



**Australian
Competition &
Consumer
Commission**

Our Ref: C2006/1831, C2006/1795
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7 December 2006

Mr Peter Rosengren
Partner
Deacons
GPO Box 407
BRISBANE QLD 4001

Dear Mr Rosengren

Exclusive dealing notifications lodged by Devine Limited – N50191 (Devine/James Hardie), N50193 (Devine/Laminex Industries), N50194 (Devine/Beaumont Tiles)

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 15 September 2006, 27 September 2006 and 29 September 2006. I also refer to your letter dated 17 October 2006 in which you responded to the ACCC's request for further information in respect of the notifications.

The notifications and your letter of 17 October 2006 have been placed on the ACCC's public register.

The conduct the subject of the notifications is described as follows:

Devine proposes to allow builders to participate in the Battle of the Builders campaign at the Lakeside Development on the Andrews Farm Estate in Adelaide on the condition that they acquire specified building products from the nominated suppliers, being James Hardie, Beaumont Tiles and Laminex Industries, provided these suppliers can supply their products at a price which is competitive to that currently being charged by existing suppliers of those products. Participating builders are free to use suppliers of their choice in respect of all other materials required by them to construct homes on the Andrews Farm Estate.

Legal immunity conferred by the notifications came into force as follows:

N50191 on 29 September 2006



N50193 on 11 October 2006
N50194 on 13 October 2006.

I note that in addition to your letter of 17 October 2006, you have provided a draft Form G concerning arrangements with Rheem as a further nominated supplier. You should be aware that, to date, the ACCC has not received the lodgement fee that is required for this to be considered as a valid notification.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

Finally, the ACCC would expect that builders and home buyers are made fully aware of the exclusive dealing restrictions prior to entering into arrangements to purchase the block and/or build a home.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Joanne Palisi on 02 6243 1323.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch