

MALLESONS STEPHEN JAQUES



FILE No:	
DOC:	
MARS/PRISM:	

Mr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

6 November 2009

Dear Mr Chadwick

CPA Australia Limited - Notification under section 93(1) of the Trade Practices Act

We act for CPA Australia Limited ("CPA Australia").

We enclose, on behalf of CPA Australia:

- (a) a Form G (Notification of Exclusive Dealing) in relation to certain mutual recognition arrangements between CPA Australia and the Institute of Certified Public Accountants in Ireland;
- (b) a submission in support of the notification; and
- (c) a cheque for \$100 payable to the Australian Competition and Consumer Commission.

If you have any questions in relation to the enclosed notification or require any further information, CPA Australia would be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read "Wayne Leach".

Wayne Leach
Senior Associate
Direct line +61 2 9296 2327
Email wayne.leach@malleasons.com

Dave Poddar
Partner
Direct line +61 2 9296 2281
Email dave.poddar@malleasons.com

Form G

Commonwealth of Australia
Trade Practices Act 1974 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1 Applicant

- (a) Name of person giving notice:

(Refer to direction 2)

N94311

CPA Australia Ltd (ACN 008 392 452) (“CPA Australia”).

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

(Refer to direction 3)

CPA Australia is an accounting body with a membership of more than 120,000 finance, accounting and business professionals world-wide. CPA Australia offers professional qualifications and other membership services to finance, accounting and business professionals who meet its specified admission requirements.

For further details, please refer to the attached submission.

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

Mr Dave Poddar
Mallesons Stephen Jaques
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

2 Notified arrangement

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

CPA Australia and the Institute of Certified Public Accountants in Ireland (“CPA Ireland”), a professional accounting body based in the Republic of Ireland, have entered into a Mutual Recognition Agreement (“MRA”). When effective, the MRA will make:

- members of CPA Ireland, who have met specified professional requirements and passed specified bridging subjects, eligible for membership of CPA Australia; and
- members of CPA Australia, who have met specified professional requirements and passed specified bridging subjects, eligible for membership of CPA Ireland.

Further details of the mutual recognition arrangements are set out in the attached submission. However, in summary, the MRA provides a mechanism under which CPA Australia and CPA Ireland will recognise the qualification and training provided by the other, and admit each others' members in good standing (subject to passing specified exams or bridging papers).

In order to ensure that appropriate professional standards are maintained and continue to be met -- and as the opportunity to obtain mutual recognition under the MRA arises *because* a person is already a member of CPA Ireland or CPA Australia -- the MRA requires accountants who obtain mutual recognition under the MRA, to continue to maintain their original membership.

- (b) Description of the conduct or proposed conduct:

(Refer to direction 4)

Please see the response to Question 2(a) above. The notified conduct relates to:

- (i) CPA Australia providing membership/accreditation services under the MRA on condition that applicants have and retain membership with CPA Ireland; and
- (ii) CPA Ireland providing membership/accreditation services under the MRA on condition that applicants have and retain membership with CPA Australia.

3 Persons, or classes of persons, affected or likely to be affected by the notified conduct

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

(Refer to direction 5)

Persons likely to be affected by the notified conduct are those who wish to obtain accreditation and membership of either CPA Australia or CPA Ireland in accordance with the mutual recognition arrangements specified in the MRA.

- (b) Number of those persons:

- (i) At present time:

CPA Australia does not have a definitive number. However, CPA Australia currently has approximately 120,000 members, and CPA Ireland has over 5,000 members.

- (ii) Estimated within the next year:

(Refer to direction 6)

Please see response to section 3(b)(i) above.

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

Not applicable.

4 Public benefit claims

- (a) Arguments in support of notification:

(Refer to direction 7)

Please see the attached submission.

- (b) Facts and evidence relied upon in support of these claims:

Please see the attached submission.

5 Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

(Refer to direction 8)

CPA Australia considers that the relevant market is the market for the provision of professional accreditation and other membership services to finance, accounting and business professionals in Australia.

6 Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

(Refer to direction 9)

The Applicant submits that the notified conduct will have no discernable public detriments. For further details, please see the supporting submission.

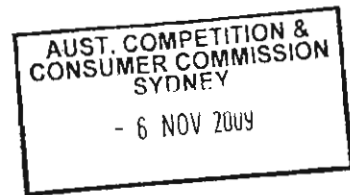
- (b) Facts and evidence relevant to these detriments:

Please see the attached submission.

7 Further information


- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Dave Poddar
Mallesons Stephen Jaques
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000



Dated... 6 November 2009

Signed by/on behalf of the applicant


.....

(Signature)

Dave Poddar
Partner
Mallesons Stephen Jaques

DIRECTIONS

- 1 In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
- 5 Describe the business or consumers likely to be affected by the conduct.
- 6 State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
- 7 Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
- 8 Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
- 9 Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

CPA Australia Ltd

Submission in support of
a notification under 93(1)
of the *Trade Practices Act*
1974 (Cth)

Dated 6 November 2009

CPA Australia Ltd

Submission in support of a notification under section 93(1) of the *Trade Practices Act*

1 Introduction

1.1 Purpose of submission

This submission is made by CPA Australia Ltd (“**CPA Australia**”) in support of its notification submitted pursuant to section 93(1) of the *Trade Practices Act* 1974 (Cth) (“**TPA**”).

1.2 Summary of notified conduct

CPA Australia and the Institute of Certified Public Accountants in Ireland (“**CPA Ireland**”), a professional accounting body based in the Republic of Ireland, wish to enter into a Mutual Recognition Agreement (“**MRA**”). When effective, the MRA will make:

- members of CPA Ireland, who have met specified professional requirements and passed specified bridging subjects, eligible for membership of CPA Australia; and
- members of CPA Australia, who have met specified professional requirements and passed specified bridging subjects, eligible for membership of CPA Ireland.

Further details of each of the MRA are set out in Attachment 1. However, in summary, the MRA provides a mechanism under which CPA Australia and CPA Ireland will recognise the qualification and training provided by the other, and admit each others’ members in good standing (subject to passing the specified bridging papers).

In order to ensure that appropriate professional standards are maintained and continue to be met -- and as the opportunity to obtain mutual recognition under the MRA arises *because* a person is already a member of CPA Ireland or CPA Australia -- the MRA requires accountants who obtain mutual recognition under the MRA, to continue to maintain their original membership.

1.3 The arrangements involve substantial public benefits and no discernible public detriment

The mutual recognition arrangements under the MRA will facilitate the increased mobility of professionals in Australia, and enable Australian businesses to have greater (and quicker) access to a wider range of qualified professionals. Mutual recognition of CPA Australia members by CPA Ireland also provides additional opportunities for Australian finance, accounting and business professionals to pursue professional and other business opportunities in Ireland.

Importantly, the MRA does not require members of CPA Ireland to obtain membership of CPA Australia (or CPA Australia members to obtain membership of CPA Ireland). Nor do they:

- limit or restrict the ability of either CPA Australia or CPA Ireland to admit as members people who meet the requirements of the relevant organisation; or
- prevent applicants from pursuing membership of either CPA Australia or CPA Ireland independently of the mutual recognition arrangements provided in the MRA (i.e. by meeting the full requirements of CPA Australia or CPA Ireland as the case requires).

Rather, the mutual recognition arrangement provides an additional expedited or “short-cut” mechanism for members of CPA Ireland (who have met, and continue to meet, the professional requirements of that organisation) to also obtain membership of CPA Australia (and *vice versa*), if they wish to avail themselves of that opportunity. Put another way, the mutual recognition arrangements merely provide an additional service or opportunity for existing members of CPA Australia and CPA Ireland.

On this basis, and for the reasons set out further in Section 3, CPA Australia considers that the mutual recognition arrangement contained in the MRA involves substantial public benefits and no discernible public detriment.

2 Background information on CPA Australia and CPA Ireland

2.1 CPA Australia

CPA Australia is one of the world’s largest accounting bodies with a membership of more than 120,000 finance, accounting and business professionals across the globe.

CPA Australia offers professional qualifications and other membership services to finance, accounting and business professionals who meet the specified admission requirements. To use the CPA designation, members must (unless they obtain membership through mutual recognition arrangements):

- have an undergraduate degree or a post graduate award recognised by CPA Australia;
- complete a comprehensive postgraduate professional study program (the CPA Program);
- complete 3 years supervised or mentored experience in finance, accounting or business;
- undertake continuing professional development each year; and
- show continued adherence to a strict code of conduct set by CPA Australia.

To offer public accounting services, CPAs must also complete CPA Australia’s Public Practice Program, which involves distance learning and a residential

component, and must hold a Public Practice Certificate in accordance with CPA Australia's by-laws.

In Australia, CPA Australia competes with other professional membership bodies for accountants, including the Institute of Chartered Accountants of Australia and the National Institute of Accountants.

2.2 CPA Ireland

CPA Ireland is a professional association for accountants in the Republic of Ireland with over 5,000 members.

CPA Ireland's activities include:

- regulating CPAs in accordance with the law and CPA Ireland's Code of Ethics in the public interest;
- ensuring that CPAs are constantly up to date in all matters relating to their professional work;
- maintaining the highest levels of educational standards for new entrants to the profession; and
- representing the interests of its members where appropriate.

CPA Ireland is active in the profession at a national and international level. It participates in the Consultative Committee of Accountancy Bodies Ireland and, together with other leading accountancy bodies, was a founding member of the International Federation of Accountants, the worldwide body.

CPA Ireland is also a member of the Federation des Experts Comptables Europeens, the representative body for the main accountancy bodies in 25 European countries.

2.3 Other professional accounting bodies in Ireland

CPA Ireland competes with a number of professional accounting bodies in Ireland and the United Kingdom, including the Institute of Chartered Accountants Ireland (which has over 18,000 members), the Chartered Institute of Management Accountants, the Chartered Institute of Public Finance and Accountancy, the Institute of Chartered Accountants in England and Wales, the Association of Chartered Certified Accountants, the Association of International Accountants, the Institute of Financial Accountants, the Association of Certified Public Accountants and the Institute of Certified Practising Accountants.

3 The proposed arrangement involves substantial public benefits and no discernable public detriment

3.1 Summary

CPA Australia considers that the mutual recognition arrangements in the MRA, which are the subject of this notification, will have substantial public benefits and no discernable public detriment.

3.2 Substantial public benefits

As set out above, the mutual recognition arrangement with CPA Ireland will facilitate the increased mobility of professionals in both Australia and Ireland, and enables Australian businesses to have greater (and quicker) access to a wider range of qualified professionals. In the absence of the mutual recognition arrangement, CPA Australia and members of CPA Ireland would need to fulfil all of the membership criteria (including educational and practical experience requirements) if they wished to obtain membership of the other professional body.

Mutual recognition of CPA Australia members by CPA Ireland is also likely to facilitate opportunities for Australian finance, accounting and business professionals to pursue professional and other business opportunities in Ireland.

These are substantial public benefits. In this regard, mutual recognition arrangements between professional accounting bodies around the world is becoming increasingly common as a result of the increased globalisation of business and the international convergence of accountancy practices and principles. The mutual recognition arrangements contained in the MRA are also likely to promote competition amongst Australian professional accounting bodies, who may also seek to pursue mutual recognition arrangements with overseas professional bodies, and the provision of other innovative services for their members, to the benefit of Australian finance, accounting and business professionals. CPA Australia notes that the Institute of Chartered Accountants of Australia already has strategic alliances in place with professional accounting bodies in other jurisdictions.

3.3 No discernible public detriments

Given that the MRA does not:

- require members of CPA Ireland to obtain membership of CPA Australia (or CPA Australia members to obtain membership of CPA Ireland);
- restrict the ability of either CPA Australia or CPA Ireland to admit as members people who meet their respective membership requirements; or
- prevent applicants from pursuing membership of either CPA Australia or CPA Ireland independently of the mutual recognition arrangements provided in the MRA (i.e. by meeting the full requirements of each of CPA Australia and CPA Ireland as the case requires),

but instead provides an additional service or opportunity for existing members of each of those organisations, CPA Australia considers that the mutual recognition arrangements do not involve any discernible public detriments.

