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Our ref jdt:wyl:605238

17 June 2013

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
BY EMAIL: adjudication@acc.gov.au

Dear Sir/Madam

Notification of Exclusive Dealing - Nova Australia 2012 Pty Ltd

We act for Nova Australia 2012 Pty Ltd, the master franchisor of the RE/MAX® franchise system in Australia.

On behalf of our client, we enclose for lodgement an exclusive dealing notification in relation to the RE/MAXNet Software.

In relation to the lodgement fee of \$100, we ask that the ACCC applies the cheque for \$100 previously lodged together with the draft exclusive dealing notice lodged around 6 June 2013.

Please contact the writer if you have any queries.



Yours faithfully

Wenny Lim
Senior Associate
Corporate & Commercial

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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:

N96776

Nova Australia 2012 Pty Ltd (“RE/MAX”)

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

RE/MAX holds the master franchise of the RE/MAX® franchise system in Australia from RE/MAX, LLC, a Delaware limited liability company incorporated in the state of Colorado, USA.

RE/MAX has granted franchises to a network of RE/MAX® real estate office franchises in Australia, which offers a variety of real estate services to the general public.

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

ClarkeKann Lawyers
GPO Box 2249
Brisbane 4001

2. Notified arrangement

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

This notice relates to a system called RE/MAXNet software (“**Software**”), a real estate management software system provided by Renet Pty Ltd (“**Renet**”) that has capabilities compatible with RE/MAX communications and data reporting requirements.

The Software includes information and data on contact management, consumer property listings, marketing tools, contact management, associate receivables, listings and lead management, sales, contract management.

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

RE/MAX requires all its franchisees to implement and use the Software and pay subscription fees to Renet as a condition of the franchise agreement.

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:

RE/MAX franchisees.

- (b) Number of those persons:

- (i) At present time:

64

- (ii) Estimated within the next year:

76

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Set out at Annexure A is a list of RE/MAX franchised businesses as at the date of this notice which will be affected by the notified conduct.

4. Public benefit claims

- (a) Arguments in support of notification:

By requiring RE/MAX franchisees to subscribe to the Software, RE/MAX will ensure:

- (i) that all franchisees have access to a high quality real estate management and reporting system;
- (ii) that all franchisees gain full access to the benefits of the RE/MAX franchise system by utilising a system that is provided by a specialist provider and tailored to the RE/MAX franchise system;
- (iii) that the quality and efficacy of service provided by RE/MAX franchisees will be consistent throughout the franchised network. Accordingly, customers that visit any of the franchised offices are assured of consistency of service across the franchise network;
- (iv) business efficacy of all franchisees will be enhanced because franchisees do not have to source and subscribe to comparable software or services individually.

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

Although there will be costs payable by the franchisees to subscribe to the Software, RE/MAX believes that the benefits to the franchisees in improved operational efficiencies will outweigh the financial costs for subscribing to the Software.

RE/MAX undertook an analysis of comparable systems available on the market, and determined that the Software meets RE/MAX requirements and is the best solution for RE/MAX franchisees.

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):

- (a) Providers of comparable real estate management softwares could be affected. However, the effectiveness of the individual operation of each RE/MAX franchise, and the operation of the RE/MAX franchise network as a whole, are reliant on the proposed arrangements set out in this notification.
- (b) Without the proposed arrangements, RE/MAX franchisees would be able to acquire other softwares from service providers of their choosing, and suppliers could compete for the businesses of these individual franchisees. RE/MAX does not consider that this would significantly increase the level of competition in the relevant market, but would tend to cause disparity between systems used by, and the service level expected from, different RE/MAX franchisees, thereby potentially moving away from the established concept of the RE/MAX franchise system.
- (c) Further, there are various other independent and franchised real estate businesses in competition with the RE/MAX franchise system across Australia, and accordingly there is a large part of the market that is available to be accessed by other providers of comparable real estate management softwares.

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:

RE/MAX does not consider that there is likely to be any detriment to the public as a result of the notified conduct because:

- (i) the public is able to take advantage of improved efficiencies and improved level of service across the RE/MAX franchise network; and
 - (ii) the public is able to take advantage of the benefits flowing from the consistent and uniform range of services across the RE/MAX franchise network.
- (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:

Full name: Christopher Mark Chapman
Organisation: Nova Australia 2012 Pty Ltd
Position: Finance Director
Postal address: PO Box 1326, Milton QLD 4064
Telephone: 07 3007 9000
Facsimile: 07 3007 9099
Email: CChapman@remax.co.nz

DATED 17 June 2013

Signed on behalf of the applicant



Wenny Lim
Senior Associate, ClarkeKann Lawyers

Annexure "A"

