

# 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)*

N96708 Motorola Solutions Australia Pty Limited (ACN 004 742 312) (**Motorola Solutions**)

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

Motorola Solutions manufactures and supplies a range of communications products for use by businesses.

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

DLA Piper Australia  
140 William Street  
Melbourne, Victoria, 3000  
Attention: Simon Uthmeyer

## 2. Notified arrangement

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

Enterprise products such as hand held computers, tablets, barcode scanners and radio-frequency identification devices (**Enterprise Products**). Enterprise Products are used by businesses for requirements such as inventory management, retail store management and asset management.

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

Enterprise products manufactured by Motorola Solutions are sold to independent businesses that are authorised by Motorola Solutions to warehouse the products (**Authorised Distributors**). The Authorised

Distributors then sell the products to independent parties that are authorised by Motorola Solutions to sell the products to end customers (**Resellers**). Resellers often invest significant resources pre-sales, including to identify customers' communications needs and to match the Motorola Solutions' Enterprise products that will be effective in meeting those needs. Resellers also often provide a high level of after sales service.

In order to recognise the investments made by Resellers in securing sales of Motorola Solutions' Enterprise Products, Motorola Solutions proposes to offer a Deal Registration Program. The Program will allow Resellers the opportunity to register a specific potential sale to a specific end customer. Registration will be accepted by Motorola Solutions if the Reseller has demonstrated that it has the closest relationship with that end customer and the best ability to sell the solution to that end customer. Once a potential deal is registered, Motorola Solutions will supply a rebate to the Reseller in relation to the Enterprise Products sold as part of that deal on condition that the Reseller purchase the Enterprise Products from Authorised Distributors.

Motorola Solutions may refuse to offer a rebate on Motorola Solutions' Enterprise Products (or a rebate of equal amount) to Resellers that either have not registered a deal with Motorola Solutions or who do not acquire the Enterprise Products required for a registered deal from Authorised Distributors.

**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)*

Resellers

- (b) Number of those persons:

- (i) At present time:

Substantially more than 50.

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

Estimated to be substantially more than 50.

- (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 Deal Registration Program is intended to recognise the investment made by Resellers in securing sales of Motorola Solutions' Enterprise Products. The Program will be of benefit to the public in the following manner:

- It will increase the incentives for Resellers to better service customers of Motorola Solutions' Enterprise Products, thereby improving the quality of services they receive and the suitability of products they purchase.
- It will increase the incentive for Resellers to allocate resources towards securing the sale of Motorola Solutions' Enterprise Products, thereby encouraging competition between the Enterprise Products of different companies.
- It will increase the incentives for Resellers of Motorola Solutions' Enterprise Products to offer customers discounts on those products, thereby encouraging competition between the Enterprise Products of different companies.

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

Enterprise Products are valuable tools for businesses in terms of inventory management, retail store management and asset management. The opportunity to receive lower prices and/or increased service standards in respect of the supply of Motorola Solutions' Enterprise Products is likely to be of significant benefit of itself. Further, the proposed conduct is likely to encourage competitive responses from the numerous other suppliers of Enterprise Products, thereby encouraging increased competition.

#### **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 relevant market is the market for the supply and servicing of Enterprise Products in Australia.

#### **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)*

Motorola Solutions submits that there is no detriment to the public that is likely to result from the conduct outlined in 2(b) above. To the contrary, Motorola Solutions submits that a range of pro-competitive outcomes are likely to result from the proposed conduct.

(b) Facts and evidence relevant to these detriments:

- Participation in the Deal Registration Program is voluntary.
- The proposed conduct will not require Resellers to acquire products from Motorola Solutions.
- The proposed conduct will not limit the ability of customers to acquire Enterprise Products from other suppliers of such products.

**7. Further information**

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

Simon Uthmeyer

Partner

DLA Piper Australia

140 William Street

Melbourne, Victoria, 3000

Dated 16 April 2013

Signed on behalf of the applicant



Simon Uthmeyer

DLA Piper Australia

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.