

# 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:

N98207	News Limited (ACN 007 871 178)
N98208	News Digital Media Pty Limited (ACN 000 529 457)
N98209	Nationwide News Pty Limited (ACN 008 438 828)
N98210	The Herald & Weekly Times Pty Limited (ACN 004 113 937)
N98211	Advertiser Newspapers Pty Ltd (ACN 007 872 997)
N98212	Queensland Newspapers Pty Ltd (ACN 009 661 778)
	(together, the <b>News Entities</b> )

#### (b) Short description of business carried on by that person:

The News Entities publish print and digital news and information services in various forms including newspapers, websites and mobile applications and sell access to those goods and services in various ways including as subscriptions.

The News Entities are all related bodies corporate of each other.

#### (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: 02 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:**

Supply of news and information (in digital and/or print formats) subscriptions.

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

A News Entity will offer to supply discounted news and information (in digital and/or print formats) subscriptions to persons on condition that they have a relevant relationship with a specific third party (*promotional partner of a News Entity*). The relevant relationship would be one of the following:

- (i) a member of a loyalty program operated by a promotional partner of a News Entity; or
- (ii) a customer of a promotional partner of a News Entity (whether by attending an event of the promotional partner or otherwise).

A News Entity will be able to refuse to supply to a person the discounted news and information (in digital and/or print formats) subscription unless the person has the requisite relationship with a promotional partner of a News Entity.

**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:**

Persons who want to acquire a news and information (in digital and/or print formats) subscription from a News Entity.

**(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) Members and customers of the promotional partners of the News Entities are not obliged to acquire subscriptions from a News Entity but if they choose to do so can do so at a discount;

- (b) Competitors of the promotional partners of the News Entities may be encouraged to offer their members and customers additional benefits which may include discounted offers from other media companies; and
- (c) The offer may encourage competitors of News Entities, including other newspapers, magazines and online media, to offer their subscribers similar promotions or other value adds.

**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 news (print and/or digital) subscription services**

Even if the market is narrowly defined as the relevant state market for the supply of metropolitan newspapers, the Applicants submit that the discount program would not lessen competition in the narrower market. Arrangements at any given time with promotional partners would either not be exclusive or would not be with the majority of suppliers in the relevant third party market.

**(ii) The supply of third party goods or services**

The Applicants acknowledge that the third party market cannot be precisely defined. However, as arrangements at any given time with promotional partners would either not be exclusive or would not be with the majority of suppliers in the relevant third party market, the Applicants submit that the proposed conduct 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.

- Customers of promotional partners of a News Entity would be under no obligation to accept an offer from a News Entity.
- The general public would be free to acquire relevant goods or services from a promotional partner of a News Entity without any obligation to acquire a News Entity's news and information subscription.
- The general public would be free to acquire a news and information subscription from a News Entity without having to acquire relevant goods or services from a promotional partner of a News Entity.
- The notified conduct would have no appreciable effect on competition between the various promotional partners and their respective competitors as their competitors would be able to provide similar value added benefits either from a News Entity or from one of its competitors.
- Many printed newspapers, magazines and online media services in Australia offer discounts or promotions to third parties' customers, event participants and loyalty program participants. This is to encourage loyalty to the publication or online service

by persons who might not otherwise acquire a subscription and increases competition between newspapers, media and online media services.

- The market in which the News Entities compete is highly competitive. Consumers have a significant number of product options available to them. Suppliers of news and information publications (including online, radio, television, newspaper and periodical publications) compete in relation to subscription and cover price, content, format, distribution, branding and advertising. The notified conduct would have no appreciable effect on competition between providers of news and information services in regard to any of those aspects.

The notified conduct would have no appreciable effect on competition between providers of news and information goods or services.

**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: 02 9288 3107  
email: rose.owen@news.com.au

Dated: 10.4.15

Signed by/on behalf of the Applicant

  
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Rose Anne Owen

News Limited

General Counsel

## 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.