

BLUEWATER BAY NOMINEES PTY LTD
Trading as:
CARTRIDGE WORLD – CHERMSIDE
CARTRIDGE WORLD – ALBANY CREEK
CARTRIDGE WORLD – WARWICK

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March 12th, 2009

To: The General Manager
Adjudication Branch
Australia Competition and Consumer Commission
G.P.O. Box 3131
CANBERRA ACT 2601

Dear Sir,

**Re: Third Line Forcing (Exclusive Dealing) Notifications
N93727, N93728, N93729 and N93779 lodged by
Cartridge World Pty Ltd and
Ink Mark Pty Ltd, Austcart Pty Ltd and Pacific Oasis Pty Ltd**

I wish to make a submission to the abovementioned notifications. It is disappointing to note, that we were only made fully aware of these notifications within the last 10 days, when an advice from your office was received by one of our local franchisees. We thank you for giving us this opportunity to respond. We have not had an opportunity to seek legal advice and guidance on this matter, and can only relay to your office, our personal feelings and objections to these notifications. It is also very disappointing, that the Managing Director of Cartridge World Australia, failed to reveal Cartridge World Australia's full intentions, to the Queensland franchisees at a meeting held in Brisbane on February 7th this year. The success of Cartridge World is totally dependant on the success of the franchisees, and to deny access to suppliers that may create new opportunities, is unjustly detrimental.

I together with my partner are the holders of 2 franchise licences and operate 3 Cartridge World outlets in Queensland i.e. Albany Creek, Chermside and Warwick. My first franchise licence was purchased in 1999.

Background:

Both my partner and I have worked very hard to establish a viable business from ground level. In 1999, when we entered the industry, the idea of refilling cartridges was virtually unheard of in the general public. With Cartridge World having little or no funds in the Advertising Fund it was left to us to undertake our own advertising campaign at our expense. During the first few years we built up a very good rapport with several local and interstate suppliers. We also built up a very loyal clientele by supporting community efforts and offering good customer service and value for money. We tried to make ourselves the leader of our industry in our area by listening to our customers and resource their needs. We gained a reputation for our reliability and our ability to source and supply products promptly, where other larger retail outlets would not. Keeping a very close eye on the market and listening to our resources we were able to recognize inferior quality products and consumables entering the marketplace and relay this knowledge to our customers. As new technology arrives so do new products enter the market. Sometimes it takes several months for supporting consumables to reach our marketplace, and as we have had access to many different sources, we have in most cases, been able to source these products/consumables very quickly for our consumers. At all times we have tried to maintain a very high quality in our work and products. If we are uncertain about any particular product, and we are unable to obtain relevant information from our usual sources, we will undertake our own testing before marketing to our customers.

As Cartridge World has grown they also recognized the need for quality. They have in the past, developed a "Preferred Suppliers" list, which they believe can supply the quality product to meet our required standards. To this end we understand Cartridge World Supplies, a wholly owned subsidiary of Cartridge World Pty Ltd, was formed. The purpose of Cartridge World Supplies as relayed to the franchisees was to source quality products such as, inks, compatible cartridges, remanufactured cartridges and other products and equipment of a quality to complement our business standard. These products were to be then offered to the franchisees at comparable prices to similar products in the marketplace.

Current Situation:

Cartridge World Pty Ltd have lodged a notification for "Third Line Forcing (Exclusive Dealing)" which we believe will give them unjust power over the franchisee and be of great detriment to the franchisee, the consumer and to the local communities in which we trade.

We believe it is of **detriment to the Franchisee** because: -

Our core business is the refill and remanufacture of printer cartridges many of which we fill in-house. However, as the complexity of some cartridges requires specialized equipment and skills to refill we have opted to source either remanufactured/refilled or compatible cartridges from outside sources. We have a concern that under the proposal, and in most aspects of refill supplies, we have only 2 suppliers/wholesalers to source product, of which Cartridge World

Supplies is one of these suppliers. If we are unable to source product from the other supplier, or the other supplier has been taken from the “Authorised Supplier” list, we have no choice but to use Cartridge World Supplies. This has, and will in the future, cause loss of business for the franchisee.

