

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)

- (i) Catchoftheday.com.au Pty Ltd ABN 22 149 779 939
 (“**Catchoftheday**”)
(ii) Mumgo.com.au Pty Ltd ABN 63 154 764 388 (“**Mumgo**”)

(together the “**Notifiers**”)

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

- (i) Catchoftheday operates the websites <www.catchoftheday.com.au> and <www.groceryrun.com.au>. Catchoftheday is an online retail company selling discounted consumer products. Grocery Run is an online retail company selling grocery products, including packaged foods, cleaning products, cosmetics, over-the-counter medicines and other household items.
(ii) Mumgo operates the website <www.mumgo.com.au> , which is an Australian online retail company selling discounted consumer products.

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

Catch Group Pty Ltd, 767 Springvale Road, Mulgrave, Victoria 3170

2. Notified arrangement

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

Certain general consumer goods (including electrical, home wares, toys, videogames, consumables and clothing) purchased from the Notifiers via eBay (www.ebay.com.au - operated by eBay International AG).

N97475
N97476

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

The Notifiers propose to, from time to time, sell goods through eBay, certain of which will be subject to particular benefits, discounts, allowances, rebates or prizes on the condition that the purchasers are or become members of eBay.

(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)

Customers who purchase the Notifiers goods through eBay.

- (b) Number of those persons:

- (i) At present time:

Substantially more than 50.

- (ii) Estimated within the next year:
(Refer to direction 6)

Substantially more than 50.

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

N/A

4. Public benefit claims

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

There are no significant public detriments to the proposed conduct. Benefits of the proposed conduct are that:

1. Current customers of the Notifiers will be given the opportunity to obtain benefits, discounts, rebates or prizes at no further cost (eBay is, to the Notifier's knowledge, a free service for consumers who purchase goods).
2. The proposed conduct will result in current customers of eBay being given the opportunity to obtain benefits, discounts, rebates or prizes at no further cost to them.
3. The conduct will encourage other retailers, in the interests of competition, to compete by offering similar benefits, discounts, rebates or prizes.
4. The proposed conduct will not place any conditions or restrictions on existing customers of both the services of the Notifiers and the users of eBay.

The Notifiers contend that the above benefits outweigh any detriments to the proposed conduct.

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

Refer to paragraph 4(a).

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)

Retail supply of general consumer goods and services in Australia, which has a high volume of competitors both online and at general retail characterised by strong competition. There are numerous available substitutes both online and at general retail for the goods and services on offer.

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)

The Notifiers believe there will be few if any public detriments to the proposed conduct because:

1. The eBay service is free to customers to purchase products and customers will no incur an additional cost;
2. Customers will be able to acquire the same or similar goods and services from the Notifiers (without the benefits, discounts, rebates applied) or their competitors;
3. Strong competition in the market gives customers flexible choices in deciding whether to purchase the goods subject to the notified conduct.
4. The relevant conduct will be restricted to time or quantity limited offers.

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

Refer to paragraph 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:

Legal Department

Catch Group Pty Ltd

PO Box 5560

Brandon Park, VIC 3150.

Dated 4 June 2014

Signed by/on behalf of the applicant


.....
(Signature)

James Kirkham
(Full Name)

Catchoftheday.com.au Pty Ltd
(Organisation)

Legal 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.