

28 May 2014

FILE No:
DOC:
MARS/PRISM:

2 Davidson Street
Chullora NSW 2190
PO Box 500
Regents Park DC
NSW 2143 Australia

Tel +61 2 9642 9100
Fax +61 2 9642 9111
dicksmith.com.au

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

BY EXPRESS POST



Dear Sir,

DICK SMITH ELECTRONICS PTY LIMITED – NOTIFICATION OF EXCLUSIVE DEALING FORM G NOTIFICATION

Please find **enclosed** the following documents:

1. Form G – Notification of Exclusive Dealing under section 93(1) of the *Competition and Consumer Act 2010* (Cth); and
2. Cheque in the sum of \$100 for the lodgment fee made payable to the Australian Competition and Consumer Commission.

Should you have any questions in relation to any aspect of the Notification, please do not hesitate to contact me on 02 9642 90100 or by email at the address below.

Yours faithfully

ROBERT TRAN

General Counsel

For and on behalf of Dick Smith Electronics Pty Limited

(ABN 34 000 908 716)

TEL: +61 2 9642 9100 | FAX: +61 2 9642 9500

EMAIL: robert.tran@dicksmith.com.au

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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N97425 Dick Smith Electronics Pty Ltd (ACN 00 908 716) of 2 Davidson Street, Chullora, NSW, 2190 (**Dick Smith**)

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

Dick Smith is a retailer of consumer electronics.

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

Robert Tran

General Counsel

Dick Smith Electronics Pty Limited

2 Davidson Street

Chullora NSW 2190

2. Notified arrangement

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

The goods are those products supplied and distributed in Australia by Dick Smith and its related bodies corporate, including consumer electrical goods and related services, including computing (laptops, desktops and tablets), navigation and travel, cameras, gaming, audio and televisions (**Eligible Dick Smith Products**).

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

Dick Smith proposes from time to time, to offer an opportunity to customers to receive particular benefits, discounts, allowances, rebates, group deals or prizes on the condition that the purchasers are or become members of over60sixty (**Oversixty members**) through the website www.oversixty.com.au (**Offer**).

(Refer to direction 4)

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)

Current or new customers of Dick Smith who are, or become Oversixty members.

- (b) Number of those persons:

- (i) At present time:

Unknown

- (ii) Estimated within the next year:

(Refer to direction 6)

Unknown

- (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 proposed conduct will provide the following benefits to the public:

- i. current and potential customers of Dick Smith will be provided with the opportunity to obtain benefits, discounts, allowances, rebates, group deals or prizes, at little or no additional cost when purchasing Eligible Dick Smith Products;
- ii. the proposed conduct will not result in increased prices to consumers;
- iii. the proposed conduct will not result in any restriction or limitation on the ability for consumers to purchase Eligible Dick Smith Products from other businesses which stock such products; and
- iv. competition in the relevant markets will be encouraged and promoted by encouraging competitors to provide similar Offers to consumers.

The public benefits significantly outweigh any anti-competitive detriments arising from the proposed conduct.

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

Please see the details referred to in paragraph 4(a) above. The terms and conditions for each Offer will be clearly referenced in all relevant marketing collateral and will be readily accessible to consumers.

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 affected market is the Australian market for the retail supply of consumer electronics products.

These markets are characterised by the following:

- the presence of a large number of competitors;
- vigorous and effective competition amongst these competitors.

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)

There will be little or no public detriment in relation to the notified conduct due to the following:

- (a) consumers will not be obliged or required to participate in the Offer upon purchasing the Eligible Dick Smith Product;
- (b) Eligible Dick Smith Products will be available for purchase by consumers with or without the opportunity to take up the Offer;
- (c) There will be little or no additional cost to consumers to participate in the Offer (other than the cost of accessing the Oversixty Website);
- (d) Competitors in each of the relevant markets frequently run similar Offers, and there is nothing in the proposed conduct which would prevent them from continuing to do so;
- (e) The relevant market is highly competitive for the reasons described in paragraph 5 above; and

(f) Each Offer will generally be conducted for a limited period of time.

The applicant believes that the benefits of the proposed conduct significantly outweigh any anti-competitive detriment.

(b) Facts and evidence relevant to these detriments:

See details in (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:

Robert Tran

General Counsel

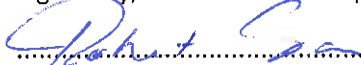
Dick Smith Electronics Pty Limited

2 Davidson Street

Chullora NSW 2190

Dated 28 May 2014.....

Signed by/on behalf of the applicant


.....
(Signature)

Robert Tran
(Full Name)

Dick Smith Electronics Pty Limited
(Organisation)

General Counsel
(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.