

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)

N98078 Myer Pty Ltd (ABN 83 004 143 239) (**Myer**) of Level 7, 800 Collins Street, Docklands, Victoria 3008.

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

Myer operates department stores throughout Australia.

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

Level 7, 800 Collins Street, Docklands Vic 3008.

2. Notified arrangement

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

A Myer Gift Card supplied by Myer to selected CBA customers who own a CBA Debit Card (Cardholder) and meet the minimum spend target at Myer, as outlined in section 2(b).

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

Myer is proposing to supply, or offering to supply, a bonus Myer Gift Card on the condition that the Cardholder:

- (i) spends \$100 or more in one transaction on selected women's, men's and children's clothing, footwear, accessories, cosmetics and fragrance, homewares, toys, books, stationary, food and confectionary offered by Myer stores; and
- (ii) pays for the goods using their CBA Debit Card.

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)

Conduct relates to:

- (i) Selected Customer of the CBA who owns a CBA Debit Card
- (ii) Current and future Myer consumers

(b) Number of those persons:

(i) At present time:

Approx 600,000

(ii) Estimated within the next year:

(Refer to direction 6)

Unknown

(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:

- (i) provide Cardholders the opportunity to acquire a bonus Myer Gift Card (maximum value of \$40) in addition to existing reward benefits that may be offered by Myer and CBA
- (ii) promote competition in the relevant markets by encouraging competitors including banks and retailers, to offer value added or discounts on goods
- (iii) the offer is no way limiting the genuine choice as customers can choose other forms of payment
- (iv) not prevent Cardholders from making purchasing decisions for goods and services at Myer and CBA

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

Cardholders will benefit from the offer as they are likely to highly value the offer.

- (i) The proposed conduct will not substantially lessen competition in the relevant markets for goods and/or services, as there are a significant number of actual competitors (banks and retailers) and potential competitors for the supply of similar goods and services.
- (ii) The public will be able to purchase Myer Gift Cards or goods from Myer regardless of whether they have (or use) a CBA Debit Card.
- (iii) Discounts or other benefits or privileges from Myer and CBA are valuable to many consumers, and the ability for Myer to extend these offers to Cardholders of CBA is a significant benefit to the individual consumer.
- (iv) Cardholders will be able to utilise the Myer Gift Card for 2 years from the 'issued date' for most products at Myer stores.

Myer believes that the benefits from the proposed conduct outweigh any possible detriment that may arise from the conduct.

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 markets most likely to be affected by the proposed conduct are:

- (i) the market for the supply of debit card facilities; and
- (ii) the market for retail goods and services, including but not limited to women's, men's and children's clothing, footwear, accessories, cosmetics and fragrance, home wares, toys, books, stationary, food and confectionary.

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)

The notified conduct will result in little (if any) public detriment resulting from the notified conduct. The proposed conduct would have a negligible effect on competition in the relevant markets.

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

No public detriment will arise from the notified conduct for the following reasons:

- (i) the public will be able to purchase goods and/or services from Myer regardless of whether they are a Cardholder;
- (ii) the retail market for goods is characterised by large numbers of competitors and very intense competition;
- (iii) the proposed conduct will not prevent competitors of Myer, or competitors of CBA, from competing effectively;
- (iv) by participating in the offer, Cardholders are not prevented from also participating in programs or offers that the Bank or Myer offers from other providers;
- (v) the proposed conduct will have a positive impact on competition in the relevant market, such as increased benefits provided to Cardholders under similar programs and offers

The public benefits far outweigh any public detriment that may arise. Accordingly, Myer requests that the proposed conduct be allowed.

7. Further information

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

Ms Wai Wong
Compliance & Risk Manager
Level 7, 800 Collins Street, Docklands Vic 3008
Phone 03 8667 7842

Dated 19 December 2014

Signed by/on behalf of the applicant


.....
(Signature)

Wai Wong
(Full Name)

Myer Pty Ltd
(Organisation)

Compliance & Risk 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 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.