



13th February 2006

Australian Competition & Consumer Commission
Attention: Mr Kelvin Binning
PO Box 1199
DICKSON ACT 2602

Your Ref: C2006/71

Dear Kelvin

**Re: James Hardie Australia Pty Ltd – Exclusive Dealing Notification
N31493.**

This letter is in response to your letter of 16th January 2006 regarding the above.

1. Hudson Building Supplies Pty Ltd (HBS)

HBS is a privately owned distributor of hardware and building supplies which operates from 19 branches covering the Brisbane, Sydney, Melbourne and some regional areas. HBS has an annual turnover of approximately [redacted] and employs over 300 people.

Revenue from the sale of the fibre cement products represents approximately [redacted] of HBS's total revenue.

The HBS business is primarily focused on servicing builders and tradespeople and as such trade sales represent over [redacted] of HBS's total revenue.

2. HBS's Purchases of Fibre Cement Products

CSR is currently HBS's preferred supplier for fibre cement product, after winning a competitive tender process against James Hardie and BGC in August 2005.

HBS is currently able to purchase all undifferentiated fibre cement products direct from James Hardie, but all 'new technology differentiated products' are sourced through other distributors.

Hudson Building Supplies Pty Ltd

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3. Bundling

Whilst HBS purchases a range of products from CSR (fibre cement, bricks, insulation), there is no bundling agreement in place nor has any bundling incentive or agreement been offered in recent times (if ever).

4. Suppliers Influencing/Controlling the Channel to Market

Both CSR and James Hardie actively attempt to influence or control the sales of their respective undifferentiated products to the end users (builders) through;

1. Sales representations and technical support
2. Financial incentives such as rebates and promotional support
3. Advertising and promotional activity

HBS is not a party to the incentives or financial support paid direct to builders, however, a number of HBS's customers specify either CSR or James Hardie branded products, presumably because of the rebates that they receive. As a consequence, HBS stocks both CSR and James Hardie products in most branches in order to satisfy brand specific orders.

HBS previously attempted to move to a single supplier for undifferentiated fibre cement products but in doing so it lost sales and hence it reverted to dual stocking.

5. Supply of Fibre Cement Products to the End Customers

With the construction of a home or building there are typically numerous deliveries of timber and hardware items in order to ensure that the required products arrive on site just before they are required for installation (typically the day prior), in order to minimize theft and damage. In approximately 90% of cases the builder will request the delivery of all fibre cement products at the same time (ie: one delivery).

A review by HBS shows that where a builder requires fibre cement material for more than one area of the house or building (ie: eaves and wet area), they will purchase all of their requirements from one source, in 100% of cases. In other words, a builder will not buy their eaves material from one supplier and their wet area material from another supplier. The likely reason for this is because builders will seek to minimize complexity of the building process through fewer deliveries, fewer invoices and fewer points of contact.

6. Distribution of the Fibre Cement Products and Plasterboard

HBS has large sales of fibre cement products yet relatively small sales of plasterboard products. There are 2 key reasons for this;

1. Plasterboard is primarily sold to plasterboard installers whereas fibre cement products are sold direct to builders. HBS's sales force is only focused on dealing with builders.
2. Plasterboard typically requires delivery with two people (a truck driver plus one other), so that the plasterboard can be man-handled into the required positions on the building site, whereas fibre cement can be crane unloaded to a single point on the site. HBS has only one person per truck and is therefore not setup to handle larger volumes of plasterboard.

Conversely, it is unlikely that CSR delivers large quantities of fibre cement direct to builders via their 'Red Shed' distribution network because builders typically purchase fibre cement from hardware suppliers as fibre cement is most often ordered with a range of complementary timber and hardware items (ie: fascia, eaves, mouldings, gable vents, cavity sliders, etc.) none of which are stocked by CSR's 'Red Sheds', nor are they setup to stock them.

7. James Hardie's 'New Technology Differentiated Products'

The demand for James Hardie's 'new technology differentiated products' is very small at this stage, however demand is likely to increase if their current high level of marketing support is sustained.

HBS has received specific customer requests for both the Linea™ Weatherboard and the AquaTec™ Flooring products and in nearly all cases have been unable to switch the customers to a similar competitor products.

8. Potential Impact of the Proposed James Hardie Distribution Policy on HBS

If the proposed policy is implemented then HBS will be faced with the following choices;

<u>Fibre Cement Supply</u>	<u>Consequence</u>
1. Remain a dual stockist of both CSR and James Hardie products	Lose a range of sales as a result of not being able to offer the complete fibre cement package (James Hardie's new technology differentiated products)
2. Become an exclusive James Hardie stockist	Potentially lose sale to builders who are aligned to CSR (via rebates, etc.), and pay a higher price for undifferentiated fibre cement products from James Hardie

In summary, HBS is apposed to James Hardie's Exclusive Dealing Notification as it will not only impact HBS's ability to secure competitive pricing on undifferentiated fibre cement products but it has the potential to materially impact HBS's sales.

Yours faithfully,

Mike Barry
Managing Director