



**Australian
Competition &
Consumer
Commission**

Our Ref: C2006/392
Contact Officer: Gavin Jones
Contact Number: (03) 9290 1475

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
ph (02) 6243 1111
fax (02) 6243 1199
www.accc.gov.au

24 April 2006

Chris Engelhardt
Operations Manager
Intrust Super Fund
Ground Floor
GPO Box 2755
BRISBANE QLD 4001

Dear Mr Engelhardt

Re: Third line forcing notification N92390 lodged by Host-Plus (Qld) Pty Ltd

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (ACCC) on 17 February 2006. The notification has been placed on the ACCC's public register.

Host-Plus (Qld) Pty Ltd (**Host-Plus**) has described the conduct as follows:

Host-Plus (Qld) proposes to supply or offer to supply SuperClear, through Australian Administration Services Pty Ltd, to employers without charge if the employer meets the following criteria:

- chooses Intrust Super Fund as the Employer Fund (ie default fund under the choice of superannuation fund legislation for those eligible employees that do not exercise choice) and under the *Superannuation Guarantee (Administration) Act 1992* makes Superannuation Guarantee contributions to Intrust Super Fund in respect of those employees;
- has more than 20 employees;
- at least half of the employer's employees are members of Intrust Super Fund;



- provides contribution details and makes payments using one of Intrust Super Fund's electronic commerce options; and
- provides the minimum information needed to pass details of their payment to other funds within the applicable timeframes.

Legal immunity conferred by the notification commenced on 3 March 2006.

The ACCC has received notifications from other companies regarding arrangements similar to those described by Host-Plus. As is standard practice for all notifications relating to financial services, the ACCC has consulted the Australian Securities and Investments Commission (ASIC) in relation to these notifications. ASIC has advised the ACCC that it is considering any issues that may or may not arise under section 68A of the *Superannuation Industry (Supervision) Act 1993* (the SIS Act).

Section 68A of the SIS Act states:

- (1) A trustee of a regulated superannuation fund, or an associate of a trustee of a regulated superannuation fund, must not:
 - (a) supply, or offer to supply, goods or services to a person; or
 - (b) supply, or offer to supply, goods or services to a person at a particular price; or
 - (c) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply, or the proposed supply, of goods or services to a person;

on condition that one or more of the employees of the person will be, or will apply or agree to be, members of the fund.

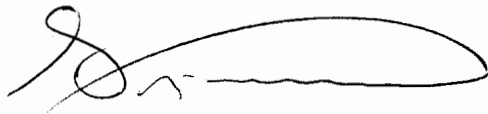
I note that section 68A(4) of the SIS Act provides for several exemptions to these provisions.

ASIC have recently advised that they are still considering whether the notified arrangements raise concerns under the SIS Act. The purpose of this letter is to advise that, while the ACCC does not intend to take any further action in relation to the notification at this stage, should ASIC raise concerns in relation to the application of section 68A of the SIS Act to the notified conduct, the ACCC would review the notification at that time. This is consistent with any notification where the ACCC may act to remove the immunity afforded by a notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

For your information, the ASIC officer dealing with this matter is Mark Bland. Mr Bland can be contacted on (03) 9280 3209. I have copied this letter to Mr Bland.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Gavin Jones on (03) 9290 1475.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Scott Gregson', with a large, sweeping flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch

C.C. Mark Bland, Section Manager, Superannuation, Life Insurance and Friendly Societies, Australian Securities and Investments Commission.