

MALLESONS STEPHEN JAQUES

~~Confidential communication~~ ⁸

BY URGENT COURIER

19 July 2002

Mr Ken Walliss
Director
Australian Competition &
Consumer Commission
Level 35
360 Elizabeth Street
Melbourne, VIC 3000

Mr Greg Outzen
Australian Competition &
Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602

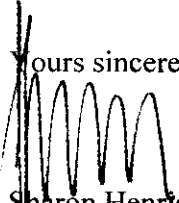
Dear Ken and Greg,

Telstra's third line forcing notifications - request for confidentiality

As discussed with Catherine Dermody today, we enclose an amended version of the non-confidential submission.

Please contact us if you have any questions, or if you require further information.

Yours sincerely



Sharon Henrick
Senior Associate
Direct Line +61 2 9296 2294
Email sharon.henrick@malleasons.com

Roger Featherston
Partner

MALLESONS STEPHEN JAQUES


~~Confidential communication~~

BY URGENT COURIER

15 July 2002

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition &
Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602

Mr Ken Walliss
Director
Australian Competition &
Consumer Commission
Level 35
360 Elizabeth Street
Melbourne, VIC 3000

Mr Greg Outzen
Australian Competition &
Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602



Dear Mr Grimwade

Telstra Corporation Limited and Telstra Pay TV Pty Limited - notifications to resell subscription television services together with Telstra's telephony and other telecommunications services

We act for Telstra Corporation Limited ("Telstra") and its subsidiary, Telstra Pay TV Pty Limited.

As foreshadowed in our meeting on Thursday, 11 July 2002 with Ross Jones, Ken Walliss, Greg Outzen and others in Melbourne, we enclose two related exclusive dealing notifications for lodgment, together with a cheque for the applicable lodgment fees of \$1,200.

We also enclose Telstra's submission in support of the two notifications. The submission contains confidential information that is not publicly available and for which Telstra claims restriction from publication. Telstra asks the Commission to keep confidential and restrict from publication those parts of the submission which have been marked as confidential. For the Commission's convenience, a copy of the submission from which the confidential information has been removed is also enclosed.

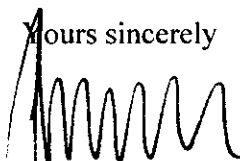
Please contact us if you have any questions, or if you require further information.

MALLESONS STEPHEN JAQUES

Australian Competition & Consumer Commission

15 July 2002

Yours sincerely



Sharon Henrick
Senior Associate
Direct Line +61 2 9296 2294
Email sharon.henrick@malleasons.com

Roger Featherston
Partner



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 proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

1. (a) Name of person giving notice:

Telstra Pay TV Pty Limited ("Telstra Pay TV") (ABN 65 095 931 614).

Telstra Pay TV is a wholly-owned subsidiary of Telstra Corporation Limited ("Telstra") (ABN 33 051 775 556). Telstra has lodged a related notification with the Commission.

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

Telstra Pay TV proposes to supply subscription television services to retail customers.

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

C/- Roger Featherston
Partner
Mallesons Stephen Jaques
Level 60, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

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

Telstra Pay TV proposes to offer and supply subscription television services. The services will be acquired by Telstra Pay TV from the FOXTEL Partnership ("FOXTEL"). FOXTEL has offered and supplied subscription television services to retail customers since 1995 and will continue to offer and supply such services to retail customers.

This notice also relates to various telecommunications services offered and supplied to retail customers by Telstra, including fixed-line telephony services, mobile telephony services and internet services.

(b) Description of the conduct or proposed conduct:

Telstra Pay TV proposes to offer and supply subscription television services, or to offer and supply such services at a discount, to retail customers who acquire telecommunications services from Telstra.

For the purposes of this notification, Telstra's retail customers are those customers who acquire less than 10 fixed line telephony services.

The telecommunications services offered and supplied by Telstra may include fixed-line telephony services (including pre-selection to Telstra for long distance telephony services), mobile and other telephony services, and internet services.

Telstra Pay TV initially proposes to offer and supply FOXTEL's subscription television services to retail customers who wish to participate in Telstra's Rewards Options programme. The current Rewards Options programme comprises:

- (i) a 5% discount off eligible services for customers who acquire a fixed-line telephony service which is pre-selected to Telstra together with either mobile telephony services or internet services from Telstra on a single bill; and
- (ii) a 10% discount off eligible services for customers who acquire a fixed-line telephony service which is pre-selected to Telstra together with mobile telephony services and internet services from Telstra a single bill.

The subscription television services offered and supplied by Telstra Pay TV will be another alternative in the Rewards Options programme. A customer, therefore, will be offered a 5% discount off eligible services, if the customer acquires a fixed-line telephony service which is pre-selected to Telstra and any one of the following services from Telstra or Telstra Pay TV (as the case may be) on a single bill:

- (i) mobile telephony services;
- (ii) internet services; or
- (iii) subscription television services.

