



Our ref: PRH 0388649 AKD

30 May 2006

Mr Scott Gregson
Adjudication
Australian Competition and Consumer Commission
c/o Level 7, Angel Place
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Sydney NSW 2000

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Adelaide
Brisbane
Canberra
Melbourne
Perth
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Wellington
Hanoi
Ho Chi Minh City

By hand

Dear Mr Gregson

Calliden Limited - notification lodged under section 93 of the Trade Practices Act 1974

We **enclose** the following in respect of conduct which may raise issues under the third line forcing provisions of the *Trade Practices Act 1974*:

- 1 Form G in relation to the provision of a number of insurance schemes by Calliden Limited; and
- 2 Cheque for \$1,000 in payment of the lodgement fee.

If you have any queries, please do not hesitate to contact the undersigned.

Yours sincerely


Alexis Dyson
 Solicitor
 Direct + 61 2 9286 8095
 Email alexis.dyson@phillipsfox.com
 Encl


Paul Holm
 Partner

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(6) or (7) of that Act in which the person giving notice engages or proposes to engage.

1 (a) Name of Person Giving Notice:

Calliden Limited (**CALLIDEN**)

ABN 43 110 186 224

Address: Suite 1, Level 3, Building B, 207 Pacific Highway, St Leonards, NSW,
Australia 2065

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

CALLIDEN, an insurer authorised under the Insurance Act 1973, underwrites a variety of risks on a scheme basis only, for classes of business as a package or for a single class as an affinity group. These schemes are tailored for specific businesses and are generally not available to a broad range of individuals or groups.

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

c/- Paul Holm
Partner
Phillips Fox
201 Elizabeth Street
SYDNEY NSW 2000

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

Supply of various insurance products through the following affinity groups:

- Construction;
- Packages;
- Professional;
- Sport & Leisure; and
- Agency.

(b) Description of the conduct or proposed conduct:

CALLIDEN was approached by the groups and associations listed in Annexure A to offer the following insurance products to members of those groups and associations:

- Queensland Master Builders Authority - Construction Material Damage, Construction Liability, Builders Warranty;
- Timber Merchants - Industrial Special Risks, Other Accident, Public & Products Liability;
- Hardware Association - Industrial Special Risks, Other Accident, Public & Products Liability, Fire;
- Australian Funeral Directors Association - Industrial Special Risks, Other Accident, Public & Products Liability, Professional Indemnity;
- Dental Essentials - Fire, Other Accident, Public & Products Liability;
- Ultrasound - Professional Indemnity;
- Fire Protection Authority - Public & Products Liability, Other Accident, Fire;
- Pest Controllers - Public & Products Liability, Professional Indemnity, Fire;
- Australasian Association of Registered Training Organisations - Professional Indemnity;
- AABTh (Beauty Therapists) - Professional Indemnity;
- Australian Camps Association - Fire, Public & Products Liability, Other Accident;
- Community Related Insurance and Superannuation Program - Public & Products Liability.

Acceptance into the groups and associations is available to any person within the relevant class or professional group (ie builders, dentists) subject to them satisfying both qualitative and quantitative assessment.

CALLIDEN reviewed the likely risk profile of the members of the relevant groups and associations and decided that it would adopt the membership as a pre-condition to underwriting the various insurance risks in the particular industry sectors, or as a pre-condition to offering preferential pricing on the insurance product.

The groups and associations are not remunerated by CALLIDEN or any agent of CALLIDEN and earn their revenue directly from members for the services they provide.

CALLIDEN wishes to continue to issue the policies to the members of these groups and associations and will not issue the policies to any persons other than these members.

It is submitted that these arrangements do not have a significant anti-competitive effect in the market for the provision of the relevant insurance policies for the following reasons:

- The policies were developed in response to a demand by the members and their related groups and associations for access to the various types of insurance available under the schemes. The policies therefore provide

these members with access to insurance in circumstances where they may not otherwise be able to obtain, or may have difficulty obtaining, insurance on the same terms.

- Members are not obliged to obtain any insurance through CALLIDEN. They are free to obtain their insurance from any other insurer.
- A large number of other insurers exist who either do, or could, issue competing products.

The proposed conduct provides public benefit in that:

- The relevant groups and associations have sought to improve the level of protection afforded to consumers by closely pre-qualifying the quality and reputation of their members.
- Adopting membership of the groups and associations as a pre-condition for the offer of insurance cover in the relevant industries has allowed CALLIDEN to enter into additional markets, where otherwise it may either not offer cover, or would do so on less favourable terms and conditions.

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

Members of the groups and associations listed in Annexure A.

(b) Number of those persons:

- (i) **at the present time:** In respect of each scheme there are more than 50 persons, however, this amount varies from time to time based on the membership of the relevant group or association.
- (ii) **within the next year:** In respect of each scheme there will be more than 50 persons, however, this amount varies from time to time based on the membership of the relevant group or association.

