



**ActewAGL**  
Always.

ActewAGL House 221 London Circuit Canberra ACT 2600 • GPO Box 366 Canberra ACT 2601  
Telephone 13 14 93 Facsimile 02 6249 7237 [www.actewagl.com.au](http://www.actewagl.com.au)

General Manager  
ACCC Adjudications Branch  
Po Box 1199  
Dickson ACT 2602

FILE No
DOC
MARS/PRISM:

**"BY HAND"**

10 October 2005

Dear Sirs,

**Notification of proposed third line forcing conduct by AGL ACT Retail Investments Pty Ltd (ABN 53 093 631 586), ACTEW Retail Ltd (ABN 23 074 371 207) and TransACT Capital Communications Pty Ltd (ABN 23 093 966 888)**

Please find **enclosed**:

- a notification lodged by AGL ACT Retail Investments Pty Ltd and ACTEW Retail Ltd;
- a notification lodged by TransACT Capital Communication Pty Ltd; and
- a cheque in the amount of \$500.00.

The notifications are in respect of conduct proposed to be entered into by AGL ACT Retail Investments Pty Ltd and ACTEW Retail Ltd, and TransACT Capital Communications Pty Ltd relating to fixed line telephony and broadband ISP services in the ACT and surrounding region.

The notifications seek statutory protection for each of AGL ACT Retail Investments Pty Ltd and ACTEW Retail Ltd and TransACT Capital Communications Pty Ltd in relation to the proposed conduct.

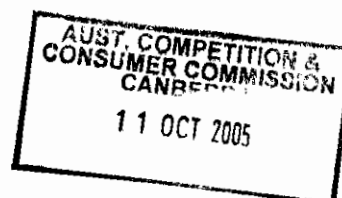
Pursuant to Regulation 28 and Schedule 1B of the *Trade Practices Regulations 1974* the cheque applies to the abovementioned notifications as follows:

- \$200.00 in relation to AGL ACT Retail Investments Pty Ltd;
- \$200.00 in relation to ACTEW Retail Ltd; and
- \$100.00 in relation to TransACT Capital Communications Pty Ltd

Please contact the writer if you have any queries in relation to this letter, the enclosed cheque or notifications.

Yours faithfully,

Ian L. Male  
Senior Legal Adviser  
ActewAGL  
Tel: (02) 6248 3485  
Fax: (02) 6248 3377  
Email: [ian.male@actewagl.com.au](mailto:ian.male@actewagl.com.au)



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**FORM G**  
Regulation 9

**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 (6) or (7) of that Act in which the person giving notice engages or proposes to engage.

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

TransACT Capital Communications Pty Ltd  
(ABN 23 093 966 888)

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

The business currently conducted by TransACT (and its related companies) includes the provision of:

- fixed line telephone services to customers within the footprint of the TransACT network within the ACT and surrounding region;
- subscription television services to customers within the footprint of the TransACT network within the ACT;
- network access to a range of internet service providers who provide services to customers within the footprint of the TransACT network within the ACT and surrounding region;
- network access to various dial-up and broadband services provided by TransACT in partnership with ActewAGL (Grapevine Ventures partnership) within the footprint of the TransACT network within the ACT and surrounding region; and
- pre-select telephony services to all customers within the ACT and surrounding regions.

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

TransACT Capital Communications Pty Ltd  
3<sup>rd</sup> floor, TransACT House  
470 Northbourne Avenue  
Dickson ACT 2602

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

See Attachment A.

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

See Attachment A.

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

Customers within the ACT and surrounding region.

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

**(i) at present time:**

Nil, product has not yet been released to market.

**(ii) estimated within the next year:**

The number of persons to which the proposed conduct will relate within the next year is not known, but it is likely to exceed 50.

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

Not applicable.

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

Leigh Baguley  
TransACT Capital Communications Pty Ltd  
PO Box 1006  
Civic Square ACT 2608

Date: *27.09.05*

Signed by / on behalf of the person giving this notice:

*Dianne O'Hara*

Dianne O'Hara  
TransACT Capital Communications Pty Ltd  
Company Secretary

## ATTACHMENT A

### 1. EXECUTIVE SUMMARY

TransACT Capital Communications Pty Limited (**TransACT**) intends entering into an agreement with ActewAGL Retail (**ActewAGL Retail**) (in ActewAGL Retail's capacity as a partner with TransACT in Grapevine Ventures (**Grapevine**)) under which customers who sign a 24 month broadband services agreement with TransACT and enter into, and remain in for 12 consecutive months, one or more selected broadband internet access plans with Grapevine will receive a credit of \$87.00 towards the customers chosen Grapevine broadband internet access plan.

Grapevine will credit the amount of \$87.00 to the customer's Grapevine broadband internet access plan account on the last day of the twelfth consecutive month of continuous operation of the customer's Grapevine account.

TransACT is seeking statutory immunity under section 93 of the *Trade Practices Act 1974* for the proposed conduct. TransACT believes that ActewAGL has also lodged, or will lodge, a notification with the Commission to this effect.

### 2. PARTIES INVOLVED

#### 2.1 TransACT Capital Communications Pty Ltd

TransACT Capital Communications Pty Ltd (ABN 23 093 966 888) is a wholly owned subsidiary of TransACT Communications Pty Limited (ABN 32 091 752 297).

TransACT Communications Pty Limited is jointly owned by ACTEW Corporation Limited, TVG Transact Holdings Limited, AGL TransACT Pty Limited, Marconi Corporation plc, Australian Capital Ventures Limited, Commonwealth Bank of Australia, MTAA Superannuation Fund (TransACT) Utilities Pty Ltd and Westscheme Pty Ltd.

TransACT Capital Communications Pty Ltd owns and operates a broadband communications network in the Australian Capital Territory and surrounding region, which is capable of delivering voice, data and video (including subscription television).

In addition to the above, TransACT Capital Communications Pty Ltd and ActewAGL Retail operate, in partnership, an ISP service trading as Grapevine Ventures (ABN 49 135 731 130).

Further information regarding TransACT Communications Pty Limited may be obtained from [www.transact.com.au](http://www.transact.com.au)

#### 2.2 ActewAGL Retail

ActewAGL Retail (ABN 46 221 314 841) is a partnership between ACTEW Retail Limited and AGL ACT Retail Investments Limited, subsidiaries of ACTEW Corporation Limited (ABN 86 069 381 960) (ACTEW) and the Australian Gas Light Company (ABN 052 167 405) (AGL) respectively.

ACTEW is a Territory Owned Corporation of the ACT Government. AGL is an energy company supplying energy products and services including natural gas, electricity and liquid petroleum gas to customers in Australia and overseas through various subsidiaries.

ActewAGL provides:

- electricity to customers in the ACT, and contestable customers outside the ACT;
- natural gas to ACT, Queanbeyan and Nowra customers;
- water and sewerage billing services to ACT customers on behalf of ACTEW Corporation Ltd (network asset owner); and
- dial-up and broadband internet service in partnership with TransACT.

Further information regarding ActewAGL may be obtained from [www.actewagl.com.au](http://www.actewagl.com.au)

### **2.3 Relationship of the Parties**

ACTEW Corporation Limited has a 24.86% shareholding in TransACT Communications Pty Limited.

AGL TransACT Pty Limited has a 16.05% shareholding in TransACT Communications Pty Limited. AGL TransACT Pty Limited is wholly owned by The Australian Gas Light Company.

ActewAGL is a partnership between ACTEW Corporation Limited and the Australian Gas Light Company.

TransACT and ActewAGL have entered into an equal partnership for the provision of network ISP services, the Grapevine Ventures partnership ABN 49 135 731 130.

## **3. DESCRIPTION OF GOODS AND SERVICES IN RELATION TO WHICH THIS NOTICE RELATES**

### **3.1 Description of the Services**

The services to be supplied by each of TransACT and ActewAGL Retail to persons, and to which this notice relates, are as follows:

- TransACT service
  - Broadband ISP services in partnership with ActewAGL (Grapevine)
  - Fixed line telephony service
- ActewAGL services
  - Broadband ISP services in partnership with TransACT (Grapevine)

## **4. PROPOSED CONDUCT**

### **4.1 Summary of Proposed Conduct**

TransACT would invite customers within the ACT and surrounding region to enter into a 24 month agreement for a fixed line telephony and broadband service. The service would be provided on the basis that the consumer enter into an agreement with Grapevine as described below.

TransACT (as a partner in Grapevine with ActewAGL Retail) would invite customers within the ACT and surrounding region to enter into an agreement (month to month) for the provision by Grapevine of an ISP broadband service plan which would be available only in conjunction with the fixed line telephony and broadband service provided by TransACT.

Grapevine will offer customers the following ISP broadband service plans:

- GV 5000;
- GV 10000; and
- GV 20000.

A customer may choose any one or more of the abovementioned service plans. Where two or more service plans are selected, the customer will be required to enter into separate agreements for each service plan. A separate account will be rendered for each agreed service plan. The \$87.00 credit will be applied to each account under each service plan.

