

23 April 2004

FILE No:	
DOC:	004/19111
MARS/PRISM:	19471

Attn: Regional Director  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Sir or Madam,

**THIRD LINE FORCING NOTIFICATION**

I refer to previous applications filed by Optus in relation to bundling activities by Optus Networks Pty Limited, Optus Mobile Pty Limited, Optus Internet Pty Limited and Optus Mobile Pty Limited.

Optus Networks Pty Limited wishes to carry out further bundling activities as per the enclosed notification. I enclose one application in accordance with section 93(1) of the Trade Practices Act. This application is in the name of:

- Optus Mobile Pty Limited

Please note that the notification has attached to it a Confidential Annexure. I would be grateful if the contents of the enclosed Confidential Annexure could remain confidential.

Optus wishes to pay and authorises the ACCC to charge \$100.00 in application fees by Visa Corporate Card:

A/c No. 4715 7225 0000 1018, expiry date 05/04  
In the name of Silloo Kabraji of Optus Administration Pty Limited.

If you have any queries, please contact me on (02) 9342 8439.

Yours faithfully



Trudi Bean  
Corporate Counsel

*No enquiry this day  
at 2:10/10*



**FORM G**  
**[Front of Form]**

COMMONWEALTH OF AUSTRALIA  
Trade Practices Act 1974 - Sub-section 93(1)

**EXCLUSIVE DEALING**  
**NOTIFICATION**

To the Australian Competition and 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 engaged or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

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

Optus Mobile Pty Limited ABN 65 054 365 696 of 101 Miller Street, North Sydney, New South Wales 2060 ("Optus").

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

Optus, together with various of its related entities, provides telephone and telephonic messaging services and associated devices and technologies, including solutions relating to short message services (SMS) through an SMS Gateway operated over its Global System for Mobile Communications (GSM) network.

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

Trudi Bean, Corporate Counsel, Singtel Optus Pty Limited,  
Level 29, 101 Miller Street, North Sydney, NSW 2060.

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

RedCoal Pty Limited (ABN 090 244 590) ("RedCoal") is an application developer and application service provider engaged in the development and hosting of various software and technology solutions, including a personal computer-based messaging application that enables end users to send and receive short messages through his or her computer desktop e-mail client (the "EmailSMS Application").

Optus proposes to offer its customers the ability to send and receive short messages through the desktop e-mail client on their personal computers, through the deployment of the EmailSMS Application through the Optus SMS network operated by Optus over its GSM network. Optus proposes to supply or offer to supply persons the EmailSMS Application on condition that those persons also

acquire Optus SMS access which is required to support that application from Optus.

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

The class of persons to whom the conduct relates is corporate entities, government departments and small to medium enterprises who will use the EmailSMS Application and who acquire, or will acquire, SMS Gateway services from Optus which support the EmailSMS Application.

(b) **Number of those persons:**

See Confidential Annexure.

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

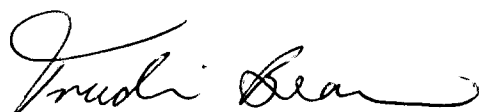
Not Applicable.

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

Trudi Bean, Corporate Counsel, Singtel Optus Pty Limited, Level 29, 101 Miller Street, North Sydney NSW 2060.

Dated: 23 April, 2004

Signed by/on behalf of the applicant



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Trudi Bean

Corporate Counsel

Singtel Optus Pty Limited

**Confidentiality granted for Confidential Annexure**

**SUBMISSION BY OPTUS MOBILE PTY LTD**  
**IN SUPPORT OF NOTIFICATIONS UNDER SECTION 93**  
**OF THE TRADE PRACTICES ACT 1974**

**1. Background**

Optus Mobile Pty Limited (“**Optus**”) is a wholly owned subsidiary of Singtel Optus Pty Ltd, and is a supplier of telecommunications goods and services including SMS Gateway services. RedCoal is an application developer and application service provider engaged in the development of various software and technology solutions, including personal computer-based messaging applications. RedCoal also provides commercial hosting services for various of its applications.

Optus wishes to enhance its competitive position in that part of the software and application development market that deals with advanced personal computer-based messaging applications, and has entered an agreement with RedCoal in relation to the EmailSMS Application developed by RedCoal, which will allow Optus to supply computer-based messaging solutions which utilise and rely on SMS Gateway services operated over Optus' Global System for Mobile Communications (GSM) network.

As outlined in Form G, Optus proposes to supply, or offer to supply the EmailSMS solution, to persons on condition that those persons acquire RedCoal's component of the EmailSMS Application incorporating software and services.

**2. Public Benefit**

The proposed conduct offers significant benefits to customers, primarily by giving them the opportunity of obtaining a robust and reliable technological application which enables more flexible messaging in an increasingly mobile user environment.

The conduct encourages the market development of competing messaging services and solutions of equal or better quality and functionality and exerts downward pressure on the prices of existing and inferior solutions offered in the market by other carriers, to the benefit of consumers.

The conduct will assist in maintaining or increasing the level of competition in the increasingly competitive market for computer and SMS-based messaging solutions (see further below).

**3. Lack of anti-competitive effect**

In broad terms the market which the proposed offer is likely to affect is the market for the provision of personal computer-based messaging application solutions.

Although the conduct described in Form G may be exclusive dealing conduct within section 47(6) of the Act, Optus holds the view that the proposed conduct will have a negligible effect on competition in the market noted above.

In addition, in Australia there are a number of providers of telecommunications-based messaging solutions to customers, including Telstra, Vodafone and Optus. They all compete vigorously for customers. Consequently, it is open for other telecommunications providers, in conjunction with other application developers, to develop similar solutions and compete with Optus and RedCoal in respect of those solutions at any given time.

The terms and conditions of the proposed offer will be fully outlined to customers. There may be some customers who will not be entitled to receive the EmailSMS Application because they do not wish to acquire any of the SMS Gateway services specified in Form G, however any exclusions will be clearly outlined in the terms and conditions of the proposed offer.

The proposed conduct offers benefits to customers as outlined above at paragraph 2. The proposed conduct does not result in any detriment to the public and is not anti-competitive.