If the customer acquires a fixed-line telephony service which is pre-selected to Telstra Corporation Limited and any two (or more) of mobile telephony services, internet services or subscription television services from Telstra or Telstra Pay TV (as the case may be) on a single bill, the discount would be 10% off eligible services.

Telstra Pay TV would not offer subscription television services to a retail customer unless the customer agrees to acquire some other telecommunications services (and probably at least a fixed-line telephony service pre-selected to Telstra) from Telstra.

The reasons why the benefits to the public from the proposed conduct clearly outweigh any possible detriment considered to arise from the proposed conduct are set out in the written submission provided in support of this notification and a related notification lodged by Telstra.

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

Retail customers of subscription television, telephony and other telecommunications services.

(i) **At present time:** None.

(ii) **Estimated within the next year:** Substantially greater than 50.

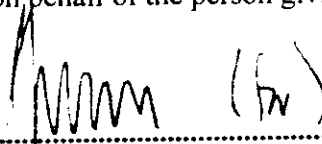
(b) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:** Not applicable.

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

Roger Featherston
Partner
Mallesons Stephen Jaques
Level 60, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Dated 15 July 2002

Signed on behalf of the person giving this notice



.....

Roger Graeme Featherston
Partner



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 sub-section 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 furnished 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 sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practice 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 sub-section 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 sub-section 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.

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 proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

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

Telstra Corporation Limited (ABN 33 051 775 556) ("Telstra").

Telstra Pay TV Pty Limited (ABN 65 095 931 614) ("Telstra Pay TV"), a wholly-owned subsidiary of Telstra, has lodged a related notification with the Commission.

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

Telstra is a telecommunications and information services company.

As is required by legislation, the Commonwealth Government of Australia owns 50.1% of the issued shares in Telstra. The remaining 49.9% of Telstra is widely held by members of the investing public (approximately, 1,859,438 stockholders as at 30 June 2002). Shares in Telstra are traded on the Australian Stock Exchange, the New Zealand Stock Exchange and the New York Stock Exchange.

Telstra owns all of the issued share capital in Telstra Pay TV. Telstra Pay TV does not yet carry on business, but proposes to commence shortly to offer and supply subscription television services to retail customers in accordance with the related notification which has been lodged with the Commission.

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

C/- Roger Featherston
Partner
Mallesons Stephen Jaques
Level 60, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

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

This notification relates to a range of telephony, internet and other telecommunications services offered by Telstra to retail customers. The telephony services may include fixed-line telephony services, pre-selection to Telstra for long-distance telephony services, mobile and other telephony services.

This notification also relates to FOXTEL subscription television services which will be offered and supplied by Telstra Pay TV.

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

Telstra proposes to offer and supply telecommunications services, or to offer and supply such services at a discount, to retail customers who acquire subscription television services from Telstra Pay TV.

For the purposes of this notification, Telstra's "retail" customers are those customers who acquire less than 10 fixed line telephony services.

Telstra initially proposes to offer and supply the telecommunications services to retail customers who wish to participate in Telstra's Rewards Options programme. The current Rewards Options programme comprises:

- (i) a 5% discount off eligible services for customers who acquire a fixed-line telephony service which is pre-selected to Telstra together with either mobile telephony services or internet services from Telstra on a single bill; and
- (ii) a 10% discount off eligible services for customers who acquire a fixed-line telephony service which is pre-selected to Telstra together with mobile telephony services and internet services from Telstra on a single bill.

The subscription television services offered and supplied by Telstra Pay TV will be another alternative in the Rewards Options programme. Therefore, a customer will be offered a 5% discount off eligible services, if the customer acquires a fixed-line telephony service which is pre-selected to Telstra and any one of the following services from Telstra or Telstra Pay TV (as the case may be) on a single bill:

- (i) mobile telephony services;
- (ii) internet services; or
- (iii) subscription television services.

If the customer acquires a fixed-line telephony service which is pre-selected to Telstra and any two (or more) of mobile telephony services, internet services or subscription television services from Telstra or Telstra Pay TV (as the case may be) on a single bill, the discount would be 10% off eligible services.

Telstra may refuse to offer or supply telecommunications services, or refuse to offer or supply such services at a discount, to retail customers who do not acquire subscription television services from Telstra Pay TV.

The reasons why benefits to the public from the proposed conduct clearly outweigh any possible detriment considered to arise from the proposed conduct are set out in the written submission provided in support of this notification and a related notification lodged by Telstra Pay TV.

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

Retail customers of subscription television, telephony and other telecommunications services.

(i) **At present time:** Nil.

(ii) **Estimated within the next year:** Substantially greater than 50.

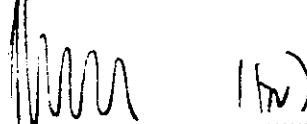
(b) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:** Not applicable.

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

Roger Featherston
Partner
Mallesons Stephen Jaques
Level 60, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Dated 15 July 2002

Signed on behalf of the person giving this notice



Roger Graeme Featherston
Partner



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- 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 sub-section 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 furnished 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 sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practice 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 sub-section 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 sub-section 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.