



Our ref: N1000509
Contact officer: Steven Lee
Contact phone: (02) 6243 1347

10/12/2019

www.accc.gov.au

By email

Dear Sir/Madam

Exclusive dealing notification N1000509 lodged by TVSN Channel Pty Ltd – interested party consultation

The Australian Competition and Consumer Commission (the **ACCC**) is currently seeking comments on an exclusive dealing notification received from TVSN Channel Pty Ltd (**TVSN**). Broadly, TVSN proposes to allow businesses to market, promote or sell their products on its television shopping network on condition that the businesses do not market, promote or sell products on other shopping channels or direct selling mediums. Further details about the proposed arrangement are set out below.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the proposed arrangement. Further information about the notification process is provided in the ACCC's [Exclusive Dealing Notification Guidelines](#). If you do not wish to make a submission, no further action is required from you.

Exclusive dealing conduct and the notification process

Broadly, exclusive dealing occurs when one person trading with another restricts the other's freedom to choose with whom, in what or where it deals. Exclusive dealing arrangements breach the *Competition and Consumer Act 2010* (the **Act**) if the restriction is likely to have the purpose, effect or likely effect of substantially lessening competition. By lodging a notification with the ACCC, businesses obtain protection from legal action for exclusive dealing conduct. This protection commences immediately, and remains unless or until the ACCC revokes that protection.

The ACCC can only remove the protection from legal action provided by a notification if it is satisfied that the notified conduct:

- has the purpose, effect or likely effect of substantially lessening competition, and
- in all the circumstances, will not result in any likely public benefit(s) which would outweigh any likely public detriment(s).

Details of TVSN's proposed arrangement

TVSN is an Australian television shopping network that facilitates the sale of consumer products via television broadcast containing live presentations, demonstrations and special offers.

The proposed arrangement TVSN has notified to the ACCC involves TVSN, in the future, engaging product suppliers who wish to market, promote or sell specific products through TVSN on the condition that the supplier, distributor or manufacturer not market, promote or

sell products on another television shopping channel or direct selling medium involving video footage or live streaming in the presentation or promotion of goods, and which utilises the presentation and/or demonstration of goods as an integral part of the marketing and sales process (the **Proposed Conduct**).

Although, protection from the Act for TVSN to engage in the Proposed Conduct commenced immediately when the notification was lodged, TVSN has committed not to engage in the Proposed Conduct until the ACCC completes its assessment of the notification.

A copy of the notification is attached to this email. Updates on this matter as it progresses will be available on the ACCC's [Notifications Public Register](#).

Request for submissions

The ACCC invites you to make a submission on whether TVSN's Proposed Conduct:

- has the purpose, effect or likely effect of substantially lessening competition, and
- will or will not result in likely public benefit(s) which would outweigh any public detriment(s).

If you intend to provide a submission in relation to the notification please do so by **Friday, 17 January 2020**. Submissions should be emailed to adjudication@acc.gov.au with the subject "N1000509 – TVSN Channel Pty Ltd – submission".

Submissions will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the assessment. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the arrangements.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information

Indicative date	Stage in assessment process
30 October 2019	Lodgement of notification and supporting submission.
6 December 2019	TVSN responds to ACCC information request.
10 December 2019	Public consultation process begins.
17 January 2020	Closing date for submissions from interested parties.
January 2020	Applicant responds to issues raised in the public consultation process.
February 2020	ACCC decision

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Steven Lee on (02) 6243 1347 or steven.lee@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Jones', with a long horizontal flourish extending to the right.

Gavin Jones
Director
Adjudication Branch