Products from participating third party retailers.

- (b) Number of those persons:

- (i) At present time:

Unknown

- (ii) Estimated within the next year:

(Refer to direction 6)

Unknown

- (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)

The proposed conduct will provide the following benefits to the public:

- i. current and potential customers of Vodafone will be provided with the opportunity to obtain additional benefits (in the form of prizes), at little or no additional cost when purchasing Eligible Vodafone Products during periods in which a Promotion is run;

- ii. the proposed conduct will not require consumers to purchase Eligible Vodafone Products other than on a normal commercial basis and will not result in increased prices to consumers;
- iii. the proposed conduct will not result in any restriction or limitation on the ability for consumers to purchase Eligible Vodafone Products from non-participating retailers which stock such products; and
- iv. competition in the relevant markets will be encouraged and promoted by encouraging competitors to offer similar Promotions to consumers.

The public benefits significantly outweigh any anti-competitive detriments arising from the proposed conduct.

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

Please see the details referred to in paragraph 4(a) above. The terms and conditions for each Promotion will be clearly referenced in all marketing collateral and at point of sale and will be readily accessible to consumers.

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 relevant affected markets are the Australian markets for the retail supply of mobile telecommunications products and services including the supply of voice, data, and mobile broadband services.

These markets are characterised by the following:

- the presence of a large number of competitors including Telstra and Optus, as well as smaller competitors;
- vigorous and effective competition amongst these competitors.

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)

There will be little or no public detriment in relation to the notified conduct due to the following:

- (a) consumers are not obliged or required to participate in a Promotion upon purchasing the Eligible Vodafone Product;
- (b) Eligible Vodafone Products will be available for purchase by consumers with or without the opportunity to participate in a Promotion on the same commercial terms;
- (c) There will be little or no additional cost to consumers to participate in a Promotion (eg the cost of a standard SMS);
- (d) Competitors in each of the relevant markets frequently run similar promotions, and there is nothing in the proposed conduct which would prevent them from continuing to do so;
- (e) Each of the relevant markets is highly competitive for the reasons described in paragraph 5 above;
- (f) The Promotions will be conducted for a limited time only.

The applicant believes that the benefits of the proposed conduct significantly outweigh any anti-competitive detriment.

- (b) Facts and evidence relevant to these detriments:
See details in (a) 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:

Kathryn Edghill
Truman Hoyle Lawyers
Level 11, 68 Pitt Street
Sydney NSW 2000
Phone: (02) 9226 9888

Dated 25 JANUARY 2012

Signed ~~by~~/on behalf of the applicant

K Edghill
.....
(Signature)

Kathryn Edghill
(Full Name)

Truman Hoyle Lawyers
(Organisation)

Partner
(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.