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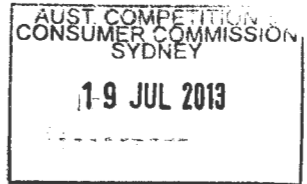
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**Allens < Linklaters**

18 July 2013

Mr Richard Chadwick  
General Manager, Adjudication  
Australian Competition and Consumer Commission  
Level 20  
175 Pitt Street  
Sydney NSW 2000



**By Hand**

FILE No:
DOC:
MARS/PRISM:

Dear Mr Chadwick

**Samsung Electronics Australia Pty Ltd: exclusive dealing notification**

We act for Samsung Electronics Australia Pty Ltd (**Samsung**).

We enclose a Form G Notification of Exclusive Dealing in relation to third line forcing conduct, submitted by Samsung on behalf of Quickflix. A signed letter from Quickflix authorising Samsung to lodge the Form G Notification of Exclusive Dealing is also enclosed. The proposed conduct is outlined in the notification.

Enclosed is a cheque for \$100 as payment of lodging fees.

Yours sincerely

  
**Jacqueline Downes**  
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**FORM G**

Commonwealth of Australia

*Competition and Consumer Act 2010 - subsection 93(1)*

**NOTIFICATION OF EXCLUSIVE DEALING**

To the Australian Competition & 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 in sub-section 47(6) or (7), of that Act in which the person giving notice engages or proposes to engage.

**1. Applicant**

**(a) Name of person giving notice:**

N96866

Quickflix Ltd (ABN 62 102 459 352)

**(b) Short description of business carried on by that person:**

Quickflix is an online movie rental company that supplies a range of movies and TV shows delivered as DVD or Blu-ray, or streamed instantly on-demand to a range of connected devices. Quickflix products are supplied directly to consumers.

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

Quickflix Ltd  
c/- Marc Dunn  
Legal Counsel  
Samsung Electronics Australia  
Quad Samsung, 8 Parkview Drive, Homebush Bay NSW 2127  
T: (02) 9763 9978

**2. Notified arrangement**

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

It is proposed that, Quickflix will offer consumers a Quickflix voucher that entitles the consumer to a 6 month POST & PLAY Unlimited subscription from Quickflix at no cost (the **Bonus Gift**), if the consumer acquires both a Samsung Galaxy Note 8.0 N510 tablet and a Samsung EFC-1C9NIECSTD Book Cover (together, the **Participating Product**) from a Samsung Experience Store.

The recommended retail price for the Participating Product is \$508.00 (being \$459 for the Samsung Galaxy Note 8.0 N510 tablet and \$49.00 for the Samsung EFC-1C9NIECSTD Book Cover). The recommended retail price for the Bonus Gift is \$93.54.

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

The notified conduct is as follows:

- 
- (i) From time-to-time and for a limited promotional period, Quickflix will offer to supply, and supply the Bonus Gift for no additional charge to persons on the condition that such persons acquire the Participating Product from a Samsung Experience Store;
  - (ii) Quickflix will not supply a Bonus Gift for no additional charge to persons who have not acquired the Participating Product from a Samsung Experience Store.

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

**(c) Class or classes of persons to which the conduct relates:**

Consumers who purchase a Participating Product from a Samsung Experience Store.

**(d) Number of those persons:**

**(i) At the present time:**

Unknown

**(ii) Estimate within the next year:**

1000 customers

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

Not applicable

**4. Public benefit claims**

**(f) Arguments in support of notification:**

See the attached submission.

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

See the 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):**

See the attached submission.

**6. Public detriments**

**(h) 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:**

(i) **Facts and evidence relevant to these detriments:**

See the attached submission.

