

23 December 2016

By email: adjudication@accg.gov.au

Adjudication Branch
Australian Competition and Consumer
Commission
23 Marcus Clarke Street
Canberra ACT 2601

Contact
Alistair Newton (03) 9672 3483
Email: alistair.newton@corrs.com.au

Partner
Mark McCowan (03) 9672 3335
Email: mark.mccowan@corrs.com.au

Dear Sir/Madam

National Australia Bank - Notification of Exclusive Dealing

We act for National Australia Bank Limited (**NAB**).

Please find **attached** an exclusive dealing notification pursuant to section 93(1) of the *Competition and Consumer Act 2010* (Cth) (**Form G**) lodged on behalf of NAB.

Also **attached** is confirmation of credit card payment of the lodgement fee of \$100.

Yours faithfully

Corrs Chambers Westgarth

PP

Mark McCowan
Partner

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 in 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:

N99530 *National Australia Bank Limited (ABN 12 004 044 937) (NAB).*

(b) Short description of business carried on by that person:

NAB supplies banking and other financial services, including credit card services.

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

*Mark McCowan
Corrs Chambers Westgarth
Level 22, 567 Collins Street
Melbourne VIC 3000
Email: Mark.McCowan@corrs.com.au
Phone: (03) 9672 3335*

2. Notified arrangement

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

The proposed conduct relates to the supply of credit card and related rewards program services, and the acquisition of other goods or services from third-party suppliers.

(b) Description of the conduct or proposed conduct:

*NAB proposes to implement a credit card rewards program (**NAB Rewards**) under which customers who open a NAB Rewards Visa-branded credit card account will be given the opportunity to earn "standard" rewards points when they choose to use their NAB Rewards credit card and additional "bonus" rewards points when*

they choose to use their NAB Rewards credit card to make purchases from a range of merchants. The program will be administered by a third-party service provider appointed by NAB.

The number of standard rewards points allocated in respect of a transaction will be determined by the particular type of NAB Rewards credit card held by a customer and the value of the relevant purchase. Rewards points will not be allocated for certain excluded transactions, including gambling, cash advances, interest and bank charges, and balance transfers. Bonus rewards points will be allocated at a multiple of the standard rate (for example, an additional one or two times the standard rate) when a customer acquires qualifying goods or services from NAB or uses their NAB Rewards credit card to acquire goods or services from a range of merchants, including for example:

- overseas third-party merchants, whether made by the customer in Australia or overseas;*
- transport, travel and accommodation services from merchants such as Webjet;*
- a range of major hardware merchants; and*
- a range of major department stores.*

A merchant will not necessarily have entered into contractual arrangements with NAB or its third-party service provider in respect of the NAB Rewards program. A customer's entitlement to bonus points in respect of purchases may therefore arise from a unilateral decision by NAB.

Once accrued, rewards points (including bonus points) may then be redeemed in exchange for rewards such as goods and services supplied by third parties, credits to a nominated NAB account, points in other loyalty programs, gift cards, online vouchers and donations to charities.

The proposed conduct could be characterised as NAB:

- supplying credit card and/or related rewards program services, or giving a discount, allowance, rebate or credit (including in the form of standard and bonus rewards points), on the condition that a customer also acquires goods or services from a third party; and*

- *refusing to supply credit card and/or related rewards program services or give a discount, allowance, rebate or credit (including in the form of standard and bonus rewards points) for the reason that a customer has not, or has not agreed to, acquire goods or services from a third party.*

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:
Customers of NAB who open a NAB Rewards credit card account.
- (b) Number of those persons:
- (i) At present time:
Nil.
- (ii) Estimated within the next year:
Substantially in excess of 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:
The proposed conduct will result in public benefits including the following.
- **(Direct consumer benefits)** *Direct consumer benefits in the form of rewards points (including bonus points) that can be redeemed for goods and services supplied by third-party suppliers, credits to a nominated NAB account, points in other loyalty programs, gift cards and online vouchers.*
 - **(Enhanced promotion of charitable donation)** *As a result of Rewards credit card holders having the option of redeeming their rewards points (including bonus points) to make donations to a range of charitable organisations, enhanced promotion of a wide variety of public benefits delivered by those charitable organisations.*
 - **(Enhanced competition)** *Enhanced competition amongst suppliers of credit card and related rewards program services – similar programs are currently offered by many of NAB's competitors, including Australian and New Zealand Banking*

Group (ANZ Rewards), Commonwealth Bank of Australia (CommBank Awards), Westpac Banking Corporation (Westpac Altitude Rewards), Bendigo and Adelaide Bank (Bendigo Bank rewards), Citigroup (Citi Rewards) and Bank of Queensland (Q Rewards).

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

See paragraph 4(a) above.

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):

NAB has not formed any concluded views regarding the markets affected by the proposed conduct. However, the proposed conduct relates to:

- the supply of credit card and related rewards program services; and*
- the supply of various other goods and services made available through a range of third party suppliers, including transport, travel and accommodation services, hardware and related goods, and goods and services from department stores.*

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:

The proposed conduct will not result in any public detriment, for reasons including the following.

- **(Ongoing customer choice)** The acquisition of a NAB Rewards credit card and participation in the NAB Rewards program will be entirely voluntary. Customers will be free to choose to acquire a NAB Rewards credit card from NAB, or another debit or credit card from NAB or a competing issuer.*
- **(Ongoing competition in relation to credit card and rewards program services)** As noted above, a number of NAB's competitors already offer credit card and related rewards program*

services similar to those that NAB will supply under the proposed conduct. In that context, the proposed conduct enhances, and does not detract from, the existing level of competition in the markets in which those services are supplied. NAB's current market share in those markets is not high (to illustrate, according to recent Australian Prudential Regulation Authority statistical data, NAB's share of total outstanding household credit card debt issued by Australian banks is currently approximately 14%).

- **(Ongoing competition in other relevant markets)** NAB Rewards credit card holders will be able to earn standard rewards points by making purchases of a wide variety of goods and services across a large range of competing merchants (essentially any merchant that accepts a Visa credit card, irrespective of whether they choose to actively participate in the NAB Rewards program). Further, bonus rewards points will be able to be earned from a variety of competing merchants in relevant goods and services categories.

(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:

*Mark McCowan
Corrs Chambers Westgarth
Level 22, 567 Collins Street
Melbourne VIC 3000
Email: Mark.McCowan@corrs.com.au
Phone: (03) 9672 3335*

Dated:

Signed by/on behalf of the applicant, National Australia Bank Limited

.....
Mark McCowan
(Full Name)

Corrs Chambers Westgarth
(Organisation)

Partner
(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 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.