

10 December 2001

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Mr Tim Grimwade  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DIXON ACT 2602

N 90954



Dear Mr Grimwade

### Third Line Forcing Notification - Amgen Inc.

We enclose a third line forcing notification on behalf of our client, Amgen Inc., under section 93(1) of the *Trade Practices Act*, and a cheque for \$100 for lodgement.

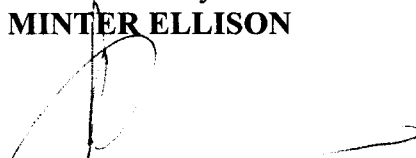
Amgen Inc. is proposing to require actual and potential employees of Amgen Australia Pty Ltd to use UBS Paine Webber exclusively to execute all cashless stock option exercises as part of its company share plan arrangements.

Please note the notification contains a confidential annexure. We would be grateful if the confidentiality of that annexure could be maintained.

If you require any further information, please contact me on (02) 9921 4482.

Yours faithfully

Yours faithfully  
**MINTER ELLISON**

  
Ross Patterson  
Partner

Contact: Dr Ross Patterson +61 2 9921 4482 ross.patterson@minterellison.com  
Our reference: 20-3593544

AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA  
18 DEC 2001

#### MINTER ELLISON GROUP AND ASSOCIATED OFFICES

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BANGKOK NEW YORK LONDON

## FORM G

COMMONWEALTH OF AUSTRALIA  
Trade Practices Act 1974 - Sub-section 93(1)

### EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d) of that Act in which the person giving notice engaged or proposes to engage.

1. (a) **Name of person giving notice:**

Amgen Inc., One Amgen Centre Drive, Thousand Oaks, California, USA 91320-1799

(b) **Short description of business carried on by that person:**

Amgen Inc., and its subsidiary Amgen Australia Pty Ltd., conduct the business of manufacturing and supplying biopharmaceutical products and services to businesses and consumers.

(c) **Address in Australia for service of documents on that person:**

Shane Tiernan, Director of Human Resources and Corporate Communication,  
Amgen Australian Pty Ltd, Level 7, 123 Epping Road, North Ryde, 2113.

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

The services to which this notice relates are the processing of cashless stock option transactions, which are same day exercise and sell transactions, on behalf of Amgen Australia Pty Ltd staff members.

(b) **Description of the conduct or proposed conduct:**

Amgen Inc. proposes to require its Australian employees (employed by Amgen Australia Pty Ltd) to use UBS Paine Webber exclusively to execute all cashless stock option exercises.

3. (a) **Class or classes of persons to which the conduct relates:**

The conduct relates to actual and potential employees of Amgen Australia Pty Ltd who place orders with a stockbroker to buy or sell same day stock options.

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(b) **Number of those persons:**

(i) **At present time:**

See confidential annexure.

(ii) **Estimated within the next year:**

See confidential annexure.

(c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**

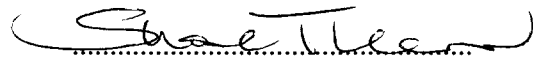
Not applicable.

4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice is:**

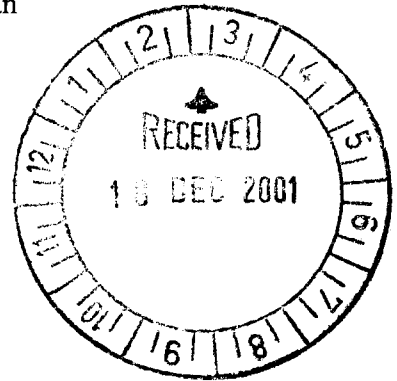
Shane Tiernan, Director of Human Resources and Corporate Communication, Amgen Australian Pty Ltd, Level 7, 123 Epping Road, North Ryde, 2113.

Dated: 4<sup>th</sup> December 2001

Signed by:



Shane Tiernan



**SUBMISSION BY  
AMGEN INC. IN SUPPORT OF NOTIFICATION  
UNDER SECTION 93(1) OF THE TRADE PRACTICES ACT 1974**

**3. Background**

- 3.1 Amgen Australia Pty Ltd is a wholly owned subsidiary of Amgen Inc., a biotechnology products and services manufacturer based in the United States.
- 3.2 UBS Paine Webber is the result of a merger between UBS AG and Paine Webber in 2000. Paine Webber, founded in 1879, is a prominent financial services firm in the United States. UBS AG is one of the world's leading global financial services firms and is part of the UBS Warburg group.
- 3.3 Amgen Inc. wishes to offer employees a company share plan that is not impractical or a financial burden to administer. It also wishes to bring its employee share plan procedures in line with its global corporate practices and with industry 'best practice'.

**4. Market**

- 4.1 The relevant market which the proposed offer is likely to affect is the market in Australia for stock broking services.

**5. Public Benefit**

- 5.1 Although the conduct described in Form G may be exclusive dealing conduct within section 47(6) of the Trade Practices Act, the proposed conduct will not lessen competition in the market described above.
- 5.2 The offer relates to cashless stock exercises only and does not prevent Amgen employees from using the broker of their choice for other types of share transactions involving shares issued under a company share plan.
- 5.3 Amgen Australia Pty Ltd employees will have the benefit of a broking service for cashless stock option transactions which accommodates all the requirements they requested during consultation. In reality few Australian brokers provide services for share transactions for US corporate employee share schemes, and many Amgen Australia employees currently use US brokers.
- 5.4 UBS Paine Webber was able to provide a number of additional benefits for Amgen staff. UBS Paine Webber's services included a 24-hour online system; an interactive voice response system; a call centre; and a team of brokers in California who were accessible by phone or personally for Amgen employees. Specific benefits offered by UBS Paine Webber over other brokers assessed by Amgen included:
- (i) Flexibility for staff members to place cashless exercise orders anytime and anywhere to be executed during US market hours;
  - (ii) quicker transaction times;
  - (iii) low negotiated fees (US\$.05 per share);
  - (iv) no margin interest; and
  - (v) the ability for staff members to model the potential value of their own stock options.

- 5.5 Feedback from employees in the United States and Puerto Rico, who have been using UBS Paine Webber for cashless stock option transactions exclusively since 1 January 2001, has been very positive.
- 5.6 Amgen Inc. will provide training, demonstrations and support to staff in Amgen offices in Australia before the arrangement with UBS Paine Webber comes into effect.
- 5.7 For the reasons stated above, Amgen Inc. submits that the public benefit flowing from the proposed conduct outweighs any anti-competitive detriment resulting from the conduct.

**CONFIDENTIAL ANNEXURE**

**to Notification by Amgen Inc.**

**under section 93(1) of the Trade Practices Act 1974**

**Confidentiality Granted 18/12/2001**