

29 October, 2007

Ms Gina D'Ettori
Acting Assistant Director
Australian Competition and Consumer Commission (ACCC)
Level 9, 313 Latrobe Street,
Melbourne VIC 3000

Dear Ms D'Ettori,

**Exclusive dealing
Notification N90330- Wentworth Courier 1993 Notification**

Red House Media Group (RedHouse) respectfully requests that the Commission review the above Notification and that it's the submission of RedHouse that the ACCC should revoke the immunity conferred on the current publishers of the Wentworth Courier ("Courier").

It is our belief that RedHouse's entry into the publishing of an Eastern Suburbs Magazine (ESL) has been hindered substantially as a competitive product to the Courier due to immunity provided by the ACCC.

RedHouse and its associated companies has been a publisher of real estate magazines, currently producing three titles, for over five years. We have published four editions of the title ESL. RedHouse is a marketing company presenting Real Estate Agents (Agents) and their properties to the real estate consumer market. We currently provide advertising and marketing support to over 1200 Agents.

Our original publication launch date of ESL was to have been in June 2007 however, it was delayed to October 2007. This action was as a direct result of market response to the Courier contracts with Agents. The vast majority of Agents feared to participate in ESL due to being under the contractual dominance exercised by the Courier. In particular several issues came to light:

1. *"75% of the total advertising centimetre volume placed"*
2. *"they will not recommend to or induce any Vendor/client to place any real estate display advertisingin any newspaper other than the newspaper; and"*
3. *"they will not engage or attempt to engage or introduce any Vendor /client of the Advertisers to any third party.....without the prior written permission of the Partners,"*

Consequently we had to withdraw and consider the severity of the contractual arrangements along with its affect on our ability to build confidence within the market area and subsequent advertising participation in ESL.

We believed we had acquired adequate support from an adequate number of Agents to sustain our publishing program of ESL and therefore commenced publishing on 10 October 2007. We have just delivered our fourth issue into the market. ESL is delivered "door to door" and FREE to market.

RedHouse through ESL is offering the market several competitive advantages as set out herein:

1. Price to consumers at approx 40% less than the Courier
2. Higher standard of production
3. Larger print quantity
4. Higher standard of editorial and lifestyle subject material
5. Broader opportunity for Agents advertising lower valued properties
6. Increase the life of a property marketing campaign
7. Provide an affordable advertising vehicle for smaller Agents to compete

8. Broader distribution footprint i.e. distributed over the same area in eastern suburbs as the Courier with additional areas and general consumer outlets such as McDonalds' Family Restaurants stores etc, *and*
9. Rebates on volume advertising equally provided for all Agents

Under advice we had challenged the validity of the contractual arrangements of the Courier under the Trade Practices Act in the market place, unaware of the indemnity provided by the ACCC in 1993.

It is our belief that we have been constrained in receiving support due to the pressure applied to Agents in respect to their contractual arrangements with the Courier. It is now obvious that the Courier has the legal right to exercise that pressure due to the indemnity.

We understand from our conversations with many Agents within the Courier's area that they were compelled to sign the Courier contracts, and in some cases honour them verbally in order to obtain discounted advertising rates and not be hindered by an imposed embargo on price. The current "rack rate" of \$5,160.00 is discounted to approximately \$3,960.00 including GST.

In the event that an Agent supports our product at a price of \$2,240 including GST, they face the very real prospect that they could be charged the "rack rate" in the event that the Vendor requests participation in the Courier or if we were to fail in our publishing program. This could be considered to be a standard competitive environment and one would expect that given parity in the product that competitive pricing would command results. Not the case, the additional components within the contract further pace an unfair competitive advantage to the Courier.

The indemnity provided by the ACCC to the Courier enables it to exercise continued market pressure unparalleled in any other market.

Additionally the Agents, given they represent ESL to Vendors, are faced with the prospect of being challenged by the Courier for breach of contract. This would allow the Courier to discuss the Agents arrangements with Vendors direct, resulting in embarrassment and potentially undermining their commercial arrangements. This condition within the contract and its protection under the indemnity provides an unfair advantage to the Courier and further prevents fair competition as they position themselves to apply this additional pressure on the market.

Notably ESL has been hindered by the Courier and their embargo on an Agents ability to take ESL to Vendor market appraisals. Examples of this is ESL has offered FREE advertising to over fifteen Agents only to be rejected in order to avoid confrontation with the Courier.

