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MARS/PRISM:

29 January 2013

Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Dear Sir/Madam,

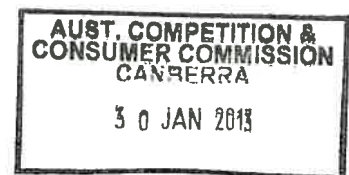
**RE: FORM G – NOTIFICATION OF EXCLUSIVE DEALING**

Please find enclosed our Application Form G – Notification of Exclusive Dealing and a cheque for the fee of \$100.00.

Yours faithfully,

Sally Hamilton  
Corporate Counsel

Encl.



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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 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)*

N96545 Marsh Pty Ltd (ABN 86 004 651 512, AFSL 238 983) ("Marsh").

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

Insurance broker and risk advisor.

Marsh is a subsidiary of a U.S. company, Marsh Inc. Marsh Inc. is a world leader in delivering risk and insurance services and solutions to clients. Global risk management consulting, insurance broking and insurance program management services are provided for business, professional service organisations and private clients under the Marsh name.

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

Level 4, 555 Lonsdale Street, Melbourne, VIC, 3000

## 2. Notified arrangement

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

Marsh provides insurance broking services and arranges insurance solutions for members of the Jewellery and Gift Buying Service Pty Ltd ("JGBS"). This includes arranging the following business insurance products with various insurers:

- a "Jewellers Block" policy (which is arranged under a binding authority provided by the insurers);
- a General and Products Liability policy (which is arranged under a binding authority provided by the insurers); and
- a Business Interruption policy (which is not under a binding authority but is arranged on offer and acceptance basis).

- (b) Description of the conduct or proposed conduct:  
*(Refer to direction 4)*

The conduct may be described as:

- Marsh allows a discount/reward on its services because the insured has acquired the JGBS membership services and they have obtained bronze, gold, silver or platinum level of that membership.
- Marsh refusing to allow a discount/reward on its services if the insured has not acquired the JGBS membership services and they have not obtained a bronze, gold, silver or platinum level of membership.

(the “**Proposed Conduct**”).

The JGBS membership reward discount is applied to the commission allowed by the insurers to Marsh.

The level of discount varies according to what level of JGBS membership the insured has obtained. The discounts are 5% (for bronze), 7.5% (for silver), 10% (for gold) and 12.5% (for platinum) of the commission allowed to Marsh by the insurers (not the total premium charged by Marsh to the client).

The discount will not be available to Marsh’s customers unless they are JGBS member (who has obtained at a minimum, a bronze level of membership) purchasing the identified insurance products via Marsh as part of the JGBS insurance facility.

There will be no compulsion for JGBS members of any level to purchase any insurance policy and they will be free to obtain alternative insurance quotes or no insurance at all if they so choose.

**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)

Jeweller customers of Marsh’s Affinity practice who do not have at least a bronze level of a JGBS membership will not be offered the JGBS membership reward discount.

The conduct provides the discount to customers of Marsh’s Affinity practice who are JGBS members (who have at least bronze level of membership) and who participate in the JGBS insurance facility.

- (b) Number of those persons:

- (i) At present time:

Approximately 200

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

Approximately 250

- (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 is of direct benefit to the relevant JGBS members:

- who will receive a discount on the total amount they will pay for their business insurance policies and Marsh's services; and
- who are persons who may be otherwise unable to negotiate discounts on their own behalf.

The Proposed Conduct may promote competition in the market for the supply of insurance broking services for retail jewellers as other insurance brokers may offer similar discounts.

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

JGBS members (bronze and above) receive discounts on the total price paid for the relevant insurance products and Marsh's services.

#### **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 national market for supply of insurance broking services.

The national market for the supply of business insurance policies to jewellers.

#### **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)

The discount/reward may have the effect of encouraging JGBS members to use Marsh's services instead of a competing broker or product provider.

Marsh believes that the conduct will have little, if any, public detriment as genuine consumer choice is maintained.

- (b) Facts and evidence relevant to these detriments:

JGBS members remain free to choose whether or not to use Marsh's services and neither JGBS or Marsh are restricting the jewellers' genuine choice to deal with any insurance broker or insurer based on the competitive terms offered by those brokers or insurers.

Marsh will continue to arrange insurance policies for its non JGBS member customers outside the JGBS Insurance facility. All the insurance products will remain readily available to purchasers through these insurers and alternative sources.

**7. Further information**

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

Tania O'Day, National Manager, Affinity  
Phone 03 9603 2216/ email: [tania.oday@marsh.com](mailto:tania.oday@marsh.com)  
PO Box H176 Australia Square  
Sydney NSW 1215

Sally Hamilton, Corporate Counsel  
Phone 02 8864 8401/email: [sally.hamilton@marsh.com](mailto:sally.hamilton@marsh.com)  
PO Box H176 Australia Square  
Sydney NSW 1215

Dated..... 23/01/13 .....

Signed by/on behalf of the applicant

.....  
(Signature)

TANIA O'DAY  
.....  
(Full Name)

.....  
Marsh Pty Ltd

NATIONAL MANAGER AFFINITY  
.....  
(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.