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8/08/2019

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By email

Dear Sir/Madam

Resale Price Maintenance notification RPN10000453 submitted by HP PPS Australia Pty Limited – interested party consultation

The Australian Competition and Consumer Commission (the **ACCC**) has received a notification from HP PPS Australia Pty Limited (**HP**), which is proposing to engage in resale price maintenance (**RPM**) with regard to products sold through HP's Online Store.

The ACCC invites you to comment on the arrangements. Further information about the RPM notification process is provided in the ACCC's [Resale Price Maintenance Guidelines](#).

RPM notification lodged by HP

On 16 July 2019, HP lodged an RPM notification. HP currently directly manages all aspects of its online store. Under the new model for the HP online store, HP is proposing to supply HP products to a third party that will on-sell direct to customers and will receive payments from customers through a new eCommerce platform. The third party will also be responsible for the physical supply of HP products to customers. The RPM conduct HP proposes to engage in involves HP controlling product and marketing strategies and, in particular, specifying the prices for which the third party will sell the HP products to customers (the **RPM conduct**). The proposed RPM conduct will only apply to products sold through the HP online store.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences automatically 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

In this case, immunity from legal action commenced on 30 July 2019. However, HP's notification states that the proposed conduct will commence if and when the ACCC allows the notification to stand and will thereafter be ongoing. That is, HP will not engage in the proposed RPM conduct until the ACCC makes a decision about the notification.

A full copy of the RPM notification is available on the ACCC's [public register](#).

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any public detriment, from the proposed RPM conduct. Please lodge your submission by **23 August 2019** by email to adjudication@acc.gov.au with the subject "RPN10000453– HP PPS Australia Pty Ltd – submission".

Alternatively, if you would like to provide comments orally please contact Luke Griffin on (02) 6243 1114 to organise a suitable time.

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

If you are not the appropriate contact person in your company, please provide a contact email address for the appropriate contact person. If you do not wish to make a submission at this time, but would like to be informed of the progress of the notification, 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 notification.

Timetable

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

Indicative date	Stage in assessment process
16 July 2019	Lodgement of RPM notification
8 – 23 August	Public consultation
23 August 2019	Closing date for submissions from interested parties
30 August 2019	HP to respond to any issues raised in interested party submissions
September 2019	Expected timing for ACCC decision to either allow the notification to stand or issue a draft objection notice

Background: the RPM notification process

RPM refers to an arrangement where a supplier of goods or services (e.g. a manufacturer or wholesaler) specifies a minimum price below which a reseller must not on-sell, or advertise for sale, those goods or services.

RPM conduct is normally in breach of the *Competition and Consumer Act 2010* (the **Act**), but parties can obtain immunity for certain forms of RPM conduct by lodging a notification with the ACCC. Businesses will do this if they consider the public benefits resulting from the proposed conduct are likely to outweigh the public detriments.

The ACCC may proceed to remove the immunity provided by an RPM notification where it is satisfied that the likely benefit to the public from the notified conduct will not outweigh the likely detriment to the public from the notified conduct.

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 Luke Griffin on (02) 6243 1114 or adjudication@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