



Our Ref: C2007/25  
Contact Officer: Gavin Jones  
Contact Number: 03 9290 1475

GPO Box 520  
Melbourne VIC 3001  
  
Level 35 The Tower  
360 Elizabeth Street  
Melbourne VIC 3000  
  
ph (03) 9290 1800  
fax (03) 9663 3699  
  
[www.accc.gov.au](http://www.accc.gov.au)

27 June 2007

Ms Colleen Platford  
Partner  
Gilbert and Tobin  
GPO Box 3810  
SYDNEY NSW 2001

C.C. Mr Ian Philip  
News Limited  
GPO Box 4245  
SYDNEY NSW 2001

Dear Ms Platford

**Exclusive dealing Notification N90330 lodged by General Newspapers Pty Limited, Double Bay Newspapers Limited and Brehmer Fairfax Limited**

I refer to the above exclusive dealing notification lodged with the Trade Practices Commission, now the Australian Competition and Consumer Commission (the ACCC), on 12 November 1993 by General Newspapers Pty Limited, Double Bay Newspapers Limited and Brehmer Fairfax Limited, trading as Eastern Suburbs Newspapers (ESN).

The notification concerns real estate agents contracting with ESN for the provision of real estate display advertising in respect of property located in the eastern suburbs of Sydney. The contracts require that real estate agents agree to place 75% of their total advertising centimetre volume, in respect of real estate display advertising for property located in the eastern suburbs of Sydney, with the Wentworth Courier (the 75% requirement).

A copy of the notification was provided to you with the ACCC's letter of 15 January 2007. That letter also noted concerns raised with respect to the notified conduct by John Fairfax Holdings Limited.

Your response of 9 March 2007, provided by Luke Woodward of your office, advises that ESN continues to enter into advertising contracts on substantially the same terms as notified in 1993, and continues to rely on the protection afforded by the notified conduct in doing so.



As you are aware the ACCC may revoke a notification involving exclusive dealing conduct other than third line forcing if it is satisfied that the notified conduct will substantially lessen competition and the public benefits will not outweigh the anti-competitive detriments resulting from the substantial lessening of competition.

As discussed with Gavin Jones of this office on 19 June 2007, having considered the concerns raised with it, the ACCC has decided to review the notification.

To assist in its review of the notification, the ACCC has commenced a public consultation process. Please find attached for your information a copy of the letter the ACCC sent to potentially interested parties (real estate agents) requesting submissions in respect of the notification. The ACCC has also written to other Sydney suburban newspaper publishers requesting submissions. Copies of these letters have been placed on the ACCC's public register will be made available on the ACCC website [www.accc.gov.au](http://www.accc.gov.au).

All public submissions will be placed on the public register and will be made available on the ACCC website. At the end of the consultation period, we will also provide you with a copy of all publicly available submissions received.

To assist the ACCC in its consideration of the notification, in addition to any comments you may care to make with respect to the notified conduct, I would appreciate if you would provide the following information:

1. Is all real estate display advertising in the Wentworth Courier subject to the 75% requirement? That is, does the Wentworth Courier accept display advertising from real estate agents who do not agree to place 75 % of their total advertising centimetre volume, in respect of real estate display advertising for property located in the eastern suburbs of Sydney, with the Wentworth Courier?
2. If the Wentworth Courier does accept real estate display advertising that is not subject to the 75% requirement from some real estate agents, are all real estate agents offered the opportunity to advertise without being subject to the requirement? If not, on what basis does the Wentworth Courier decide which advertisers will and will not be required to abide by the 75% requirement?
3. If the Wentworth Courier does accept real estate display advertising that is not subject to the 75% requirement, what additional incentives are offered to real estate agents that agree to the 75% requirement? In providing details, please distinguish between volume rebates, that is, rebates based on the dollar value of advertising placed, and rebates or other incentives offered which are specifically linked to the 75% requirement. Please also provide details, if relevant, of any volume rebates or other incentives offered to real estate advertisers who enter into agreements with the Wentworth Courier that are not subject to the 75% requirement.
4. A list of real estate agent advertisers with whom ESN currently contracts for the supply of real estate display advertising in the Wentworth Courier. If not all advertisers are subject to the 75% requirement, please provide details of those who are and are not.

5. A copy of a current indicative contract between ESN and real estate agents where the 75% requirement applies.
6. Details of any complaints received from real estate agents regarding the 75% requirement.
7. To the extent that this information is available to ESN, the share of total print media real estate display advertising placed with ESN community newspapers, other community newspapers and daily newspapers (such as Domain in the Sydney Morning Herald) in each of the following areas of Sydney: the eastern suburbs; inner west; northern Sydney and southern Sydney.
8. Details of advertising rates for real estate display advertising in the Wentworth Courier and other ESN and/or News Limited publications distributed in suburban Sydney, including both free community newspapers and daily newspapers.
9. Copies of any internal documents (including minutes, emails or proposals) which discuss the development, amendment to, or maintenance of the requirement for real estate agents to place 75% of their total advertising centimetre volume, in respect of real estate display advertising for property located in the eastern suburbs of Sydney, with the Wentworth Courier
10. Any other comments you wish to provide in relation to whether you consider that the notified conduct substantially lessens competition and the public benefits and anti-competitive detriments resulting from the notified conduct.


Please provide this information by **Wednesday 18 July 2007**.

You may request that information included in your response be excluded from the ACCC's public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of a notification. Guidelines for seeking exclusion from the public register are attached for your information.

This letter has been placed on the public register.

If you have any questions relating to this matter, please do not hesitate to contact Gavin Jones on 03 9290 1475.

Yours sincerely

  
F Scott Gregson  
General Manager  
Adjudication Branch