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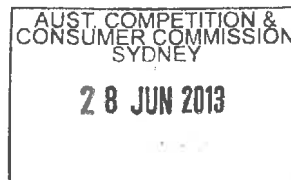
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28 June 2013



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

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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:

N96832

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, Samsung will offer consumers a 12 month subscription to Samsung Music Hub (the **Bonus Gift**) for free, if the consumer acquires a Samsung 19500 Galaxy S4 smartphone (**Participating Product**) from a Samsung Experience Store. The Samsung Music Hub is an online and mobile application subscription service that allows consumers to stream music over the internet.

The recommended retail price for the Participating Product is \$749. The recommended retail price for the Bonus Gift is \$155.88.

(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 additional charge to persons on the condition that

such persons acquire the Participating Product from a Samsung Experience Store.

- (ii) Samsung will not supply a Bonus Gift for no additional charge to persons who have not acquired the Participating Product from a Samsung Experience Store.

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 Samsung 19500 Galaxy S4 smartphone from a Samsung Experience Store.

(d) Number of those persons:

(i) At the present time:

Unknown

(ii) Estimate within the next year:

1000 consumers

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

Dated..... *27 June 2013*

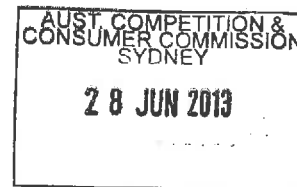
Signed by/on behalf of the applicant

.....
(Signature)

Marc Dunn
.....
(Full Name)

Samsung Electronics Australia
.....
(Organisation)

Head of Legal
.....
(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 a promotion which will have the following features:

- (a) the promotion will run for a limited promotional period from time to time; and
- (b) Samsung will offer the Bonus Gift to consumers who meet the following conditions:
 - (i) the consumer must have purchased the Participating Product from a Samsung Experience Store within the period of the promotion; and
 - (ii) the consumer must have complied with the Terms and Conditions of the promotion.

(the *Promotion*)

Samsung considers that there is a risk that the Promotion may be considered to involve third line forcing as Samsung is supplying the Bonus Gift at no charge on condition that consumers purchase the Participating Product from the Samsung Experience Store, which is an independent third party not related to Samsung.

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 by means of marketing materials, supply of an abridged version of the Terms and Conditions to Samsung Experience Stores, and clear references to the availability of the full Terms and Conditions <http://www.samsung.com/au/promotions/>

Retailers who are authorised by Samsung to participate in the Promotion are any Samsung Experience Store. At present, there are two Samsung Experience Stores; one in Sydney and one in Melbourne. These stores are operated by independent retailers who use the Samsung brand under licence from Samsung. The Terms and Conditions of each Promotion will clearly set out that the promotion is only available in respect of Participating Products purchased from a Samsung Experience Store.

3. Relevant Markets

The Participating Product is supplied to end users in national retail markets for: consumer electronics and mobile telecommunications.

There are a wide range of competitors that manufacture consumer electronics in competition with Samsung, including Panasonic, Sony and LG. 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 mobile telecommunication 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.

The Bonus Gift is supplied to end users in the national markets that are at least as wide as the supply of music streaming services via the internet and potentially also encompass other media and music products and services.

There is a wide range of competitors that supply online music streaming services to consumers in competition with Samsung including Spotify, Rdio, Pandora, Grooveshark, MOG, Songl, Deezer, RaRa, Xbox Music, Nokia Music and Sony's Music Unlimited service. There are also a number of close substitutes for music streaming services including digital radio, radio, iTunes, CDs, DVDs, pay-downloads and YouTube.

4. Public Benefits

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

- (a) the promotion will provide consumers with the Bonus Gift at no cost;
- (b) the proposed conduct does not require consumers to participate in the Promotion;
- (c) the proposed conduct does not require consumers to purchase the Participating Product other than on a normal commercial basis;
- (d) the Participating Product and the Bonus Gift 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 alone or to accept the package of the Participating Product and the Bonus Gift; and
- (f) the proposed conduct will promote competition in relevant markets by 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 alone or to participate in the Promotion;
- (c) consumers who choose not to participate in the Promotion may acquire both the Participating Product and Bonus Gifts 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 additional cost to the consumer;
 - (e) consumer electronics and mobile telecommunications include a large number of vigorous competitors such as Panasonic, LG, Sony, Apple, Blackberry, Nokia, HTC, Motorola and Sony Ericsson and consumers may therefore acquire substitutable goods from a large variety of other suppliers;
 - (f) there are a large number of highly competitive suppliers of music streaming services including Spotify, Rdio, Pandora, Grooveshark, MOG, Songl, Deezer, RaRa, Xbox Music, Nokia Music and Sony's Music Unlimited service as well as a large number of suppliers of other media and music products and services including digital radio, radio, iTunes and CDs and consumers may therefore acquire substitutable goods from a large variety of other suppliers; and
 - (g) 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.