

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)

N98189

Eyewear Australia (S.E) Regional Ptd Ltd (ABN 15124184167) and related companies:

KPFE – Malop St Pty Ltd (ABN 89133053157)

Leopold Optical Pty Ltd (ABN 29129814562)

Mount Gambia Optical Pty Ltd (ABN 32124185048)

KPFE Packington Street Pty Ltd (ABN 95133053184)

Point Cook Optical Pty Limited (ABN 87130459102)

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

Offers optical services and products

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

Colin Kangisser

Chief Executive Officer

Eyewear Australia (S.E) Regional Ptd Ltd

Suite 202, 418A Elizabeth St, Surry Hills, 2010

2. Notified arrangement

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

Supply of prescription glasses and prescription sunglasses.

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

Eyewear Australia (S.E) Regional Ptd Ltd proposes to offer a discount of up to \$120 on the supply of frames and prescription lenses for a selected segment of Bupa members who have extras cover. The offer will be available for the period 1st April – 31st July 2015.

(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)

Consumers who are customers of Bupa Australia.

- (b) Number of those persons:

- (i) At present time:

Greater than 40,000

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

It is estimated that the offer is applicable to in excess of 40,000 current members of Bupa with Extras cover. This offer is valid only for a 3 month period.

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

NA

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)

The proposed conduct of Eyewear Australia (S.E) Regional Ptd Ltd and related companies offers significant benefits to the public because:

- The discounts make the services and products more affordable and better value for consumers; and
- The conduct motivates competitors to offer similar benefits and discounts and therefore increases competition in the products and services.

The offers in no way limit the choice of consumers because:

- Eyewear Australia (S.E) Regional Ptd Ltd and related companies will continue to offer its products and services to consumers at the regular price, regardless of whether or not the consumers are Bupa Australia customers; and
- Consumers are free to purchase retail products from other competing suppliers

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

The optometry market in Australia is highly competitive. All suppliers are conscience of offers being made by competitors. This offer will lead to a direct benefit to the significant number of Bupa members in Australia. In addition, the offer has the potential to stimulate further competition in the optometry market which will lead to benefits to a broader number of prescription wearers in Australia.

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 the market for the supply and fit of men's, women's and children's prescription glasses, contact lenses and associated optical products. Provision of optometry services.

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 proposed conduct will have no detrimental effects on competition. Competition for each of the product services is strong and there are other companies competing for business on an equal footing. Eyewear Australia (S.E) Regional Ptd Ltd and related companies do not have a substantial degree of market power.

(b) Facts and evidence relevant to these detriments:

No detriment is envisaged from the offer as the Australian optical market is extremely competitive. The level of competition in the market can be evidenced by a perusal of the following websites:

- www.opsm.com.au
- www.specsavers.com.au

Recent studies of the optometry and optical dispensing markets in Australia show that while the demand for optical products and services is on the rise, prices for these products and services are falling in real terms due to the significant competitive forces at play in the market. The proposed offer, the subject of this Notification, will further stimulate competition and will be of direct and indirect public benefit.

7. Further information

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

Tessa Chirnside
Marketing Manager
Suite 202, 418A Elizabeth Street
Surry Hills, 2010

Dated 13/05/15

Signed by/on behalf of the applicant

[Signature]
(Signature)

COLBY KANEISER
(Full Name)

DEB EYE WEAR AUSTRALIA
(Organisation)

DIRECTOR/CEO
(Position in Organisation)