

MALLESONS STEPHEN JAQUES

Regional Director
Australian Competition and
Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne Centre
Melbourne Vic 3000

17 December 2003

C Coops
Senior Associate
Direct line
(61 3) 9643 4097

A Bodger
Partner

Dear Sir/Madam

Notification of Third Line Forcing Exclusive Dealing

We act for Telstra Corporation Limited ("Telstra").

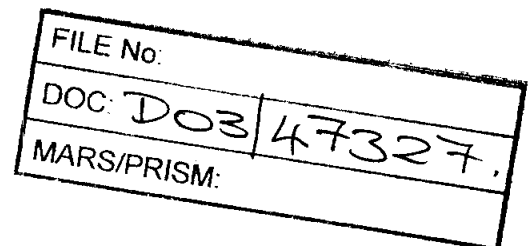
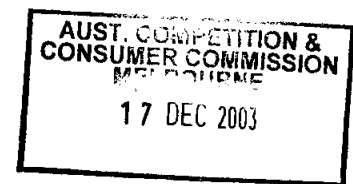
We enclose for lodgement an exclusive dealing notification on behalf of Telstra together with a cheque for the applicable lodgement fee of \$1,000.00.

Please do not hesitate to contact Caroline Coops of this office should you have any queries or comments.

Yours faithfully

Mallesons Stephen Jaques

Encls. 1



**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 subsection 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or 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:

Telstra Corporation Limited (ABN 33 051 775 556) of Level 2, 400 George Street, Sydney ("Telstra").

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

Telstra supplies a wide range of telecommunications services and related services including fixed line services, mobile services and internet services.

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

C/- Amanda Bodger
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:

Broadband and narrowband internet services and associated products and services supplied by Telstra from time to time including its BigPond ADSL service, BigPond Cable service and BigPond Satellite service and associated internet access kits, starter packs and self-installation kits ("**Telstra Internet Products**").

Products and services supplied by Toshiba (Australia) Pty Ltd (ABN 19 001 320 421) and by distributors of Toshiba products ("**Toshiba**") from time to time including personal computers, computer hardware and software and associated products and services ("**Toshiba Products**").

(b) Description of the conduct or proposed conduct:

For limited promotional periods, Telstra proposes to:

- (i) give or allow or offer to give or allow a discount, allowance, rebate or credit in relation to a Telstra Internet Product to customers on the condition that the customer acquires or agrees to acquire a Toshiba Product; and
- (ii) refuse to give or allow or offer to give or allow a discount, allowance, rebate or credit in relation to a Telstra Internet Product for the reason that the customer has not acquired or has not agreed to acquire a Toshiba Product.

An example of the proposed conduct is set out below

For a limited period, Telstra proposes to supply or offer to:

- (a) provide a \$129 discount off the usual price of a BigPond Broadband service when the customer enters a 24 month ADSL or Cable contract or an 18 month Satellite contract with Telstra; or
- (b) waive the monthly access fee otherwise applicable for the sixth continuous month of connection to customers who are eligible for a Telstra Dial-Up Trial Plan and who take up a Telstra Dial-Up Residential Plan or Dial-Up Business Single User Account Plan (excluding Pre-Paid and ISDN plans),

to customers who acquire a personal computer from Toshiba and who use a Telstra Internet Access Kit provided with the computer to connect to the BigPond internet service. The discounts will be provided as credits on the customer's bill.

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

- reduce the costs of customers who may be otherwise unable to negotiate discounts or other benefits in relation to Telstra Internet Products on their own behalf;
- promote competition in the relevant markets by encouraging competitors to offer similar value added services;
- provide customers with the opportunity to obtain Telstra Internet Products at discounted rates or with additional inclusions; and
- provide customers with greater convenience in dealing with Telstra and Toshiba.

The proposed conduct will not lessen competition because:

- customers will be able to acquire the Telstra Internet Products at the usual price without acquiring any services from Toshiba;
- customers will be able to acquire the Toshiba Products at the usual price without acquiring any services from Telstra;
- the markets for Toshiba Products are characterised by large numbers of competitors;
- the number of customers potentially affected by the proposed conduct is insignificant compared to the total number of customers who acquire Toshiba Products and Telstra Internet Products; and
- customers may acquire the relevant products and services from a range of other suppliers.

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:**
Customers who acquire Toshiba Products from Toshiba.
- (b) **Number of those persons**
Not applicable.
- (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:**

Amanda Bodger
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne VIC 3000

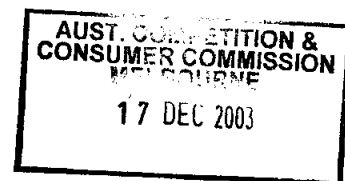
Dated: 17 December 2003

Signed on behalf of the person giving this notice:



Amanda Bodger

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.