

# 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 in 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)

Dollywood Foundation (A charitable organisation)

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

‘Dollywood Foundation’ is a charitable organisation that assists in facilitating the ‘Imagination Library’. The Imagination Library is a program started by country singer Dolly Parton that aims at distributing free books (at a rate of one book per month) to children starting from the month the child is born until the age of 5. The Imagination Library was established to encourage children to read and improve their literacy levels.

The Dollywood Foundation assists sponsors to replicate the Imagination Library program in their local area. The Dollywood Foundation does this through activities such as managing a database containing the participating families, appointing regional directors to oversee geographical areas. The Dollywood Foundation also has an expert panel of educators that helps choose age-appropriate books to be distributed and provide the necessary advertising and promotional events to promote the Imagination Library.

Book publishing group, The Penguin Group supports the Dollywood Foundation by supplying books for the Imagination Library at favourable prices. The Penguin Group assists the Imagination Library by making the books available and more affordable for distribution.

United Way Australia (ABN 60 002 806 215) is a charitable organisation that opened in Australia in 1958. It is affiliated with other United Way organisations around the world (including those in the United States, the oldest of which have been in existence for more than 125 years). United Way Australia facilitates programs of social welfare, primarily in the areas

of health, education and income by bringing together corporate, government agencies and other non-profits to ensure maximum impact of the programs within the community. United Way Australia raises money from corporate and individual donors, through workplace giving and corporate volunteering programs, and direct donation; and deploys those funds directly in the implementation of such programs or by making grants to other charitable organisations for the purpose of effecting or facilitating such programs.

It is intended that United Way Australia will implement initial Imagination Library programs in selected areas in Australia.

The Imagination Library program is one of a number of interlinking initiatives being undertaken or funded by United Way Australia to improve the school readiness of children from disadvantaged backgrounds in Australia, as evidence demonstrates that children with basic literacy and numeracy skills at school start perform better throughout their education and have greater job prospects as adults.

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

For the attention of:

Nicolas J. Taylor  
Partner  
Jones Day  
Aurora Place, Level 41  
88 Phillip Street, Sydney NSW 2000

## 2. Notified arrangement

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

The goods which this notice relates to are children books aimed at pre-school children.

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

The 'Imagination Library' is a charitable program that mails free books to children, one book a month from the time they are born until the month of their 5<sup>th</sup> birthday.

United Way Australia wishes to replicate this service in Australia with the assistance of the Dollywood Foundation.

The Dollywood Foundation will assist United Way Australia by contributing money for the costs associated with the set up of the operation and database. The Dollywood Foundation will also assist in marketing the program, the recruitment of local communities to participate in the program, the book selection, the provision of approved images and quotes from Dolly Parton, and videos, templates and samples of promotional materials that the Dollywood Foundation has used previously.

As a condition for providing assistance to United Way Australia, the Dollywood Foundation requires that United Way Australia contracts with the “Penguin Group (Australia)” (trading name of Pearsons Australia Group Pty Ltd ABN 40 004 245 943) (**Penguin**) for the supply of books for the Imagination Library.

Penguin and United Way Australia is to enter into an agreement where United Way Australia will exclusively purchase the relevant books from Penguin for the Imagination Library, in return for Penguin supplying the books at favourable prices. This agreement between Penguin and United Way Australia is not the conduct being notified.

*(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)*

Children between ages 0 and 5, and parents of such children will be positively affected.

- (b) Number of those persons:

- (i) At present time:

At the 2011 Australian Census there were 1,421,050 people aged between 0-4 years old. At the rate of growth for people aged 0-4 based off the 2007 Census, is 2.4% per year, population should be 1,427,879 for 2013.

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

Using the same 2.4% increase per year, population would be 1,431,306 for 2014.

- (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 Imagination Library benefits children and parents:

It encourages parental involvement in their child's learning;

It encourages a child's language and literacy skills by exposing them to books early. A child's inquisitiveness to books, vocabulary, comprehension skills, fluency, and sentence structure can be improved.

It enables children from disadvantaged backgrounds to have access to books.

It creates the ability for philanthropic contributions towards childhood learning.

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

The High Scope Education Research Foundation, a non-profit education research organisation conducted research on the effectiveness of the Imagination Library. The research found that between 66%-75% of families read more to their children after receiving the Imagination Library.

In addition the Tennessee Board of Regents conducted a study on teachers perceptions on whether kindergarten and pre-kindergarten children participating in the Imagination Library performed better than their peers who did not participate in the program. They found that 48% of the kindergarten and 64% of the pre-kindergarten children who participated in the Imagination Library did better than expected than only 10% of the kindergarten students and 11% of the pre-kindergarten students who did not participate in the Imagination Library.

The following web links outline the research that has been carried out:

[http://usa.imaginationlibrary.com/medias/file/Research\(1\).pdf](http://usa.imaginationlibrary.com/medias/file/Research(1).pdf)

<http://usa.imaginationlibrary.com/medias/file/whatpeoplesay.pdf>

**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)*

English language books in print.

**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)*

There are no detriments in providing free books to young families.

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

Not Applicable.

**7. Further information**

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

For the attention of:

Nicolas J. Taylor  
Jones Day,  
Aurora Place, Level 41  
88 Phillip Street, Sydney NSW 2000  
Australia

Dated 10 April 2013

Signed on behalf of the applicants

(Signature)



.....  
Nicolas John Taylor  
Jones Day  
Partner

## **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.