

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)

N99421 Wild Retail Group Pty Ltd ACN 099 349 345 (*Wild*).

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

Wild operates a unique system for the retail sale of products typically found in a cards and gifts business under its trade marked brand Wild Cards & Gifts.

Wild enters into franchise agreements with independently owned businesses throughout Australia (*Wild Franchisees*). A Wild Franchisee conducts its business using Wild's franchise system and sells goods at a retail level in association with trade marks which are licensed by Wild.

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

Suite 401, Level 4, 80 William Street, Woolloomooloo, NSW, 2011.

2. Notified arrangement

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

(1) Wild uses third party IT software and hardware solutions including a point of sale computer system called Infinity Retail Management System (*Infinity*). Infinity is owned by, and licensed to Wild and Wild Franchisees, by Triquestra New Zealand Limited (*Triquestra*).

(2) Infinty is used in store by Wild Franchisees as a mechanism to record and process transactions and reports regarding and including purchases, refunds, inventory, stock movement, stock receipts, stock adjustments, purchase orders, supplier details, returns to suppliers, transaction histories, sales summaries, end of day reporting, till balancing, financial

reports, sales and stock reports, sales summary by supplier, stock on hand reports, sales by item, layby, and stock label printing.

- (3) Wild head office inputs details including product barcodes, descriptions and department, and Wild head office and Wild Franchisees can update details including SKU number, sell price, and supplier details for example.

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

(Refer to direction 4)

- (1) Wild wishes to require Wild Franchisees to use Infinity. By having Wild Franchisees use Infinity, Wild seeks to maintain among other things, uniformity and consistency among the product range, store and stock display, pricing, purchasing experience, stock ordering and back office reporting.
- (2) Wild is a party to a licensing and servicing agreement with Triquestra. Wild Franchisees sign up to a credit account with Triquestra and are responsible for paying monthly fees to use Infinity.
- (3) Wild Franchisees agree under the Wild Franchise Agreement to adhere to the quality and control standards prescribed by Wild. Wild Franchisees are informed through the Wild Disclosure Document and Franchise Agreement that Wild Franchisees may be required to acquire and use Infinity.
- (4) Triquestra charges new Wild stores a one off licensing and installation fee of \$4,700, then a monthly support and maintenance fee of \$100.

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)

Persons who are or will be a Wild Franchisee. Wild Franchisees are independently owned and operated Wild stores in Australia which sell franchise system goods at retail level.

- (b) Number of those persons:
 - (i) At present time:

There are approximately 38 Wild Franchisees as at 7 November 2016.

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

44.

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

Please see table comprising Annexure A.

4. Public benefit claims

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

Wild operates a national franchise system in relation to the supply of Franchise System Goods under trade marks which are used by all Wild Franchisees. As such, consistency of goods and customer experience across all franchised outlets is an important commercial consideration.

The notified conduct would result in a benefit to the public by increasing efficiency and reducing costs for Wild Franchisees and Wild as well as providing consistent delivery of services, sale of goods, and quality control, thereby allowing Wild to be an attractive and competitive participant in the cards and giftware industry.

Requiring each Wild Franchisee to utilise the same provider of IT Goods and Services and, therefore, acquire uniform technology solutions, including a uniform point of sale, inventory control, back office and financial reporting solution, would also reduce transaction costs given that Wild can conduct negotiations with a single technology vendor in respect of a single solution that can be used across all Wild Franchisee stores. For example:

- Outsourced hardware and/or software maintenance agreements can incorporate the same service levels to ensure Wild Franchisees receive the same defined service levels.
- New features can be added to point of sale and other software and be implemented across all Wild Franchisees.
- Wild can efficiently and effectively monitor in-store elements of each Wild Franchisee.

Wild regularly reviews the services provided by Infinity to ensure the system is the most beneficial and cost effective system for use in the franchise network and that the fees payable by Wild Franchisees are fair and most competitive.

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

It is submitted that the claims and benefits set out in the Notice are supported by:

- (1) Basic business and marketing principles.
- (2) Basic principles underlying a franchise network, how it is operated and the benefits of being part of or having franchise systems.

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)

Wild submits that the relevant markets are the IT wholesale and retail services markets.

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)

Wild submits that there will be no public detriment if the proposed arrangement is implemented. The notified conduct is not likely to have any effect on the price of goods and services across the relevant market.

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

Not applicable.

