

FILE No:
DATE:
MARGARET

21 December 2005

Manager
Adjudication Branch
ACCC
PO BOX 1199
DICKSON ACT 2602

Dear Manager

Notification of Exclusive Dealing- third line forcing

PRIMUS TELECOMMUNICATIONS PTY LTD lodges notification together with cheque for \$100.00 in payment of the lodgement fee.

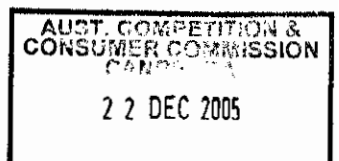
I note that AMS Rewards lodged notification N40707 in respect of the "Show Your Card and Save" (SYCS) program.

Please let me know if there are any queries.

Yours sincerely,



Gordon Dey
Corporate Counsel
Primus Telecom
Ph: 03 9923 3521
Fax: 03 9923 3333



N92288

FORM G

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 subsection 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 engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1. (a) Name of person giving notice:

Primus Telecommunications Pty Limited ACN 071 191 396 ("Primus").

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

Primus is a licensed carrier under the Telecommunications Act which, itself and through its Related Bodies Corporate, provides a range of telecommunications services, particularly telephony and internet access services.

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

*Mr Gerald Miller
Corporate Counsel
PRIMUS TELECOMMUNICATIONS PTY LTD
Level 3, 538 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:

- (1) *Internet access services and associated products and services supplied by Primus (Internet Services).*
- (2) *Telephony services and associated products and services supplied by Primus (Telephony Services).*
- (3) *Membership of Australian Motoring Clubs.*

(b) Description of the conduct or proposed conduct:

- (1) *Primus offers a range of Telephony Services and Internet Services with varying features, contract terms, and charges.*
- (2) *A person who is a member of an Australian Motoring Club as defined in the next paragraph may receive discounts on specified of Telephony Services and Internet Services by way of*

initial credit of up to \$50.00 off the first Primus monthly account and discounts of up to 5% off subsequent monthly accounts.

- (3) These arrangements are pursuant to an agreement between Primus and AMS Rewards Pty. Ltd. ABN 88 101 647 401 of Level 3, 131 Queen Street Melbourne which is a wholly owned subsidiary of Australian Motoring Services Pty. Ltd. ACN 100 488 613 whose shareholders are the following motoring clubs:
- Royal Automobile Club of Victoria (RACV) Limited
 - Royal Automobile Club of Queensland Limited
 - Royal Automobile Association of South Australia Incorporated
 - National Roads and Motorists Association Limited
 - Royal Automobile Club of WA Inc.
 - The Royal Automobile Club of Tasmania Limited
 - The Automobile Association of Northern Territory Inc; and/or
- their Related Bodies Corporate or any of their successors ("Australian Motoring Clubs").
- (4) Australian Motoring Clubs, through their "Show Your Card and Save" program ("SYCS") offer their members discounts and other benefits in respect of a large number of different types of goods and services, from many different vendors in different industries, including those available from Primus under the agreement referred to above.
- (5) The benefit of the arrangement to Australian Motoring Clubs is that SYCS provides a membership incentive for new and existing members.

Submission

As the discounts from Primus are conditional on the customer being a member of an Australian Motoring Club, it may be argued that the provisions of s 47(6) and 47(7) of the Trade Practices Act apply.

The conduct is unlikely to have any anticompetitive detriment in any market. It is submitted that there is no element of compulsion for persons to become members of an Australian Motoring Club or for persons to obtain Telephony or Internet Services from Primus, beyond the normal desire to obtain the best value when shopping for goods or services. Competition in the telecommunications industry is vigorous and there are many providers other than Primus who are able to provide similar services at attractive prices.

Primus submits that the public benefits of the arrangement outweigh any anti-competitive detriments and refers to the following extract from page 17 of the ACCC "Guide to authorisation and notification of third line forcing conduct"

"The Commission is unlikely to be concerned where potential purchasers have a genuine choice, based on quality and price, whether or not to purchase product A alone or to accept the supplier's third line forcing terms for the package of products A and B.

In particular, third line forcing conduct under which customers can buy the package of products A and B at a real saving on the total price of the products bought separately in competitive markets, has positive benefits in terms of competition and consumer welfare and would not be opposed by the Commission."

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

Members of an Australian Motoring Club and customers of Primus Telephony Services and Internet Services.

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

(i) At present time:

In excess of 50

(ii) Estimated within the next year:

Initially 1,500 to 2,000 per month increasing to 4,000 per month within 6 months.

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

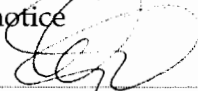
Not applicable

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

*Mr Gordon Ley
Primus Telecom
538 Collins Street
Melbourne, VIC 3000
Telephone: (03) 9923 3521*

Dated *21 December* 2005

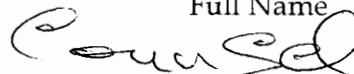
Signed by/on behalf of the person giving this notice



Signature

DONNAN GORDON LEY

Full Name



Description