



Liberty
International
Underwriters

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY

29 MAY 2013

Level 27 Gateway
1 Macquarie Place
Sydney NSW 2000 Australia

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Royal Exchange NSW 1225

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Website: www.liuaustralia.com.au

27 May 2013

Australian Competition and Consumer Commission
GPO Box 3648
Sydney NSW 2001

Dear Sir/Madam

Liberty International Underwriters - Exclusive Dealing Notification

Please find enclosed on behalf of Liberty International Underwriters (LIU), the applicant:

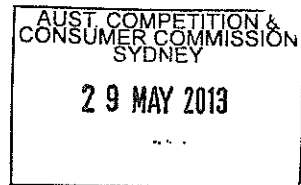
1. Exclusive Dealing Notification Form G for Directors & Officers' Defence Costs Insurance;
2. Exclusive Dealing Notification Form G for Directors & Officers' Workplace Health and Safety Insurance; and
3. A cheque for the applicable lodgement fees for the above Notifications in the sum of \$200.00.

If you have any queries in relation to the above Exclusive Dealing Notifications please contact Melinda Todd on (02) 8298 5951 or by email: melinda.todd@libertyiu.com.

Yours faithfully

Massimo Russo
Chief Counsel, Asia Pacific

Encl.



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.

1. Applicant

- (a) Name of person giving notice:

N96760

Liberty Mutual Insurance Company (ABN 61 086 083 605) trading as Liberty International Underwriters, Incorporated in Massachusetts, USA. (The liability of members is limited) (**LIU**).

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

LIU carries on the business of providing specialty lines insurance, including professional indemnity insurance and directors & officers' liability insurance.

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

Chief Operating Officer
Liberty Mutual Insurance Company
t/as Liberty International Underwriters
Level 27, Gateway Building
1 Macquarie Place
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:

Directors & Officers' Workplace Health and Safety Insurance and Insurance Broking Services.

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

LIU proposes not to provide Directors & Officers' Workplace Health and Safety Insurance to those customers who do not acquire brokerage services from Willis Australia Limited (ABN 90 000 321 237) (**Willis**).

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:

Consumers wishing to acquire Directors & Officers' Workplace Health and Safety Insurance from LIU.

- (b) Number of those persons:

- (i) At present time:

Unknown

- (ii) Estimated within the next year:

100

- (c) Where number of persons stated in item 2(b)(i) is less than 50, their names and addresses:

Not applicable.

4. Public benefit claims

- (a) Arguments in support of notification:

The proposed conduct will benefit the public because it will:

- (i) provide customers with the ability to acquire certain Directors & Officers' Workplace Health and Safety Insurance, which is underwritten by LIU, to which they may otherwise not have access;
- (ii) enhance competition in the insurance industry, by encouraging competitors to provide new comparable insurance products and prices;
- (iii) be cost effective for LIU, thereby allowing LIU to offer more competitive prices for their insurance.

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

The proposed conduct will provide Directors & Officers' Workplace Health and Safety Insurance which may offer additional cover previously not available to directors and officers.

Competition in the insurance industry is vigorous and there are numerous competitors who can provide similar products in the directors & officers' insurance fields on equal footing.

According to figures from APRA in its Quarterly General Insurance Performance Statistics, December 2012 (issued 28 February 2013), as at 31 December 2012

there were 109 insurers in Australia licensed to conduct general insurance business on a direct basis.

In its Quarter 2 2012, *Quarterly Market Report for SMEs*, issued by Aon (a global professional services firm), the directors and officers insurance market was described in the first half of 2012 as “soft – an abundance of underwriter interest and a finite pool of opportunities.”

More recently in its Quarter 1 2013, *Aon Commercial Insurance Market Update*, issued by Aon, it states that “[e]arly indications from insurers suggest that the year ahead will be consistent with 2012. For firms that ‘tick the boxes’ for D&O insurers, capital will remain readily accessible and premiums competitive.”

In its February 2013, *Insurance Market Review*, issued by Marsh (a global professional services firm), it states a typical rate change for buyers of directors & officers' insurance at renewal for average to good risk profiles were experiencing stable rates.

Accordingly, there is abundant competition in this insurance area.

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):

The market in which the goods described at 2(a) are supplied/acquired, is the market relating to directors & officers' insurance, and potentially general insurance, 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:

The proposed conduct will not result in any detriment to the public because:

- (i) consumers directed to Willis by LIU will decide whether or not to acquire LIU Directors & Officers' Workplace Health and Safety Insurance products through Willis based upon a comparison of pricing and offers;
- (ii) the number of customers likely to be affected by the proposed conduct is a small proportion of customers who acquire Directors & Officers' Workplace Health and Safety Insurance.

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

Additionally, industry data, including that provided by APRA, demonstrates the dynamic and highly competitive nature of the general insurance and directors & officers' insurance markets within Australia. Please see paragraph 4(b) above.

