

6 February 2009

Guild Legal Limited
ABN 18 108 546 774
5 Burwood Road
Hawthorn VIC 3122
Locked Bag 7, Hawthorn VIC 3122
Tel 03 9810 6777
Fax 03 9810 6770
Email info@gli.com.au
www.guildlawyers.com.au

Mr Simon Mitchell
Australian Competition & Consumer Commission

By email: Simon.Mitchell@acc.gov.au

Dear Mr Mitchell

ProVision Eye Care Pty Ltd ("ProVision")
Exclusive Dealing Notification
Your reference: 36339

We refer to your email and letter of 23 January 2009 and respond to your request for further information and clarification using the same order as that set out in your letter:

- [EXCLUDED FROM PUBLIC REGISTER]
- [EXCLUDED FROM PUBLIC REGISTER]
- [EXCLUDED FROM PUBLIC REGISTER]
- ProVision operates an account for each member from which the member purchases its stock requirements from ProVision's Preferred Suppliers. The Member must disclose to ProVision all information concerning the products acquired by the member from ProVision's Preferred Suppliers, sales of those products and the acquisition and sale of any other products by the member. The member must also provide to ProVision at the end of each month, a revenue and sales report which fully and accurately discloses the sales of Products for the month. By this process, ProVision is able to determine whether this 75% purchase requirement is met.
- ProVision's 75% purchase requirement is based on a proportion of the total value of purchases by a member.
- Membership to the Program is on a per practice basis. For example, an independent optometrist, as a sole practitioner who owns 2 optometry practices would hold 2 memberships with ProVision, one for each practice and if the practice is owned by a body corporate, it is the legal entity which is the owner of the practice that will hold an account with ProVision and will be a member of the Program.
- Membership to the Program is on a per practice basis. The practice may be owned by a body corporate or individual practising optometrists. We are instructed that most optometry practices are owned by 1 to 2 optometrists either as sole proprietor, in partnership or as a body corporate. [EXCLUDED FROM PUBLIC REGISTER]

**EXCLUDED FROM
PUBLIC REGISTER**

{2005478 \ S0119329 v2}

EXCLUDED FROM

MELBOURNE

5 Burwood Road
Hawthorn VIC 3122
Locked Bag 7, Hawthorn VIC 3122
Tel 03 9810 6777
Fax 03 9810 6770

SYDNEY

Level 5, 345 George Street
Sydney NSW 2000
GPO Box 3549, Sydney NSW 2001
Tel 02 9018 9918
Fax 02 9018 9900

NEWCASTLE

Ground Floor, 232-244 Pacific Highway
Charlestown NSW 2290
PO Box 625, Charlestown NSW 2290
Tel 02 4922 6266
Fax 02 4922 6260

- The term “independent optometrists” referred to in our submission to the ACCC refers to optometrists who own and operate their own optometry practice under their own identity. These include optometry practices that are attached to optometry buying groups but do not include franchises or practices owned by larger “corporatised” practices. ProVision estimates that there are approximately 1000 independent optometry practices in Australia of which approximately 700 are attached to optometry buying groups. Of this 700, 400 are members of ProVision.

We also request that the information included in this letter be excluded from the public register. This is because the information set out in this letter sets out terms for our members that are specific to ProVision and beneficial to ProVision’s competitors.

We hope this clarifies your queries.

If you have any further queries, we and our client would be happy to meet with you to discuss them.

Yours faithfully



Solicitor Director:	Mark Fitzgerald
Direct line:	(03) 9810 6767
Email:	mfitzgerald@gli.com.au