

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)

N99 891 TLS Maryborough Pty Ltd ABN 58 620 575 046 trading as Maryborough Telstra Store

TLS Maryborough Pty Ltd ABN 58 620 575 046 trading as Maryborough Telstra Store ("TLS") operates a Telstra Shop under licence from Telstra and has been appointed by Telstra to promote the sale of, and extend the demand for, Telstra telecommunications services and related goods and services.

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

TLS supplies a range of consumer products to retail customers. These include mobile phones, cordless phones, fax machines, phone cards, software, hand held computers, data products and internet starter packs.

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

Caroline Coops
King & Wood Mallesons
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 9643 4097

2 Notified arrangement

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

TLS will offer a range of telecommunications and related goods or services (including mobile phones, cordless phones, fax machines, phone cards, software, hand held computers, data products and internet starter packs) ("**TLS Products**") and/or promotional goods or services (including vouchers, cinema tickets,

electrical goods and accessories and food items) (“**Promotional Products**”) to customers on condition that they acquire telecommunications services and/or related goods or services from Telstra.

(b) Description of the conduct or proposed conduct:

TLS proposes to:

- (i) supply or offer to supply a TLS Product and/or Promotional Product to retail customers on the condition that the customer acquires or agrees to acquire telecommunications services or products or particular telecommunications services plans from Telstra;
- (ii) refuse to supply or refuse to offer to supply a TLS Product and/or Promotional Product to retail customers for the reason that the customer has not acquired or has not agreed to acquire telecommunications services or products or particular telecommunications services plans from Telstra;
- (iii) give or allow or offer to give or allow a discount, allowance, rebate or credit in relation to a TLS Product and/or Promotional Product to retail customers on the condition that the customer acquires or agrees to acquire telecommunications services or products or particular telecommunications services plans from Telstra.

(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)

Retail customers (including small and medium enterprise customers).

- (b) Number of those persons:

- (i) At present time:
Substantially greater than 50.
- (ii) Estimated within the next year:
(Refer to direction 6)
Substantially greater 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 conduct will be of benefit to the public because it will allow retail customers to acquire TLS Products and/or Promotional Products at a discount or at no cost.

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

TLS Products include mobile phones, cordless phones, fax machines, phone cards, software, hand held computers, data products and internet starter packs. Promotional Products include vouchers, cinema tickets, electrical goods and accessories and food items. These are valuable products to many consumers and the ability to acquire them at a discount or no cost may be a significant benefit to the individual consumer.

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)

There are a number of markets that may be relevant including the markets for the supply to retail consumers of phones (fixed and mobile), fax machines, hand held computers and other similar communications devices.

These markets are characterised by strong competition. There are several leading retailers of these products as well as many smaller competitors.

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)

There are no public detriments likely to result from the proposed conduct.

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

The proposed conduct will not lessen competition because:

- (i) the retail markets for the TLS Products and Promotional Products are characterised by large numbers of competitors and very intense competition; and
- (ii) TLS does not have a substantial degree of market power in any relevant market.

The benefits from the proposed conduct will outweigh any possible detriment considered to arise from the proposed conduct.

7 Further information

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

Caroline Coops
King & Wood Mallesons
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 9643 4097

Dated 7 September 2017

Signed by/on behalf of the applicant



(Signature)

Caroline Coops

(Full Name)

King & Wood Mallesons

(Organisation)

Partner

(Position in organisation)





4 September 2017

Attention: James Fountain

TLS Maryborough Pty Ltd trading as Maryborough Telstra Store
ABN 58 620 575 046
Shop 2B, 138 Lennox Street
Maryborough QLD 4650

Telstra Corporation Limited

QV Precinct
Level 15,
180 Lonsdale Street
Melbourne VIC 3000

Dear James

Third line forcing notification to Australian Competition & Consumer Commission ("ACCC")

I refer to the suite of agreements provided to you by Telstra ("**TLS Agreements**") which upon execution by you and Telstra will authorise you to operate a Telstra Licensed Shop.

From time to time, Telstra Licensed Shops licensees are authorised to participate in campaigns conducted by Telstra to encourage customers to acquire telecommunications services or products or particular telecommunications services plans from Telstra. As part of participation in these campaigns, licensees may wish to offer customers certain inducements on condition that the customer acquires or agrees to acquire telecommunications services from Telstra (the "**proposed offer**").

As you may be aware, the proposed offer would constitute "third line forcing" and would be prohibited by the *Competition and Consumer Act 2010* (Cth) unless the ACCC is notified of the proposed offer in accordance with sub-section 93(1) of that Act.

By signing the consent form below you authorise our solicitors to lodge a notice on your behalf with the ACCC. This will only occur if you enter into the TLS Agreements. Telstra has agreed to pay the requisite fees.

Attached to this letter is a template of the notice that, once completed by Telstra with relevant details about your dealership, would be sent to the ACCC ("**Form G**"). Please review this template so you understand the consent you are providing.

You do not need to complete the template – it is for your reference only. You only need to sign the consent form below, and return it to Telstra along with the signed TLS Agreements. Once this is done, Telstra will complete the template on your behalf, and lodge it with the ACCC.

**WE NEED TO LODGE THESE NOTIFICATIONS AS SOON AS POSSIBLE.
PLEASE SIGN THE CONSENT FORM BELOW AND RETURN IT TO TELSTRA.**

If you have any questions relating to this letter, please contact Telstra.

Yours sincerely

**Contract Specialist
For and on behalf of Telstra Corporation Limited**

We authorise King & Wood Mallessons to give the Australian Competition and Consumer Commission notice of conduct set out in the attached draft Form G.

Signature: DocuSigned by:
James Fountain
.....
12FD9D2EA4CB4F7...

Name: James Fountain
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Position: Licensee
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TLS: Nambour
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