

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)

N97528
N97529

Hewlett-Packard Australia Pty Ltd (ACN 004 394 763)

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

Snapfish is a website driven service for Photographic and digital image processing, developing and printing services and custom imprinting of digital and photographic images onto photographic paper and merchandise.

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

Hewlett-Packard Australia Pty Ltd
Level 6, Building F, Rhodes Corporate Park
1 Homebush Bay Drive
Rhodes NSW 2138
Mobile: +61 401 458 025
Attention: Nicholas Mead

2. Notified arrangement

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

Snapfish Products and Services:

Various specified personalised photo print products. ("Snapfish Products")

Various retailers or wholesalers of Retail Products ("Business")

Various retail outlet Products and Services ("Retail Products")

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

HP will, from time to time, engage in fulfillment of rewards or prizes for promotions run by a Business, or HP itself, ("Promotion") whereby it will give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply, or proposed supply, of certain Snapfish Products to a person, on the condition that the person will acquire a specified number of the Retail Products from a Business and complete a valid registration to be entitled to receive certain Snapfish Products.

HP will, from time to time, engage in fulfillment of rewards or prizes for Promotions run by a Business, or HP itself, whereby it will refuse to give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply of certain Snapfish Products to a person, for the reason that the person has not acquired a specified number of the Retail Products from a Business and complete a valid registration to be entitled to receive certain Snapfish Products.

The Promotion will be run in accordance with specified terms and conditions for the Promotion ("Promotion Rules") which will have the following key features:

The Retail Products will be sold through their normal retail outlets during a defined period ("Promotion Period") with specific in-store promotional signage and promotion on various media (newspapers, magazines, television or online).

Any consumer who during the Promotion Period purchases a specified number of the Retail Products or completes a valid registration will be entitled to receive one or more of the specified Snapfish Products as specified in the Promotion Rules. Entitlement will be limited to one entry per household or per customer, during the Promotion Period, depending on the specific Promotion Rules.

Standard mail postage and handling (P&H) for the Snapfish Products may be paid by the Business or be required to be paid by the consumer, as specified in the Promotion Rules. Consumers may elect to upgrade their shipping from the standard shipping method where any additional cost above the amount reimbursable by the Business will be at the consumer's expense.

The Business, HP or associated mailing house will validate the claim and supply a Snapfish unique redemption code and instructions to the claimant via email. The consumer may click on the link in the email which takes them to the redemption website. The consumer either registers as a Snapfish member, or logs in if an existing Snapfish member, and enters their unique

redemption pin code. This applies a product credit equal to the specific Snapfish Product plus a standard shipping credit (where the Business has undertaken to pay for the P&H) to their Snapfish account. The consumer may subsequently log in to www.snapfish.com.au, upload their photos, create the Snapfish Product, pay any P&H fees where applicable and place their order.

Consumers will have until a specified date to redeem their pin code through the redemption website which once credited, will remain active until used or the date specified for expiry in the Promotion Rules (whichever is sooner), while the Snapfish account remains active.

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)

Consumers who purchase selected Retail Products.

- (b) Number of those persons:

- (i) At present time:

None.

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

Unknown number, but expected to be substantially more 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)

The proposed conduct will be of benefit to the public as it will:

1. promote competition in the photographic printing market by exerting downward pressure on prices offered by competitors of the Snapfish website to offer discounts;
2. provide customers of the Snapfish website with the opportunity to obtain the selected Snapfish Products at discounted prices from the ordinary price of such goods;
3. provide customers of the Businesses with additional benefits when purchasing Retail Products;

Deleted:

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

- See 2(b) for description of other offered benefits.

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)

1. The national market in Australia for the supply of personalised Snapfish Products.
2. The national market for the supply of Retail Products.

The market for digital photo product printing is highly competitive both online and offline. HP is constrained in this market by a number of national and multinational competitors including: Fujifilm, Kodak, Momento, Album Printer, Clickonprint, Fotofast; Photomax; Expressphoto, Photobox, Photo Igloo, Harvey Norman Photo Centre, Photobook, Camera House, Woolworths Photos, and other suppliers and retailers.

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)

HP does not believe that the notified conduct will result in, or is likely to result in, any public detriment.

(b) Facts and evidence relevant to these detriments:

- The conduct will not result in any degradation in the ability of consumers to choose between suppliers of photographic products or services.
- The conduct will not result in any limitation on the ability of consumers to acquire photographic products from other suppliers that offer such products.
- The conduct will not result in consumers being forced to acquire product from the Snapfish website.
- The consumer is free to purchase the Retail Products from any usual retail outlet, with other discounts applying, where offered by other retailers.

7. Further information

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

Nicholas Mead
Country Manager, Australia & NZ
Snapfish by HP
Hewlett-Packard Australia Pty Ltd
Level 6, Building F, Rhodes Corporate Park
1 Homebush Bay Drive
Rhodes NSW 2138
Mobile: 0401 458 025
Email: Nicholas.mead@hp.com

Deleted:

Dated:

27 / 06 / 2014

Signed by/on behalf of the applicant

Full Name: Nicholas Mead

Signature:

Nicholas Mead

Organisation: Hewlett-Packard Australia Pty Ltd

Position: Country Manager, Snapfish by HP

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.