In order to obtain the \$87.00 credit, the customer must enter into a 24 month service agreement with TransACT and agree to obtain any one or more of the three Grapevine broadband internet plans on offer which plan, or plans, must be maintained for a minimum period of no less than 12 consecutive months.

The above amount will be credited to the customer's Grapevine account on the last day of the twelfth consecutive month of continuous operation of the customer's Grapevine broadband internet access plan account.

The services would be marketed by TransACT and ActewAGL through the TransACT and ActewAGL Home Connect store.

#### **4.2 Compulsory Requirement of TransACT Service**

The customer will be required to enter into a 24 month fixed line telephony and broadband service agreement with TransACT.

#### **4.3 Compulsory Requirement of Grapevine (TransACT/ActewAGL) Service**

The customer will be required to obtain and maintain, for a minimum period of 12 consecutive months, one or more of the following Grapevine broadband plans:-GV 5000, GV 10000 or GV 20000.

#### **4.4 Fixed Term Supply Agreement**

The agreement between the customer and TransACT is subject to a 24 month term. This lowers the running costs of providing available services by reducing overheads associated with customer management (eg: customers who terminate services).

In order to meet associated administrative costs, an early contract termination fee will be payable by a customer who terminates the customer/TransACT agreement during the term.

The customer will not be entitled to receive the credit amount if the customer fails to maintain the selected Grapevine broadband plan for a minimum period of twelve consecutive months.

#### **4.5 Provision of Information to Customers**

The product and credit amount will be communicated to current and potential TransACT and ActewAGL customers through TransACT and ActewAGL call centres, press campaigns, the parties' respective websites and other means. TransACT and ActewAGL will ensure its customers are aware of:

- product availability;
- the credit amount; and
- any limits to the offer.

Customers will therefore be in full possession of all material relevant to a purchase decision prior to purchasing any service.

## **5. PUBLIC BENEFITS**

The impact of the proposed conduct is not such that, under the test laid down in section 93(3A)(b) of the *Trade Practices Act 1974*, the likely benefit to the public will be outweighed by the likely detriment to the public.

The proposed conduct would result in the following public benefits:

- a credit amount applied to customer ISP accounts;
- a reduction to customers in the cost of broadband access; and
- facilitation of competition within the telecommunications industry.

### **5.1 Further Benefits**

The proposed conduct by the parties may benefit ISP customers by providing them with the ability to bundle their selected service(s) with ActewAGL electricity and/or gas. The bundling of electricity or gas with a Grapevine broadband plan may result in the customer receiving discounts on electricity and/or gas as well as further discounts on the broadband product.

### **5.2 Competition within the Telecommunications Industry**

The proposed conduct will promote competition within the local telecommunications industry by increasing competition through reduced costs in the local broadband communications industry.

The proposed conduct does not reduce the choice available to customers, but rather, allows them greater choice and a reduction in costs in relation to broadband access.

## **6. PUBLIC DETRIMENT**

It is TransACT's view that there will be no detriment to the public arising from the proposed conduct due to the added level of market competition. The markets affected by the proposed conduct are those of internet services in the ACT and surrounding region.

### **6.1 No Lessening of Competition in the Internet Services Market**

The Grapevine partnership between TransACT and ActewAGL (launched 19 April 2005) only has a small share of the internet market in the ACT and surrounding region.

Grapevine competes with numerous local (iiNet, Netspeed, Apex, Cyber One, Bandwidth Unlimited, Interact Broadband) and national internet service providers (Telstra, Optus, AAPT, TPG).

The conduct proposed by TransACT and ActewAGL will not be detrimental to competition given the large number of other internet service providers, and the highly competitive nature of this market. In deed, it is TransACT's view that its proposed conduct will increase competition in the local internet market.

### **6.2 Conduct Voluntary**

It should be noted that the proposed conduct would be voluntary on the part of the customer.

**FORM G**  
Regulation 9

**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 (6) or (7) of that Act in which the person giving notice engages or proposes to engage.

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

<sup>N92154</sup>  
AGL ACT Retail Investments Pty Ltd (ABN 53 093 631 586) and ACTEW <sup>N92155</sup>  
Retail Ltd (ABN 23 074 371 207) trading as ActewAGL Retail (ABN 46 221  
314 841) (**ActewAGL Retail**)

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

The business currently conducted by ActewAGL Retail includes the provision of:

- supply of electricity to customers in the ACT, and contestable customers outside the ACT;
- supply of natural gas to ACT, Queanbeyan and Capital Region;
- supply of water and sewerage billing services to ACT customers on behalf of ACTEW Corporation Ltd (network asset owner); and
- network access to various dial-up and broadband services provided by ActewAGL Retail in partnership with TransACT Capital Communications Pty Ltd (Grapevine Ventures partnership).

