



ESTATE AGENTS  
CO-OPERATIVE LTD.

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Dear Mr. Gregson.

Please find attached a copy of our submission forwarded on 2 November, in regard to Notification N90330.

We have not received acknowledgement of receipt and appears may not indeed have been received by you.

Thank you for the opportunity to put forward our views.

Yours sincerely

John Carson

5/12/2007

*with compliments*



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2<sup>nd</sup> November 2007

Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
Level 35 The Tower, 360 Elizabeth Street  
Melbourne VIC 3000

Dear Mr. Gregson,

**Re: Exclusive dealing Notification N90330**

We refer to the above matter and enclose our submission on behalf of the Estate Agents Co-operative Pty Ltd.

In our New South Wales wide dealings with the real estate industry, we are aware, through our existing publications published for and on behalf of real estate agents, that there is anti competitive behaviour undertaken by the larger publishers and it is not just restricted to the Eastern Suburbs of Sydney.

With reference to Notification N90330, the Estate Agents Co-operative has sought to develop a publication for the real estate agents in the Wentworth Courier footprint in order to provide them with a cost effective, high quality industry alternative.

Our findings have been:

- a) a fear amongst agents to speak out about the way they are being forced to advertise at exceptionally and unnecessarily high prices (for fear of "retribution"); and
- b) that they cannot support another publication with more than 25% of their advertising spend due to the restrictions that their Wentworth Courier contracts place upon them. If they were to, they have been told their prices will increase from the \$3,000 to \$3,500 they are currently paying to the 'rack rate' of \$5,295. This is an exceptionally high price for a circulation of 47,550 (the EAC publishes the Illawarra Realtor which is a 70,000 circulation gloss publication and its page rate is \$990).

With Fairfax Media now dominating rural and regional New South Wales and News Ltd dominating Sydney, the contracts in place by the Wentworth Courier prevent any competition from being effective or importantly supported by the real estate industry.

The vendors are greatly disadvantaged as they are being asked to fund the cost of advertising and, with a monopoly in place for real estate advertising, they are as disadvantaged as the real estate agents who have no alternative but to place their advertising in the Wentworth Courier in order to secure the better rate – a rate that in our opinion is excessively high.

Based upon our calculations, we estimate the Wentworth Courier to carry on average 250 to 300 pages of real estate advertising each week. The publication in one week alone can generate in excess of \$1,000,000 of real estate advertising revenue. In spite of this and as a result of its monopoly status, the Wentworth Courier has reduced its page size in order to further increase their profit – at the expense of the vendor and real estate agent – yet this print and paper saving has not been passed onto the vendor and the agent – in fact the prices have been increased not decreased. This would not occur in a competitive market place. However it appears that Wentworth Courier it is able undertake this here because it is safe in the knowledge that there is not one competitor, due to the anti competitive contracts in place with the real estate agents.

With regard to 'out of area' agents being able to advertise in the Wentworth Courier, the out of area agents are not under the same restrictive contracts the Eastern Suburbs agents are and do not receive rebates for their advertising. Therefore any argument that the Wentworth Courier does not restrict agents from advertising properties that are within their footprint is spurious.

The ESN Advertising contract by not restraining real estate agents from advertising in other forms of media such as promotional mailings and the internet is again, in our opinion, irrelevant. Real estate agents see print as being essential for branding and listings. Real estate agents control the content and if they were all to place their content in a new publication tomorrow, the consumer would follow. What is occurring in the Eastern Suburbs is that such are the restrictions and so anti competitive in nature is the contract held by the Wentworth Courier with the agent, that the agents do not have the choice and believe that until the unfair contracts are removed will never have the choice. This means that the vendor is also limited in choice – they can only advertise their property in print and they cannot pay less than that rate which is dictated to the agent by the contract that is in place with the agent.

Door drops and the internet are not viable competitors to the Wentworth Courier. If they were, the Wentworth Courier would not be able to charge the page rate it does.

We ask, indeed urge the ACCC to rescind the approval of the exclusive dealing notification and to open the Eastern Suburbs for fair and level competition whereby the agents are able to select the publication of their choice – as this would encourage competition – and, probably of more significance, enable the vendors to save thousands of dollars when promoting their properties for sale.

Should we be able to assist further please do not hesitate in contacting the writer at any time.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John G Carson', with a long, sweeping underline.

John G Carson  
Company Secretary