

15 February 2006

The Manager  
The Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602

Ground Level,  
348 Edward Street, Brisbane  
GPO Box 2755, Brisbane, Qld 4001  
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FILE No:
DOC:
MARS/PRISM:

Dear Sir

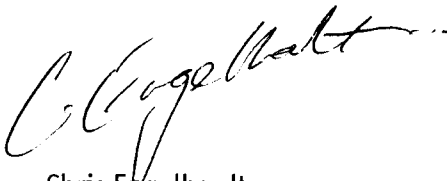
**Form G – Exclusive Dealing: Notification**

Please find attached a Form G Exclusive Dealing Notification for your consideration.

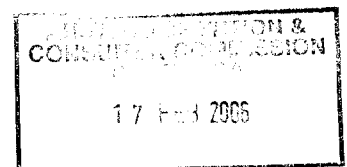
Also attached is a cheque for \$100 being payment of the lodgement fee for the above Notification.

Do not hesitate to contact me (phone: 07 3013 8711 or email: [cengelhardt@intrust.com.au](mailto:cengelhardt@intrust.com.au)) if I can be of any further assistance.

Yours sincerely



Chris Engelhardt  
Operations Manager



N92390

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 engaged or proposes to engage.

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

Host-Plus (Qld) Pty Ltd ACN 010 814 623

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

Host-Plus (Qld) Pty Ltd ACN 010 814 623 is the trustee of Intrust Super Fund, a Queensland based industry superannuation fund for the hospitality and tourism industry. Host-Plus (Qld) Pty Ltd operates only in that capacity.

Australian Administration Services Pty Ltd (AAS) has been engaged by Host-Plus (Qld) Pty Ltd to provide administration services for Intrust Super Fund.

AAS is a superannuation fund administrator. AAS also provides a superannuation clearing house facility (**SuperClear**) consisting of transaction processing, receipt and allocation of contributions to chosen funds.

AAS is a wholly owned subsidiary of KAZ Group Limited (ACN 002 124 405), an information and communications technology company which is a wholly owned subsidiary of Telstra Corporation Limited (ACN 051 775 556).

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

Chris Engelhardt  
Operations Manager  
Intrust Super Fund  
Ground Floor  
348 Edward Street  
Brisbane Qld 4000

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

This notice relates to the provision of superannuation clearing house services through AAS and subsequently SuperClear to employers in Australia (predominantly in Queensland) to assist employers that are required to make contribution payments to more than one fund.

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

Host-Plus (Qld) Pty Ltd proposes to supply or offer to supply SuperClear, through AAS, 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* (SSGA) makes Superannuation Guarantee contributions to Intrust Super Fund in respect of those employee;
- 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 (this is required to making using the SuperClear facility feasible); and
- provided the minimum information needed (also required to making using the SuperClear facility feasible) to pass details of their payment to other funds within the applicable timeframes.

It is not at all clear to Host-Plus (Qld) Pty Ltd whether the conduct in question will amount to third line forcing; however, this notification is made to remove any uncertainty in this regard.

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

The conduct relates to actual and potential employers registered with Intrust Super Fund wishing to engage AAS to provide superannuation clearing house services in respect of the administration of their superannuation contributions to chosen funds for employees.

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

**(i) At the present time:**

Nine employers

**(ii) Estimated within the next year:**

Not likely to exceed 25 employers.

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

Intrust Super Fund has over 4,000 registered participating employers. The above estimate is based on experience and interest from clients. These employers are likely to be medium size businesses (ie employing 10 to 100 staff). Further details can be provided if required.

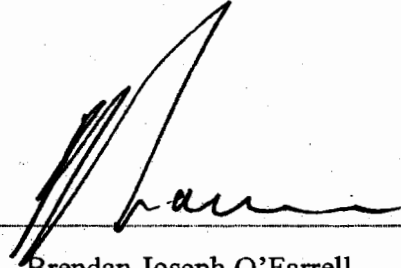
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**

Chris Engelhardt  
Operations Manager  
Intrust Super Fund  
Ground Floor  
348 Edward Street  
Brisbane Qld 4000

**DATED**

15<sup>th</sup> February 2006

**SIGNED** on behalf of the applicant

A handwritten signature in black ink, appearing to read 'B. O'Farrell', is written over a horizontal line. The signature is stylized and cursive.

