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31/07/2020

***By email***

Dear Sir/Madam

**Resale Price Maintenance notification RPN10000456 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 online market place stores (such as HP's eBay store).<sup>1</sup>

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 20 July 2020, HP lodged an RPM notification. Under the notification, HP proposes a new model for HP Online Marketplace Stores (the HP eBay Store and any prospective HP stores on online market places) whereby HP proposes to supply HP products to a third party, which will on-sell direct to customers and receive payments from customers through HP's eCommerce platform. The third party will also be responsible for the physical supply of HP products to customers. Under this arrangement, HP will specify the prices for which the third party will sell the goods (the **RPM conduct**). The RPM conduct does not apply to sales by operators of relevant online market places or sales by other third parties via these online market places.

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 commences on 3 August 2020. 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](#).

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<sup>1</sup> The proposed RPM conduct is similar to the notification lodged by HP on 16 July 2019 (RPN10000453). However RPN10000456 does not include RPM through HP online market place stores.

## 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 **21 August 2020** by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) with the subject "RPN10000456 – HP PPS Australia Pty Ltd – submission".

Alternatively, if you would like to provide comments orally please contact me on (03) 9290 1475 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
20 July 2020	Lodgement of RPM notification
1 – 21 August	Public consultation
21 August 2020	Closing date for submissions from interested parties
31 August 2020	HP to respond to any issues raised in interested party submissions
September 2020	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 me on (03) 9290 1475 or [adjudication@acc.gov.au](mailto: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

**Interested parties contacted by the ACCC**

Acer  
Amazon  
Apple  
ASUS  
Australia Post  
BlueChip Infotech  
Brother  
Canon  
Cartridge World  
CHOICE  
Costco  
Data3  
Datacom  
Dell  
Dicker Data  
Domayne  
eBay  
Epson  
Fuji Xerox  
Harvey Norman  
Ingram Micro Australia  
JB Hi-Fi  
Kmart  
Kyocera  
Lenovo  
Lexmark  
Magento (Adobe)  
Microsoft  
Officeworks  
OKI  
Printer Supermarket  
Ricoh  
Sektor  
Sharp  
Synnex  
Target  
The Good Guys