

Robert James Lawyers

FILE No:
DOC:
MAPS/PRISM:

23 June 2006

Our Ref: ACP:RA:105351-42

Mr Scott Gregson
General Manager - Adjudications
Australian Competition and Consumer
Commission
PO Box 119
DICKSON ACT 2602

Dear Mr Gregson,

Notification - Exclusive Dealing

We act for Leading Edge Group Limited ACN 093 019 213 ("Leading Edge").

We enclose a notification under section 93(1) of the Trade Practices Act 1974 ("Act") in relation to conduct by Leading Edge which may breach section 47(6) of the Act.

We also enclose a cheque for \$1,000.00 being the relevant fee for lodging a notification in relation to conduct under section 47(6) of the Act.

Please do not hesitate to contact us if you have any queries.

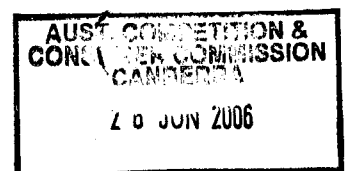
Yours faithfully,
ROBERT JAMES



Andrea Pane
Partner

Direct line: (03) 8628-2004
Email: andrea@robertjames.com.au

Enc.



ACP-105351-42-14-V1:SG

FORM G

N92535

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(2), (3), (4), (5), (6) or (7) or paragraph 47(8)(a), (b), (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:

Leading Edge Group Limited ACN 093 019 213 ("LEG")

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

LEG provides a number of services to independent small businesses.

The businesses will be granted a "Leading Edge Jewellers" membership by LEG and will be referred to as "members". Members will be provided with LEG's buying and marketing advantage together with other benefits by being a member of the "Leading Edge Jewellers" group. LEG will provide members with:

- the ability to purchase most stock at advantageous prices from LEG's preferred suppliers;
- marketing and promotions that may otherwise be too costly for a small business operator to implement by themselves;
- the ability to purchase ancillary business goods and services (such as EFTPOS/credit card processing services, freight services, insurance etc.) at better prices;
- conferences and training.

Some members will have the right to operate under the "Leading Edge Jewellers" brand.

The members of "Leading Edge Jewellers" group will be primarily owners of retail jewellery stores.

The goods and services to be provided by the members are jewellery and other related products and services ("Products").

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

C/- Attention: Andrea Pane, Robert James Lawyers, Level 10, 200 Queen Street, Melbourne, Victoria 3000.

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

The notification relates to the:

- acquisition of Products by "Leading Edge Jewellers" members for supply to customers of their businesses; and
- acquisition of computer point of sale system software ("POS Software") by "Leading Edge Jewellers" members for use in their businesses.

(b) Description of the conduct or proposed conduct:

See Annexure "A".

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

Persons who will become members of the "Leading Edge Jewellers" group.

(b) Number of those persons –

- (i) At present time – Nil.
- (ii) Estimated within the next year – 100 to 150.

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

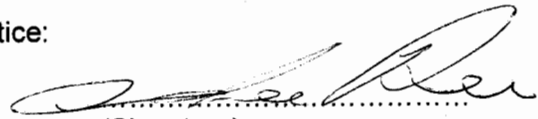
Not applicable.

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

Andrea Pane
Partner
Robert James Lawyers
Level 10
200 Queen Street
MELBOURNE VIC 3000

Signed for an on behalf of the person giving this notice:

Dated 23 1 6 /2006



(Signature)

ANDREA PAME

(Full Name)

LAWYER

(Description)

ANNEXURE "A"

SUBMISSION TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION REGARDING THIRD LINE FORCING NOTIFICATION

1 INTRODUCTION

- 1.1 Leading Edge Group Limited ACN 093 019 213 ("LEG") is a buying and promotional support group. It unites small businesses (who are known as "members") and provides them with certain benefits and services.
- 1.2 Members operate their own businesses and are generally independent small retailers with a store on a high street or in a shopping centre. Members generally do not have any relationship with other members other than through their connection to LEG.
- 1.3 Amongst the other services provided to members (see below), LEG negotiates preferential pricing for the purchase of products with its preferred suppliers. Most of this benefit is passed on to members.
- 1.4 Members are provided with the benefits of the buying and marketing advantage of LEG by being members of the group. In particular, LEG provides members:
 - 1.4.1 with the ability to purchase most stock at advantageous prices from LEG's preferred suppliers;
 - 1.4.2 with marketing and promotions that may otherwise be too costly for a small business operator to implement by themselves;
 - 1.4.3 with the ability to purchase ancillary business goods and services (e.g. EFTPOS/credit card processing services, freight services, insurance etc.) at better prices;
 - 1.4.4 conferences and training.
- 1.5 Some members will have the right to operate under the "Leading Edge Jewellers" brand.
- 1.6 Small businesses become members by entering into an agreement with LEG ("Member Agreement").
- 1.7 The goods and services to be provided by the members are jewellery and other related products and services.
- 1.8 Upon entering into the Member Agreement, LEG grants the member a specific "Central Credit" account which the member can use with LEG and LEG's preferred suppliers. By the member notifying a preferred supplier of their LEG account number, the member will usually gain preferential pricing.

2 THE PROPOSED CONDUCT

Products

- 2.1 "Leading Edge Jewellers" members will be granted an exclusive territory under their Member Agreements on the condition, among other things, that they agree to acquire at least 80% of their stock from LEG's preferred suppliers.
- 2.2 Details of LEG's preferred suppliers will be set out in the operations manual provided by LEG to the "Leading Edge Jewellers" members or otherwise notified to the members.
- 2.3 Members will be required, under the Member Agreement, to hold stock promoted in various advertisements and catalogues distributed by the members ("Promotion Products").
- 2.4 Some of the Promotion Products which the members must hold (as specified by LEG) may only be purchased from LEG's preferred suppliers.
- 2.5 Members, as the operators of their own independent small businesses, may (subject to the terms of their Member Agreement as set above) purchase products from the supplier(s) of their choice.

POS Computer System

- 2.6 Members will be required, under the Member Agreement, to use the point of sale computer system ("POS Computer System") specified by LEG.
- 2.7 As the POS Computer System will be tailored specifically to the "Leading Edge Jewellers" business, it can only be purchased from the supplier specified by LEG ("Nominated Computer Supplier").
- 2.8 Details of the POS Computer System and LEG's Nominated Computer Supplier will be set out in the operations manual provided by LEG to the members or otherwise notified to the members.

3 THE PURPOSE OF THE PROPOSED CONDUCT

Products

- 3.1 The purpose of the proposed conduct referred to in clauses 2.1 to 2.5 is not to lessen competition in the relevant market or markets but:
 - 3.1.1 to ensure that members stock products promoted in various advertisements and catalogues by the members;

- 3.1.2 for LEG to do its best to ensure that "Leading Edge Jewellers" members are able to acquire products at competitive prices through the power of bulk buying, making the members more competitive in the market.

POS Computer System

- 3.2 The purpose of the proposed conduct referred to in clauses 2.5 to 2.7 is not to lessen competition in the relevant market or markets but to:
 - 3.2.1 ensure consistency and quality in the POS Computer System used in the Members' businesses and that POS Computer System used in the Members' businesses meets LEG's standards. The quality of POS Computer System can vary significantly depending on the source;
 - 3.2.2 ensure compatibility between LEG's computer system and the computer systems of the "Leading Edge Jewellers" members;
 - 3.2.3 do its best to ensure that "Leading Edge Jewellers" members are able to acquire the POS Computer System at competitive prices through the power of bulk buying, making the members more competitive in the market.

4 THE RELEVANT MARKET

Products

- 4.1 LEG submits that the relevant market is:
 - 4.1.1 the wholesale market for the supply of jewellery and other related products in Australia; and
 - 4.1.2 the retail market for the supply of jewellery and other related products in Australia.
- 4.2 Based on investigations made by LEG, these markets are highly competitive and there are a number of participants in both the wholesale and retail markets.

POS Computer System

- 4.3 LEG submits that the relevant market is the retail market for the supply of point of sale computer hardware and software in Australia.
- 4.4 Based on investigations made by LEG, this market is highly competitive and there are a number of participants in the market.

5 NO LESSENING OF COMPETITION

Products

- 5.1 LEG submits that the proposed conduct will not lessen competition in either the wholesale or retail markets referred to above.
- 5.2 At a wholesale level:
- 5.2.1 the proposed conduct will not prevent "Leading Edge Jewellers" members from dealing with other suppliers:
- (1) Members are independent operators and except for requirements referred to in clauses 2.1 to 2.5 above, members may acquire products for sale in their businesses from the supplier(s) of their choice;
 - (2) The agreements to be entered into by LEG and its preferred suppliers will not grant exclusive rights to those suppliers for the ongoing supply of products to the "Leading Edge Jewellers" members. LEG may appoint different suppliers as its preferred suppliers from time to time. In determining whether to appoint a supplier as a preferred supplier, LEG will consider such things as quality of products, ability to supply the volume required and price;
- 5.2.2 Preferred suppliers will be able to contract with competitors of the "Leading Edge Jewellers" members;
- 5.2.3 LEG will not be limited in its dealings with competitors of its preferred suppliers.
- 5.3 At a retail level:
- 5.3.1 consumers may acquire jewellery from any number of businesses, not just the "Leading Edge Jewellers" members;
- 5.3.2 LEG submits that the proposed conduct will result in better quality products being supplied to customers in the relevant markets and better prices for those products.
- 5.4 As a result, LEG submits that the proposed conduct will increase competition in the wholesale market and retail markets and result in a number of benefits to the public.

POS Computer System

- 5.5 LEG submits that the proposed conduct will not lessen competition in the retail market referred to above.

