

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)

News Limited (ABN 47 007 871 17)
2 Holt Street, Surry Hills, NSW, 2010.

On behalf of:

N99137 Swisse Vitamins Pty Ltd (ABN 62 004 926 005) (“Swisse”)
36-38 Gipps Street, Collingwood, VIC, 3066.

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

News Limited – Media Publishing Company
Swisse – Supplier of multivitamins and health supplements

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

Same as above

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2. Notified arrangement

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

Promotional sale and distribution of 200,000 units of Swisse branded Olympic scarves (“**Scarves**”) between 2 July 2016 & 10 July 2016 via purchase of selected News Corp Australia newspaper in NSW, VIC, QLD & SA for the purposes of raising funds for the Australian Olympic

Committee (“**Promotion**”)

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(b) Description of the conduct or proposed conduct:

Pursuant to a Partnership Agreement (“**Partnership Agreement**”) between Swisse and News Corp Australia, Swisse appointed News Corp Australia as distributor of the scarves via News Corp Australia’s newsagency network.

Under the Partnership Agreement, News Corp Australia and Swisse agree that a purchaser of the below newspapers in NSW, VIC, QLD & SA from a member of News Corp Australia’s participating newsagent network between 2 July, 2016 and 10 July, 2016 will be entitled, but not obliged to purchase a scarf for a recommended retail price of \$2.00 inc GST upon the presentation of a token contained in newspaper. The token must be presented and scarf redeemed by 10 July, 2016. The scarves are not available for separate purchase.

Participating newspapers:

NSW – The Daily Telegraph, The Sunday Telegraph

VIC – The Herald Sun, The Sunday Herald Sun, The Geelong Advertiser

QLD – The Courier Mail, The Sunday Mail (QLD), The Gold Coast Bulletin, The Townsville Bulletin, The Cairns Post

SA – The Advertiser, The Sunday Mail (SA)

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(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)

Readers of the newspapers outlined in 2b and potential purchasers of the scarves

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(b) Number of those persons:

(i) At present time:

None

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

Approx 3.1 million readers based upon circulation average of the above newspapers Monday – Sunday

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

N/A

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4. Public benefit claims

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

- Swisse is not in the business of selling scarves. This is a once-off promotional supply for the purposes of raising funds for the Australian Olympic Committee in supporting our Olympians in the 2016 Rio Olympics whilst at the same time promoting the Swisse Vitamins brand as one of the sponsors of the Australian Olympic team
- If not for the promotion under the Partnership Agreement with News Corp Australia, the scarves would not be available.
- The arrangement provides consumers with the opportunity to obtain the scarves at a cost effective price, and the added benefit of promoting the Olympics and raising funds for the Australian Olympic Committee.
- Consumers are not obliged to buy the scarves so the promotion has no negative impact on consumers who purchase the selected News Corp Australia newspapers.

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

N/A

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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 defined as purchasers of the participating News Corp Australia newspapers as outlined in 2b. There are many other Olympic branded merchandise substitutes for the scarves in the market.

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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)

Neither Swisse or News Corp Australia consider that any public detriment will arise as a result of the notified conduct.

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(b) Facts and evidence relevant to these detriments:

N/A

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7. Further information

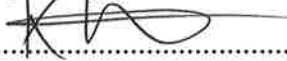
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Katy Harrison
National Marketing Executive, Promotions & Partnerships
News Corp Australia
Level 4, 2 Holt Street
Surry Hills
NSW
2010

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Dated 3/6/16

Signed by/on behalf of the applicant


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(Signature)

Katy Harrison
(Full Name)

News Corp Australia
(Organisation)

National Marketing Executive, Promotions & Partnerships
(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.