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

ActewAGL House  
221-223 London Circuit  
Canberra City 2601

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

See Attachment A.

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

See Attachment A.



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

Existing and potential customers of ActewAGL within the ACT and surrounding region.

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

(i) **at present time:**

Nil, product has not yet been released to market.

(ii) **estimated within the next year:**

The number of persons to which the proposed conduct will relate within the next year is not known, but it is likely to exceed 50.

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

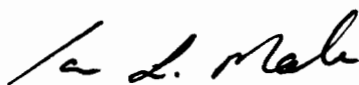
Not applicable.

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

Ian L. Male  
ActewAGL House, Level 7  
221-223 London Circuit  
Canberra City ACT 2601

Date: 27.09.05

Signed by / on behalf of the person giving this notice:



Ian L. Male  
Senior Legal Adviser  
ActewAGL  
Tel: (02) 6248 3485  
Fax: (02) 6248 3377  
[ian.male@actewagl.com.au](mailto:ian.male@actewagl.com.au)

## ATTACHMENT A

### 1. EXECUTIVE SUMMARY

ActewAGL Retail (**ActewAGL Retail**), as a partner in Grapevine Ventures (**Grapevine**) with TransACT Capital Communications Pty Limited (**TransACT**), intends entering into an agreement with TransACT under which customers who sign a 24 month broadband services agreement with TransACT and enter into, and remain in for 12 consecutive months, one or more selected broadband internet access plans with Grapevine will receive a credit of \$87.00 towards that customers chosen Grapevine broadband internet access plan.

Grapevine will credit the amount of \$87.00 to the customer's Grapevine broadband internet access plan account on the last day of the twelfth consecutive month of continuous operation of the customer's Grapevine account.

AGL ACT Retail Investments Pty Ltd and ACTEW Retail Ltd, trading as ActewAGL Retail, are seeking statutory immunity under section 93 of the *Trade Practices Act 1974* for the proposed conduct. Both AGL ACT Retail Investments Pty Ltd and ACTEW Retail Ltd believe that TransACT has also lodged, or will lodge, a notification with the Commission to similar effect.

### 2. PARTIES INVOLVED

#### 2.1 ActewAGL Retail

ActewAGL Retail (ABN 46 221 314 841) is a partnership between ACTEW Retail Limited and AGL ACT Retail Investments Limited, subsidiaries of ACTEW Corporation Limited (ABN 86 069 381 960) (ACTEW) and the Australian Gas Light Company (ABN 052 167 405) (AGL) respectively.

ACTEW is a Territory Owned Corporation of the ACT Government. AGL is an energy company supplying energy products and services including natural gas, electricity and liquid petroleum gas to customers in Australia and overseas through various subsidiaries.

ActewAGL Retail provides:

- electricity to customers in the ACT, and contestable customers outside the ACT;
- natural gas to ACT, Queanbeyan and Nowra customers;
- water and sewerage billing services to ACT customers on behalf of ACTEW Corporation Ltd (network asset owner); and
- dial-up and broadband internet service in partnership with TransACT through Grapevine Ventures (ABN 49 135 731 130).

Further information regarding ActewAGL Retail may be obtained from [www.actewagl.com.au](http://www.actewagl.com.au)

#### 2.2 TransACT Capital Communications Pty Ltd

TransACT Capital Communications Pty Ltd (ABN 23 093 966 888) is a wholly owned subsidiary of TransACT Communications Pty Limited (ABN 32 091 752 297).

TransACT Communications Pty Limited is jointly owned by ACTEW Corporation Limited, TVG Transact Holdings Limited, AGL TransACT Pty Limited, Marconi Corporation plc, Australian Capital Ventures Limited, Commonwealth Bank of Australia, MTAA Superannuation Fund (TransACT) Utilities Pty Ltd and Westscheme Pty Ltd.

TransACT Capital Communications Pty Ltd owns and operates a broadband communications network in the Australian Capital Territory, which is capable of delivering voice, data and video (including subscription television).

In addition to the above, TransACT Capital Communications Pty Ltd and ActewAGL Retail operate, in partnership, an ISP service trading as Grapevine Ventures (ABN 49 135 731 130).

Further information regarding TransACT Communications Pty Limited may be obtained from [www.transact.com.au](http://www.transact.com.au)

### **2.3 Relationship of the Parties**

ACTEW Corporation Limited has a 24.86% shareholding in TransACT Communications Pty Limited.

AGL TransACT Pty Limited has a 16.05% shareholding in TransACT Communications Pty Limited. AGL TransACT Pty Limited is wholly owned by The Australian Gas Light Company.

