

15 June 2016

Mr David Hatfield
Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA VIC 2601

Dear Dr Hatfield,

Re: ISSUES IN REAL ESTATE ADVERTISING MARKET

We write to the ACCC to additionally respond to submissions made by the publishers of the websites *realestate.com.au* ('REA') and *domain.com.au* ('Domain'), (together referred to as the 'Publishers') regarding an application to authorize collective bargaining and collective boycott lodged by Property Media Group Pty Ltd (PMG).

Each of the agents named below shares grave concerns over the influence and control held by the Publishers and the negative impact that is having on Australian home owners and small business within the residential property market.

Collectively, we are members or franchisees within [REDACTED]
[REDACTED] These agency networks incorporate approximately [REDACTED] separate agencies.

We consider that our experiences and views, as expressed below, would be representative of and endorsed by the vast majority of real estate agents across Australia.

In their submissions, the Publishers have made a number of claims, the specifics of which will be dealt with by PMG. At a broad level, however, we make the following points for the ACCC's consideration:

1. **Competition** – the reality faced by selling agents and home vendors is that, in most locations, there is only one viable primary option when advertising online - REA. In selected markets, Domain is also a viable option.

Despite the best efforts of agents and industry bodies, new players have been unable to generate the user traffic required to commercially challenge the Publishers and apply genuine competitive pressure.

In some cases, home vendors do advertise on other platforms and utilizing more traditional media, but these listings are almost always secondary to the listing on the Publisher's platforms.

In our experience, virtually all (in excess of 95%) of monies expended on on-line advertising by our agencies are directed towards REA and Domain.

2. **Contract Flexibility** – REA and Domain both claim to offer agents and vendors flexibility in terms of product offering.

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We consider that this perceived 'flexibility' is theoretical, at best. In the current environment significant incentives are offered to agents to enter a 'Contract All' arrangement, committing that agency to purchasing a particular product for EVERY listing it makes. The alternate "flexible" arrangement is priced significantly higher. Home vendors could not justify this higher price, and therefore would select agents who have signed a "Contract All" arrangement. In reality, agents do not have flexibility to pick and choose suitable (and suitably priced) options for differing vendor needs.

For the agencies listed below, the option of entering a 'flexi' contract has not been contemplated due to price dis-incentive.

Our response to other claims made include:

- Multiple contracts being held by one agency (presumably allowing an agency to commit to multiple advertising products rather than one) is unknown to both PMG and the agencies and is not utilised by any agency who have supported our application;
- REA discretion on 'Contract ALL' arrangements – it is true that some discretion exists for REA to allow up to 10% of an agency's listings to purchase a lower product than their contract requires. Commercially, however, this discretion is fully exhausted each month and does not deliver anywhere near the flexibility sought. It should be noted the provision of this 'allowance' is at sole the discretion of REA and can be withheld at any time.

3. **Price** – each of the agencies, regardless of location or sales volumes, have endured massive increases in the price of on-line advertising over the past 5 years. This price growth is showing no signs of abating with both REA and Domain specifying significant increases in 2016.

To also be clear, the Publishers do attempt to dress up the price increase by frequent introductions of 'new products' which are priced at a premium. However, given the "Contract All" and lack of flexibility, in effect these levels simply become the norm.

Within the market, the agencies supporting the application, realistically, have no choice but to purchase the most premium product on the market. Were they not to do so, they would be left commercially vulnerable to their competitors, given the lack of viable listing alternatives (for both listing level and other publishers).

4. **Buying Group** – as a collective of small, fragmented (often competing) businesses, our industry has suffered from a lack of professional representation when planning and purchasing media products. This has been directly detrimental to Australian home vendors. With professional representation, having economies of scale and group purchasing power will lead to significant savings for home vendors, in the form of greater flexibility to select the advertising product(s) most appropriate for their circumstances and lower prices. We note that in most circumstances the advertising spend is passed on to the vendors.

It also provides access to a skillset which is not present in our agencies. Whilst this could theoretically be purchased in the market today, without the volume and authority

delivered by the granting of these Applications, it is not commercially viable to engage the services of a professional media buyer.

We do not foresee agents making direct commercial gain out of this initiative, other than being able to offer vendors a superior service and better value, and preventing on-going unsustainable price increases.

Below we have put our names and contact details to this submission and urge you to contact us directly should you wish to explore any element further.

We are confident the views outlined above are shared by agents across Australia and urge you to consider this information when making your determination.

Sincerely,