7. Further information

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

Yvette Sowell, General Counsel
Wild Retail Group Pty Limited
Suite 401, 80 William Street, Woolloomooloo, NSW, 2011.

Dated 8 November 2016
Signed on behalf of the applicant



(Signature)

Yvette Sowell
(Full Name)

Wild Retail Group Pty Limited
(Organisation)

General Counsel
(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 the 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.

Annexure A

Wild Store Name	Address	Suburb	State	Post Code
Rhodes	Shop 59 Rhodes Waterside Shopping Centre	Rhodes	NSW	2138
Macarthur Square	Shop 89 Macarthur Square Shopping Centre	Campbelltown	NSW	2560
Shellharbour	Shop 2018a Stocklands Shellharbour	Shellharbour	NSW	2529
Rouse Hill	Shop 8 Rouse Hill Town Centre	Rouse Hill	NSW	2155
Macquarie Centre	Shop 1013a Macquarie Shopping Centre, Cnr Herring & Waterloo Rds	North Ryde	NSW	2133
Narellan	Shop 206, Narellan Town Centre, 326 Camden Valley Way	Narellan	NSW	2567
Waurin Ponds	Shop 959 Waurin Ponds Shopping Centre, 173-199 Pioneer Road	Waurin Ponds	VIC	3216
Broadmeadows	Shop 144 Broadmeadows Shopping Centre	Broadmeadows	VIC	3047
Watergardens	Shop 149 Watergardens Town Centre	Taylors Lakes	VIC	3038
Doncaster	Shop 1111 Westfield Doncaster	Doncaster	VIC	3108
Plenty Valley	Shop 116 Westfield Plenty Valley	Mill Park	VIC	3082
Highpoint	Shop 2545 Highpoint Shopping Centre	Maribyrnong	VIC	3032
Knox City	Shop 2121 Westfield Knox City Shopping Centre	Wantirna South	VIC	3152
Fountain Gate	Shop 1078 Westfield Fountain Gate	Fountain Gate	VIC	3805
Southland	Shop 1030 Lvl 1 Westfield Southland	Cheltenham	VIC	3192
Carindale	Shop 1119 Westfield Carindale, 1151 Creek Rd	Carindale	QLD	4152
Garden City	Shop 2300a Westfield Garden City, Logan & Kessels Rds	Mt Gravatt	QLD	4122
Loganholme	Shop 305 Logan Hyperdome	Loganholme	QLD	4129
Helensvale	Shop 1011, Westfield Helensvale Shopping Centre, 1-29 Millaroo Dr	Helensvale	QLD	4212
Chermside	Shop 389 Westfield Chermside	Chermside	QLD	4032
Kawana	Shop 516a Kawana Shoppingworld	Buddina	QLD	4575
Mackay	Shop 2519 Caneland Central Shopping Centre	Mackay	QLD	4740
Grand Central	Shop 106, Grand Central Shopping Centre	Toowoomba	QLD	4350
Indooroopilly	Shop 3136B Indooroopilly Shopping Centre	Indooroopilly	QLD	4068
Pacific Fair	Shop 1529A Pacific Fair Shopping Centre	Broadbeach	QLD	4218
Australia Fair	Shop G099 Australia Fair Shopping Centre	Southport	QLD	4215
Whyalla	Shop 8 Westland Shopping Centre	Whyalla	SA	5608
Elizabeth	Shop 8 Elizabeth Shopping Centre	Elizabeth	SA	5112
Geraldton	Shop 9 Stirling's Centre	Geraldton	WA	6530
Carousel	Shop 1081 Westfield Carousel	Cannington	WA	6107
Morley	Shop 1077 Morley Galleria	Morley	WA	6062
Whitford City	Shop 250 Westfield Whitford City S/Centre	Hillarys	WA	6025
Bunbury	Shop 7 Bunbury Forum Shopping Centre	Bunbury	WA	6230
Booragoon	Shop 74 Garden City Shopping Centre	Booragoon	WA	6154
Joondalup	Shop 135 Lakeside Shopping Centre	Joondalup	WA	6027
Rockingham	Shop 196 Rockingham City Shopping Centre	Rockingham	WA	6168
Ellenbrook	Shop 60, The Shops At Ellenbrook	Ellenbrook	WA	6069
Cockburn	Shop 313 Cockburn Gateway SC, 816 Beeliar Dr	Success	WA	6164