

Form G
Commonwealth of Australia
Trade Practices Act 1974 - Subsection 93(1)
Exclusive Dealing: Notification

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93(1) of the *Trade Practices Act 1974* of particulars of conduct or of proposed conduct of a kind referred to in subsection 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 engages or proposes to engage.

1. (a) **Name of person giving notice**
Arthur J Gallagher Australasia Pty Ltd (AJG) (ABN 77 079 502 800)

- (b) **Short description of business carried on by that person**
Insurance broker and risk manager

- (c) **Address in Australia for service of documents on that person**
Andrew Pytches
Arthur J Gallagher Australasia Pty Ltd
Level 6, Thakral House
301 George Street
Sydney NSW 2000 Australia

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates**
Risk management software program and public liability insurance

- (b) **Description of the conduct or proposed conduct**
See Attachment A

3. (a) **Class or classes of persons to which the conduct relates**
NFPOs purchasing public liability insurance

- (b) **Number of those persons:**
 - (i) **At present time**
As the offer will be made to the market at large, potentially more than 50

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

Potentially more than 50

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

N/A

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

Mr Phil Turner

Manager

Community Care Underwriting Agency

Level 7, 82 Pitt Street, Sydney NSW 2000

Tel: 02 8227 8239

Fax: 02 8227 8234

Email: phil.turner@community-care.com.au

Date: 18th December 2003

Signed by/on behalf of the person giving this notice



(Signature)

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY

18 DEC 2003

Phil Turner

(Full Name)

**Manager, Community Care
Underwriting Agency**

(Description)

ATTACHMENT A

DESCRIPTION OF PROPOSED CONDUCT FOR EXCLUSIVE DEALING NOTIFICATION

Background

This notification relates to an agreement between Arthur J Gallagher Australasia Pty Ltd (**AJG**) and Community Care Underwriting Agency (**CCUA**) for the provision of risk management software at a discounted price by AJG for the public liability insurance customers of CCUA. This notification deals with the manner in which AJG and CCUA propose to promote the risk management product.

CCUA is a joint venture between Allianz Australia Insurance Ltd, QBE Insurance (Australia) Ltd and Insurance Australia Group Ltd (formerly NRMA Insurance Ltd). This joint venture was formed to provide public liability insurance for small to medium not-for-profit organisations (**NFPOs**) in NSW, SA, WA, NT & Tasmania.

Proposed conduct

AJG and CCUA wish to help NFPOs develop risk management skills. To this end they propose to recommend to the public liability insurance customers of CCUA the use of a software program known as CARES (Computer Assisted Risk Evaluation System). CARES is a web-based risk management tool designed to assist organisations in understanding the basic concepts of risk management. It also provides practical methods for identifying risks and provides recommendations, checklists and templates to assist in managing such risks. CARES was originally developed in association with AJG by the Nonprofit Risk Management Center, a nonprofit resource organisation based in Washington, U.S.

AJG and CCUA propose to encourage the use of this program by offering the public liability insurance customers of CCUA a \$100 discount on the CARES risk management software program. Ordinarily, CARES would be sold for approximately \$299, but it is proposed to offer it to CCUA insureds for approximately \$199. This arrangement will be on condition that the purchaser has public liability insurance with CCUA. CCUA's customers will also be required to pay a nominal annual service fee.

Public benefit considerations

The proposed conduct is not anti-competitive and considerable public benefit is likely to arise from the proposed conduct. There is no discernible public detriment arising from this arrangement.

The following points are relevant:

- the CARES risk management software program complies with the Australian/New Zealand Standard on risk management (AS/NZS 4360:1999).
- it is envisaged that increased risk management skills will lead to fewer accidents and other incidents that could give rise to claims. This is of enormous public benefit, including benefit to the health system. Fewer incidents leads to fewer claims which may result in lower insurance premiums for NFPOs and is of clear benefit to the NFPOs, the broader community and the insurance industry;

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- the NFPOs are not required to obtain CARES from AJG. This fact is made clear in the marketing literature.
 - the discount arrangement may stimulate demand for, and competition in the market for, the provision of risk management software to NFPOs with the attendant benefits referred to above; and
 - the package does not lead to any loss of transparency in the pricing of the components as those components are available independently.