

# MALLESON'S STEPHEN JAQUES

FILE No:

DOC: *D03/7084*

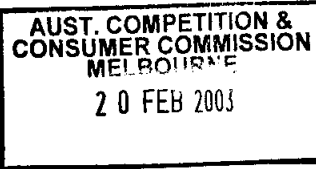
MARS/PRISM:

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

20 February 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 Cricket Australia (trading as the Australian Cricket Board) ("ACB").

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

We note that the ACB does not necessarily consider its conduct to amount to third line forcing in breach of sections 47(6) or 47(7) of the *Trade Practices Act 1974 (Cwlth)*. However, from a risk minimisation perspective, the ACB would prefer to notify the Commission of its intended conduct and obtain immunity pursuant to section 93(1) of that Act.

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 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 engaged or proposes to engage.

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

Cricket Australia (trading as Australian Cricket Board (ABN 53 006 089 130)) of 60 Jolimont Street, Jolimont, Victoria 3002 ("ACB").

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

The ACB is the governing body of cricket in Australia and is responsible for the overall organisation and supervision of the game of cricket in Australia, which responsibilities include the organisation of international and interstate cricket matches played in Australia, the management of Australian representative cricket teams and the conduct of national cricket playing, coaching and umpiring development programs.

**(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:**

Products and services supplied by the ACB being entry tickets to cricket matches arranged and organised by the ACB ("ACB Tickets").

Products and services supplied by News Limited of 2 Holt Street, Surry Hills NSW 2010 Australia ("News Limited") being the local News Limited owned newspapers, the Northern Territory News and the Cairns Post ("News Limited Local Newspapers").

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

The ACB proposes to enter into arrangements with News Limited pursuant to which the ACB will give or allow, or offer to give or allow a discount, allowance, rebate or credit in relation to ACB Tickets on the condition that the customer acquires a News Limited Local Newspaper directly or indirectly from News Limited.

**Examples of the proposed conduct are set out below**

The ACB proposes to offer discounts on its standard fees and charges for ACB Tickets to the Test Matches and One-day International Matches to be played between Australia and Bangladesh in Cairns and Darwin in July and August 2003. The offer will be made to customers who have acquired a News Limited Local Newspaper directly or indirectly from News Limited. The News Limited Local Newspapers will contain a coupon that can be presented by the customer to the ACB's ticketing agent when they purchase their ACB Tickets, entitling them to receive the relevant discount.

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

- reduce costs of customers who may be otherwise unable to negotiate discounts or other benefits in relation to ACB Tickets on their own behalf;
- promote competition in similar markets by encouraging organisers of entertainment events to offer similar value added services;
- provide members of the public with the opportunity to obtain ACB Tickets at discounted rates; and
- provide customers with greater convenience in dealing with ACB and News Limited.

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

- customers are not compelled to take advantage of the offer or to acquire goods or services from the ACB when they acquire a News Limited Local Newspaper;
- customers are not compelled to take advantage of the offer or to acquire goods or services from News Limited when they acquire ACB Tickets; and
- the number of customers potentially affected by the proposed conduct is insignificant compared to the total number of consumers who acquire ticketing and newspaper services.

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:**

Members of the public generally.

**(a) Number of those persons**

N/A

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

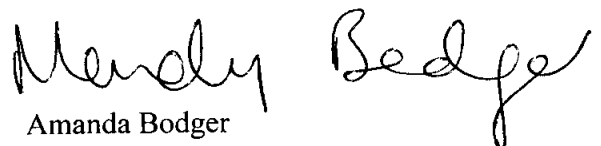
Not applicable

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

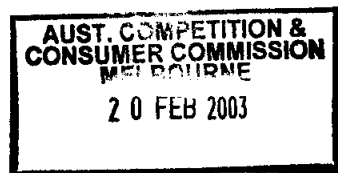
Amanda Bodger  
Mallesons Stephen Jaques  
Level 28, Rialto  
525 Collins Street  
Melbourne Vic 3000

Dated: 20 February 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.