

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)

N97207

Australian Couriers Pty Ltd (ABN 38 057 389 769) trading as Fastway Couriers (Australia) ["Fastway"]

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

Facilitating the supply of services to businesses and consumers for the delivery and collection of parcels utilising a franchised courier network.

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

Dick Herman
Legal Manager
Australian Couriers Pty Ltd
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:

The facilitation of the supply of parcel delivery services and related goods.

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

(Refer to direction 4)

Fastway proposes that it may:

- supply, or offer to supply, certain parcel delivery services and related goods, or give, or offer to give, a discount on certain parcel delivery services and related goods to a person on condition that the

person acquires services from eBay (**eBay Seller**), for example by listing and selling products for sale on eBay; and

- refuse to give, or offer to give, a discount on certain parcel delivery services and related goods to a person for the reason that they are not an eBay Seller and so have not agreed to acquire services from eBay.

eBay means eBay International AG.

eBay operates the website eBay.com.au.

By way of example, Fastway may offer eBay Sellers a discount off the price of some parcel services compared to the rate offered to other users of parcel services who do not use the eBay website. Further, Fastway may offer eBay Sellers unique products from time to time which are not available to other users of parcel services who do not use the eBay website (such as different sizes of satchels).

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)

Persons who are actual or prospective eBay Sellers.

- (b) Number of those persons:

- (i) At present time:

Unknown but substantially greater than 50.

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

Unknown but substantially greater than 50.

- (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)

Persons who are eBay Sellers will benefit from the proposed arrangement as they will receive a discount or other benefit in respect of parcel delivery services.

End-consumers will benefit from the proposed arrangement to the extent that the eBay Sellers pass down any cost savings from the proposed arrangement.

The arrangement proposed by Fastway could also encourage Fastway's competitors to offer benefits which in turn could result in increased competition. We understand Australian Postal Corporation (Australia Post) has applied for and been granted approval in relation to similar proposed conduct in the supply of parcel services to eBay Sellers (ACCC notification number N97034, filed 16 October 2013).

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

The relevant market is likely to comprise the national market for the supply of parcel delivery services and related goods, and substitutable services. This market is characterised by strong competition.

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 are no public detriments likely to result from the proposed arrangement.

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

The proposed arrangement will not result in any detriments to the public because:

- i) the arrangement will not be exclusive and eBay Sellers will be free to choose other delivery options with other providers of parcel delivery services;

ii) there is nothing impeding other providers of parcel delivery services from offering a similar discount or benefit, whether via eBay or via another marketplace platform or website; and

iii) Fastway reserves the right to offer discounted parcel delivery services or related goods to customers other than eBay Sellers (including those who sell their products on online marketplace platforms or websites that compete with eBay).

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Dick Herman
Legal Manager
Australian Couriers Pty Ltd
Level 9, 491 Kent Street
Sydney NSW 2000

Dated..... 21/1/14

Signed by/on behalf of the applicant

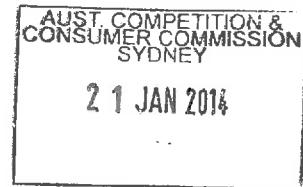
.....
(Signature)

(Signature)

.....
DICK HERMAN
(Full Name)

.....
AUSTRALIAN COURIERS PTY LTD
(Organisation)

.....
LEGAL MANAGER
(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.