



12 August 2008

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Dear Sir

OZtion 'Free to list items' claims

As you may be aware, Sensis Pty Ltd ("**Sensis**") owns and operates the Trading Post® and the website, tradingpost.com.au, which allows customers to buy and sell items online.

It has come to Sensis' attention that OZtion Pty Ltd ("**OZtion**") has recently undertaken an advertising campaign featuring its online auction site, Oztion.com.au. As part of this campaign, OZtion has, amongst other things:

- (a) published posters and postcards containing the statement "Free to list items"; and
- (b) stated under the "Sell" tab on Oztion.com.au, "*You can list items for sale on OZtion for FREE*"

(collectively, the "**Statements**").

Sensis is concerned that the Statements, and in particular the use of the word "free" without any qualification (or in the case of the website, without any qualification on the same webpage or linked to the "free" claim), have the potential to mislead customers about the costs associated with selling items for sale on Oztion.com.au.

Although it is not entirely clear to Sensis, it appears that OZtion's "free to list" offer refers to the "Zero cost listing", meaning that customers do not have to pay to list their item on Oztion.com.au. However, customers are required to pay fees to list the item for sale where they select certain promotional features or sell an item under a particular classified listing category. These facts are not explained or referred to in or in close proximity to the Statements.

Furthermore, Sensis does not consider that all online advertisers would understand the distinction that OZtion places between *listing* an item (which is, in certain instances, "free" on Oztion.com.au) and *selling* an item (which is never free). While a sophisticated user may



White Pages



understand that listing is the first step involved in an online auction, in Sensis' view, there is some ambiguity as to whether listing an item refers to the entire online auction process required of the seller. Given such scope for ambiguity, Sensis considers it appropriate for OZtion to make clear that "free to list" applies to limited step of listing the item, but that it is not free to sell the item.

For the reasons set out above, Sensis considers that the Statements breach sections 52 and 53(e) of the *Trade Practices Act 1974 (Cth)* ("TPA"). Section 52 of the TPA prohibits a corporation from engaging in representations that are misleading or deceptive. Section 53(e) of the TPA prohibits a corporation from making a representation that is false or misleading with respect to the price of goods or services.

Accordingly, in the circumstances, Sensis requires the OZtion provide a written undertaking to Sensis by no later than **5pm, Wednesday 20 August 2008** that it will:

- (a) immediately cease making the Statements in its current (or a substantially similar) form in advertising material and on Oztion.com.au; and
- (b) where OZtion uses the phrase "free to list items" (or similar), insert a prominent disclaimer or body copy statement to the effect that the offer does not apply to all items, and that there are costs associated with the sale of an item.

Sensis will continue to monitor OZtion's activity with respect to advertising free listings and other marketing material, and reserves the right to take appropriate action if OZtion continues to make misleading representations about prices associated with its online auction site.

Sensis' rights are fully reserved.

Yours sincerely

[REDACTED SIGNATURE]

General Counsel