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3rd February, 2006

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
Dickson ACT 2602

Dear Sir,

Submission in Response to Exclusive Dealing Notification N31496

The notification by James Hardie relating to the supply of fibre cement building products will have a significant impact on our business. Accordingly, we make the following submission objecting to the approval of the protection being sought by James Hardie.

Background
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Established in 1877, Dahlsens Building Centres Pty Ltd ("DBC") is a supplier of timber, hardware and building materials in South-Eastern Australia. Operating out of 25 locations with sales in excess of [redacted] we are one of the biggest independent retailers in Australia. Regionally based, most of our sites trade as a Dahlsens Building Centre although five of our sites trade under the Mitre 10 banner. We are also a founding member of the National Building Suppliers Group. (A list of our locations is attached.) Predominantly supplying to the trade, we are one of the biggest retailers of fibre cement building products.

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Our current supplier of fibre cement products is CSR. Our purchases amount to approximately [redacted] per month. We also purchase approximately [redacted] worth of plaster products from CSR each month.

There are a number of fibre cement products that CSR do not produce. These are the products that James Hardie define as 'new technologically differentiated products'. Some of our customers specifically request these products and for DBC to have a credible offer for builders we must be able to supply these products. Some customers also specify other James Hardie products for unrelated reasons such as personal preference or historical reasons. When this occurs, we have an arrangement with CSR whereby they supply us with the James Hardie product. Purchases of these products amount to approximately [redacted] per month. Although these sales amount to only 6% of our fibre cement sales, we must be able to supply them when requested.

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As a regional operator, some of our stores are in towns where there is limited choice. Builders do not have the option of going somewhere else for their products. A critical component of our offer to builders is that they are able to purchase all their products from DBC.

Consequences

If the application by James Hardie to restrict sales of their 'new technologically differentiated products' were to be successful, as a supplier we would have two options:

1. We could choose to purchase all our fibre cement products from James Hardie, or
2. We could maintain our existing supply arrangements with CSR but not supply the James Hardie products.

The consequences of the first option would be that if every retailer responded in this way, CSR (or any other fibre cement manufacturer) would be forced out of the market thus giving James Hardie a monopoly.

If we elect to take the second option, our business would suffer due to our inability to provide a full range of products. We would lose the sales of the James Hardie products but we would also risk losing those customers who specify James Hardie products as they may seek to purchase all their products from a single retailer. In regional areas where competition from other retailers is limited, an alternative consequence is that our customers would be forced to accept a limited product range. Either they would then be forced to source the product from distant locations at a higher price or seek to re-specify the design. Ultimately, the customer would be forced to pay more or accept a lesser design.

Outcome Sought

Clearly, for the continued competitiveness of our business and the benefit of our builders and their customers, we must resist any attempt to force change to the existing supply arrangements. The differentiated products account for only 6% of our volume and should not be allowed to dictate the supply arrangements for the remaining 94%. Under the current arrangements, James Hardie continue to receive the benefit of their new technology to the extent that these products are sought in the market place as intended under the application of the intellectual property laws. Hardies should be congratulated and supported for their innovative and new products and currently that is happening. However, these products do not justify a total monopoly of the fibre cement market.

To protect market sensitive information that would be disclosed by publication of this submission, I request that any comments contained in this letter referring to sales or purchase figures be removed from the public record.

If any further information is required to support any of the contents of this letter, or if you have any other queries regarding our submission or our request for restricted publication, please contact our office.

Kind Regards,



Geoff Dahlsen
Chief Executive Officer
Dahlsens Building Centres

Manufacturing

Albury

Metrey Street
Albury, NSW 2640

Bairnsdale

38 McMillan Street
Bairnsdale, Vic 3875

Ballarat

11 Ring Road
Wendouree, Vic 3355

Horsham

149 Stawell Road
Horsham, Vic 3400

Mount Gambier

2 Sturt Street
Mt Gambier, SA 5290

Sale

9 Foster Street
Sale, Vic 3850

Traralgon

Lot 75 Wheeldon Court
Traralgon, Vic 3844

Warragul

3 Pearse Street
Warragul, Vic 3820

Wonthaggi

6 Mortimer Street
Wonthaggi, Vic 3995

Branches

Bairnsdale M10

19 Dalmahoy Street
Bairnsdale, Vic 3875

Deniliquin

Barham Road
Deniliquin, NSW 2170

Echuca

Ogilvie Avenue
Echuca, Vic 3564

Horsham

24-38 Wilson Street
Horsham, Vic 3400

Kerang

Boort Road
Kerang, Vic 3579

Lakes Entrance M10

42 Church Street
Lakes Entrance, Vic 3909

Lakes Entrance Trade

60 Whikers Street
Lakes Entrance, Vic 3909

Mildura M10

973-1029 Benetook Avenue
Mildura, Vic 3502

Sale

48 Macarthur Street
Sale, Vic 3850

Shepparton

94 Drummond Road
Shepparton, Vic 3630

Swan Hill

Karinie Street
Swan Hill, Vic 3585

Traralgon

153 Argyle Street
Traralgon, Vic 3844

Wagga Wagga

16-20 Ashmont Avenue
Wagga Wagga, NSW 2650

Warragul M10

44 Palmerston Street
Warragul, Vic 3820

Warragul Trade

9-12 June Court
Warragul, Vic 3820

Wodonga

49 Thomas Mitchell Drive
Wodonga, Vic 3690