

# 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)

N96535 Metalicus Pty Ltd (“Metalicus”)

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

Metalicus has 43 stand alone retail and Myer in store concession outlets throughout Australia. These outlets supply women’s apparel and accessories

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

Metalicus Pty Ltd  
17-21 Hardner Rd  
MT WAVERLEY VIC 3149

## 2. Notified arrangement (Refer to direction 4)

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

A Metalicus gift card supplied by Metalicus to ANZ Rewards cardholders who meet the minimum spend target at Metalicus outlined in section 2(b).

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

ANZ issues “ANZ Rewards”, a consumer credit card with loyalty rewards benefits.

ANZ Rewards No 2 Pty Ltd manages the consumer cards loyalty rewards program for ANZ and ANZ Rewards cardholders.

ANZ Rewards No 2 Pty Ltd proposes to offer ANZ Rewards cardholders a new, additional, loyalty program called “ANZ Gift with Purchase” from 14 November 2012 – 1 January 2014.

It is proposed that the ANZ Gift with Purchase program will offer ANZ Rewards cardholders who register for the ANZ Gift with Purchase program the ability to receive gift cards from merchant retailers participating in the ANZ Gift with Purchase program, on top of their existing ANZ Rewards program benefits, when they meet certain spend targets at the merchant retailers.

Metalicus is a merchant retailer willing to participate in the ANZ Gift with Purchase program.

For example, a customer of Metalicus who is also registered with the ANZ Gift with Purchase program must spend at least \$300 at Metalicus (either on one purchase or on collective total purchases) on their ANZ Rewards or ANZ Rewards Platinum credit card to receive a Metalicus gift card to the value of \$50. A registered customer can continue to earn a Metalicus gift card to the value of \$50 each time they reach the threshold spend amount, up to a maximum of 4 gift cards.

**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)*

ANZ Rewards cardholders who are registered with the ANZ Gift with Purchase program.

- (b) Number of those persons:

- (i) At present time:

20,000 ANZ Rewards cardholders are estimated to join the ANZ Gift with Purchase program by end of 2012.

- (ii) Estimated within the next year:  
*(Refer to direction 6)*

30,000 - 50,000 ANZ Rewards cardholders by April 2013.

- (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)*

ANZ Rewards credit card customers who are registered with the ANZ Gift with Purchase program, and spend a threshold amount of \$300, will receive a gift card to the value of \$50 up to a maximum of 4 gift cards, in addition to

the existing reward benefits with the ANZ Rewards program. The customer is rewarded for shopping with Metalicus, and the program operates to the customer's benefit.

There are a large number of retailers of womens apparel in Australia and from overseas supplying into Australia, for example online. It is considered by Metalicus to be a competitive market. As a result, competitors in the market may consider entering similar programs or offering similar discounts in order to attract consumers to their stores. This would increase competition in the market.

Consumers can still purchase from Metalicus and choose the form of payment they would like to make and do not need to use an ANZ credit card.

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

When the ANZ Rewards credit customer who is registered with the ANZ Gift with Purchase program spends \$300 with Metalicus, they will automatically receive a gift card to the value of \$50, up to a maximum of 4 gift cards.

Anecdotally, any google search or visit to a retail shopping strip or centre reveals a large number of retailers offering women's apparel and accessories. For example, the Iconic website visited on 18 January 2012 at 12:30 pm (<http://www.theiconic.com.au/women/brands/>) lists approximately 550 womens brand retailers available to be purchased by 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)*

Australian credit card and prepaid card market and the retailer market in so far as it applies to Metalicus participating in the ANZ Gift with Purchase program, women's apparel provider market, gift card provider market.

## 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)*

No detriment is identified.

(b) Facts and evidence relevant to these detriments:

N/A

**7. Further information**

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

Steven Milicevic, General Counsel, ph: (03) 9902 5507

Metalicus Pty Ltd, 17 – 21 Hardner Rd, Mt Waverley VIC 3149.

Dated..... 18<sup>th</sup> January 2013 .....

Signed on behalf of the applicant



.....  
(Signature)

Steven Milicevic  
(Full Name)

The PAS Group of Companies  
(Organisation)

General Counsel  
(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.