List of RE/MAX Franchises as at the date of this notice

NAME	BUSINESS ADDRESS	PHONE NO.
Queensland		
RE/MAX Advantage	128 Terrace Bay WYNNUM QLD 4178	
RE/MAX Advantage	53 Cambridge Parade, MANLY QLD 4179	
RE/MAX Bayside Properties	Shop 50 Alexandra Hills Shopping Centre ALEXANDRA HILLS QLD 4161	
RE/MAX Bayside Properties	Shop 4, Redlands Corner Crn Colburn Ave & Cleveland-Redland Bay Road VICTORIA POINT QLD 4165	
RE/MAX Colonial	445 Ipswich Road ANNERLEY QLD 4103	
RE/MAX Excellence	Level 1, 121 Sturt Street TOWNSVILLE QLD 4810	
RE/MAX Gold	69 Goondoon Street GLADSTONE QLD 4680	
RE/MAX Innovation	1/62 Loranah Street JINDALEE QLD 4076	
RE/MAX Integrity	Shop 1 The Galleries 477 Brunswick Street FORTITUDE VALLEY QLD 4006	
RE/MAX Integrity	699 Sandgate road CLAYFIELD QLD 4011	
RE/MAX Northern Realty	1/707 Albany Creek Road ALBANY CREEK QLD 4035	
RE/MAX Precision	255 Bourbong Street BUNDABERG QLD 4670	
RE/MAX Premier Consultants	811 Gympie Road CHERMSIDE QLD 4032	
RE/MAX Profile Real Estate	141 Boundary Road BARDON QLD 4065	
RE/MAX Property Centre	48 Jephson Street TOOWONG QLD 4066	
RE/MAX Results	Shop 3, 622 Wynnum Road MORNINGSIDE QLD 4170	
RE/MAX Success	200 Hume Street TOOWOOMBA QLD 4350	
RE/MAX Territory	Unit 2, 44 Bryants Road SHAILER PARK QLD 4128	
RE/MAX Ultimate	Shop 12 Station Mall, 161 Station Road BURPENGARY QLD 4505	
RE/MAX United Vision	828 Old Cleveland Road CARINA QLD 4152	
RE/MAX Regency	4/140 Robina Town Centre Drive ROBINA QLD 4226	
RE/MAX Success	Shop 105, 407 Bridge Street WILSONTON TOOWOOMBA QLD 4350	
RE/MAX Excellence	90 Bundock Street BELGIAN GARDENS QLD 4810	
RE/MAX Property Shop	119D Brighton Road SANDGATE QLD 4017	

NAME	BUSINESS ADDRESS	PHONE NO.
RE/MAX Executives	17/264 Old Cleveland Road COORPAROO QLD 4151	
RE/MAX Bayside Properties	Shop 9, Cleveland Town Square, 123 Bloomfield Street, CLEVELAND QLD 4163	
RE/MAX Real Estate Services	Level 1, 330 Sheridan Street CAIRNS QLD 4870	
RE/MAX Plus	47 Cinderella Drive SPRINGWOOD QLD 4127	
RE/MAX Partners	472 The Esplanade HERVEY BAY QLD 4655	
RE/MAX Local Specialists	Shop 3, 8561 Warrego Highway WITHCOTT QLD 4352	
RE/MAX Colonial Riverside	Shop A, 443 Fairfield Road, YERONGA QLD 4104	
RE/MAX Northern Realty	5/1368 Gympie Road ASPLEY, QLD 4034	
RE/MAX Executives	930 Logan Road HOLLAND PARK , QLD 4121	
RE/MAX Property Sales	Shop 7, Corner Currie & Howard Streets NAMBOUR QLD 4560	
RE/MAX Property Services	5/79 Bulcock Street CALOUNDRA QLD 4551	
RE/MAX Northern Realty	WARNER QLD 4500	
RE/MAX Ultimate	Shop 1, 878 Beachmere Road BEACHMERE QLD 4510	
RE/MAX Realty Excellence	37 Main Street BUDERIM QLD 4556	
RE/MAX City	Shop 2, 388 Queen Street BRISBANE QLD 4000	
RE/MAX Property Shop	Shop 3/12-30 Duffield Road MARGATE QLD 4019	
RE/MAX Bayside Properties	Shop 7, 405 Main Road WELLINGTON POINT QLD 4160	
RE/MAX Community	3/95 Mains Road SUNNYBANK QLD 4109	
RE/MAX Sunstate Realty	18 Grice Avenue PARADISE POINT QLD 4216	
RE/MAX Connected	Shop 5, 9 Discovery Drive NORTH LAKES QLD 4509	
RE/MAX Hinterland	21 Maple Street MALENY QLD 4552	
RE/MAX Victory	Shop 1, 75 Morayfield Road CABOOLTURE SOUTH QLD 4510	
RE/MAX Beach City	Unit 3, 10 Albert Avenue BROADBEACH QLD 4218	

NAME	BUSINESS ADDRESS	PHONE NO.
New South Wales		
RE/MAX Property Specialists	8 Lagoon Street NARRABEEN NSW 2101	
RE/MAX Realty Consultants	126 Baylis Street WAGGA WAGGA NSW 2650	
RE/MAX Executive Real Estate	Unit 17a, 12 Tryon Road LINDFIELD NSW 2070	
RE/MAX Edge	101 Broadway Street JUNEE NSW 2663	
RE/MAX Capital	Unit 1, 124 Crawford Street QUEANBEYAN NSW 2620	
South Australia		
RE/MAX Hills and Country	40 Adelaide Road MOUNT BARKER SA 5251	
RE/MAX Results	2 Lydia Street PLYMPTON SA 5038	
RE/MAX Living	Suite 52 Oxenham Mall, Elizabeth Shopping Centre 50 Elizabeth Way ELIZABETH SA 5112	
RE/MAX Best Agents	Level 1, 18-28 Main Street MAWSON LAKES SA 5095	
RE/MAX Results	Shop 8B, Aberfoyle Village Shopping Centre, 142 Hub Drive, ABERFOYLE PARK SA 5159	
RE/MAX Urban & Rural	32B Mary Street SALISBURY SA 5108	
Victoria		
RE/MAX Property Group	270-271 Nepean Highway EDITHVALE VIC 3196	
RE/MAX Property Specialists	Shop 8, 147-151 Foster Street DANDENONG VIC 3175	
RE/MAX Real Estate Solutions	619 Sturt Street BALLARAT VIC 3350	
RE/MAX REalliance	2/1 Clifton Drive BACCHUS MARSH VIC 3340	
RE/MAX Experience	51-65 Hopkins Street FOOTSCRAY VIC 3011	
Tasmania		
RE/MAX Properties	531 Sandy Bay Road SANDY BAY TAS 7005	