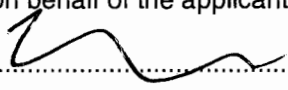
7. **Further information**

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

Quickflix  
c/- Marc Dunn  
Legal Counsel  
Samsung Electronics Australia  
Quad Samsung, 8 Parkview Drive, Homebush Bay NSW 2127  
T: (02) 9763 9978

Dated 18 July 2013

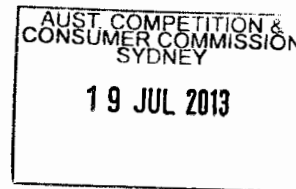
Signed by/on behalf of the applicant

  
.....  
(Signature)

Marc Dunn  
.....  
(Full Name)

Samsung Electronics Australia Pty Ltd.  
.....  
(Organisation)

Legal Counsel  
.....  
(Position in Organisation)



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**SUBMISSION IN SUPPORT OF NOTIFICATION BY QUICKFLIX LTD IN RELATION TO  
PROPOSED THIRD LINE FORCING CONDUCT**

## **2. The Conduct**

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### **2.1 The Promotion**

Quickflix proposes to conduct a promotion which will have the following features:

- (a) the promotion will run for a limited promotional period from time-to-time; and
- (b) Quickflix will offer the Bonus Gift to consumers who meet the following conditions:
  - (i) the consumer must have purchased the Participating Product from a Samsung Experience Store within the period of the promotion; and
  - (ii) the consumer must have complied with the Terms and Conditions of the promotion.

(the *Promotion*)

Quickflix considers that there is a risk that the Promotion may be considered to involve third line forcing as it will be supplying the Bonus Gift at no charge on condition that consumers purchase the Participating Product from the Samsung Experience Store, which is an independent third party.

### **2.2 Terms and Conditions**

The Bonus Gift and the Terms and Conditions applying to the Promotion will be clearly disclosed to consumers prior to their decision to purchase the Participating Product by means of marketing materials, supply of an abridged version of the Terms and Conditions to participating Samsung Experience Stores, and clear references to the availability of the full Terms and Conditions on <http://www.samsung.com/au/promotions/>.

Retailers who are authorised by Quickflix to participate in the Promotion are any Samsung Experience Store. At present, there are two Samsung Experience stores; one in Sydney and one in Melbourne. These stores are operated by third parties and use the Samsung brand under licence from Samsung. The Terms and Conditions of each Promotion will clearly set out that the promotion is only available in respect of Participating Products purchased from a Samsung Experience Store.

## **3. Relevant Markets**

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The Participating Product is supplied to end users in a national retail market for consumer electronics.

There are a wide range of competitors that manufacture consumer electronics and domestic appliances products in competition with Samsung, including Panasonic, Sony, LG, Apple and HTC.

There is also a wide range of competitors that supply consumer electronic products to consumers at a retail level, ranging from large multinational corporations and nation-wide franchises to smaller chain stores and local retailers. Examples include retail electronics and appliance stores such as JB HiFi and Harvey Norman, department stores such as David Jones and Myer, on-line stores and specialty stores such as telecommunications retailers.

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The Bonus Gift is supplied to end users in a national retail market that is at least as wide as a market for online entertainment, and likely wider. There are a wide range of competitors that supply online entertainment to consumers in competition with Quickflix including Foxtel on Demand, Apple TV, BBC iPlayer, BigPond Movies, FetchTV and YouTube.

There are also a large number of competitors in the wider market for audiovisual entertainment, including DVDs, DVD rental, free to air television and their online catch-up services, subscription television, cinemas and other audiovisual content delivery services.

#### **4. Public Benefits**

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

- (a) the promotion will provide consumers with the Bonus Gift at no cost;
- (b) the proposed conduct does not require consumers to participate in the Promotion;
- (c) the proposed conduct does not require consumers to purchase the Participating Product other than on a normal commercial basis;
- (d) the Participating Product and the Bonus Gift will be available for purchase by consumers outside of the Promotion;
- (e) consumers will have a genuine choice, based on quality and price, whether to purchase the Participating Product alone or to accept the package of the Participating Product and the Bonus Gift;
- (f) the proposed conduct will promote competition in relevant markets by encouraging Quickflix's competitors to offer similar bonuses or gift offers.

The significant public benefits outlined above will outweigh any potential anti-competitive detriment which may arise from the conduct.

