

# MALLESONS STEPHEN JAQUES

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



30 June 2004

L Huett  
Partner

FILE No:	
DOC:	D04/30597
MARS/PRISM:	

Dear Mr Fahy

## **Sensis Pty Ltd - notification of third line forcing exclusive dealing**

We act for Sensis Pty Ltd.

We enclose for lodgement an exclusive dealing notification together with a cheque for the applicable lodgement fee of \$100.00.

Please do not hesitate to contact Lisa Huett 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 as agent for **CitySearch Australia Pty Ltd** (ABN 48 076 673 857) (“**CitySearch**”) of 181 Victoria Parade, Collingwood and as agent for **Telstra Corporation Limited** (ABN 33 051 775 556) (“**Telstra**”) of 242 Exhibition Street, Melbourne.

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

Sensis is a wholly owned subsidiary of Telstra and provides a range of services for and on behalf of Telstra with respect to Telstra’s White Pages® *OnLine* and Yellow Pages® *OnLine* products and services.

CitySearch is a wholly owned subsidiary of Sensis and Sensis provides a range of services for and on behalf of CitySearch with respect to CitySearch® products and services.

In particular, Sensis provides online advertising, contact, location and e-business web site and listing solutions to small and medium enterprises (SMEs), corporates and government through:

- the Yellow Pages® *OnLine* site and White Pages® *OnLine* site, and related services such as Sensis® 1234; and
- other online services such as GOeureka™, Whereis® and CitySearch® web sites.

(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:*

- (i) White Pages® *OnLine* products and services are supplied by Sensis as agent for Telstra. Businesses receive a free listing on the website unless they choose to take out a paid listing. The paid advertising options on the White Pages® *OnLine* site include enhanced listings and other online search products such as Business Finder and cross reference feature; and
- (ii) Yellow Pages® *OnLine* products and services are supplied by Sensis as agent for Telstra. Businesses receive a free listing on the web site unless they choose to take out a paid or priority listing. The paid advertising options on the Yellow Pages® *OnLine* site include the 'Platinum' product, the 'online solution' product (that includes among other things a graphic image, contact details, email address, opening hours, a list of products and services, etc), and the more basic 'email/URL' advertisement listing.

collectively referred to as "**Sensis Products**"; and

- (iii) The CitySearch® products and services, including sales, fulfilment and marketing, are supplied by Sensis as agent for CitySearch. The CitySearch® web site service supplies businesses with paid advertising options, including the set up and hosting of multiple page web sites, weblistings, the 'Platinum' product, banner and tile products that provide business information content and other online services such as domain name registration ("**CitySearch Products**").

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

- (i) Sensis (as agent for CitySearch) proposes:

- (A) to supply or offer to supply a CitySearch Product at a particular price; or
- (B) to give or allow or offer a discount, allowance, rebate or credit in relation to a CitySearch Product,

on the condition that the person also acquires one or more Sensis Products.

- (ii) Sensis (as agent for Telstra) proposes:

- (A) to supply or offer to supply a Sensis Product at a particular price; or
- (B) to give or allow or offer a discount, allowance, rebate or credit in relation to a Sensis Product,

on the condition that the person also acquires one or more CitySearch Products.

(iii) Sensis (as agent for CitySearch) proposes to refuse:

- (A) to supply a CitySearch Product at a particular price; or
- (B) to give or allow a discount, allowance, rebate or credit in relation to a CitySearch Product,

for the reason that the person has not acquired, or agreed to acquire, one or more Sensis Products.

(iv) Sensis (as an agent for Telstra) proposes to refuse:

- (A) to supply a Sensis Product at a particular price; or
- (B) to give or allow a discount, allowance, rebate or credit in relation to a Sensis Product,

for the reason that the person has not acquired, or agreed to acquire, one or more CitySearch Products.

Examples of the proposed conduct include:

