



Australian Competition & Consumer Commission

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

6 April 2004

«Name»

Dear «Salutation»

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

I refer to my letter to you of 3 March 2004 which sought submissions in relation to a review of the above notification by the Australian Competition and Consumer Commission (the Commission).

The conduct the subject of the notification relates to James Hardie and Coy Pty Ltd (James Hardie and Coy) 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.

In accordance with the statutory test outlined in the *Trade Practices Act 1974* (the Act) the Commission may take steps to remove the immunity afforded by a notification of exclusive dealing (other than third line forcing) at any time if it is satisfied that the conduct notified would have the purpose or likely effect of substantially lessening competition and any public benefit would not outweigh the detriment constituted by a lessening of competition.

In the course of the review James Hardie Australia Pty Ltd (James Hardie) advised that James Hardie and Coy, now known as Amaca Pty Ltd (Amaca), is no longer part of the James Hardie Group of companies and is not within the control of James Hardie.

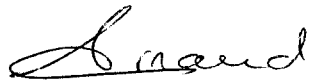
Commission enquiries, along with submissions received from interested parties, also revealed that Amaca is not engaging in the conduct the subject of the notification. On this basis the Commission will not be proceeding with the review.

As you may be aware, immunity afforded by a notification of exclusive dealing only applies to the corporation who lodged the notification, in this case the corporation now known as Amaca. Therefore, any conduct by James Hardie in relation to the supply or refusal 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 is not provided immunity under the Act.



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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Isabelle Arnaud', written in a cursive style.

Isabelle Arnaud  
Director  
Adjudication Branch

No	Name	Salutation
1.	Mr Len Buckeridge Chief Executive Officer Buckeridge Group of Companies 6th Floor, 18 Mount St PERTH WA 6000	Mr Buckeridge
2.	Mr Alec Brennan Managing Director CSR Level 1, 9 Help St CHATSWOOD NSW 2067	Mr Brennan
3.	Mr Rod Pearse Chief Executive Officer Boral Level 39 AMP Centre 50 Bridge St SYDNEY NSW 2000	Mr Pearse
4.	Mr Leslie Cadzow Chief Executive Officer Hanson Australia (Holdings) Level 6, 35 Clarence St SYDNEY NSW 2000	Mr Cadzow
5.	Mr Wilhelm Harnisch Chief Executive Officer Master Builders Association Level 3 Construction House 217 Northbourne Avenue TURNER ACT 2612	Mr Harnisch
6.	Mr Peter Davis Managing Director Bunnings 126 Pilbara St WELSHPOOL WA 6106	Mr Davis
7.	Mr Frank Whitford Chief Executive Officer Mitre 10 12 Dansu Court HALLAM VIC 3803	Mr Whitford
8.	Mr Graeme Danks John Danks & Sons 414-426 Lower Dandenong Road BRAESIDE VIC 3195	Mr Danks
9.	Mr Darryl McGrath Mac's Place 3 Oldfield Road 17 Mile Rocks QLD 4073	Mr McGrath
10.	Ms Elizabeth Lynch Guardian Building Products	Ms Lynch

	21 Hollstrom Pl WETHERILL PARK NSW 2164	
<b>11.</b>	The Manager CSP Distributors 15 Strong Avenue THOMASTOWN VIC 3074	Sir/Madam
<b>12.</b>	The Manager NHS Plasterboard 30 Wyong Rd LAMBTON NSW 2299	Sir/Madam
<b>13.</b>	The Manager Harding's Hardware 1485 South Gippsland Hwy CRANBOURNE VIC	Sir/Madam
<b>14.</b>	The Manager Ultimate Building Products 22 Love St BULIMBA QLD 4171	Sir/Madam
<b>15.</b>	The Manager Wingfield Timber 79 Cavan Rd GEPPS CROSS SA 5094	Sir/Madam