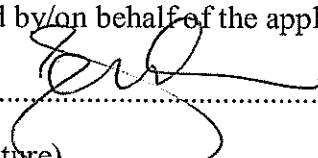
7. Further information

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

c/o Legal Counsel
 Liberty Mutual Insurance Company
 t/as Liberty International Underwriters
 Level 27, Gateway Building
 1 Macquarie Place
 SYDNEY NSW 2000

Dated 27/5/2013

Signed by/on behalf of the applicant


 (Signature)

JOHN MCCABE

(Full Name)

Liberty International Underwriters

(Organisation)

JOHN MCCABE
 SVP & Chief Operating Officer
 Asia Pacific

(Position in Organisation)

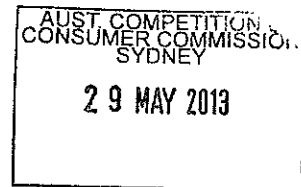


DIRECTIONS

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



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.

1. Applicant

- (a) Name of person giving notice:

N96761

Liberty Mutual Insurance Company (ABN 61 086 083 605) trading as Liberty International Underwriters, Incorporated in Massachusetts, USA. (The liability of members is limited) (**LIU**).

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

LIU carries on the business of providing specialty lines insurance, including professional indemnity insurance and directors & officers' liability insurance.

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

Chief Operating Officer
Liberty Mutual Insurance Company
t/as Liberty International Underwriters
Level 27, Gateway Building
1 Macquarie Place
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:

Directors & Officers' Defence Costs Insurance and Insurance Broking Services.

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

LIU proposes not to provide its Directors & Officers' Defence Costs Insurance to those customers who do not acquire brokerage services from Lockton Companies Australia Pty Ltd (ABN 85 114 565 785) (**Lockton**).

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:

Consumers wishing to acquire Directors & Officers' Defence Costs Insurance from LIU.

- (b) Number of those persons:

- (i) At present time:

Unknown

- (ii) Estimated within the next year:

100

- (c) Where number of persons stated in item 2(b)(i) is less than 50, their names and addresses:

Not applicable.

4. Public benefit claims

- (a) Arguments in support of notification:

The proposed conduct will benefit the public because it will:

- (i) provide customers with the ability to acquire a Directors & Officers' Defence Costs Insurance which provides unique additional cover during the early stages of a potential liability claim, which is underwritten by LIU, to which they may otherwise not have access;
- (ii) enhance competition in the insurance industry, by encouraging competitors to provide new comparable insurance products and prices;
- (iii) be cost effective for LIU, thereby allowing LIU to offer more competitive prices for their insurance.

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

The proposed conduct will provide unique defence costs to directors and officers in the early stages of a potential liability claim that they may not in the ordinary course have access to.

Competition in the insurance industry is vigorous and there are numerous competitors who can provide similar products in the directors & officers' insurance fields on equal footing.

According to figures from APRA in its Quarterly General Insurance Performance Statistics, December 2012 (issued 28 February 2013), as at 31 December 2012 there were 109 insurers in Australia licensed to conduct general insurance business on a direct basis.

In its Quarter 2 2012, *Quarterly Market Report for SMEs*, issued by Aon (a global professional services firm), the directors and officers insurance market was described in the first half of 2012 as “soft – an abundance of underwriter interest and a finite pool of opportunities.”

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In its February 2013, *Insurance Market Review*, issued by Marsh (a global professional services firm), it states a typical rate change for buyers of directors & officers’ insurance at renewal for average to good risk profiles were experiencing stable rates.

Accordingly, there is abundant competition in this insurance area.

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):

The market in which the goods described at 2(a) are supplied/acquired, is the market relating to directors & officers’ insurance, and potentially general insurance, 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:

The proposed conduct will not result in any detriment to the public because:

- (i) consumers directed to Lockton by LIU will decide whether or not to acquire LIU Directors & Officers’ Defence Costs Insurance products through Lockton based upon a comparison of pricing and offers;
- (ii) the number of customers likely to be affected by the proposed conduct is a small proportion of customers who acquire Directors & Officers’ Defence Costs Insurance.

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

Additionally, industry data, including that provided by APRA, demonstrates the dynamic and highly competitive nature of the general insurance and directors & officers’ insurance markets within Australia. Please see paragraph 4(b) above.

7. Further information

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

c/o Legal Counsel
 Liberty Mutual Insurance Company
 t/as Liberty International Underwriters
 Level 27, Gateway Building
 1 Macquarie Place
 SYDNEY NSW 2000

Dated.....27/5/2013.....

Signed by/on behalf of the applicant

.....
 (Signature)

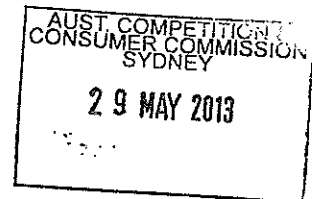
.....John McCabe.....

(Full Name)

Liberty International Underwriters

(Organisation)

.....JOHN McCABE
 SVP & Chief Operating Officer
 Asia Pacific
 (Position in Organisation)



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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.
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9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible