

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)

N99007

STARR PARTNERS PTY LTD ABN 58 054 801 375 ("Starr Partners")

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

Starr Partners is the Franchisor for a network of 28 franchised real estate agency businesses operating under the "Starr Partners" brand (the "Starr Partners Offices").

Franchisees operate Starr Partners Offices pursuant to a Franchise Agreement with Starr Partners (the "Franchise Agreement"). Under the Franchise Agreement, each Franchisee is granted the right to operate a Starr Partners Office using the "Starr Partners" brand and associated intellectual property.

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

C/- Doug Driscoll, Chief Executive Officer, Starr Partners Pty Ltd, 106/5 Celebration Drive, Bella Vista NSW 2153.

2. Notified arrangement

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

This notification relates to the requirement that Starr Partners Franchisees obtain marketing services from suppliers sourced and approved by Starr Partners.

The Starr Partners Solutions Portal (the "Portal") is an internet based head office/office support facility that allows Franchisees to view and order a wide range of branded and personalised marketing products and services.

The Portal provides an online resources centre that assists Franchisees with the distribution and utilisation of marketing, promotional, operations and training materials and services. The products range from Near Field Communication enabled picture sales boards through to personalised cards that can be customised automatically via an uploaded database. The products and services provided through the Portal ensure brand consistency and facilitate the delivery of consistent and efficient marketing services throughout the network of Starr Partners Franchise Offices.

(b) Description of the conduct or proposed conduct:

The Franchise Agreement includes a requirement that the Franchisee use only products and services which are listed as Approved Products and Approved Services as defined in the Franchise Agreement which meet the Franchisor's quality and control standards for the Franchisor's products and services.

Clause 15.5 of the Franchise Agreement provides that:

"The *Franchisee* shall not supply any product or service in the course of the conduct of the *Franchised Business* unless such product or service is an *Approved Product* or an *Approved Service*."

In accordance with clause 15.6 of the Franchise Agreement:

"(a) The Franchisor shall provide to the Franchisee from time to time a list of suppliers of:

- (i) Approved Products; and
- (ii) Approved Services

and may vary those lists (by adding or removing products and services or names of suppliers) from time to time in its absolute discretion."

As at the date of this Notification, Starr Partners has appointed the following suppliers:

- VFX Print Group of 637- 639 Parramatta Road, Leichhardt, NSW 2040
- DTS Communicate, Unit A, 11 Hudson Avenue, Castle Hill, NSW 2154
- ReNet, 16 First Avenue, Sawtell, NSW 2452.

The above conduct falls within the definition of Exclusive Dealing in sections 47(6) and (7) of the *Competition & Consumer Act 2010* (Cth) as Starr Partners proposes to supply its services as Franchisor on the condition that the Franchisee obtains certain services and products, from the list of suppliers of Approved Products and Approved Services (as defined in the Franchise Agreement).

(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)
Persons operating a Starr Partners Real Estate Agency business under franchise from Starr Partners.
- (b) Number of those persons:
- (i) At present time:
There are 28 Starr Partners Offices
- (ii) Estimated within the next year:
(Refer to direction 6)
Starr Partners estimates there will be 30 offices within the next 12 months.
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Refer to Annexure A.

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)
The Portal is an internet based comprehensive marketing system that assists the Franchisee in many aspects of its business. The Portal:
- (i) provides a point of single entry to facilitate the marketing by Franchisees of their businesses in their respective territories by encouraging them to order greater quantities of marketing materials;
- (ii) provides efficiencies in the areas of production of marketing materials;
- (iii) provides a means to record customer contact information;
- (iv) ensures the delivery of quality marketing services by suppliers that are able to provide services and products in accordance with Starr Partners' specifications for the marketing services including ensuring that materials are professionally written, ensuring colour consistency and appropriate stock selection;
- (v) bringing together in one single place all of the marketing materials available to a Franchisee and allowing Franchisees to review and compare items.
- (b) Facts and evidence relied upon in support of these claims:
- (i) Starr Partners submits that the cost of the system is less than Franchisees would pay for a similar system if not provided by Starr Partners. It is submitted that the Portal reduces the time and cost

spent by Franchisees in sourcing suitable suppliers that can provide the relevant services which comply with Starr Partners' requirements.

- (ii) Ensure the consistency, uniformity and quality control which is paramount to the Starr Partners brand and image and will help ensure that the market positioning of the Starr Partners brand continues to grow.
- (iii) Ensure that the marketing activities undertaken by Franchisees will satisfy Starr Partners' standards.
- (iv) Ensure operational efficiency therefore saving time for both the Franchisees and the Franchisor.

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 market is the supply of marketing services and products in NSW and specifically the Sydney area to real estate businesses. The specific markets in which those services and products are to be provided are:

- (i) residential real estate sales and purchases;
- (ii) residential real estate property management services;
- (iii) commercial real estate sales and purchases;
- (iv) commercial real estate property management services; and
- (v) real estate marketing services

Starr Partners submits that the real estate market in NSW and specifically the Sydney area is a highly competitive market with many significant providers. Those other providers include Laing & Simmons, Ray White, Raine & Horne, McGrath, Richardson & Wrench, L J Hooker and many others.

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)

Starr Partners does not consider there will be any detriment to the public. As noted above, the real estate market in NSW and specifically the Sydney area is a highly competitive market with a number of participants. The provision

of marketing services and products to those participants is likewise a highly competitive market.

By using the Starr Partners Portal, the Franchisees will be able to access marketing services in a cost effective and consistent manner.

As the Portal is supported and maintained by Starr Partners' head office, there is no direct cost to the Franchisees. The ability of Franchisees to access the Portal database and marketing materials saves the Franchisees time and money and will result in costs reductions because of improved efficiencies which ultimately will be passed on to the end consumer.

(b) Facts and evidence relevant to these detriments:

See paragraph 6(a) above.

7. Further information

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

Doug Driscoll, Chief Executive Officer, Starr Partners Pty Ltd, 106/5 Celebration Drive, Bella Vista NSW 2153.

Dated..... 22 . 3 . 16

Signed by/on behalf of the applicant

..... *D. Driscoll*

(Signature)

..... DOUGLAS GEORGE DRISCOLL

(Full Name)

..... STARR PARTNERS PTY LTD

(Organisation)

..... CHIEF EXECUTIVE OFFICER

(Position in Organisation)

ANNEXURE A

**SUBMISSION BY STARR PARTNERS PTY LTD IN SUPPORT OF
NOTIFICATION UNDER SECTION 93(1) OF THE *COMPETITION &
CONSUMER ACT 2010***

List of Starr Partners Franchise Owners current as at 22 March 2016

Office	Name of Franchisee	Business Address
Starr Partners Auburn	Greg Okladnikov Greg Okladnikov Pty Ltd	146 South Parade, Auburn NSW 2144
Starr Partners Bankstown	Paul Nguyen Champion Property Corporation Pty Ltd	26 Greenfield Parade, Bankstown NSW 2200
Starr Partners Bella Vista	Gary Thind Oscar Real Estate Pty Ltd	G10, 29-31 Lexington Drive, Bella Vista NSW 2153
Starr Partners Blacktown	Daniel Formosa Terry Sargent (Real Estate) Pty Limited	79-81 Blacktown Road, Blacktown NSW 2148
Starr Partners Campbelltown	Wesley Jardine E&W Jardine Investments Pty Limited	147-157 Queen Street, Campbelltown NSW 2560
Starr Partners Carlingford	Richard Khoury A2 Enterprises Pty Ltd	Suite 5, 241-245 Pennant Hills Road, Carlingford NSW 2118
Starr Partners Dee Why	Antonio Gerace Jude & Lourdes Pty Limited	Shop 1, 29 Howard Avenue, Dee Why NSW 2099
Starr Partners East Gosford	Paul Starr Starr Team Properties Pty Limited	Suite 14, 36-40 Victoria Street East Gosford NSW 2250
Starr Partners Fairfield	Raj Bhandari RB & RK Real Estate Pty Limited	12/4 Station Street, Fairfield NSW 2165
Starr Partners Kellyville	Adam Buchert ABJS Pty Limited	2/27 Windsor Road, Kellyville NSW 2155

Starr Partners Merrylands	Phillip Starr Starr & Duggan (Real Estate) Pty Limited	139 Merrylands Road, Merrylands NSW 2160
Starr Partners Minto	Khayal Khan Sydney Property Real Estate Pty Limited	Shop 73, Minto Marketplace Minto NSW 2566
Starr Partners Narellan	Wesley Jardine Jardine (Real Estate) Pty Limited	Shop 2 1 Somerset Avenue, Narellan NSW 2567
Starr Partners Parramatta	Mark Hurley Cumberland (Real Estate) Pty Limited	1/426 Church Street, North Parramatta NSW 2151
Starr Partners Penrith	Nigel Lock New Horizon Sydney Realty Pty Ltd	Shop 1/344 High Street, Penrith NSW 2750
Starr Partners Riverstone	John Kelly LLK Realty Pty Ltd	Shop 5, Riverstone Marketplace Riverstone NSW 2765
Starr Partners Rooty Hill	TG Singh Efficient Asset Management	Shop 6, 52 Rooty Hill Road North, Rooty Hill NSW 2766
Starr Partners Ryde	Jason Kiproviski CHR Realty Pty Ltd	8 Church Street Ryde NSW 2112
Starr Partners St Marys Rental Department	Darren Kersten Edwards Kersten (Real Estate) Pty Ltd	221 Queen Street, St Marys NSW 2760
Starr Partners St Marys Sales	Scott Edwards Edwards (Real Estate) Pty Ltd	221 Queen Street, St Marys NSW 2760
Starr Partners Wentworthville	Phillip Starr Starr & Duggan(Real Estate Pty Limited)	Shop 2, Wentworthville Plaza, Wentworthville, NSW 2145
Starr Partners Windsor	Adam Buchert Windsor Realty Pty Limited	33 Macquarie Street, Windsor NSW 2756

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.