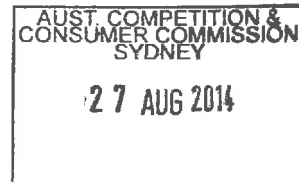


FILE No:
DOC:
MARS/PRISM:

Our Ref: RHW:DH:314905

27 August 2014



Mr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
Level 20
175 Pitt Street
SYDNEY NSW 2000

Dear Dr Chadwick

Form G - Notification of Third Line Forcing Exclusive Dealing

We act for Australian Couriers Pty Ltd trading as Fastway Courier (**Fastway**) and enclose a Form G - Notification of Exclusive Dealing for lodgement on behalf of Fastway.

We also enclose a cheque in the amount of \$100 for the filing fee.

Yours sincerely

Richard Westmoreland
Partner
HWL Ebsworth Lawyers

+61 2 9334 8717
rwestmoreland@hwle.com.au

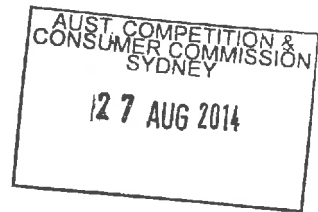
Adelaide
Brisbane
Canberra
Melbourne
Norwest
Perth
Sydney

Doc ID 195946181/v1

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ABN 37 246 549 189



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)

N97714 Australian Couriers Pty Ltd (ACN 057 389 769) (**Fastway**)

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

Franchisor of the 'Fastway Couriers' franchise network.

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

Legal Department
Australian Couriers Pty Ltd (Trading as Fastway Couriers (Australia))
Level 9
491 Kent 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:**

This notice relates to:

- delivery services; and
- uniforms,

to be used in the operation of Fastway Courier regional franchises (collectively referred to as **Products**).

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

As a condition of granting a franchise, Fastway may, from time to time, require its franchisees to acquire Products from suppliers approved by Fastway.

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)

Fastway Courier Regional Franchisees.

- (b) **Number of those persons:**
- (i) **At present time:**
25
 - (ii) **Estimated within the next year:**
(Refer to direction 6)
25
- (c) **Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:**

Refer to attached schedule

4. **Public benefit claims**

- (a) **Arguments in support of notification:**
(Refer to direction 7)

Fastway is the franchisor of a franchised courier network operating across Australia. Fastway has entered into franchise agreements with Regional Franchisees who coordinate services within allocated geographic areas. Regional franchisees may, in turn, enter into franchise agreements with individual Courier Franchisees who collect and deliver parcels within allocated territories. In this notification, Regional Franchisees and Courier Franchisees are referred to collectively simply as Fastway franchisees.

Freight services

As described above, each Fastway franchisee operates within a defined territory. In order to offer their customers the ability to deliver parcels outside this territory (for example, from one capital city to another), franchisees must therefore subcontract those parts of the delivery service that fall outside their allocated territory.

As at the date of this notification, Fastway requires franchisees to subcontract the transport of parcels between different Fastway depots to Linehaul Express Australia Pty Ltd (**Linehaul**).

These requirements provide at least the following benefits:

- (a) the ability for Fastway franchisees to enter into contracts for delivery of parcels anywhere within the Fastway courier network, allowing Fastway franchisees and the Fastway network overall to compete more effectively with other courier networks and freight service providers;
- (b) the ability for Fastway to ensure that parcels across its network are handled at all times by carriers that have been approved by Fastway and which must comply with consistent Fastway standards; and
- (c) Linehaul is a joint venture company jointly owned and controlled by Fastway and Fastway franchisees. As such, by stipulating that parcels must be carried between Fastway depots by Linehaul, Fastway and Fastway franchisees are able to ensure the quality of services that are provided, to the benefit of both consumers and franchisees.

Uniforms

By nominating a uniform supplier, Fastway is better able to establish and maintain a consistent "look and feel" across all Fastway courier outlets and ensure that all uniforms meet Fastway's specifications and quality standards. This promotes a more consistent customer experience, strengthening the Fastway Courier brand. In turn, this enables Fastway to promote franchisees' businesses more effectively and increases the ability of Fastway franchisees to compete effectively in the highly competitive courier services sector.

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

Please refer to item 4(a) above.

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)

It is likely that separate product markets will exist for each of the different Products that may be acquired from suppliers approved by Fastway. These markets may be regional or national in scope, but are likely to include:

- (1) state or national markets for the supply of clothing or uniforms;
- (2) a national market for the supply of long haul freight services; and
- (3) local markets for the supply of local or regional delivery services.

