

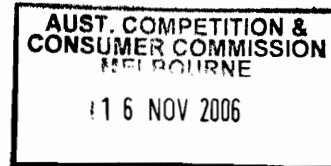
MALLESONS STEPHEN JAQUES

Regional Director
Australian Competition and
Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne Centre
Melbourne VIC 3000

| | |
|-------------|--|
| FILE No: | |
| DOC: | |
| MARS/PRISM: | |

16 November 2006

Caroline Coops
Partner
Direct line
+61 3 9643 4097



Dear Sir/Madam

Notification of Third Line Forcing Exclusive Dealing

We act for Telstra Corporation Limited ("Telstra").

We enclose for lodgement an exclusive dealing notification on behalf of American Express Australia Limited ("American Express") in relation to arrangements between Telstra and American Express, together with a cheque for the applicable lodgement fee of \$1000.

Please do not hesitate to contact me should you have any queries or comments.

Yours faithfully

Encls. 1

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 sub-section 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.

1. (a) Name of person giving notice:

American Express Australia Limited (ABN 92 108 952 085) ("**American Express**")

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

American Express conducts a payment services business, predominantly as an issuer of credit and charge cards and provider of merchant acquiring services.

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

C/- Caroline Coops
Mallesons Stephen Jaques
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000

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) telecommunications and related services supplied by Telstra Corporation Limited (ABN 33 051 775 556) ("**Telstra**") from time to time, including mobile and fixed telephony services, internet and data services ("**Telstra Products**"); and
- (ii) the supply of payment cards and related products and services by American Express to customers in Australia ("**American Express Products**").

(b) Description of the conduct or proposed conduct:

From time to time, American Express intends to:

- (i) supply or offer to supply an American Express Product (including supplying or offering to supply an American Express Product at a particular price), or give or allow or offer to give or allow a discount, allowance, rebate or credit in relation to the supply or proposed supply of an American Express Product, to customers on the condition that the customer will acquire or agrees to acquire one or more Telstra Products; or
- (ii) refuse to supply an American Express Product (including refusing to supply an American Express Product at a particular price), or refuse to give or allow a discount, allowance, rebate or credit in relation to the supply of an American Express Product to customers for the reason that the customer has not agreed to acquire one or more Telstra Products,

("Proposed Conduct").

No Detriment

American Express submits that there is no likely detriment to the public resulting from the Proposed Conduct, and that the Proposed Conduct would have a negligible effect on competition in the markets noted above in clause 2(a), for reasons that:

- (i) in the market for the provision of payment card products and services in Australia:
 - (A) the relevant market is highly competitive. Customers have a significant number of product options available to them, including charge and credit cards provided by Diners Club and American Express and credit or debit cards offered by all financial institutions on the Visa and MasterCard networks;
 - (B) payment card issuers compete in relation to a broad range of product dimensions including:
 - card fees;
 - interest rates;
 - interest free periods;
 - transaction fees;
 - member services; and
 - reward programs.
 - (C) the Proposed Conduct in no way limits the genuine choice of customers in choosing whether to obtain a payment card from American Express or any other payment card issuer, and the provision of, for example, a discount does not otherwise affect other qualities of the card, such as pricing.
- (ii) in the market for the supply of telecommunications and related services, including mobile and fixed telephony services, internet and data services in Australia:
 - (A) the market for the provision of telephony, internet and data services in Australia is highly competitive. A large number of companies offer telephony, internet and data services including Telstra, Optus, AAPT and iPrimus. There are a large number of competitive offers available to the public in respect of the provision of telephony, internet and data services at any given time. The Proposed Conduct is pro-competitive as it will assist Telstra in offering a different and competitive offer in a market that is widely recognised as being highly competitive; and
 - (B) the Proposed Conduct will not lessen competition as customers will be under no obligation to acquire American Express Products and customers will be able to acquire Telstra Products at the usual prices without acquiring any American Express Products.

Net Benefit

The Proposed Conduct also offers significant benefits to customers by giving them the opportunity to obtain a benefit from American Express if they intend to purchase products services from Telstra.

For the reasons set out above, the applicant believes that the benefits from the Proposed Conduct will outweigh any possible detriment arising from the Proposed Conduct.

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

The public generally.

(b) Number of those persons –

(i) At present time:

Not applicable.

(ii) Estimated within the next year:

Not applicable.

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

Not applicable.

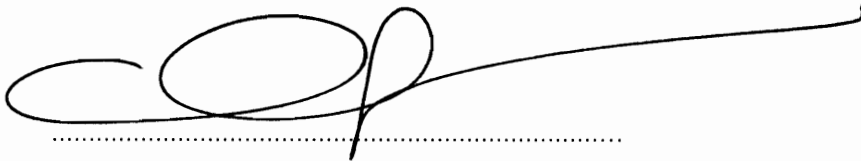
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

C/- Caroline Coops
Mallesons Stephen Jaques
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000

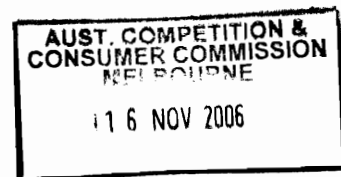
Tel: (03) 9643 4097
Fax: (03) 9643 5999
Email: caroline.coops@mallesons.com

DATED 16 November 2006

SIGNED for and on behalf of **American Express Australia Limited** ABN 92 108 952 085



Caroline Coops
Solicitor



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 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 sub-section 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 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.