Brendan Joseph O'Farrell

Company Secretary

ANNEXURE 1  
SUBMISSION BY HOST-PLUS (QLD) PTY LTD  
IN SUPPORT OF A NOTIFICATION UNDER SECTION 93(1)  
OF THE TRADE PRACTICES ACT 1974

1. **Background**

- 1.1 Host-Plus (Qld) Pty Ltd is the trustee company for Host-Plus Queensland, an industry superannuation fund established in 1988 by the Queensland Hotels Association and Liquor, Hospitality and Miscellaneous Workers Union – Queensland branch. The Fund changed name to Host Super in 1998 and subsequently to Intrust Super Fund in 2003.
- 1.2 Intrust Super Fund currently has approximately 130,000 employee members and receives contributions from 4,000 employers on a regular basis.
- 1.3 Host-Plus (Qld) Pty Ltd has used Australian Administration Services Pty Ltd (AAS), or its predecessors, to provide administration services since the Fund was established. In this role, AAS is the Fund's primary service provider managing the day to day contact with the employee and employer members and the associated processing.
- 1.4 In September 2003, AAS launched its superannuation clearing house facility, SuperClear. SuperClear is an on-line facility which allows employers to remit and pay superannuation contributions. In July 2005, AAS expanded SuperClear, to accommodate 'Choice of Funds', to include additional payment options to enable processing of contributions to multiple chosen funds via a central entity point. Host-Plus (Qld) Pty Ltd decided to offer employers SuperClear as it offered processing and cost advantages over alternative providers.
- 1.5 Recent amendments to the *Superannuation Guarantee (Administration) Act 1992* (SGAA) (effective from 1 July 2005), allow employees to choose the superannuation fund into which their employer's superannuation contributions are paid (**chosen fund**). Where an employee has not selected a chosen fund, an employee will need to make the contribution for that employee to a fund which satisfies the legislative requirements in relation to insurance for the employer (**default fund**).
- 1.6 The superannuation clearing house services provided by Host-Plus (Qld) Pty Ltd, through AAS, to employers include:
- identification of the employees' chosen funds and the contribution amounts payable;
  - receipt and allocation of the total amount payable to each chosen fund; and
  - arranging for payment of superannuation contributions by employers.
- 1.7 Host-Plus (Qld) Pty Ltd supplies and proposes to supply or offer to supply SuperClear, through AAS, to employers without charge if the employer meets basic criteria as outlined in the Notification.
- 1.8 Host-Plus (Qld) Pty Ltd anticipates that this offer will be available indefinitely.

**2. Market**

2.1 The market in which the proposed conduct relates is the market in Australia for superannuation clearing house services provided to employers in respect of the payment and allocation of employee superannuation contributions.

**3. Analysis of the Conduct**

3.1 It is not at all clear to Host-Plus (Qld) Pty Ltd whether the conduct in question will amount to third line forcing. In particular, it is unclear whether an obligation to meet the criteria outlined in the Notification could be characterised as a requirement on the employer to acquire services from Host-Plus (Qld) Pty Ltd. However, this notification is made to remove any uncertainty in this regard.

3.2 Once an employer has commenced contributing to Intrust Super Fund for its employees, the employees become a beneficiary of the Fund. The Fund clearly provides a service to employees in relation to their superannuation monies and it is unlikely that the Fund could be said to provide 'services' to employers.

3.3 If the conduct in question does amount to exclusive dealing within section 47(6) and 47(7) of the *Trade Practices Act*, Host-Plus (Qld) Pty Ltd submits that there is a significant public benefit to employers and there is no likely anti-competitive effect and, therefore no public detriment, resulting from the conduct described in Form G.

The conduct requires employers to have Intrust Super Fund as their default fund in order to receive the services free of charge, but does not make purchase contingent on nominating Intrust Super Fund as the default fund. Additionally, the conduct does not compel employers to acquire services from any third party.

3.4 The proposed conduct offers significant benefits to employers in that:

- (a) the conduct provides employers a cost efficient and effective system of distributing an employer's superannuation contributions to a number of different funds through a superannuation clearing house;
- (b) the SuperClear clearing house relieves employers of the administrative burden and resources of having to calculate and direct contributions to the appropriate chosen fund;
- (c) the obligation on an employer to nominate Intrust Super Fund where its employee did not have a nominated fund, allows the employer the opportunity to use SuperClear providing a potential cost benefit and time saving to the employer; and
- (d) the SuperClear facility is likely to only be available at a cost to employers if the criteria outlined in the Notification is not applied. Such an impost would either increase costs or lead to increased administration as applicable employers sought alternative (manual) arrangements.

3.5 The proposed conduct does not have the effect of substantially lessening competition in any market. There are a number of superannuation funds that operate in the general market or that target employers and employees in the hospitality industry that offer similar clearing house arrangements. Further, funds are usually selected on the basis of investment performance, fees, insurance options, service levels, etc.