



23 Marcus Clarke Street  
Canberra ACT 2601

Our ref: RPN10000455  
Contact officer: Simon Bell  
Contact phone: 02 6243 1232

GPO Box 3131  
Canberra ACT 2601

tel: (02) 6243 1111  
adjudication@acc.gov.au

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www.acc.gov.au

Dear Madam/Sir

**Resale Price Maintenance Notification RPN10000455 lodged by Stanley Black & Decker for Dewalt power tools, attachments and accessories – interested party consultation**

The Australian Competition and Consumer Commission (the **ACCC**) has received a notification from Stanley Black & Decker Australia Pty Ltd (**SBD**) proposing to engage in resale price maintenance (**RPM**) for Dewalt power tools, attachments and accessories (**Dewalt Products**). Dewalt Products are distributed by SBD through a range of distributors and dealers (together, **dealers**).

The ACCC invites you, as a potentially interested party, 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 SBD**

On 17 October 2019, SBD lodged a RPM notification. SBD proposes to amend its dealer trading agreements to include a requirement that dealers do not advertise the Dewalt Products below a price specified by SBD (the **RPM Conduct**).

The RPM Conduct will involve specifying a minimum advertised price (**MAP**) and will apply to all advertising, including online and in print advertising. The RPM Conduct will not apply to in-store activity and will not restrict or prevent dealers from selling Dewalt Products at a price below the MAP, to customers who negotiate a discount directly with the dealer.

SBD submits that Dewalt Products are premium products, targeted at professional/trade users and therefore dealers need to provide a high level of pre and post sales services to consumers. There is aggressive price competition in the power tool market, which is largely driven by the significant growth in the online promotion and sale of power tools and the price guarantee policies of various dealers, which promise to beat a competitor's lower price. In these circumstances, some dealers are not prepared to offer the necessary high levels of service for Dewalt Products because they are unlikely to earn a sufficient return on their investment in service and as a result will either reduce their range of Dewalt Products or not stock them at all. The RPM Conduct is intended to improve dealer service levels, increase non-price competition and increase consumer choice for power tools.

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 will commence on 31 November 2019. However, in its notification, SBD has stated that the RPM Conduct will not commence until after the ACCC has completed its assessment of the notification. That is, SBD will not engage in RPM Conduct until the ACCC makes a final decision about the notification.

## 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 5:00pm on Monday 11 November 2019** by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) with the subject "RPN10000455 – SBD – Dewalt – Submission".

Alternatively, if you would like to provide comments orally please contact Simon Bell on (02) 6243 1232 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 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
17 October 2019	RPM notification lodged.
28 October 2019	Public consultation commences.
11 November 2019	Closing date for submissions from interested parties.
Nov/Dec 2019	SBD to respond to any issues raised in interested party submissions.
February 2020	Expected timing for ACCC decision to either allow the notification to stand or issue a draft objection notice.

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 Simon Bell on (02) 6243 1232 or [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

Yours sincerely



David Hatfield  
Director  
Adjudication