

BLAKE DAWSON WALDRON

L A W Y E R S

BY HAND DELIVERY

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 Monash Student Association and The Students Representative Council of the University of Sydney.

Please do not hesitate to contact Aaron White on (07) 3259 7178 of this office should you have any queries or comments.

Yours faithfully



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

Aaron White
Telephone (07) 3259 7178

Our reference

DJW ALWH 07 1376 8787

17 February 2005

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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/ - Mr David Wenck, Blake Dawson Waldron Lawyers, Level 40 Riverside Centre, 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) Services supplied by Monash Student Association (Clayton) Inc ABN 20 147 061 074 of Monash University, Victoria, 3800 (**MSA**) and The Students Representative Council of the University of Sydney ABN 59 739 130 668 (**SRCUS**) of Holme Building, Science Road, University of Sydney, New South Wales 2006 including representing and campaigning on behalf of university students and providing services to university students (**Membership Services**).

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

From 3 March 2005 to 3 April 2005 (inclusive), Telstra proposes to offer to a person who is a member of MSA or SRCUS (**Student**):

- (i) a credit of \$129 on that Student's first or second Telstra BigPond® Broadband bill when that Student accepts Telstra's BigPond® Broadband ADSL or Cable terms and conditions and enters into a 24-month ADSL 1 port modem self-install contract or standard Cable self-install contract with Telstra (excluding Telstra's BigPond® Broadband \$29.95 ADSL and Cable monthly plans); and
- (ii) a discount of \$129 off the price of any other Telstra BigPond® Broadband installation option (excluding Bring Your Own Modem option) when that Student accepts Telstra's BigPond® Broadband ADSL or Cable terms and conditions and enters into a 24 month ADSL or Cable contract with Telstra. Bring Your Own Modem option applies to customers who choose to use their own Telstra approved ADSL modem when connecting to a Telstra BigPond® Broadband plan.

Although membership of MSA and SRCUS is compulsory for Monash University and University of Sydney students respectively, the proposed conduct may arguably (unless properly notified) contravene section 47(6) 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 Student to acquire a Telstra Internet Products at a discount which would not otherwise be available to that Student. This is particularly beneficial to Students who require internet products and services for their studies;
- encourage Telstra's competitors to develop similar offers in order to compete with Telstra which will increase the availability of competing discounts and offers on similar products for Students; and
- offer greater convenience for Students in their dealings with Telstra.

Impact on competition

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

- there will continue to be a wide choice available to Students and Students will be under no obligation to acquire a Telstra Internet Product;

3.

- Telstra Internet Products may still be acquired by Students at the usual prices without the requirement that the Students also acquire MSA or SRCUS Membership Services;
- there is a high degree of competition in the market for the supply of internet products and services to Students and there are many suppliers in the market;
- the proposed conduct is likely to affect only a comparatively small number of Students in the relevant market who acquire, or are likely to acquire, internet products and services;
- the relevant internet products and services are available from a range of alternate suppliers at competitive rates; and
- it is open for each of MSA and SRCUS to enter into similar arrangements with Telstra's competitors if they choose to do so.

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

Students who acquire Telstra Internet Products from Telstra.

(b) **Number of those persons**

Approximately 1161.

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

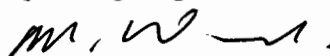
Not applicable.

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

Mr David Wenck, Blake Dawson Waldron Lawyers, Level 40 Riverside Centre, 123 Eagle Street, Brisbane, 4000. Telephone: (07) 3259 7219.

Dated 17/2/05

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.