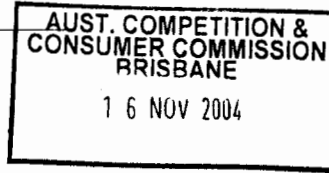


BLAKE DAWSON WALDRON

L A W Y E R S



Regional Director
Australian Competition and Consumer Commission
10th Floor, AAMI Building
500 Queen Street
BRISBANE QLD 4000

Dear Sir/Madam

Notification of Third Line Forcing Exclusive Dealing

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

We enclose the following:

- an exclusive dealing notification under subsection 93(1) of the *Trade Practices Act 1974 (Cth)*; and
- a cheque for the applicable lodgement fee of \$1,000.

The exclusive dealing notification relates to proposed arrangements involving Telstra and Hewlett-Packard Australia Pty Limited.

Please do not hesitate to contact Janine Gillen on (07) 3259 7051 of this office should you have any queries or comments.

Yours faithfully

Blake Dawson Waldron

Level 40
Riverside Centre
123 Eagle Street
Brisbane QLD 4000

www.bdw.com

Tel + 61 7 3259 7000
Fax + 61 7 3259 7111

DX 226 Brisbane

PO Box 7074
Riverside Centre
Brisbane QLD 4001
Australia

Partner
David Wenck
Telephone (07) 3259 7219

Contact
Janine Gillen
Telephone (07) 3259 7051

Our reference
JZG DJW 07 1375 7479

16 November 2004

FILE No:

DOC:

MARS/PRISM:

BRISBANE
SYDNEY
MELBOURNE
PERTH
CANBERRA
LONDON
PORT MORESBY
JAKARTA
SHANGHAI

151121352

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 sub-section 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**

Telstra Corporation Limited (ABN 33 051 775 556) of Level 6, 151 Clarence Street, Sydney
(**Telstra**)

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

Provision of telecommunications services and products including fixed line services, mobile services and internet services.

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

c/ - David Wenck, Blake Dawson Waldron, 123 Eagle Street, Brisbane, 4000

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

This notice relates to:

(i) Telstra broadband internet services and associated broadband products and services offered from time to time including its BigPond ADSL service and BigPond Broadband Cable service (**Telstra Internet Products**); and

(ii) Products supplied by Hewlett-Packard Australia Pty Limited (ABN 74 004 394 763) (**Hewlett-Packard**) of 31-41 Joseph Street, Blackburn, Victoria, 3130 including computer hardware and software (**HP Products**).

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

For a limited period, Telstra proposes to offer to a person who acquires specified HP Products a credit of \$129 on that person's first or second BigPond Broadband bill when that person accepts Telstra's BigPond ADSL and Cable terms and conditions and enters into a 24 month ADSL or Cable contract with Telstra. The proposed conduct may (unless properly notified) contravene section 47 of the *Trade Practices Act 1974* (Cth).

This arrangement is nevertheless pro-competitive and there are clear public benefits arising from this conduct which will outweigh any possible public detriment.

Public benefit and lack of public detriment

The relevant conduct will have no public detriment. Indeed, it is likely to increase competition and be beneficial to the public because the conduct will:

- permit a customer to acquire a Telstra Internet Products at a discount which would not otherwise be available to that customer;
- encourage Telstra's competitors to develop similar offers in order to compete with Telstra which will increase the availability of competing discounts and offers for similar products; and
- offer greater convenience for customers in their dealings with Telstra and Hewlett-Packard.

Impact on competition

The proposed conduct will not lessen competition on the basis that:

- there will continue to be a wide choice available to customers and customers will be under no obligation to acquire a Telstra Internet Product;
- Telstra Internet Products can still be acquired by customers at the usual prices without the requirement that customers also acquire products from Hewlett-Packard;
- competition for the supply of internet services is very strong and there are many suppliers in these markets;
- the proposed conduct is likely to affect only a comparatively small number of customers in the relevant market who acquire, or are likely to acquire, internet products and services; and
- the relevant products and services are available from a range of alternate suppliers.

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

Customers who acquire Telstra Internet Products from Telstra.

(b) **Number of those persons**

More than 50.

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

Not applicable.

3.

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

David Wenck, Blake Dawson Waldron, 123 Eagle Street, Brisbane, Queensland, 4000.

Telephone: (07) 3259 7219

Dated 16/11/04

Signed by the person giving this notice



David Wenck

Partner, Blake Dawson Waldron

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 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.