

MALLESONS STEPHEN JAQUES

No inquiries
at this stage
8/7/4/4

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition and
Consumer Commission
470 Northbourne Avenue
Dickson ACT 2602

6 April 2004

FILE No:	
DOC:	D041
MARS/PRISM:	11211

Dear Mr Grimwade

West Australian Newspapers Holdings Limited - Third line forcing notification

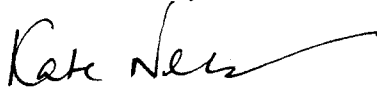
We enclose on behalf of our client, West Australian Newspapers Holdings Limited ("WAN"), a Third Line Forcing Notification in relation to the sale of discount newspapers, together with a cheque for \$1,000.

As set out in the enclosed notification, WAN proposes to introduce a promotion whereby customers will have the opportunity to purchase that day's edition of *The West Australian* at a discounted price if the customer acquires a copy of the *Great Southern Herald*.


As detailed in the enclosed notification, WAN believes the proposed promotion will result in a number of public benefits and will promote competition amongst newspaper suppliers in Western Australia.

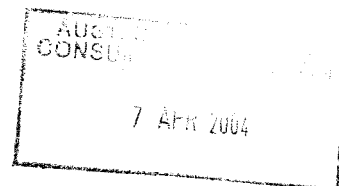
If you have any questions in relation to any of the matters raised in the enclosed notification, please do not hesitate to contact us.

Yours sincerely



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Commonwealth of Australia

Trade Practices Act 1974 - sub-section 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 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:

West Australian Newspaper Holdings Limited ("WAN") (ACN 053 480 845).

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

WAN is a public listed company and the holding company of the publisher of *The West Australian* newspaper and 19 regional newspapers. Its principal activities consist of newspaper publishing, commercial printing and radio communications.

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

Bernard Yates
West Australian Newspapers Holdings Limited
Newspaper House
50 Hasler Road
OSBORNE PARK WA 6017

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

WAN publishes *The West Australian* newspaper, which is a leading daily newspaper available throughout Western Australia (with a limited number of interstate and overseas sales). *The West Australian* is published Monday to Saturday, with circulation figures of around 201,000 for Monday to Friday and around 376,000 for the Saturday weekend edition.

The Albany Advertiser Pty Ltd publishes the *Great Southern Herald*, which is published weekly on Wednesdays and is based in Katanning, 290 kilometres south-east of Perth. The *Great Southern Herald* is priced at \$1.00 and has circulation of approximately 1,600 copies.

(b) Description of the conduct or proposed conduct:

Outline of proposed conduct

WAN proposes to introduce a promotion whereby WAN will offer customers the opportunity to purchase that day's edition of *The West Australian* at a discounted price if the customer acquires a copy of the *Great Southern Herald*.

For the duration of the promotion, purchasers of the *Great Southern Herald* will receive a coupon, which they can present at any newsagency to purchase that day's edition of *The West Australian* at a 50 cent discount. This offer will be open to all purchasers of the *Great Southern Herald*, whether they are home delivery customers or casual purchasers. Home delivery customers receiving both the *Great Southern Herald* and *The West Australian* will receive the discount automatically.

Only one coupon can be used for each discount purchase. For example, it will not be possible for a customer buying two copies of the *Great Southern Herald* to combine the two 50 cent discounts and get a copy of *The West Australian* for free.

The promotion will commence on Wednesday 28 April 2004 and the final day of the promotion will be Wednesday 26 May 2004.

Proposed conduct will deliver public benefits

WAN considers that the proposed conduct will be of benefit to the public because it will:

- enable purchasers of the *Great Southern Herald* to acquire *The West Australian* at a discount;
- encourage competition and lower prices from other newspaper suppliers in Western Australia; and
- encourage innovative, competitive responses from other newspaper suppliers wishing to attract and retain custom.

Proposed conduct will promote competition and should have no adverse impact on competition

The proposed conduct will not lessen competition in the market for the supply of newspapers in Western Australia as:

- there are a number of State-wide, regional and community newspapers available throughout Western Australia, including south-western Western Australia. WAN will continue to compete vigorously with other newspaper publishers and the proposed conduct will not limit the availability or choice of newspapers for purchasers in Western Australia;
- similarly, the proposed conduct will not prevent other newspaper publishers from supplying customers of the *Great Southern Herald* with their products; and
- the proposed conduct will only concern the very small number of consumers who purchase the *Great Southern Herald* (currently around 1,600 consumers). If the proposed conduct were to have any impact on competition, (which WAN does not accept), given the very small number of customers potentially affected, that impact would be *de minimis*.

Instead, the proposed conduct will promote competition between the suppliers of newspapers in Western Australia by encouraging newspaper publishers to provide their customers with innovative product offerings and by enhancing the intense price competition, which already exists in this market.

The benefits from the proposed conduct will outweigh any possible detriment considered to arise from the proposed conduct. It should also be noted that the proposed conduct is between related bodies corporate. Accordingly, the need for this notification is the result of a technical provision under the Trade Practices Act.

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

The general public in the Katanning region of Western Australia, south-east of Perth.

(b) Number of those persons -

(i) At present time: Nil.

(ii) Estimated within the next year: The general public in the Katanning region of Western Australia (noting that the *Great Southern Herald* currently has a circulation of approximately 1,600 copies).

(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:

Bernard Yates
West Australian Newspapers Holdings Limited
Newspaper House
50 Hasler Road
OSBORNE PARK WA 6017

Dated 2nd April 2004

Signed by/on behalf of the person giving this notice


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Bernard Yates