- 5.6 The agreements to be entered into by LEG and the Nominated Computer Supplier will not grant exclusive rights to that supplier for the ongoing supply of POS Computer Systems to "Leading Edge Jewellers" members. LEG may appoint a different supplier as the Nominated Computer Supplier from time to time. In determining whether to appoint a supplier as the Nominated Computer Supplier, LEG will consider such things as quality of POS Computer System, ability to supply the volume of hardware and software required, ability to service the number of "Leading Edge Jewellers" stores within the "Leading Edge Jewellers" group and price.
- 5.7 The Nominated Computer Supplier will be able to contract with competitors of LEG and the "Leading Edge Jewellers" members.
- 5.8 LEG will not be limited in its dealings with competitors of the Nominated Computer Supplier.
- 5.9 LEG submits that the proposed conduct will improve the operation of the "Leading Edge Jewellers" members' businesses, making the businesses more competitive which will result in better prices for customers.

6 PUBLIC BENEFIT

- 6.1 LEG submits that the proposed conduct has considerable public benefit.
- 6.2 The "Leading Edge Jewellers" members will operate in a number of competitive retail markets. The "Leading Edge Jewellers" members' businesses will be found in metropolitan and regional areas throughout Australia. The existence of the businesses in the market place will increase competition increasing the likelihood of lower prices for end consumers. Competitors of the members businesses include: Goldmark, Michael Hill Jewellers, Prouds, Angus & Coote and Vivian's.
- 6.3 Small independent businesses do not have access to the benefits of larger organisations such as buying power, market presence, group marketing. This puts them at a significant disadvantage.
- 6.4 "Leading Edge Jewellers" members gain a number of benefits from being part of the LEG system:
 - 6.4.1 High Quality Products and Certainty of Supply

LEG has considerable experience in sourcing products. LEG will use that experience to source products which meet LEG's high standards. LEG will also approve only those suppliers which, based on LEG's investigations, are able to supply the volume of products required by "Leading Edge Jewellers" members at competitive prices.

6.4.2 Better Buying Power

"Leading Edge Jewellers" members by themselves would have little or no ability to negotiate with:

- LEG's preferred suppliers the types of prices for products which LEG is able to negotiate; and
- the Nominated Computer Supplier the type of price for the POS Computer System which LEG is able to negotiate.

If the "Leading Edge Jewellers" members negotiated independently with any of the preferred suppliers or the Nominated Computer Supplier, they would in all likelihood have to pay a higher price. In some cases, "Leading Edge Jewellers" members may not even have the opportunity to be supplied at all by that particular supplier if they were to approach them independently. By being able to purchase the products at lower prices, members are able to compete with the larger businesses. The increased competition results in lower prices for consumers.

6.4.3 Increased Sales

By being part of the LEG system, the "Leading Edge Jewellers" members have market presence and group marketing power which they would otherwise not have. Where the "Leading Edge Jewellers" members brand their businesses using the "Leading Edge Jewellers" name and logo, they increase customer awareness of the products that the "Leading Edge Jewellers" businesses provide. The branding of the businesses will draw more customers to the "Leading Edge Jewellers" members' businesses than if they were independents, resulting in increased sales.

6.4.4 Increased Profitability

By being part of the LEG system, the "Leading Edge Jewellers" members will be able to acquire:

- products; and
- the POS Computer System,

at much more competitive prices than if they were independents. This improves the profitability of "Leading Edge Jewellers" members' businesses and helps them achieve the economies of scale normally associated with larger organisations.

- 6.5 LEG submits that, as a consequence of the benefits provided by LEG to "Leading Edge Jewellers" members and the benefits of the proposed conduct, consumers in the relevant retail markets will benefit.
- 6.6 The increased competitiveness and viability of the "Leading Edge Jewellers" members enables them to compete with larger businesses, resulting in greater competition at the retail level and better prices and increased service levels for end consumers. If independent businesses such as those operated by the "Leading Edge Jewellers" members were to be pushed out of the marketplace the major competitors would have greater market share enabling them to increase the prices of products to the public.
- 6.7 There is also evidence to suggest that the majority of profits earned by "Leading Edge Jewellers" members are spent locally, resulting in greater demand for products and services in the areas in which the "Leading Edge Jewellers" members operate and increasing competition in those areas. This is particularly important in regional areas.
- 6.8 There are also a number of benefits to be gained by the preferred suppliers and the Nominated Computer Supplier from the proposed conduct. By being appointed as a preferred supplier or the Nominated Computer Supplier, the supplier will have some degree of certainty as to volumes of:

- products; and
- the POS Computer System,

which "Leading Edge Jewellers" members will require. This will give them a greater ability to plan for their business and may encourage them to invest in their business. The increased volumes will also result in greater economies of scale and efficiencies within the preferred supplier's and the Nominated Computer Supplier's business. This in turn enables the:

- preferred supplier to supply the products to "Leading Edge Jewellers" members at more competitive prices; and
- Nominated Computer Supplier to supply the POS Computer System to "Leading Edge Jewellers" members at more competitive prices,

increasing competition and resulting in lower prices to end consumers.

7 PUBLIC DETRIMENT

- 7.1 LEG submits that there is no public detriment that results from the proposed conduct.

8 CONCLUSION

- 8.1 To the extent that the proposed conduct contravenes section 47 of the Act, LEG submits that the public benefits resulting from the proposed conduct outweigh any public detriment caused by the proposed conduct.