

15 June 2006

Mr Elton Humphrey  
Australian Senate  
Community Affairs Legislation Committee  
Parliament House  
Canberra ACT 2600  
By email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

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Dear Mr Humphrey

## Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005

Sensis welcomes the opportunity to provide a written submission on the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 ("**Bill**").

### 1. Sensis' background

Sensis is a leading Australian local advertising and search company that delivers innovative and integrated search solutions via print, online, voice and wireless channels.

Sensis is the advertising subsidiary of Telstra and manages a number of leading Australian brands on behalf of Telstra, including the White Pages® directories and Yellow Pages® directories, Sensis® 1234, [sensis.com.au](http://sensis.com.au) and Whereis®.

Over 11 million Australians use Sensis' print products every month and Sensis has over 6.5 million monthly online users.

### 2. Sensis' submission on the Bill

#### ***Obligations should be imposed directly on organisations which advertise pregnancy counselling services***

Sensis clearly supports any steps which seek to prevent misleading and deceptive advertising practices and promote transparency and choice for consumers.

However, we believe that any legislation directed at regulating the advertising of particular goods or services (particularly where the regulation concerns the specific nature of the types of goods or services being provided as between the service provider and the client) should regulate the relevant advertisers rather than those

persons providing a medium for the publication and distribution of those advertisements.

In the context of the Bill, Sensis contends that only the relevant organisations providing the pregnancy counselling services (“**PCS Organisations**”) would be in a position to be able to determine whether:

- (a) they provide referrals for terminations of pregnancy; and
- (b) they satisfy the definition of “non-directive pregnancy counselling service”,

within the confines of the relationship with their clients.

Short of conducting a thorough audit, this is not something that Sensis (and other third parties that offer advertising solutions to PCS Organisations) would be in a position to determine.

***The scope of section 6 should be narrowed to only apply to organizations which advertise pregnancy counselling services***

Section 5 of the Bill imposes obligations directly on PCS Organisations. In contrast, section 6 of the Bill appears to impose obligations on any person that advertises pregnancy counselling services. This would include Sensis and other persons that provide advertising solutions to PCS Organisations.

As we believe that only the PCS Organisation would be in a position to be able to determine whether it does or does not provide referrals for terminations of pregnancy, Sensis contends that the obligation in section 6(1) should only be imposed on the relevant PCS Organisation.

Whilst we understand that a defence to the obligation in section 6(1) is set out in sub-section (2), we consider that the wording of sub-section 6(2)(b) provides a large degree of uncertainty as to when a person could be said to “reasonably be expected to have known” that the material being provided by a PCS Organisation was inaccurate or misleading or deceptive.

If the scope of section 6 is not narrowed to only apply to PCS Organisations, Sensis contends that sub-section 6(2)(b) should be deleted. It should be a sufficient defence to sub-section 6(1) for a person to demonstrate that they took no part in determining the content of the relevant advertisement.

***Section 7 should be amended***

For reasons already set out above, Sensis contends that only a PCS Organisation will be in a position to determine whether it does or does not fall within the definition of "non-directive pregnancy counselling service".

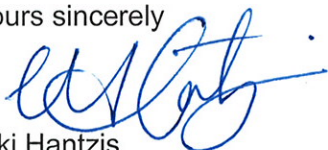
It would be very difficult for Sensis to determine whether a PCS Organisations does in fact provide counselling, information services, referrals and support on raising children, adoption and termination of pregnancies as well as providing referrals to termination of pregnancies. As a result, Sensis would expect PCS Organisation seeking to list in the 24 hour health and help pages ("**24 Hour Pages**") to provide appropriate warranties that it is in fact a "non-directive pregnancy counselling service"

As a result, we believe that Telstra should not breach section 7 merely because a PCS Organisation listing in the 24 Hour Pages is found not to be a "non-directive pregnancy counselling service" - particularly in circumstances where Telstra (through Sensis) has obtained appropriate warranties from the PCS Organisation indicating otherwise.

In order to address the issues raised above, we would contend that the section should be reworded as follows:

"Telephone carriage service providers providing alphabetical public number directories in accordance with clause 9 of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* may only include **non-directive** pregnancy counselling services on the 24 hour health and help call pages of each alphabetical public number directory **where they are satisfied that those pregnancy counselling services are non-directive pregnancy counselling services.**"

Yours sincerely

A handwritten signature in blue ink, appearing to read "Niki Hantzis".

Niki Hantzis  
General Counsel