- offering 3 months of free hosting fees for a CitySearch® web site and 3 months of free hosting fees on the Yellow Pages® *OnLine* solution, when the advertiser acquires both services;
- offering a 20% discount off the monthly fee for the first six months of a CitySearch® 'Platinum' product when the advertiser also acquires a Yellow Pages® *OnLine* 'Platinum' product;
- offering a free White Pages® *OnLine* enhanced listing advertisement for 6 months when the advertiser also acquires a CitySearch® 2 page web site;
- offering a \$250 reduction on set up costs of a CitySearch® 4 page web site when an advertiser also acquires a Yellow Pages® *OnLine* solution;
- offering a \$300 rebate off a White Pages® *OnLine* enhanced listing product when the advertiser also acquires a 'Platinum' product, 'banner' or 'tile' product on the CitySearch® web site;
- offering a 20% discount off the monthly fee for the first six months of a CitySearch® 4 page web site, a CitySearch® web listing and a Yellow Pages® *OnLine* email/URL advertisement listing when the advertiser acquires all of these services;
- offering a \$100 credit for hosting fees for a CitySearch® 2 page website and a \$100 credit for a Yellow Pages® *OnLine* solution when the advertiser acquires both services;
- refusing to provide a Sensis Product or CitySearch Product (as the case may be) or any of the discounts, allowances, rebates or credits described above associated with those products for the reason that the advertiser did not acquire both the Sensis Product and CitySearch Product.

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

- provide advertisers with discounts and savings on current online advertising and marketing solutions offered by Sensis (whether as an agent for Telstra or as an agent for CitySearch);
- creates more affordable packages of online advertising products and services to support advertisers' entry into online advertising, therefore extending their business reach into areas they may not otherwise find cost effective;
- allow new businesses, particularly small and medium enterprises (SMEs), to gain maximum online advertising exposure;
- promote administrative simplicity as the CitySearch® web site products and services and the Yellow Pages® *OnLine* products and services will be supplied under the same contract and billed together on the same bill (although they are separate services);
- further stimulate competition for the supply of online website and listing services, by encouraging both new and established businesses to initiate an online presence and utilise the potential of the internet;
- promote business efficiency by offering improved options for new businesses who wish to maximise their online advertising exposure via the Yellow Pages® *OnLine* site, the White Pages® *OnLine* site and CitySearch® site; and
- increase the number of businesses advertising online so as to provide consumers with more comprehensive online search facilities that enable them to quickly and easily access a wide range of services and information through a variety of mediums and entry points.

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

- there are a significant number of actual competitors and potential competitors for the supply of online advertising and marketing services. These include Web hosting advertisers such as WebCentral, FulfilNET and SiteSuite and advertisers who provide online listings and search engine services, such as Google, Yahoo and Alta Vista, who are well placed to offer similar types of advertising packages;
- Sensis (as agent for Telstra) will continue to offer all products and online advertising solutions on the Yellow Pages® *OnLine* site and the White Pages® *OnLine* site to businesses as individual products on a stand alone basis, at the applicable standard rates. Therefore, businesses are not required to acquire CitySearch® products and services in order to obtain an individual Yellow Pages® *OnLine* or White Pages® *OnLine* basic solution;
- Sensis (as agent for CitySearch) will continue to offer the CitySearch® products and online advertising solutions to businesses as individual products on a stand alone basis, at the applicable standard rates. Again,

businesses are not required to acquire paid advertising on the Yellow Pages® *OnLine* site or the White Pages® *OnLine* site in order to obtain an individual CitySearch® product or solution;

- online directory advertising is non-exclusive and the same advertiser can continue to advertise in multiple online advertising products and services with other suppliers of online advertising and web site solutions. The proposed conduct does not diminish these options (e.g. advertisers can acquire priority advertising with other online advertising web site suppliers such as Google and Yahoo in addition to advertising in the Yellow Pages® *OnLine* site, White Pages® *OnLine* site and CitySearch® site;
- 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 there is vigorous competition for the supply of online advertising and web site solutions; and
- the relevant market/s for the supply of online advertising and marketing products and services are relatively new and developing. It is a challenge to demonstrate to advertisers the value of paying for online advertising solutions to allow their business maximum online advertising exposure and online presence.

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:*

Existing and potential advertisers on the Yellow Pages® *OnLine* site, the White Pages® *OnLine* site and the CitySearch® site.

(b) *Number of those persons:*

(i) *At present time:*

More than 20,000 individuals and businesses currently acquire online advertising from Yellow Pages® *OnLine*, White Pages® *OnLine* and the CitySearch® web sites.

(ii) *Estimated within the next year:*

Offers will be made to potential and existing advertisers who acquire Sensus Products and CitySearch Products.

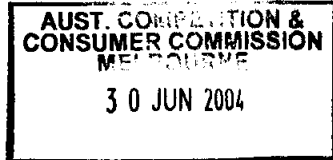
(c) *Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:*

Not applicable

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

Dated 30 June 2004

Signed by/on behalf of the person giving this notice



  
.....

(Signature)

LISA HUETT  
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 this 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 that 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.