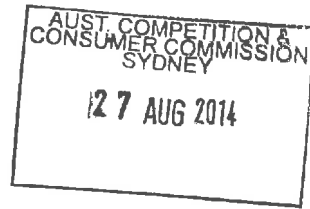
6. Public detriments

(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)

For the following reasons, the notified conduct will not give rise to any public detriments:

- the affected clothing and freight markets are all highly competitive and the notified conduct will affect only a competitively insignificant proportion of each market. The notified conduct therefore cannot generate any material anti-competitive effects. On the contrary, by assisting Fastway deliver an effective delivery network of consistently high standard, the notified conduct will be likely to increase competition in affected freight and delivery markets.
- The structure of Fastway's requirements for subcontracting of freight services is designed to maximise efficiency and ensure that, to the greatest extent possible, revenues are retained within the Fastway franchise system for the benefit of all participants in that system.
- Fastway reviews its purchasing arrangements for uniforms on an ongoing basis to ensure that those arrangements provide Fastway regional franchisees with high quality uniforms at competitive prices.



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

Please refer to item 6(a) 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:**

Richard Westmoreland
HWL Ebsworth
Level 14, Australia Square
264-278 George Street
Sydney NSW 2000
Phone: (02) 9334 8717
Email: rwestmoreland@hwle.com.au

Dated: 27 August 2014

Signed on behalf of the applicant

A handwritten signature in blue ink, appearing to read "R. Westmoreland".

Richard Westmoreland
Partner, HWL Ebsworth

Schedule – Regional Franchise Names and Addresses

Name of Regional Franchisee	Business Address
S.A. Logistics Pty Ltd ATF the Baker Discretionary Trust T/A Fastway Couriers (Adelaide)	756-758 Port Road Beverley, SA 5009
EJLA Pty Ltd T/A Fastway Couriers (Albury)	865 Leslie Drive North Albury NSW 2640
Kacadasi Pty Ltd T/A Fastway Couriers (Bendigo)	Factory 1, 91 MacDougall Road Golden Square, VIC 3555
Global Express Couriers Pty Ltd T/A Fastway Couriers (Brisbane)	Shed 31, Hedley Avenue Hendra Distribution Park Hendra, Qld 4011
GETTM Pty Ltd T/A Fastway Couriers (Cairns)	105 Hartley Street Portsmith, Qld 4870
Ant Holdings Australia Pty Ltd T/A Fastway Couriers (Canberra)	53 Raws Crescent, Hume ACT 2620
Gladstone District Transport Logistics Pty Ltd T/A Fastway Couriers (Capricorn Coast)	Shed 3,24 Power Street Kawana QLD 4701
Monrosa Pty Ltd T/A Fastway Couriers (Central Coast)	Unit 1, 3 Craftsman Avenue Berkeley Vale NSW 2261
Five Princesses Pty Ltd T/A Fastway Couriers (Coffs Harbour)	542 Pacific Highway Boambee, NSW 2450
SERA (Vic) Pty Ltd as trustee for The Fisher Family Trust T/A Fastway Couriers (Geelong)	104 Barwan Terrace Geelong South Vic 3220
Cubic Sea Pty Ltd T/A Fastway Couriers (Gold Coast)	46 Kingston Drive Gaven, Qld 4211
B-H Ventures Pty Ltd ATF B-H Family Trust T/A Fastway Couriers (Hobart)	112 Gormanston Road Moonah TAS, 7009
Nornet Enterprises Pty Ltd ATF the Wescombe Family Trust Fund T/A Fastway Couriers (Launceston)	37 Fieldings Way Ulvertone TAS 7315
Mt. Ossa Harvesting Pty Ltd T/A Fastway Couriers (Mackay)	2 Woodman Parade Paget, Qld 4740
4th Dimension Transport Pty Ltd T/A Fastway Couriers (Melbourne)	Unit 2, 62 Salmon Street Port Melbourne VIC 3207
Viacitius Management Pty Ltd T/A Fastway Couriers (Newcastle)	1 Spit Island Close Mayfield West NSW 2034
Tribel Pty Ltd T/A Fastway Couriers (Northern Rivers)	29 Lancaster Drive Goonellabah, NSW 2480
Networking Consultants Pty Ltd T/A Fastway Couriers (Perth)	20 Hazelhurst Street Kewdale WA 6105
Shelband Pty Ltd T/A Fastway Couriers (Port Macquarie)	1/41 Uralla Road Port Macquarie, NSW 2444
Savi Sun Pty Ltd ATF The Savi Trust T/A Fastway Couriers (Sunshine Coast)	19 Page Street, Kunda Park, QLD 4556
NSW Couriers Pty Ltd T/A Fastway Couriers (Sydney)	6 Hill Road Sydney Olympic Park NSW 2127
Kevdon Enterprises Pty Ltd ATM WCM Trust T/A Fastway Couriers (Toowoomba)	Unit 1B, 7-9 Gardner Court Wilsonton, QLD 4350
Coastal Integrity Business Pty Ltd ATF The Woolage Unit Trust T/A Fastway Couriers (Townsville)	35-39 Corporate Crescent Garbutt QLD 4814
Ricksue Pty Ltd T/A Fastway Couriers (Wide Bay)	Corner of Perry and Gladwell Streets North Bundaberg QLD 4670
Wollongong Courier Operations Pty Ltd T/A Fastway Couriers (Wollongong)	38 Doyle Avenue Unanderra, NSW 2526

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 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.