

## Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010* – sub-section 93(1)

### NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Competition and Consumer Act 2010* (Cth) of particulars of conduct, or of proposed conduct, of a kind referred to at sub-sections 47(2), (3), (4), (5), (6), (7), (8) or (9) of that Act, in which the person giving notice engages or proposes to engage.

#### 1. Applicant

(a) *Name of person giving notice:*

N99731

Aus Solar Co. Pty Limited (**ASC**)  
ACN 614 530 013

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

ASC retails solar photovoltaic systems, for residential, commercial and industrial applications, in Victoria and Queensland.

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

Aus Solar Co. Pty Limited  
18 Hill Street  
CREMORNE VIC 3121

#### 2. Notified arrangement

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

The proposed arrangement relates to solar photovoltaic systems, of between 2 and 10 kilowatt capacity. Each system comprises a number of photovoltaic panels, one or more inverters, and associated brackets, cabling and other accessories.

Systems may also include one or more batteries, which are offered to customers as optional upgrade products for solar photovoltaic systems. These batteries permit customers to store excess photovoltaic energy generated by their solar photovoltaic systems.

The value of these solar photovoltaic systems ranges from \$7,500 to \$24,500, depending on system capacity and design, and the number of batteries included, if any.

*(b) Description of the conduct or proposed conduct:*

ASC will offer a special product giveaway promotion to residential customers who have previously purchased one or more solar photovoltaic products using an Express Revolving Credit Account offered by Certegy Ezi-Pay Pty Ltd.

ASC will inform these customers of the product giveaway promotion via a series of four electronic direct mail (**EDM**) communications, conveyed via email.

Through these EDMs, ASC will offer a free 1.2 kWh Enphase battery, valued at \$3,297 inclusive of GST, to the first 20 Certegy Ezi-Pay Pty Ltd customers who purchase one or more solar photovoltaic products from the ASC.

**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:*

Consumers who have previously purchased one or more residential solar photovoltaic products using an Express Revolving Credit Account offered by Certegy Ezi-Pay Pty Ltd.

*(b) Number of those persons:*

*(i) At present time:*

None.

*(ii) Estimated within the next year:*

ASC estimates that 300 customers will be affected by the notified conduct within the next year. This estimate is based on ASC's sales figures for residential solar photovoltaic systems for the three quarters immediately prior to the date of notification, and the number of eligible Certegy Ezi-Pay Pty Ltd customers ASC intends to offer the product giveaway promotion.

*(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:*

Customers will benefit from the proposed arrangement, as they will have the opportunity to take advantage of a free product giveaway when taking up one or more of ASC's solar photovoltaic products.

There are a large number of retailers of residential solar photovoltaic products active in the Victorian and Queensland markets. ASC considers that the market for residential solar photovoltaic products is competitive. As a result, competitors in the market may consider offering similar product giveaway promotions in order to attract consumers to their businesses. Therefore, the proposed arrangement will facilitate competition in the market for residential solar photovoltaic products, as it may encourage other competitors in this market to offer similar product giveaway promotions to consumers.

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

A search of [www.yellowpages.com.au](http://www.yellowpages.com.au) lists 1070 Victorian businesses, and 1131 Queensland businesses, advertising the sale and installation of 'solar systems'.

#### **5. Public detriments**

##### *(a) 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):*

The relevant markets likely to be affected by the proposed conduct are the Victorian and Queensland markets for the retail of solar photovoltaic systems and products. The suppliers in both these markets include:

- large, publicly listed energy companies, such as AGL Energy Limited and Origin Energy Limited: in addition to owning and operating electricity and gas generation, distribution and retail businesses, these suppliers retail a very broad range of solar products, from smaller systems suitable for residential applications to very high capacity systems suited for industrial sites;
- medium-sized solar retailers, such as True Value Solar and Euro Solar. Such suppliers are frequently active in multiple Australian states, and supply a range of systems from small consumer systems to large commercial arrays. These suppliers usually focus on residential and small to medium enterprise applications; and

- small electrical businesses, which supply residential-scale systems as part of a broader range of electrical products and services.

*(b) 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:*

ASC considers that limited public detriment results from the conduct as:

- consumers are not forced to obtain finance from Certegy Ezi-Pay Pty Ltd in order to purchase solar photovoltaic systems and products from ASC, or to participate in the product giveaway promotion;
- consumers can obtain 1.2 kWh Enphase batteries from ASC at the normal retail price (see above, item 2(b)); and
- there are a number of alternative suppliers in the market from whom consumers can choose to purchase solar photovoltaic systems and products.

*(c) Facts and evidence relevant to these detriments.*

A search of [www.yellowpages.com.au](http://www.yellowpages.com.au) lists 1070 Victorian businesses, and 1131 Queensland businesses, advertising the sale and installation of 'solar systems'.

The customers identified at item 2(a) will not be required to make use of finance products or facilities offered by Certegy Ezi-Pay Pty Ltd when purchasing products from the Applicant in the course of this product giveaway promotion.

## **6. Further information**

*Name, postal address and contact telephone details of the notifying party authorised to provide additional information in relation to this notification:*


Anthony Gunter  
Managing Director

Aus Solar Co. Pty Limited  
18 Hill Street  
Cremorne VIC 3121

Phone: 1300 451 393

**Dated** 22 June 2017

Signed on behalf of the Applicant by:



\_\_\_\_\_  
Signature

ANTHONY CHARLES GUNTER

\_\_\_\_\_  
Name

AUS SOLAR CO. PTY LIMITED

\_\_\_\_\_  
Organisation

MANAGING DIRECTOR

\_\_\_\_\_  
Position in organisation