



Australian Competition & Consumer Commission

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
Australia  
Ph (02) 6243 1111  
Fax (02) 6243 1199

Our Ref: C2004/317  
Contact Officer: Jason Byrne  
Contact Phone: (02) 6243 1279

1 April 2004

Mr Dennis Cooper  
Managing Director  
Amaca Pty Ltd  
MLC Centre  
Level 9/19 Martin Pl  
SYDNEY NSW 2000

Dear Sir/Madam

**Review of Notification of Exclusive Dealing (N30710) – James Hardie and Coy Pty Ltd**

I refer to the above notification (copy attached) lodged by James Hardie and Coy Pty Ltd (James Hardie) in February 1995 with the then Trade Practices Commission (TPC), predecessor to the Australian Competition and Consumer Commission (the Commission).

The notified conduct relates to James Hardie supplying or refusing to supply fibre cement products to CSR on condition or for the reason that CSR will not re-supply or has not agreed not to re-supply fibre cement products to distributors/re-sellers in any State or Territory in Australia except for Western Australia and the Northern Territory.

On 3 March 2004 the Commission wrote to James Hardie Australia indicating that the Commission had decided to review the notification. James Hardie Australia subsequently replied to the Commission advising that James Hardie and Coy Pty Ltd (now known as Amaca Pty Ltd), is no longer part of the James Hardie Group of companies and is not within the control of James Hardie Australia Pty Ltd.

Furthermore, in the course of the review, the Commission has received information to the effect that Amaca is no longer involved in the manufacture and supply of fibre cement products.

The Commission requests Amaca to confirm that:


1. Amaca is no longer part of the James Hardie Group of companies and is not within the control of James Hardie Australia Pty Ltd;
2. Amaca is no longer involved in the manufacture and supply of fibre cement products;  
and
3. Amaca no longer participates in the conduct the subject of the notification as mentioned above.



I would appreciate if you could provide a response by **COB Friday 9 April 2004**.

Should you have any questions please contact Jason Byrne on (02) 6243 1279.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Isabelle Arnaud'.

Isabelle Arnaud  
Director Adjudication



**James Hardie**

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James Hardie Industries Limited  
ACN 000 009 263

65 York Street  
Sydney NSW 2000, Australia

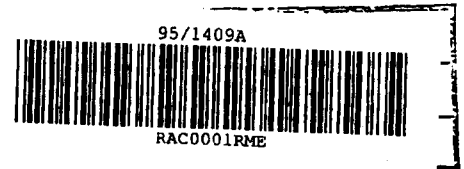
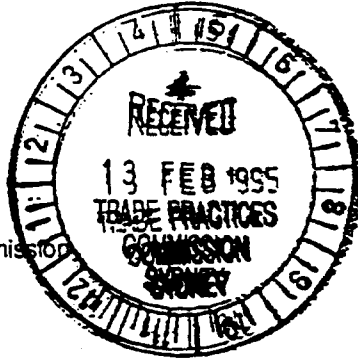
Telephone (02) 290 5333  
Fax (02) 262 4394

GPO Box 3935  
Sydney NSW 2001

13 February 1995

**BY HAND**

Trade Practices Commission  
5th Floor  
Sky Gardens  
77 Castlereagh Street  
SYDNEY NSW 2000

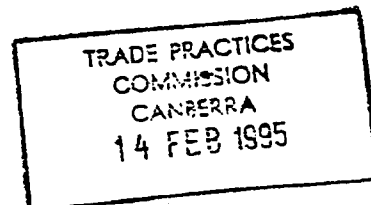


42.