ActewAGL is a partnership between ACTEW Corporation Limited and the Australian Gas Light Company.

TransACT and ActewAGL have entered into an equal partnership for the provision of network ISP services, the Grapevine Ventures partnership (ABN 49 135 731 130).

## **3. DESCRIPTION OF GOODS AND SERVICES IN RELATION TO WHICH THIS NOTICE RELATES**

### **3.1 Description of the Services**

The services to be supplied by each of ActewAGL Retail (as a partner of Grapevine Ventures) and TransACT to persons, and to which this notice relates, are as follows:

- ActewAGL services
  - Broadband ISP services in partnership with TransACT (Grapevine)
- TransACT service
  - Broadband ISP services in partnership with ActewAGL (Grapevine)
  - Fixed line telephony service

## **4. PROPOSED CONDUCT**

### **4.1 Summary of Proposed Conduct**

ActewAGL Retail (as a partner in Grapevine) would invite customers within the ACT and surrounding region to enter into an agreement (month to month) for the provision of an ISP broadband service plan which would be available only in conjunction with the fixed line telephony and broadband service provided by TransACT.

Grapevine will offer customers the following ISP broadband service plans:

- GV 5000;
- GV 10000; and

- GV 20000.

A customer may choose any one or more of the abovementioned service plans. Where two or more service plans are selected, the customer will be required to enter into separate agreements for each service plan. A separate account will be rendered for each agreed service plan. The \$87.00 credit will be applied to each account under each service plan.

In order to obtain the \$87.00 credit, the customer must enter into a 24 month service agreement with TransACT and agree to obtain any one or more of the three Grapevine broadband internet plans on offer which plan, or plans, must be maintained for a minimum period of no less than 12 consecutive months.

The above amount will be credited to the customer's Grapevine account on the last day of the twelfth consecutive month of continuous operation of the customer's Grapevine broadband internet access plan account.

The services would be marketed by TransACT and ActewAGL through the TransACT and ActewAGL Home Connect store.

#### **4.5 4.2 Compulsory Requirement of Grapevine (TransACT/ActewAGL) Service**

The customer will be required to obtain and maintain, for a minimum period of 12 months, a Grapevine broadband internet access plan.

#### **4.3 Compulsory Requirement of TransACT Service**

The customer will be required to enter into a 24 month agreement for a broadband service plan.

#### **4.4 Provision of Information to Customers**

The products and credit amount will be communicated to current and potential customers through ActewAGL and TransACT call centres, press campaigns, the parties' respective websites and other means. TransACT and ActewAGL will ensure its Customers are aware of:

- product availability
- the credit amount; and
- any limits to the offer.

Customers will therefore be in full possession of all material relevant to a purchase decision prior to purchasing any service.

### **5. PUBLIC BENEFITS**

The impact of the proposed conduct is not such that, under the test laid down in section 93(3A)(b) of the *Trade Practices Act 1974*, the likely benefit to the public will be outweighed by the likely detriment to the public.

The proposed conduct would result in the following public benefits:

- a credit amount applied to customer ISP accounts;
- a reduction to customers in the cost of broadband access; and
- facilitation of competition within the telecommunications industry.

#### **5.1 Further Benefits**

The proposed conduct by the parties may benefit ISP customers by providing them with the ability to bundle their selected service(s) with ActewAGL electricity and/or gas. The bundling of electricity or gas with a Grapevine broadband plan may result in the customer receiving discounts on electricity and/or gas as well as further discounts on the broadband product.

## **5.2 Competition within the Telecommunications Industry**

The proposed conduct will promote competition within the local telecommunications industry by increasing competition and reducing costs in the local broadband communications industry.

The proposed conduct does not reduce the choice available to customers, but rather, allows them greater choice and a reduction in costs.

## **6. PUBLIC DETRIMENT**

It is ActewAGL Retail's view that there will be no detriment to the public arising from the proposed conduct. The markets affected by the proposed conduct are those of internet services in the ACT and surrounding area.

### **6.1 No Lessening of Competition in the Internet Services Market**

The Grapevine partnership between ActewAGL Retail and TransACT (launched 19 April 2005) only has a small share of the internet market.

Grapevine competes with numerous local (iiNet, Netspeed, Apex, Cyber One, Bandwidth Unlimited, Interact Broadband) and national internet service providers (Telstra, Optus, AAPT, TPG).

The conduct proposed by ActewAGL will not be detrimental to competition given the large number of other internet service providers, and the highly competitive nature of this market.

### **6.2 Conduct Voluntary**

It should be noted that the proposed conduct would be voluntary on the part of the customer.