

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)

N97527 Australian Postal Corporation (ABN 28 864 970 579) (“**Australia Post**”)

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

Australia Post provides postal (including mail and parcel) and retail products and services to the Australian public.

- (c) Address in Australia for service of documents on that person:
Kathryn Low
Corporate Lawyer
Australian Postal Corporation
Level 11 / 111 Bourke Street
Melbourne VIC 3000

2. Notified arrangement

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

Australia Post sells:

- Mobile phones locked to networks such as Telstra, Boost, Optus or Vodafone and unlocked mobile phones that are not restricted to any network;
- SIM Cards provided by suppliers such as Telstra, Optus, Vodafone, amaysim, Dodo, Lebara, TravelSIM^{®+} and others;
- Devices or products such as tablets, wireless modems, landlines, mobile accessories and recharge vouchers which may or may not be locked to, or designed to be used with, a particular network,

(together referred to as **Telecommunications Products**), all or some of which may be offered by a third party supplier such as Telstra, Optus,

Vodafone, amaysim, Lebara, TravelSIM^{®+}, Dodo or others (**Third Party Suppliers**).

(b) Description of the conduct or proposed conduct:

Australia Post proposes that it may:

- give, or offer to give, customers free or discounted Telecommunications Products from a Third Party Supplier with the purchase of other Telecommunications Products from an Australia Post retail outlet or online store; or
- refuse to offer or give customers free or discounted Telecommunications Products unless the customer purchases other Telecommunications Products which may be offered by a Third Party Supplier at an Australia Post retail outlet or online store; or
- give, or offer to give, customers a cashback, discount, account credit or rebate if the customer purchases a Telecommunications Product from a Third Party Supplier at an Australia Post retail outlet or online store; or
- refuse to offer or give customers a cashback, discount, account credit or rebate offer unless that customer purchases Telecommunications Products from Third Party Suppliers at Australia Post retail outlets or online store.

By way of example, the discount or offer may be for a discounted or free SIM card, modem or other device when a customer purchases an unlocked mobile phone.

(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)

Persons who are likely to purchase Telecommunications Products such as mobile phones or SIM cards.

(b) Number of those persons:

(i) At present time:

Substantially in excess of 50

- (ii) Estimated within the next year:
(Refer to direction 6)
Substantially in excess of 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)

Customers who purchase a Telecommunications Product may benefit by being able to obtain another Telecommunications Product for free or at a discount (such as a SIM Card or modem that the customer may have been required to purchase in any case).

Australia Post customers will also benefit as Third Party Suppliers may be able to offer discounts or other offers (as described above) to Australia Post customers that the customers may not have otherwise been able to have access to when purchasing Telecommunications Products from Australia Post retail outlets.

The arrangements could also encourage Australia Post's competitors in the telecommunications market (such as Coles, Woolworths, Dick Smith, JB HiFi and 7-Eleven) to offer benefits which in turn could result in increased competition.

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

The discount proposed at commencement is between 0% and 100%, depending on the promotion.

The environment in which Australia Post and other competing retailers exist is already competitive and this will increase competition between the parties which will result in benefits for customers.

The environment in which the Third Party Suppliers exist is already competitive and this will increase competition between the parties which will result in benefits for customers.

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 Telecommunications Products to consumers. The Telecommunications Products may be supplied directly to the consumer by the supplier or by third party retailers selling on behalf of the supplier. The 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:
 - (i) Customers are free to decide whether they take up the offer presented by Australia Post in order to obtain the discount or free product offer. In the case of a free SIM offer, customers will not be required to use the free SIM and could elect to continue with a current telecommunications provider.
 - (ii) The telecommunications market is highly competitive. Customers are not compelled to purchase products from Australia Post and may purchase alternative products from other retailers.
 - (iii) The proposed offers will only be conducted for limited periods of time so it is unlikely that the offers will have a substantial effect on competition in any relevant markets.

7. Further information

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

Kathryn Low
Corporate Lawyer
Australian Postal Corporation
Level 11 / 111 Bourke Street
Melbourne VIC 3000

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Dated..... 26/6/2014

Signed by/on behalf of the applicant


.....
(Signature)

Kathryn Rose Low
.....
(Full Name)

Australian Postal Corporation
.....
(Organisation)

Corporate Lawyer
.....
(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.