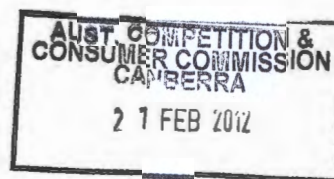


### Form G

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**

FILE No.
DOC:
MARS/PRISM:

- (a) Name of person giving notice:  
*(Refer to direction 2)*

N95733

Australia and New Zealand Banking Group Limited ABN 11 005 357 522  
("ANZ").

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

Supply of retail (consumer and commercial) financial products and services, including through authorised finance brokers who are able to offer financial products and services on behalf of ANZ to their customers.

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

ANZ Centre  
Level 9, 833 Collins Street  
Docklands Victoria 3008.

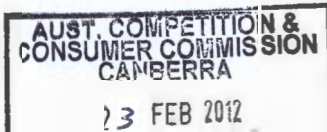
**2. Notified arrangement**

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

*Agricultural machinery and equipment purchased from Yarra Valley AG Pty Ltd.*  
*Commercial financial products and services provided by ANZ and arranged through a finance broker.*

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

*ANZ giving or allowing or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply of financial products and services to customers of Yarra Valley AG Pty Ltd who are introduced to ANZ by*



*Vehicle and Equipment Finance Pty Ltd, a finance broker who is authorised to act for ANZ, on condition that the customers will acquire equipment from Yarra Valley AG Pty Ltd.*

*ANZ refusing to give or allow a discount, allowance, rebate or credit in relation to the supply of financial products and services to customers of Yarra Valley AG Pty Ltd who are introduced to ANZ by Vehicle and Equipment Finance Pty Ltd, for the reason that the customers have not acquired or have not agreed to acquire equipment from Yarra Valley AG Pty Ltd.*

*(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 Yarra Valley AG Pty Ltd*

- (b) Number of those persons:

- (i) At present time:

*In excess of 50*

- (ii) Estimated within the next year:

*(Refer to direction 6)*

*In excess of 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)*

*Please refer to attached submission.*

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

*Please refer to attached submission.*

**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)*

*Please refer to attached submission.*

**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)*

*Please refer to attached submission.*

(b) Facts and evidence relevant to these detriments:

*Please refer to attached submission.*

**7. Further information**

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

Cosi De Angelis  
Level 8, 324 Queen Street  
Brisbane QLD 4000  
Telephone: (07) 3228 3746

Dated.....17 February 2012.....

Signed by/on behalf of the applicant

(Signature)

(Full Name)

George Obad

(Organisation)

ANZ Banking Group

(Position in Organisation)

National Sales Support Manager

**ANZ**  
Australia and New Zealand  
Banking Group Limited (ANZ)  
ABN 11 005 357 522

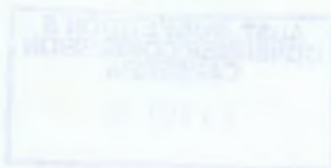
AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA  
21 FEB 2012

**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

### Background

Yarra Valley AG Pty Ltd ("the Dealer") is a manufacturer and distributor of agricultural machinery and equipment. The Dealer sells equipment for use in tillage, drilling and harvesting technologies as well as the associated services, including mowers, harvesters and ploughs.

ANZ carries on (amongst other things) the business of providing finance to purchasers of a variety of assets (including commercial purchasers).

The Dealer and ANZ have been introduced by Vehicle and Equipment Finance Pty Ltd ("the Broker"), an authorised finance broker. Under an agreement between ANZ and the Broker, the Broker is authorised to offer financial products and services on behalf of ANZ to its customers who are seeking asset finance. The Dealer refers customers who are seeking finance for their purchases to the Broker, who provides assistance in locating suitable finance.

### Benefits and rewards for customers

From time to time, the Dealer and ANZ propose to offer a discount or rebate on the rate of interest applicable to finance provided by ANZ where a customer introduced by the Broker acquires equipment from the Dealer. The Dealer or the Broker may indirectly contribute to this discount or rebate by way of reimbursement or subsidy to ANZ.

### Notified Conduct

ANZ, the Broker and the Dealer are concerned that the conduct described above could be viewed as a technical contravention of section 47(6) and (7) of the *Competition and Consumer Act 2010* (the "Act"). Specifically, the conduct could be viewed as ANZ giving or allowing or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply of financial products and services to customers of the Dealer or the Broker on condition that the customers acquire equipment from the Dealer or are introduced to ANZ through the Broker (and the corresponding refusal to supply for the reason that the customer has not so acquired equipment from the Dealer or been introduced by the Broker).

Whilst the parties do not necessarily consider that this is the correct characterisation of the conduct, they recognise that the conduct is open to being characterised in this way, so out of an abundance of caution, in order to minimise the risk of contravening sections 47(6) and (7), ANZ, the Broker and the Dealer wishes to notify the conduct under section 93(1) of the Act. The conduct is set out in the attached Form G.

## **Competition Issues**

We submit that the conduct in question will not adversely affect competition in any relevant market and the conduct in question will result in public benefits and no identifiable public detriment.

We do not believe that the proposed conduct will have an adverse affect on competition in any relevant market. We consider that the relevant markets for assessing this notification are the retail market for agricultural equipment and machinery, and the market for commercial financial products and services. These markets are highly competitive and characterised by relatively low levels of concentration, with a diverse range of services and continuing innovation in product development.

The Dealer is only one of many retailers of agricultural equipment. Similarly, ANZ is only one of a number of providers of financial products and services to the agricultural market, with other providers including John Deere, De Lagen, Hitachi, Caterpillar and Case. These markets are likely to remain competitive for the foreseeable future. Accordingly, we do not consider that the conduct will distort demand, create barriers to entry to otherwise harm competition in the market.

Moreover, the notified conduct is pro-competitive and will generate a number of public benefits, including:

1. providing customers with the opportunity to obtain competitive rates on equipment finance in conjunction with their optional acquisition of equipment from the Dealer.
2. encouraging ANZ's competitors in the agricultural finance space to offer similarly priced products and services, encouraging competition amongst providers of equipment finance. These factors will ultimately enhance consumer welfare via the reduction in the cost of motor vehicle finance.

We believe that the notified conduct causes little, if any, identifiable detriment to the public.

From the perspective of customers, the notified conduct comprises the offer of benefits and rewards on the optional acquisition of finance in conjunction with their optional acquisition of equipment from the Dealer. While some customers may consider their choice of dealer is limited by the exclusive availability of the benefits or rewards through Dealers or that their choice of financier is limited by the exclusive ability of the benefits or rewards through ANZ, the genuine choice of consumers to deal with any equipment dealer and any financier based on the competitive terms offered by those particular parties is not restricted. By retaining the genuine choice of consumers, the conduct is not inherently anti-competitive.

## **Conclusion**

For the reasons set out above, we do not believe the Commission should serve a notice under section 93(3A) of the Act in respect of the attached notification. This is

because the notified conduct will cause little, if any, identifiable detriment and will generate public benefits.