There are historical examples where the Courier has exercised these actions in the past, auditing advertising space purchased by Agents outside the contract, placing an embargo upon that particular Agent and therefore effectively preventing the introduction of competitive products.

Magazines or for that matter newspaper advertising is a significant component of the property marketing program for Agents and therefore a significant cost. The Agent would then suffer the risk of loosing a Vendor listing to a competitor Agent who has signed the Courier contracts and therefore has access to the discounts.

Given prior knowledge of the indemnity RedHouse may well have taken the decision not to publish in the eastern suburbs and compete with the Courier. Our position was that we felt the contracts were in principle a breach under the trade practices act, an opinion held by most Agents and that we should not be bullied into withdrawing from a market where we can deliver advantages to both consumers and Agents alike.

REDHOUSE

media group

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The indemnity does explain the brash approach by the Courier and its current success in maintaining market share.

RedHouse believes the contracts are a very effective competition barrier and a significant constraint on competition regardless of the market benefits, including but not limited to price, offered by RedHouse as a competitor to the Courier.

RedHouse respectfully requests that the Commission take the above issues into account when determining whether the Notification should be revoked.

Please contact me if there is other information you would like us to provide.

Yours sincerely



Michael Canty
Managing Director

REDHOUSE
media group

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“We are in the business of marketing real estate”

The Dynamics of Selling Real Estate and the Hidden Forces at Play

As this first issue of homesguide hits the streets, I thought it would be opportune to share with you some of the many insights that came to the fore when researching and developing the model for the introduction of easternsuburbsliving magazine.

Our brand homesguide is an established brand in the NSW real estate, market having three publications and an active property website homesguide.com.au. To date, the Eastern Suburbs real estate advertising market has been somewhat limited in its variety. There is the suggestion that it has been under the controlling cloud of one particular publisher for a number of years.

Wentworth Courier

View the complete digital edition of The Wentworth Courier. [Click here!](#)

Winner: Best Community Newspaper of the Year
Community Newspaper with a circulation over 40,000, Community Newspapers of Australia (Northern Division) awards.

Affectionately known as the "Bible of the Eastern Suburbs", the Wentworth Courier captures more readers in the area than any other publication. Established in 1947 and with unrivalled circulation and reach, this Sydney's most desirable suburbs, the Wentworth Courier is well established and highly regarded by its readers and advertisers. Its property section is recognised internationally.

Target Market

Our readers are affluent and well educated and can be segmented into two distinct groups. The first, aged 35 to 45 years, female and male working

The area's most dominant publication, The Wentworth Courier, refers to itself openly on its website as being "affectionately known as the 'Bible of the Eastern Suburbs'"

However, when their contractual arrangements with local real estate agents recently came

to light, I felt obliged to question their association with the 'good book' for the sake of vendors and real estate agents.

If you haven't heard about homesguide until now, it is more than likely because your local agent has been restricted in what they are allowed to offer because of these arrangements with the local publisher. Agents have become fearful of the consequences of breaching these arrangements – despite the fact that they are in clear violation of the Trade Practices Act. The restraints

imposed are detrimental to you and agents alike, and have been this way for a long time.

Here are just two extracts from the contract that explicitly show how one publisher is monopolizing the market:

1A.1 In consideration of the offering by the Partners of the reduced advertising rates and charges set forth in paragraph 2 below, the Company and the Directors (individually and collectively referred to as the Advertisers) agrees to place or cause to be placed each year during the term of this Deed, 75% of the total advertising centimetre volume placed by the Advertisers themselves, by any entity established by or associated with the Advertisers or by any person engaged or recommended by the Advertisers to place their or their vendor/client's advertising, in the form of real estate display advertising with the Newspaper in respect of properties located in the Eastern Suburbs (as outlined in the maps

1C.2 Without limiting the generality of clause 1C.1, the Advertisers covenant that:

- (a) they will not recommend to or induce any vendor/client to place any real estate display advertising referred to in clause 1A.1 in any newspaper other than the Newspaper; and
- (b) they will not engage or attempt to engage or introduce any vendor/client of the Advertisers to, any third party for the purpose of marketing or advertising the vendor/client's property except in accordance with clause 7, without the prior written consent of the Partners,

The outcomes of these clauses directly affect you and result in unnecessarily high advertising rates due to competitor control.

At homesguide we pride ourselves as supporters of a FREE MARKET - not a controlled one. We have a responsibility to provide the best products that deliver results, at the best prices.

So if you are currently selling property, or intend to do so, take a good look at all of your options. Question your agent, their advertising strategies, and the motives

behind their strategy. Use your instinct to decide on the marketing program that will best serve your interests. I reassure you that homesguide works to serve your needs. Advertising in homesguide will be one of the best investments you'll make all year! Let me explain why.

HISTORY

We are well respected publishers.

When we researched the prospect of publishing our high quality magazine, homesguide, it was clear that we had the ability to deliver a higher standard product, including articles and information, which would be of value to local readers.

Our challenge was to provide value to our advertisers, build on the confidence level we have already achieved within the real estate profession and deliver results to vendors who put both their trust and hard earned savings into selling their most prized possession: the home.

THE ECONOMICS

The economics are simple. Our advertising rates provide a 40% cost benefit to vendors. As a seller, this means your marketing budget is largely freed up so you have greater control over how your money is spent.

Essentially this gives you three options: you can advertise in homesguide and simply save a considerable amount of money; you can extend your selling campaign over a longer period; or alternatively upgrade the style of your advertisement to make the presentation of your home much more appealing to prospective buyers – a fundamental rule in effective print advertising.

Vendors with lower property values, who were limited in their opportunity to advertise because of inflated rates, will now be able to afford to market their property in homesguide.

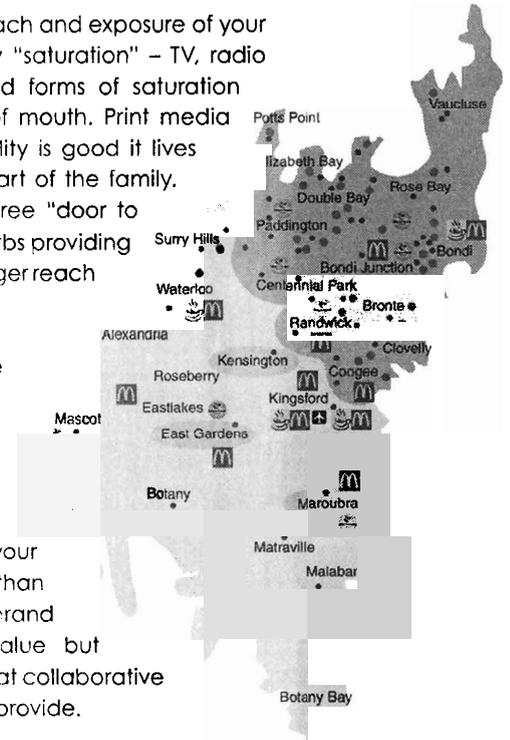
	homesguide	Wenworth Courier
Advertised Page Cost	\$2,240.00	\$5,173.00
	56% cost saving	
Distribution	55,000	48,318
	13% larger distribution	

source: media kits online as 5.10.07

THE REACH

How can you maximize the reach and exposure of your property? The best form is by "saturation" – TV, radio and web sites provide limited forms of saturation that is dependent on word of mouth. Print media is more personal – if the quality is good it lives in the home and becomes part of the family. Our publication is delivered free "door to door" across the Eastern Suburbs providing saturation with a wider and larger reach than our competitor.

This distribution map shows the reach of homesguide.



Be careful not to get caught up on spending money that indirectly is more effective at marketing the brand of your real estate agent rather than your property. Some of the brand magazines provide good value but they do not meet the reach that collaborative publications like homesguide provide.

Electronic delivery via web sites is inexpensive and most agents will encourage you to participate on most if not all sites. Our web site www.homesguide.com.au will provide one of the best platforms available. Importantly, it is the relationship between the magazine and the website that stimulates response by prospective buyers.

Our relationship with the Real Estate profession.

As publishers of three homesguide magazines we have been a professional service provider to the real estate industry for over 5 years. We have an established track record of successful real estate marketing, providing a host of marketing tools, supported with expertise, to real estate agents and property owners alike.

easternsuburbsliving comes out from under a cloud.

All we ask is that you consider our products when you take your property to market.

Michael Canty
Managing Director

