

Our reference
ECS/CSRB9974-9008457

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24 March 2005

By courier

Mr Scott Gregson
Acting General Manager
Adjudication Branch
Australian Competition and Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602

Partner
Eddie Scuderi (07) 3228 9319
Email: eddie.scuderi@corrs.com.au

Dear Sir

FILE No.
DOC.
DATE 24 MAR 2005

Application for authorisation by CSR Building Products Ltd

We act for CSR Building Products Ltd (CSR).

Application for authorisation

CSR proposes to engage in negotiations with lorry owner-drivers in the Brisbane region (specifically, those operating out of depots at Strathpine and Oxley). The owner-drivers wish to collectively bargain with CSR.

Because any agreement reached with the owner-drivers may be deemed to substantially lessen competition because of the operation of s 45A of the *Trade Practices Act 1974* (Cth) (TPA), CSR seeks an authorisation from the ACCC under s 88(1) of the TPA for such a collective agreement with owner-drivers.

We **attach** a completed Form B, a cheque for \$7,500 (the prescribed application fee), and supporting information for the authorisation.

Interim authorisation

Because current arrangements with the owner-drivers are due to expire soon, CSR also seeks an interim authorisation under s 91(2) of the TPA to allow it to negotiate with the owner-drivers and reach a provision agreement, subject to the ACCC's favourable view of its application for authorisation.

Confidential information

We have also attached a draft agreement with the lorry-owner drivers, which CSR intends to be used as a basis for negotiation with the owner-drivers. It contains confidential and commercially sensitive information. CSR requests, under s 89(5) of the TPA, that the ACCC not include the draft agreement on its public register of applications for authorisation.

AUST. COMPETITION &
CONSUMER COMMISSION
CANBERRA
29 MAR 2005

24 March 2005

Australian Competition and Consumer Commission

Application for authorisation by CSR Building Products Ltd

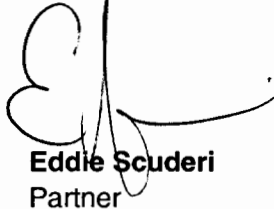
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lawyers

CSR is happy to discuss this application with the ACCC further. We invite the ACCC to contact Eddie Scuderi on (07) 3228 9319 if it would like to do so.

We look forward to hearing from the ACCC.

Yours faithfully

Corrs Chambers Westgarth



Eddie Scuderi
Partner

attachments

FORM B

Commonwealth of Australia

Trade Practices Act 1974 — subsection 88(1)

AGREEMENTS AFFECTING COMPETITION APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88(1) of the *Trade Practices Act 1974* for an authorisation under that subsection to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of the Act.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1 (a) Name of applicant:

CSR Building Products Ltd ACN 008 631 356

(See Direction 2 on the back of this Form)

(b) Short description of business carried on by applicant:

Supply of building products (including bricks and pavers)

(c) Address in Australia for service of documents on the applicant:

Corrs Chambers Westgarth
Lawyers
Waterfront Place
1 Eagle Street
BRISBANE QLD 4000

2 (a) Brief description of contract, arrangement or understanding and, where already made, its date:

Collective bargaining arrangement with lorry owner-drivers

(c) Names and addresses of other parties or proposed parties to contract, arrangement or understanding:

See attachment

(See Direction 4 on the back of this Form)

3 Names and addresses (where known) of parties and other persons on whose behalf application is made:

See attachment

4 (a) Grounds for grant of authorisation:

See attachment

(b) Facts and contentions relied upon in support of those grounds:

See attachment

(See Notice 1 on the back of this Form)

5 This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above mentioned contract,

arrangement or understanding.

(a) Is this application to be so expressed?

No

(b) If so, the following information is to be furnished:

(i) the names of the parties to each other contract, arrangement or understanding:

N/A

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:

N/A

(See Direction 5 and Notice 2 on the back of this Form)

6 (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*)?

No

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

N/A

(c) If so, by whom or on whose behalf are those other applications being made?

N/A

7 Name and address of person authorised by applicant to provide additional information in relation to this application:

Eddie Scuderi

Level 35

Waterfront Place

1 Eagle Street

BRISBANE QLD 4000

Phone: (07) 3228 9319

Fax: (07) 3228 9444

Email: eddie.scuderi@corrs.com.au

Signed on behalf of the applicant:

Dated 24 March 2005


(Signature)

Eddie Scuderi

(Full Name)

Solicitor for the applicant

(Description)

DIRECTIONS

- 1 Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
- 2 Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
- 4 Furnish with the application particulars of the contract, arrangement or understanding in respect of which the authorisation is sought. Those particulars shall be furnished—
 - (a) in so far as the particulars or any of them have been reduced to writing by lodging a true copy of the writing; and
 - (b) in so far as the particulars or any of them have not been reduced to writing—by lodging a memorandum containing a full and correct statement of the particulars that have not been reduced writing.
- 5 Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the matter in which those contracts, arrangements or understandings vary in their terms from the contract, arrangement or understanding referred to in item 2.

NOTICE

- 1 In relation to item 4, your attention is drawn to subsections 90(6) and (7) of the *Trade Practices Act 1974*, which provide as follows:

"(6) The Commission shall not make a determination granting an authorisation under subsection 88(1), (5) or (8) in respect of a provision (not being a provision that is or may be an exclusionary provision) of a proposed contract, arrangement or understanding, in respect of a proposed covenant, or in respect of proposed conduct, unless it is satisfied in all the circumstances that the provision of a proposed contract, arrangement or understanding, the proposed covenant, or the proposed conduct, as the case may be, would result, or be likely to result, in a benefit to the public and that that benefit would outweigh the detriment to the public constituted by any lessening of competition that would result, or be likely to result, if—

 - (a) the proposed contract or arrangement were made, or the proposed understanding were arrived at, and the provision concerned were given effect to;*
 - (b) the proposed covenant were given, and were complied with; or*
 - (c) the proposed conduct were engaged in,*

as the case may be.

(7) The Commission shall not make a determination granting an authorisation under subsection 88(1), or (5) in respect of a provision (not being a provision that is or may be an exclusionary provision) of a contract, arrangement or understanding, or in respect of a covenant, unless it is satisfied in all the circumstances that the provision of the contract, arrangement or understanding, or the covenant, as the case may be, has resulted, or is likely to result, in a benefit to the public and that that benefit outweighs or would outweigh the detriment to the public constituted by any lessening of competition that has resulted, or is likely to result, from giving effect to the provision or complying with the covenant."
- 2 If an authorisation is granted in respect of a proposed contract, arrangement or understanding the names of the parties to which are not known at the date of this application, the authorisation shall, by subsection 88(14) of the *Trade Practices Act 1974*, be deemed to be expressed to be subject to a condition that any party to the contract, arrangement or understanding will, when so required by the Commission, furnish to the Commission the names of all the parties to the contract, arrangement or understanding.