

D00/23364



RAC0006F59

N30930

EXCLUSIVE DEALING**NOTIFICATION*****Trade Practices Act 1974 – Sub-section 93(1)***

To: The Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(6) or (7), of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of persons giving notice:**

The Dealer whose details appear at the end of this form.

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

Supply of mobile telephones and digital mobile telecommunications services.

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

c/o Alicia Parker
General Counsel
One.Tel Limited
Level 28, 9 Castlereagh Street
SYDNEY NSW 2000

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

Mobile telephones and digital mobile telecommunication services including billing and other ancillary services.

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

See attachment A.

3. (a) **Class or classes of persons to which the conduct relates:**

Customers and potential customers acquiring, or wishing to acquire, mobile telephones and/or digital mobile telecommunications services.

(b) **Number of those persons:**

- (i) At present time: 0
- (ii) Unable to estimate at this time.

(c) Where number of persons stated in Item 3(b)(i) is less than 50, their names and addresses:

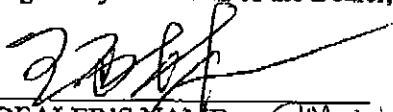
Not applicable

4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

Alicia Parker
General Counsel
One.Tel Limited
Level 28, 9 Castlereagh Street
SYDNEY NSW 2000

Dated: ...16/06.....2000.

Signed by/on behalf of the Dealer, who gives this notice:



DEALER'S NAME: SIMON WANG
ORGANISATION: AUSWANDA TECHNOLOGY

(indw)



ATTACHMENT A

DESCRIPTION OF THE PROPOSED CONDUCT

1. BACKGROUND

- 1.1 The Dealer has entered into an agreement with One.Tel Limited ("One.Tel") to act as its authorised dealer for the purpose of introducing customers to digital mobile telecommunication services provided by One.Tel.
- 1.2 One.Tel Limited is a provider of digital mobile telecommunication services. It is a carriage service provider in that it resupplies to customers, digital mobile telecommunication services provided by Optus Mobile Pty Ltd. It also intends to provide digital mobile telecommunication services to customers using its own GSM network, and may do so through a related company One.Tel Networks Pty Ltd.
- 1.3 The Dealer purchases mobile telephones from One.Tel and other hardware suppliers, and sells such mobile telephones to customers either alone or in connection with digital mobile telecommunication services provided by One.Tel or One.Tel Networks Pty Ltd.
- 1.4 The Dealer wishes to offer discounts on mobile telephones, to customers who purchase those mobile telephones in connection with digital mobile telecommunication services provided by One.Tel or One.Tel Networks Pty Ltd.
- 1.5 The conduct notified is the sale to customers of mobile telephones by the Dealer, at prices significantly lower than that which customers would ordinarily pay if purchasing the mobile telephones separately. The sales will be conditional upon customers acquiring digital mobile telecommunications services from One.Tel or One.Tel Networks Pty Ltd generally for a specified contract period.
- 1.6 Such discounts may raise the issue of compliance with the third line forcing provisions under s 47(6) and 47(7) of the *Trade Practices Act*.

2. APPLICATION OF THE PUBLIC BENEFIT TEST

- 2.1 The conduct notified is not anti-competitive and is in fact of considerable benefit to the public. Those benefits are:
 - (a) The price of mobile telephones is generally high and operates as a barrier to consumers obtaining a mobile telephone and therefore, access to digital mobile telecommunication services. Offering mobile telephones at a considerable discount where the customer agrees to acquire the mobile telephone in connection with the provision of digital mobile telecommunication services, enables customers to avoid the higher up front cost, and pay for the mobile telephone over the term of the contract.