

NEWS LIMITED

22 July 2014

Ms Anna Giannakos
Australian Competition & Consumer Commission
By Email: anna.giannakos@accc.gov.au

Dear Ms Giannakos

Form G lodged by Pinpoint Pty Ltd

I refer to the Form G attached to this letter which was lodged on 18 July 2014 on behalf of Pinpoint Pty Ltd (*News*) and would like to clarify one aspect of that Form G.

In section 2(b) of that Form G it states that *Pinpoint will offer to supply free or discounted goods and services to certain News Corp Australia digital news services subscribers.*

I would like to clarify the nature and scope of those goods and services by providing some possible examples: 2-for-1 movie vouchers, discounted concert tickets, discounted cookware and discounted weekend holidays. This is not intended as an exhaustive list but rather is provided by way of illustration of the intention of Pinpoint in relation to the scope and nature of the goods and services referred to in the Form G, section 2(b).

If you have further questions in relation to this notification, please do not hesitate to contact the author of this letter to discuss on (02) 9288 3107 or by email at rose.owen@news.com.au.

Yours sincerely



Rose Owen
General Counsel

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 in 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.

1. Applicant

- (a) Name of person giving notice:
N97595 Pinpoint Pty Ltd ABN: 49 002 693 656
- (b) Short description of business carried on by that person:
Pinpoint is a marketing services company. Its range of services and businesses include providing services in relation to rewards programs for its clients.
- (c) Address in Australia for service of documents on that person in relation to this matter:
c/- Rose Owen
General Counsel
News Limited

2 Holt Street
Surry Hills NSW 2010
Phone: 61 2 9288 3107
email: rose.owen@news.com.au

2. Notified Arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Pinpoint's provision of free, discounted or exclusive goods and services to certain News Corp Australia digital news service subscribers.
- (b) Description of the conduct or proposed conduct:
News Corp Australia operates the +Rewards program which provides rewards and benefits to certain News Corp Australia digital news service subscribers.
Through the +Rewards program, Pinpoint will offer to supply free or discounted goods and services to certain News Corp Australia digital news service subscribers.
Pinpoint will be able to refuse to offer the free or discounted goods and services unless the offeree has acquired certain News Corp Australia digital news services.

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:
News Corp Australia digital news service subscribers
- (b) Number of those Persons:
 - (i) At present time:
Substantially more than 50
 - (ii) Estimated within the next year:
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

There are a number of significant public benefits which result from the proposed conduct:

- (a) Certain News Corp Australia digital news service subscribers can obtain free, discounted or exclusive goods and services;
- (b) The offer may encourage competitors of News Corp Australia, including other newspapers, magazines and online media, to offer their customers and subscribers similar promotions and loyalty programs; and
- (c) other competitors of Pinpoint may be encouraged to offer customer discounts through various newspapers, magazines or in store.

5. Market definition

It is not necessary to precisely define the applicable relevant markets affected as even in the narrowest potential market the notified conduct will not result in any lessening of competition.

(i) The supply of digital news service subscriptions

Even if the market is narrowly defined as the market for digital news service subscriptions, the Applicant submits that the offer would not lessen competition in the narrower market.

(ii) The supply of relevant goods and services

Even if the market is narrowly defined as the market for the relevant goods and services, the Applicant submits that the offer would not lessen competition in that market.

6. Public detriments

The notified conduct would not result in public detriment, anti-competitive or otherwise, for the following reasons.

- News Corp Australia subscribers would be under no obligation to accept the offers from Pinpoint;
- The general public would be free to acquire relevant goods or services from other providers without any obligation to acquire a News Corp Australia news service subscription.

Many businesses promote their products through customer loyalty programmes to increase awareness of new products or encourage general brand awareness and loyalty.

Many printed newspapers, magazines and online media services in Australia offer discount coupons or promotions to third parties' goods and services. This is to encourage loyalty to the publication or online service by customers and advertisers and increases competition between newspapers, media and online media services. The notified conduct would have no appreciable effect on competition between providers of news and information services.

The notified conduct would have no appreciable effect on competition between sellers of newspapers, whether supermarkets or otherwise.

7. Further information

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

c/- Rose Owen
General Counsel
News Limited
2 Holt Street
Surry Hills NSW 2010
Phone: 61 2 9288 3107
email: rose.owen@news.com.au

Dated

Signed by/on behalf of the applicant


.....

(Signature)

TINA GENUA
.....

(Full Name)

PINPOINT MARKETING
.....

(Organisation)

MARKETING MANAGER
.....

(Position in Organisation)

DIRECTIONS

8. 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.

9. 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.
10. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
11. 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.
12. Describe the business or consumers likely to be affected by the conduct.
13. 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.
14. 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.
15. Provide details of the market(s) likely to be effected 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.
16. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.



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pinpoint
Pty Ltd

MARKETING CONSULTANTS

ACN 002 693 656 ABN 49 002 693 656


Attention: Gareth McCarthy
Marketing Manager CRM Communications
News Corp Australia
2 Holt Street Surry Hills, NSW 2010

In relation to our confirmation to participate in a joint promotion in relation providing eligible members of selected News Corp Australia subscriptions free or discounted goods or services by us, we understand that News Corp Australia will be notifying the Australian Competition and Consumer Commission (ACCC) on behalf of Pinpoint Pty Ltd to seek immunity in relation to potential third line forcing conduct.

We further acknowledge and agree that the proposed campaign and Pinpoint's participation in it is subject to gaining immunity from prosecution for third line forcing.

As part of the submission to the ACCC for this purpose, please confirm the details set out in the attached draft submission.

Pinpoint authorises News Corp Australia to lodge a notification with the ACCC on behalf of Pinpoint in respect of the promotional campaign described above and authorises News Corp Australia to deal with any queries from the ACCC on its behalf.

Signature 
As an authorised representative for and on behalf of Pinpoint Pty Ltd

Name TINA GENUA

Title MARKETING MANAGER

Date 18/7/14