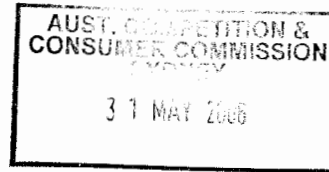
(c) Where the number of persons stated in item 3(b)(i) is less than 50, their names and addresses:

Not applicable

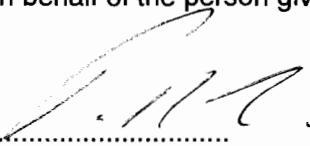
4 Name and address of person authorised by the person giving this Notice to provide additional information in relation to this Notice:

Paul Holm, Phillips Fox, 201 Elizabeth Street, Sydney NSW 2000

DATED: 31 May 2006



Signed on behalf of the person giving this notice


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Paul Holm

Partner

Phillips Fox

Annexure 1 - Confidential

14/6/06

Queensland Master Builders Authority

The scheme is available to builders who are currently licensed under the Queensland Building Services Authority (**QBSA**) and who also undertake construction projects in NSW (except the Construction Risks product which is QLD only). Insurance will be denied if the applicant does not meet these criteria.

There is no regulatory or other requirement that the applicant is licensed under the QBSA – membership is voluntary.

Timber Merchants

The scheme is available to members of the Timber Merchants Association (**TMA**). Currently, insurance will be denied if this criterion is not met.

There is no regulatory or other requirement that the applicant is a member of the TMA – membership is voluntary.

Phillips Financial Services Pty Ltd (the relevant broker) and TMA have requested that the product be changed so that the insurance is also available to non-members at a different price. Thus, membership would not be essential, but would still provide access to preferential pricing.

Hardware Association

The scheme is available to hardware stores and related trade suppliers/retailers that are members of the Hardware Association of Australia (**HAA**) and whose occupation falls within a specific list. Insurance will be denied if the applicant does not meet these criteria.

There is no regulatory or other requirement that the applicant is a member of the HAA – membership is voluntary.

Australian Funeral Directors Association

The scheme is available to funeral directors who are registered with and are members of the Australian Funeral Directors Association (**AFDA**). Insurance will be denied if the applicant does not meet this criterion.

There is no regulatory or other requirement that the applicant is a member of the AFDA – membership is voluntary.

Dental Essentials

The scheme is available to members of the buyer's group 'Dental Innovations'. In order to access the insurance products the applicant must be a member of Dental Innovations and Insurance will be denied if the applicant does not meet this criterion.

There is no regulatory or other requirement that the applicant is a member of Dental Innovations – membership is voluntary.

Ultrasound

The scheme is available to members of the Australasian Society for Ultrasound in Medicine (**ASUM**).

ASUM represents Sonographers who provide scans upon referral from a GP or similar. When the applicant acquires membership to ASUM the professional indemnity insurance is automatically given to them. ASUM provide the insurance product to all members on a master policy basis. The insurance is part of a package, and could possibly be considered to be the one product with the membership.

However, the insurance is not optional and is accounted for in the membership fee. Thus, the member has no option to purchase the insurance without the membership, or the membership without the insurance.

There is no regulatory or other requirement that the applicant is a member of ASUM – membership is voluntary.

Fire Protection Authority

The scheme is available to members of the Fire Protection Association of Australia (FPAA). Any applicant who is not a member of the FPAA can access the insurance products, however, they will be subject to differential pricing. In order to obtain the preferable pricing, the applicant must be acquire the membership of the FPAA.

A notification has already been lodged by the relevant broker (Alan Wilson Insurance Brokers), and immunity was subsequently granted by the ACCC.

There is no regulatory or other requirement that the applicant is a member of the FPAA – membership is voluntary.

Pest Controllers

The scheme is available to pest controllers or pre-purchase building inspectors that provide services in relation to general pest control, including termites, wood bores, fungal decay and chemical delignification.

Each applicant is required to undergo risk management training / assessment. This assessment requires that the pest controller use a particular format for reporting, which can be purchased from Report Systems Australia (RSA). If the applicant does not purchase and use this form, and therefore does not complete the risk management training / assessment, the insurance product will be denied.

There is no regulatory or other requirement that the applicant use the reporting format provided by RSA – the form is voluntary.

Australasian Association of Registered Training Organisations

The scheme is available to members of the Australasian Association of Registered Training Organisations. AARTO is an association for registered training organisations, compliance system auditors and individual trainers and teachers. In order to access the insurance products the applicant must be a member of AARTO and insurance will be denied if this criteria is not met.

There is no regulatory or other requirement that the applicant is a member of the AARTO – membership is voluntary.

AABTh (Beauty Therapists)

The scheme is for any beauty therapists that are members of the Advanced Association of Beauty Therapists (AABTh). The acquisition of a third line, being the membership, is required in order to access the insurance products under the scheme.

There is no regulatory or other requirement that the applicant is a member of the AARTO – membership is voluntary.

Australian Camps Association

The scheme is available to members of the Australian Camps Association (**ACA**) who are not members of Christian Camps International or are religious based. Persons or businesses that may apply to be a member of or accredited by the ACA are Australian campsite and outdoor activity providers.

In order to access the insurance products the applicant must be a current accredited member of ACA and maintain their ACA membership and accreditation during the currency of the policy. Insurance will be denied if the above criteria are not met.

There is no regulatory or other requirement that the applicant is a member of the ACA – membership is voluntary.

Community Related Insurance and Superannuation Program

The scheme is available to not-for-profit organisations (**NFPOs**) who are members of the Community Related Insurance and Superannuation Program (**CRISP**) at a national level. Membership of CRISP is required in order to access the insurance products. Membership of CRISP is a service that is purchased via a nominal membership fee, rather than membership being automatically granted based on the attributes of the NFPO. Membership of CRISP is not required in order for an organisation to classify themselves as an NFPO.

There is no regulatory or other requirement that the applicant is a member of CRISP – membership is voluntary.