

MALLESONS STEPHEN JAQUES

Received 26/11/02
5:30pm . JD .

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

26 November 2002

L Huett
Direct line
+61 3 9643 4163
Partner
A Bodger

FILE No:
DOC: D02 62422
MARS/PRISM:

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.

FORM G

Regulation 9

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 — subsection 93(1)
EXCLUSIVE DEALING: NOTIFICATION

To the Australian Competition and Consumer Commission:

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

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

Sensis Pty Ltd (ABN 30 007 423 912) ("**Sensis**") of 181 Victoria Parade, Collingwood, formerly known as Pacific Access.

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

Sensis 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® directory and Yellow Pages® directory products.

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

- the Yellow Pages® directory and White Pages® directory and online formats, and related services such as Yellow Pages® *Connect*; and
- other online services such as GOeureka™, Whereis™.

Sales, compilation and marketing for the Yellow Pages® print directory ("**Yellow Pages® print directory services**") are supplied by Sensis, however, the Yellow Pages® *OnLine* site and all other services are supplied by Sensis 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 Sensis.

The Yellow Pages® *OnLine* site and all other services supplied by Sensis as agent for Telstra Corporation Limited.

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

Sensis (as agent for Telstra) proposes:

- (A) to supply an online listing on the Yellow Pages® *OnLine* site that will include the information currently contained within a free online listing on the Yellow Pages® *OnLine* site as well as the following:
- in the case of the “basic” offering, a priority listing and a replica of the advertiser’s print display advertisement; or
 - in the case of the “extra” offering, the features of the “basic” offering as well as a Weblink indicator and link and email indicator and link,

on the condition that business and government entities will acquire a Yellow Pages® print display advertisement displayed in the next publication of a metropolitan or regional Yellow Pages® directory; and

- (B) to refuse to supply or offer to supply the services in (A) above if the advertiser has not acquired, or has not agreed to acquire, a Yellow Pages® print display advertisement in the next publication of a metropolitan or regional Yellow Pages® directory.

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

- provide advertisers with an alternative online solution that is less expensive than the comprehensive online solution currently offered by Sensis (as agent for Telstra);
- provide advertisers with an extensive package of advertising services to more effectively meet their marketing needs;
- allow new businesses, particularly small and medium enterprises (SMEs), to gain maximum advertising exposure;
- promote business efficiency by offering an improved option for new businesses who wish to advertise in both the Yellow Pages® *OnLine* site and the Yellow Pages® print directory;
- promote administrative simplicity as the Yellow Pages® print directory services and the online services will be supplied under the same contract and billed together in a single bill (though they are separate services);
- encourage both new and established businesses to initiate an online presence and utilise the potential of the internet;
- provide consumers with a more comprehensive online directory that enables them to quickly and easily access a wide range of services and information through a variety of mediums;
- allow businesses to maximise the value of their Yellow Pages® display advertisement by displaying it in both the Yellow Pages® print advertisement and on the Yellow Pages® *OnLine* site, avoiding the need to produce different graphics or content for that online listing.

The proposed conduct will not substantially lessen competition in the markets for the relevant services as:

- there are a significant number of effective competitors and potential competitors for the supply of online advertising and marketing services. Competitors such as ninemsn.com.au and news.com.au are well placed to offer similar types of advertising packages through their affiliate organisations which operate in a variety of channels including television and newsprint;
- Sensis (as agent for Telstra) will continue to offer free listings on the Yellow Pages® *OnLine* site to all businesses with an entry in the Yellow Pages® print directory (irrespective of whether they have paid advertising services from Sensis). That is, businesses do not need to pay for a listing on the Yellow Pages® *OnLine* site;
- directory advertising is non-exclusive and the same advertiser can advertise in multiple print and online advertising products and services. The proposed conduct does not diminish these options;
- there are many new and innovative ways in which advertisers are seeking to advertise their products and services through a variety of media, but particularly online; and
- the relevant market/s for the supply of online advertising and marketing services are relatively new and developing. It is a challenge to demonstrate to advertisers the value of paying for online advertising given the perception of many businesses that online advertising does not yield returns.

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:*

Sensis customers and potential customers.

(b) *Number of those persons:*

(i) *At present time:*

Approximately 112,000 businesses currently acquire a Yellow Pages® display advertisement.

(ii) *Estimated within the next year:*

Offers will be made to businesses and government entities who acquire a Yellow Pages® print display advertisement in the next publication of a metropolitan or regional Yellow Pages® directory. The Yellow Pages® *OnLine* site is attempting to increase the number of paid online advertisers from approximately 6% of businesses who pay for a Yellow Pages® print display advertisement to approximately 30% by the end of the 2005/2006 financial year. This would take the number of display advertisers with paid online advertising from around 7,000 advertisers to approximately 45,000 advertisers.

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

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

Dated 26 NOVEMBER..... 2002.

Signed by/on behalf of the person giving this notice

LS Huett

.....
(Signature)

LISA SHARAE HUETT

.....
(Full Name)

SOLICITOR

.....
(Description)

