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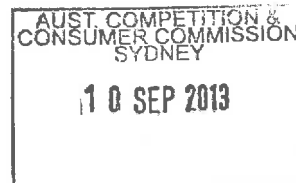
Deutsche Bank Place
Corner Hunter & Phillip Streets
Sydney NSW 2000 Australia
T +61 2 9230 4000
F +61 2 9230 5333
www.allens.com.au

GPO Box 50
Sydney NSW 2001 Australia
DX 105 Sydney

ABN 47 702 595 758

Allens > < Linklaters

10 September 2013



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

Dear Mr Chadwick

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

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

On behalf of Samsung, we enclose a Form G Notification of Exclusive Dealing in relation to third line forcing conduct. The proposed conduct is outlined in the enclosed notification.

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

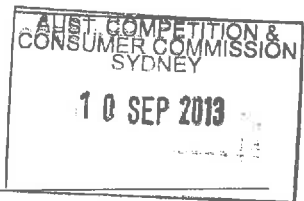
Yours sincerely


Jacqueline Downes
Partner
Allens
Jacqueline.Downes@allens.com.au
T +61 2 9230 4850

Rebecca Cope
Senior Associate
Allens
Rebecca.Cope@allens.com.au
T +61 2 9230 5124

Our Ref RZCB:JODS:206252576

Our associated firm Allens is an independent partnership operating in alliance with Linklaters LLP.
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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:**

N96956

Samsung Electronics Australia Pty Ltd (ABN 63 002 915 648)

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

Samsung is a manufacturer of a wide range of consumer electronics, mobile telecommunications, home appliances and air-conditioner products. Samsung products are sold to third party retailers who on-sell the products to consumers.

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

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, from time to time Samsung will offer consumers a bonus Samsung product/gift (the **Bonus Gift**), if the consumer acquires certain Samsung products (**Participating Product(s)**) from participating third party retailers.

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

The notified conduct is as follows:

- (i) For a limited promotional period, Samsung will offer to supply, and supply the Bonus Gift for no or minimal additional charge to persons on the condition that such persons acquire the Participating Product(s) from a participating third party retailer.
- (ii) Samsung will not supply a Bonus Gift for no or minimal additional charge to persons who have not acquired the Participating Product from participating third party retailers.

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 participating third party retailer.

(d) Number of those persons:

(i) At the present time:

Unknown.

(ii) Estimate within the next year:

Unable to be estimated, but in any event more than 50.

(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:

See the attached submission.

(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:

Marc Dunn
General Counsel
Samsung Electronics Australia
Quad Samsung, 8 Parkview Drive, Homebush Bay NSW 2127
T: (02) 9763 9978

Dated..... 2/09/2013

Signed by/on behalf of the applicant

.....
(Signature)

.....
(Full Name)

.....
(Organisation)

.....
(Position in Organisation)



**SUBMISSION IN SUPPORT OF NOTIFICATION BY SAMSUNG ELECTRONICS AUSTRALIA
PTY LTD IN RELATION TO PROPOSED THIRD LINE FORCING CONDUCT**

2. The Conduct

2.1 The Promotion

Samsung proposes to conduct promotions from time to time which will have the following features:

- (a) the promotion will run for a limited promotional period; and
- (b) Samsung will offer a Bonus Gift to customers who meet the following conditions:
 - (i) the customer must have purchased a Participating Product(s) from a participating third party retailer within the period of the promotion;
 - (ii) the customer must have complied with the Terms and Conditions of the promotion; and
 - (iii) in the case of some promotions only, the customer must pay a nominal fee to cover Samsung's administration and delivery costs (***the Administration Fee***).

(the ***Promotion***)

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(s) by means of marketing materials, supply of an abridged version of the Terms and Conditions to participating third party retailers, and clear references the availability of the full Terms and Conditions on Samsung's website.

Retailers will be authorised by Samsung to participate in the Promotion. The Terms and Conditions of each Promotion will clearly set out which retailers are authorised to participate in the Promotion.

Customers will not be able to obtain the Bonus Gift directly from retailers because the Promotion will not be administered by retailers. The Promotion will be administered by Samsung or its nominated agents rather than by retailers.

2.3 Administration Fee

For some promotions, the Terms and Conditions for the Promotion will require the customer to pay the Administration Fee in order to claim the Bonus Gift. The Administration fee is designed to cover Samsung's administration and delivery costs of supplying the Bonus Gift. The Administration Fee will consist principally of the cost of delivering the product.

If an Administration Fee is payable in relation to a particular promotion, this will be clearly disclosed in the Terms and Conditions. In addition, point of sale materials and customer information leaflets will disclose the Administration Fee where one is applicable. The Administration Fee will be paid by the customer, typically via a credit card, although, in practice, other forms of payment are accepted.

3. Relevant Markets

The Participating Product(s) are supplied to end users in national retail markets for: consumer electronics, mobile telecommunications and domestic appliances.

There are a wide range of competitors that manufacture consumer electronics and domestic appliances products in competition with Samsung, including Panasonic, Sony, LG and Fisher & Pykel. In addition, competition in the mobile telecommunications market of manufacturers of devices is particularly strong and includes Apple, Blackberry, Nokia, HTC, Motorola and Sony Ericsson.

There is also a wide range of competitors that supply consumer electronic and domestic appliances 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.

4. Public Benefits

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

- (a) the promotion will provide consumers with the Bonus Gift either at no cost or at the small cost of the Administration Fee;
- (b) the proposed conduct does not require consumers to participate in any promotion;
- (c) the proposed conduct does not require consumers to purchase the Participating Product(s) other than on a normal commercial basis;
- (d) the Participating Product(s) 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(s) alone or to accept the package of the Participating Product(s) and the Bonus Gift; and
- (f) the proposed conduct will promote competition in relevant markets but encouraging Samsung'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

The proposed conduct will not result in any 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(s) alone or to participate in the Promotion;
- (c) consumers who choose not to participate in the Promotion may acquire the Participating Product(s) outside of the Promotion;

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- (d) if a consumer does choose to participate, the Bonus Gift will be able to be acquired at no or minimal additional cost to the consumer;
 - (e) consumer electronics, mobile telecommunications and home appliances markets include a large number of 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 suppliers;
 - (f) competitors of Samsung products 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 the promotions or from offering a similar promotion.

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