#### **5. Public Detriments**

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The proposed conduct will not result in any anti-competitive detriment in the relevant markets as:

- (a) consumers are not compelled to participate in the Promotion;
- (b) consumers have a genuine choice, based on quality and price, whether or not to purchase the Participating Product alone or to participate in the Promotion;
- (c) consumers who choose not to participate in the Promotion may acquire both the Participating Product and Bonus Gift outside of the Promotion;
- (d) if a consumer does choose to participate, the Bonus Gift will be able to be acquired at no cost to the consumer;
- (e) there are a large number of suppliers of online on demand entertainment including Foxtel on Demand, Apple TV, BBC iPlayer, BigPond Movies and FetchTV, and there are also a large number of competitors in the wider market for audiovisual entertainment, including DVDs, DVD rental, free to air television and their online catch-up services, subscription television, cinemas and other audiovisual content

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delivery services. Consumers may therefore acquire substitutable goods from a large variety of other suppliers;

- (f) competitors of Quickflix are able to, and do, make offers which are similar to the Promotion and the proposed conduct will not restrict any competitors from offering similar products to those offered by Quickflix in promotions or from offering a similar promotion;
- (g) there are a large number of suppliers of consumer electronics in both the wholesale and retail markets including vigorous competitors such as Panasonic, LG, Sony and Fisher & Pykel, Apple, Blackberry, Nokia, HTC, Motorola and Sony Ericsson and consumers may therefore acquire substitutable goods from a large variety of other manufacturers and retailers;
- (h) competitors of Samsung are able to, and do, make offers which are similar to the Promotion and the proposed conduct will not restrict any competitors from offering similar goods to those offered by Samsung in promotions or from offering a similar promotion.

Therefore, any detriments which may occur will be outweighed by the public benefits of the conduct.

# Samsung Experience Store Promotion

**Attention: MarcDunn**  
**Legal Counsel**  
**Samsung Electronics Australia**  
**Quad Samsung,**  
**8 Parkview Drive,**  
**HomebushBay NSW 2127**  
**T: (02) 9763 9978**

In relation to our confirmation to participate in the Samsung Experience Store promotion, we understand that Samsung will be notifying the Australian Competition and Consumer Commission (ACCC) on behalf of Quickflix to seek immunity in relation to potential third line forcing conduct.

We further acknowledge and agree that Quickflix's participation in the Samsung Experience Store promotion is subject to gaining immunity from prosecution for third line forcing.

As part of the submission to the ACCC for this purpose, we confirm the following details.

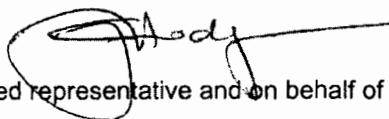
Quickflix is an online movie rental company that supplies a range of movies and TV shows delivered as DVD or Blu-ray, or streamed instantly on-demand on a transactional basis (rent or to own) or a subscription basis, to a range of connected devices. Quickflix products are supplied directly to consumers.

**Proposed conduct:** For a limited promotional period, Quickflix will offer to supply, and supply a 6 month POST & PLAY Unlimited subscription from Quickflix for no additional charge to persons on the condition that such persons acquire both a Samsung Galaxy Note 8.0 N510 tablet and a Samsung EFC-1C9NIECSTD Book Cover from a Samsung Experience Store;

Quickflix will not supply a 6 month POST & PLAY Unlimited subscription for no additional charge to persons who have not acquired both a Samsung Galaxy Note 8.0 N510 tablet and a Samsung EFC-1C9NIECSTD Book Cover from a Samsung Experience Store.

Quickflix authorises Samsung to lodge a notification with the ACCC on behalf of Quickflix in respect of the proposed conduct as it pertains to Quickflix and authorises Samsung to deal with any queries from the ACCC on its behalf.

Signature:



(As an authorised representative and on behalf of Quickflix Ltd)

Name:

Simon Hodge

Title:

Executive Director

Date:

4 July 2013