If the Commission has any questions in relation to the proposed arrangements, CPA Australia would be pleased to assist.

CPA Australia Ltd
6 November 2009

Attachment 1

1. Mutual Recognition Agreement between CPA Australia and CPA Ireland

The Mutual Recognition Agreement specifies that:

- (a) CPA Ireland will admit as its member, any member of CPA Australia of good standing who has successfully completed the CPA Ireland Professional 1 Stage Corporate Laws and Governance examination and who is:
 - (i) the holder of an accounting degree and who has successfully completed:
 - (A) the CPA Program (being the Australian professional qualification program of that name comprising 2 levels of examinations - Foundation Level and Professional Level) (“CPA Program”); and
 - (B) CPA Australia’s Practical Experience Requirement (being a three year supervised training program) (“PER”); or
 - (ii) the holder of a non-accounting degree, and who has successfully completed:
 - (A) either:
 - (aa) the Foundation Level of the CPA Program; or
 - (ab) an undergraduate degree covering the Foundation Level core knowledge requirements,
 - (B) the Professional Level of the CPA Program
 - (C) the PER; or
 - (iii) a member of CPA Australia that does not fall within either of the above requirements in (i) or (ii) but who has at least 10 years’ work experience of which 5 are at a senior level;
- (b) CPA Australia will admit as its member, any member of CPA Ireland of good standing who has successfully completed the Ethics and Governance segment from the Professional Level of the CPA Program and who is:
 - (i) the holder of an “Australian Education Institute - National Office of Overseas Skills Recognition” recognised degree and who has:
 - (A) successfully completed the “CPA Examinations” (being CPA Ireland’s professional qualification program of that name, comprising 4 levels of examinations - Formation 1 and 2 and Professional 1 and 2); and
 - (B) has met the CPA Ireland Training; or
 - (ii) a member of CPA Ireland that is not a degree-holder but who has successfully completed the CPA Examinations and has at least

10 years work experience, at least 5 of which has been at a senior level;

- (c) CPA Australia and CPA Ireland will assess the membership applications of any member of the other party who does not fall into categories (a) or (b) above on a case-by-case basis and may require such members to undertake any additional education, examinations, Continuing Professional Development / Education courses or practical work experience that it thinks necessary to ensure the applicant has the appropriate standards of competence to carry the requisite designation;
- (d) neither CPA Australia nor CPA Ireland is obliged to admit as its member, any member of the other body:
 - (i) who is a member of that other body by virtue of an MRA or any other mutual recognition arrangement with another professional body;
 - (ii) who is the subject of a current investigation into his or her professional conduct;
 - (iii) who has been subject to any disciplinary sanctions within the five years prior to his or her application for membership to CPA Australia or CPA Ireland (as applicable); or
 - (iv) if CPA Australia or CPA Ireland have reasonable concerns that the applicant might not uphold the standards of either CPA Australia or CPA Ireland;
- (e) persons receiving membership of the equivalent overseas body must retain membership in his or her “original” membership body;
- (f) subject to appropriate privacy declarations, the bodies will exchange personal information about members wishing to gain membership of the other body for the following specific purposes:
 - (i) allowing CPA Australia and CPA Ireland to verify (either at the time of application or at any time during the term of this MRA) that the member is a member of good standing of the other body and has met the specified entry requirements;
 - (ii) ensuring that the member has retained membership of his or her “original” professional association;
 - (iii) conducting analysis of the members availing themselves of the mutual recognition arrangements offered by the MRA; and
 - (iv) providing information about any professional conduct issues concerning the member;

A mutual member must meet the professional standards of both organisations including disciplinary requirements.

The MRA is intended to be executed on 18 November 2009 and became effective on 1 January 2010.