

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)

N98343 Australia and New Zealand Banking Group Limited ABN 11 005 357 522 trading as Esanda (“ANZ”).

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

Provision of consumer and commercial financial products and services and credit facilities (“**banking products**”), including through authorised motor vehicle dealers who are permitted to procure applications, requests or offers to from their customers to obtain finance for ANZ and to submit those offers to ANZ (“**authorised dealers**”).

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

ANZ Centre
Level 9, 833 Collins Street
Docklands Victoria 3008

2. Notified arrangement

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

- Banking products provided by ANZ and arranged through particular authorised dealers.
- Motor vehicles purchased from authorised dealers.

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

- ANZ, from time to time, giving or allowing or offering to give or allow, a discount, allowance, rebate and/or credit in relation to the

supply of banking products to customers of authorised dealers or particular authorised dealers on the condition that the customers will acquire their vehicle from an authorised dealer or that particular authorised dealer.

- ANZ refusing to give or allow a discount, allowance, rebate and/or credit in relation to the supply of banking products to customers of authorised dealers or particular authorised dealers for the reason that the customers have not acquired or have not agreed to acquire their vehicle from an authorised dealer or that particular authorised dealer.

From time to time, ANZ proposes to offer a discount or rebate on the rate of interest applicable to finance offered and provided by ANZ to customers of authorised dealers or particular authorised dealers who purchase a motor vehicle from an authorised dealer or particular authorised dealers. ANZ is concerned that the conduct described above could be viewed as a technical contravention of sections 47(6) and (7) of the *Competition and Consumer Act* (“**the Act**”).

Whilst ANZ does not necessarily consider that this correctly characterises the conduct, it recognises that it is open to being characterised in this way. Accordingly, out of an abundance of caution and in order to minimise the risk of contravening sections 47(6) and (7) of the Act, ANZ wishes to notify the conduct under section 93(1) of the Act.

(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 of the authorised dealers and persons wishing to purchase similar goods and services from other dealers.

Authorised dealers.

- (b) Number of those persons:

- (i) At present time:

In excess of 50

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

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)

ANZ submits that the conduct in question will not adversely affect competition in any relevant market and the conduct in question will result in public benefits and no identifiable public detriment.

The notified conduct is pro-competitive and will generate the following public benefits:

- providing customers with the opportunity to obtain discounted or favourable rates on banking products in conjunction with their acquisition of a motor vehicle from an authorised dealer or particular authorised dealers; and
- encouraging ANZ's competitors to offer similarly priced products and services and encouraging competition amongst providers of retail motor vehicle finance.

ANZ considers that these factors will ultimately lead to further consumer benefits by reducing the cost of motor vehicle finance.

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

Customers who purchase a vehicle from an authorised dealer or a particular authorised dealer and finance through ANZ will obtain the benefit of a discount, allowance, rebate and/or credit on their finance.

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)

ANZ considers that the relevant markets for assessing this notification are the retail market for motor vehicles, and the markets for banking products. These markets are highly competitive and characterised by relatively low levels of concentration, with a diverse range of services and continuing innovation in product development.

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)

ANZ believes that the notified conduct causes little, if any, identifiable detriment to the public.

Authorised dealers are not required to offer their customers banking products from ANZ.

Further, authorised dealers are only some of many retailers of motor vehicles and ANZ is only one of a number of providers of banking products, with other providers of similar products in the market including St George, Macquarie, specialist car loan providers and banking institutions providing personal loans and car loans. These markets are likely to remain competitive for the foreseeable future. Accordingly, ANZ considers that the conduct will not distort demand, create barriers to entry or otherwise harm competition in the market.

Customers of authorised dealers are not required to obtain banking products from ANZ (or any other finance products or services) when purchasing their motor vehicle from the authorised dealers. Rather, consumers retain the genuine choice as to whether or not to deal with any motor vehicle supplier and any financier based on the competitive terms offered by those parties. This choice is not restricted and therefore the conduct is not anti-competitive.

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

There are multiple suppliers of banking products in the market for banking products. There are also multiple suppliers of motor vehicles in the retail market for motor vehicles.

7. Further information

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

Russell Bryant

Head of Esanda Dealer

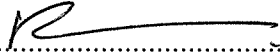
Level 28, 55 Collins Street

Melbourne Vic. 3000

(03) 8654-0940

Dated... 20/5/2015

Signed by/on behalf of the applicant



(Signature)

Russell Bryant

Australia and New Zealand Banking Group Limited

Head of Dealer and Direct Esanda

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 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.