



**Australian
Competition &
Consumer
Commission**

Our Ref: N92702 & N92703
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1 December 2006

Ms Caroline Coops
Partner
Mallesons Stephen Jacques
Level 50, Bourke Place
600 Bourke Street
MELB VIC 3000

Dear Ms Coops

**Third line forcing notifications Nos N92702 & N92703
lodged by Telstra Corporation Limited (Telstra) and American Express Australia
Limited (American Express)**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 16 November 2006. These notifications have been placed on the ACCC's public register.

American Express (N92703) has described the conduct as follows:

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.

Telstra (N92702) has described the conduct as follows:

From time to time, Telstra intends to:

- i. supply or offer to supply a Telstra Product (including supplying or offering to supply a Telstra 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 a Telstra Product, to customers



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

Legal immunity conferred by the notifications commenced on 30 November 2006.

The ACCC notes that the notified conduct has been described in very general terms. In order to assist the ACCC's assessment of these notifications, the ACCC requests that the notifying parties' provides responses to the following questions.

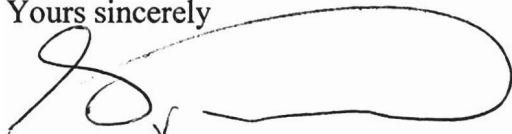
1. As worded above, the proposed conduct appears to provide scope for Telstra to only supply (or refuse to supply) products on condition that a customer also purchase one or more American Express products. Can Telstra clarify whether this is the intention of the above wording?
2. As worded above, the proposed conduct appears to provide scope for American Express to only supply (or refuse to supply) products on condition that a customer also purchase one or more Telstra products. Can American Express clarify whether this is the intention of the above wording?
3. Can Telstra provide specific examples of the types of products intended to be included in the above offers and the level of discount, allowance, rebate or credit likely to be attached to these offers?
4. Can American Express provide specific examples of the types of products intended to be included in the above offers and the level of discount, allowance, rebate or credit likely to be attached to these offers?

Please note that the ACCC may act to remove the immunity afforded by the notification 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.

I look forward to receiving your response to these questions, if possible, by **8 December 2006**.

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 Ms Tina Pigliardo on (03) 9290 1481 or at tina.pigliardo@acc.gov.au or Mr Gavin Jones on (03) 9290 1475 or at gavin.jones@acc.gov.au.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch