

Mallesons Stephen Jaques

S O L I C I T O R S

D02/2266



Mr Tom Fahy
Regional Director
Australian Competition and
Consumer Commission
Level 35 The Tower
360 Elizabeth Street
Melbourne Centre
Melbourne VIC 3000

18 January 2002

L Huett
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Partner
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FILE No.
ENTITY N40469
DMAN D02/2266

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Dear Mr Fahy

Pacific Access Pty Ltd - notification of third line forcing exclusive dealing.

We act for Pacific Access Pty Ltd.

We enclose for lodgement an exclusive dealing notifications together with a cheque for the applicable lodgement fee of \$100.00.

Please do not hesitate to contact Lisa Huett of this office on (03) 9643 4163 should you have any queries or comments.

Yours faithfully

Mallesons Stephen Jaques

Encls.

SYDNEY
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JAKARTA
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COMMONWEALTH OF AUSTRALIA
TRADE PRACTICES ACT 1974 - Subsection 93(1)
**EXCLUSIVE DEALING
NOTIFICATION**

TO THE AUSTRALIAN COMPETITION & 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 (2), (3), (4), (5), (6) or (7) or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d) of that Act in which the person giving notice engages or proposes to engage.

1 (a) Name of person giving notice:

Pacific Access Pty Ltd ACN 007 423 912 (“**Pacific Access**”) of 181 Victoria Parade, Collingwood, Victoria.

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

Pacific Access is a wholly owned subsidiary of Telstra Corporation Limited (“**Telstra**”) and provides a range of services for and on behalf of Telstra with respect to Telstra’s White Pages™ and Yellow Pages® directories products.

In particular, Pacific Access provides advertising, contact, location and e-business solutions to small and medium enterprises, corporates and government through:

- the Yellow Pages® and White Pages™ print directories and online formats, and related services such as Yellow Pages® *Connect*; and
- other online services such as GOeureka™, Whereis™ and Pacific Access® WebWorks.

Advertising services for the Yellow Pages® print directories (and other services relating to the provision of an entry in the Yellow Pages® print directory) (“**Yellow Pages® print directory services**”) are supplied by Pacific Access, however, Yellow Pages® *OnLine* and all other services are supplied by Pacific Access as agent for Telstra.

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

C/- Lisa Huett
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne Vic 3000

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

Yellow Pages® print directory services provided by Pacific Access.

Yellow Pages® *OnLine* and Yellow Pages® *Connect* supplied by Pacific Access as agent for Telstra Corporation Limited.

(b) Description of the conduct or proposed conduct:

Pacific Access proposes to

- (A) supply or offer to supply:
- (i) a paid advertisement in the Yellow Pages® print directory and related Yellow Pages® print directory services (provided by Pacific Access);
 - (ii) a paid listing in the Yellow Pages® *OnLine* site and related services (provided by Pacific Access as agent for Telstra); and
 - (iii) a paid listing in Yellow Pages® *Connect* and related services (provided by Pacific Access as agent for Telstra)

as a package called 'Yellow Pages® SmartStart', to business or government entities who have not previously had a paid or unpaid entry in the Yellow Pages® print directories ("New Businesses") at a 15% discount off the sum of the price of each of these services; and

- (B) refuse to supply or refuse to offer to supply the services in (A) above at a 15% discount off the sum of the price of each of these services where a New Business has not agreed to acquire all three services.

The offer will be available from around February to August 2002. New Businesses may enter into a contract for the Yellow Pages® SmartStart package during that period which will terminate after 12 months, at which time these New Businesses may continue with any or all of the products individually (charged at normal rates). The Yellow Pages® SmartStart package will be billed and credit managed as one service by Pacific Access. Any person or entity may purchase any of these services individually, however the 15% discount will not apply.

The proposed conduct will be of benefit to the public as it will:

- provide a real saving on the total cost of buying the individual services separately;
- allow New Businesses to gain maximum advertising exposure at a reduced cost;
- promote business efficiency by offering an improved option for New Businesses who wish to advertise in all three of Yellow Pages® *OnLine*, Yellow Pages® *Connect* and the Yellow Pages® print directories; and
- by billing such packages as one service, customers will benefit from administrative simplicity.

The proposed conduct will not substantially lessen competition in the markets for the relevant services as customers may acquire any of the packaged services individually.

The applicant believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

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

Business or government entities who have not had a paid or unpaid entry in the Yellow Pages® print directories, prior to (approximately) August 2001.

(b) Number of those persons

(i) At present time:

The number of New Businesses eligible for SmartStart is estimated to be 22,000. However, the number expected to acquire the Yellow Pages® SmartStart package offered by Pacific Access is less than 750.

(ii) Estimated within the next year:

As in 3(b)(i).

(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 is:

Lisa Huett
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne Vic 3000

Dated: 18 January 2002

Signed on behalf of the person giving this notice:



Lisa Huett
Solicitor

DIRECTIONS

- 1 If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in subsection 47(2), (3), (4), (5), (6), (7), (8), or (9) of the **Trade Practices Act 1974** have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

NOTICE

If this notification is in respect of conduct of a kind referred to in subsection 47(6) or (7), or paragraph 47(8)(c) or (9)(d), of the *Trade Practices Act 1974* (“**the Act**”), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act (“**the prescribed period**”) unless the Commission gives a notice under subsection 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under subsection 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when the decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8), (a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.