Dear Sirs

**Section 93(1) Notification**

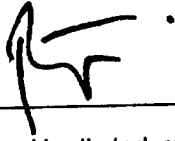
1. We attach a notice pursuant to section 93(1) of the Trade Practice Act 1974. The following information may also be relevant, although it is not exhaustive.
2. James Hardie & Coy Pty Limited ("James Hardie") has been supplying fibre cement building products to CSR Limited ("CSR") or CSR owned outlets for approximately 3 years.
3. CSR, Boral Limited and Pioneer Limited, as well as other local and overseas suppliers, manufacture and or supply products competitive with the James Hardie fibre cement products supplied to CSR owned outlets.
4. Fibre cement products are manufactured overseas and suppliers such as Eternit and Humes (both Malaysia) have exported product into Australia.
5. CSR has announced it will itself manufacture and supply fibre cement products by early 1996.
6. Possibly twenty six CSR owned outlets trading as "Gyprock Plaster Lining Centres" are likely to be affected by the notified conduct, although the number may be less than twenty six. They are located in New South Wales, Queensland, Victoria and Tasmania.
7. In addition to selling James Hardie fibre cement products, CSR owned outlets typically sell a range of "Gyprock" plasterboard products, "Bradford" insulation products, decorative cornices, plaster and fixing accessories, and related products.
8. In each of the regions in which the CSR owned outlets are located, there are other outlets stocking James Hardie fibre cement products.
9. Of James Hardie's total sales of fibre cement products in Queensland, New South Wales, Victoria and Tasmania, purchases by CSR in those States represent some  *confidentiality claimed*
10. *The percentage figure contained in paragraph 9 above is confidential and accordingly the Commission is asked to exclude it from the register kept under subsection 95(1) of the Trade Practices Act by reason of its confidentiality.* *granted*



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11. A cheque in the amount of \$2,500 is enclosed to cover the notification fee.

Yours faithfully



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James Hardie Industries Limited

per: Peter Shafron  
Legal Officer

Direct Telephone: 290 5243  
Direct Facsimile: 262 2828

FORM G

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974- Sub-section 93(1)

EXCLUSIVE DEALING:

NOTIFICATION

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To the Trade Practices Commission:

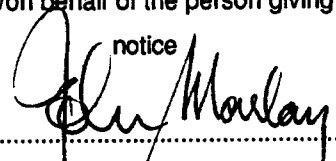
Notice is hereby given, in accordance with sub-section 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47 (2), (3), (4) or (5) or paragraph 47 (8) (a) or (b) or (9) (a), (b) or (c) of that Act in which the person giving notice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

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1. (a) **Name of person giving notice:** James Hardie & Coy Pty Limited ("James Hardie").  
  
(b) **Short description of business carried on by that person:** Manufacture and sale of fibre cement building products.  
  
(c) **Address in Australia for service of documents on that person:** Level 9, 65 York Street Sydney, NSW, 2000.
  
  2. (a) **Description of goods or services in relation to the supply or acquisition of which this notice relates:** Fibre cement building products.  
  
(b) **Description of the conduct or proposed conduct:** Supplying or offering to supply goods or services on the condition that CSR Limited will not resupply the goods in particular places or classes of places or in places other than particular places or classes of places; refusing to supply goods or services to CSR Limited for the reason that CSR Limited has re-supplied, or has not agreed not to re-supply goods acquired from James Hardie in particular places or classes of places or in places other than particular places or classes of places - see attached copy of letter to CSR Limited.
  
  3. (a) **Class or classes of persons to which the conduct relates:** Stockist / reseller.  
  
(b) **Number of those persons -**
    - (i) **At the present time:** One.
    - (ii) **Estimated within the next year:** One.  
(c) **Where number of persons stated in Item 3 (b) (i) is less than 50, their names and addresses:** CSR Limited, Level 24, 1 O'Connell Street, Sydney, NSW, 2000.

- 4. Name and address of person authorised by the person giving the notice to provide additional information in relation to this notice : Peter Shafron, Legal Officer, James Hardie Industries Limited, Level 7, 65 York Street, Sydney, NSW, 2000.

Dated 13 February, 1995.

Signed by /on behalf of the person giving this notice



John Marlay  
General Manager,  
James Hardie Building Boards, Australia

