

# 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)

N99757

*SparQ Pty Ltd (ACN 601 199 151) (trading as **Sumo Power**)*

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

*Sumo Power is an electricity retailer licensed to operate in Victoria, New South Wales, Queensland, South Australia, Tasmania and the ACT. It currently markets and supplies electricity to approximately 24,000 residential and small business customers in Victoria.*

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

*Suite 103, 41-61 Cecil Street  
South Melbourne VIC 3205*

## 2. Notified arrangement

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

*The proposed arrangement relates to the supply of electricity to residential consumers.*

- (b) Description of the conduct or proposed conduct:  
(Refer to direction 4)

*Sumo Power has a commercial arrangement with iSelect Media Pty Ltd (iSelect) pursuant to which iSelect (or one of its group entities) promotes*

*and distributes its electricity products. iSelect has similar arrangements with other energy providers and providers of other products.*

*Through iSelect, Sumo Power proposes to offer Victorian residential customers a 42% pay-on-time discount on their electricity usage charges for the first 12 months of their energy plan if they also purchase a Nest product, also through iSelect. See nest.com for details about Nest products.*

**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)*

*Residential electricity consumers who purchase a Sumo Power electricity plan and a Nest product through iSelect.*

- (b) Number of those persons:

- (i) At present time:

*None*

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

*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**

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

*The proposed arrangement is designed to encourage consumers to purchase electricity from Sumo Power by offering them an additional, unique benefit.*

*The proposed arrangement does not compel consumers to purchase electricity from Sumo Power, nor does it compel them to purchase a Nest*

*product. Consumers who choose not to purchase a Nest product can purchase electricity from Sumo Power (via iSelect or otherwise).*

*There is a large number of suppliers in the residential and small business electricity market. Sumo Power considers that the electricity retail market is already highly competitive. The proposed arrangements will further promote competition in the electricity retail market by encouraging other electricity retailers to offer similar benefits.*

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

*For information about the state of competition in the electricity retail markets, see Australian Energy Market Commission, 2016 Retail Competition Review, Final Report, 30 June 2016, Sydney.*

*For a current list of authorised electricity retailers in New South Wales, Queensland, South Australia, Tasmania and the ACT, see <https://www.aer.gov.au/retail-markets/authorisations/public-register-of-authorised-retailers-and-authorisation-applications>.*

*For details of licensed electricity retailers in Victoria, see <http://www.esc.vic.gov.au/Energy/Licensing>.*

**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 retail market for electricity in Victoria, New South Wales, Queensland, South Australia, Tasmania and the ACT. There is a large number of competitors in this market. See the response to question 4(b) above for more information.*

## 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)*

*Sumo Power considers that limited public detriment results from the proposed arrangement as:*

- Consumers are not forced to purchase a Nest product through iSelect in order to purchase electricity from Sumo Power.*
- Consumers can purchase electricity from Sumo Power at standard prices or in association with one of a range of alternate benefits.*
- The number of consumers impacted is insignificant compared to the total number of residential consumers who purchase electricity.*
- There is a large number of alternative suppliers in the market from which consumers can choose to purchase electricity.*
- Sumo Power's conduct may encourage other retailers to offer similar benefits to electricity consumers.*

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

*Details of some of Sumo Power's other offers can be found at [www.sumopower.com.au](http://www.sumopower.com.au).*

*See the response to question 4(b) above for information about the electricity retail market.*

## 7. Further information

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

*Mr Alex Fleming*

*General Manager – Legal, Regulatory & Compliance*

*Sumo Power*

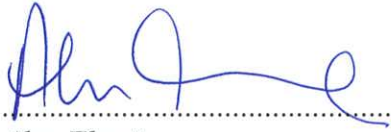
*PO Box 5329*

*South Melbourne VIC 3205*

*Phone: (03) 8678 1403*

Dated: 18 JULY 2017

Signed by/on behalf of the applicant



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*Alex Fleming*

*General Manager – Legal, Regulatory & Compliance*

*Sumo Power*