Example: I have a customer who has 6 different Kyocera printers and has asked for quotation for supply of compatible/refilled cartridges. We can currently refill 2, Cartridge World Supplies do not stock any of the other 4, RTS Imaging, the only other Authorised supplier, has another 2, leaving 2, which under the proposed application we can not supply to our customer. Dynamic Supplies are able to supply all the cartridges I require at a much cheaper price than either Cartridge World Supplies or RTS, and, can be delivered to our store or direct to the customer within 24 hours at a cost of \$4. Goods from Cartridge World Supplies would take up to 4 days to be received in store, with freight of \$8 - \$20 and RTS of approx. \$12. We have used Dynamic Supplies refilled/compatible products in the past and have had no issue with quality or performance. Dynamic Supplies are an OEM authorized supplier and have obviously met with Cartridge World ‘s requirements, and yet we are unable to purchase aftermarket and compatible supplies from them. I have spoken to a senior officer at Dynamic Supplies who advised that they only deal with reputable overseas suppliers and that all products sold by them carry their fully refundable guarantee. If I am unable to supply the whole order to my customer, they are more likely to take their business elsewhere. Once you loose business in that manner it is difficult to get it back.

We have used at least two other wholesalers who carry a greater range of refilled/compatible cartridges than either Cartridge World Supplies or RTS who also have a fully guaranteed product. We understand that these products comply with quality requirements.

We have had similar issues with Ink supply, e.g. Sensient Ink that under the proposed “Approved Suppliers” list would only be available through Cartridge World Supplies. The same ink is available to through another wholesaler, Ausjet, at a greatly reduced cost. And yet again can be in our stores within 24 hours.

Similarly, we can source laser toners and components, from suppliers, other than those on the list. As not all suppliers can provide all the products required for us to operate an efficient operation we need to have a wider choice.

Cartridge World Supplies have forged a commercial relationship with Brother Australia to supply us with their product, through Cartridge World Supplies, at a competitive price. Many of their products e.g. printers, I can source locally, XIT, at a lesser cost and no freight. We have now been informed that there is a minimum purchase order of \$200 on orders placed through Cartridge World Supplies for Brother products.

We as a franchisee look to Cartridge World Pty Ltd for support, not only from within, but also from without, by proactively sourcing reputable companies, with whom we can source any required product. Whilst Cartridge World Supplies have been able to source and provide marketing items to allow the franchisees to provide a professional image, their selection of some products leaves a lot to be desired.

Example: We have returned several remanufactured HP colour toner cartridges to Cartridge World Supplies, which have been faulty or of inferior quality. A check with other franchisees has confirmed the poor quality of this product. On page 3 of Notification N93727 indicates that their product should be of equal quality to that of the original OEM. **Failed.**

My Albany Creek store has been waiting approx. 4-5 weeks for a particular toner cartridge. We have been told that this product will not be available for at least another 2 weeks. Again on page 3 of the Notification, we are told that there should be “no major supply issues”, and that the supplier is to “provide alternative avenues of supply”. **Failed**

OEM products and other hardware items e.g. printers, computers, IT associated products and other such items, should not be any part of any list. Quite often franchisees can avail themselves of many specials offered by many different suppliers of which we should be able to take advantage.

There are literally thousands of different types of printers, faxes and copiers currently in the homes and offices, and it is impossible for any one retailer to carry every product. Likewise no one wholesaler carries every item. Again we need to have access to every possible source to meet any request.

Cartridge World Pty Ltd is proposing that the Master Franchisee may apply to have other suppliers added to the Authorised Suppliers list. This would take time, and by the time this happens, and if accepted, a customer has been disadvantaged and lost to our business.

We believe it is of **detriment to the Customer** because: -

The cost of many printer consumables has become a large portion of consumers, both commercial and personal, budget. Therefore, many do not carry spare cartridges in stock, but rely on our business to be able to refill or supply replacements quickly. In the majority of cases we are able to satisfy their needs immediately. For other items we need to source from our suppliers. As some of our regular suppliers do from time to time experience delays in receiving stock, we can usually source the product from an alternative supplier that may not be on the Preferred Suppliers list. Customers have no real interest in the source of the product only that they can obtain it when required at a reasonable cost.

We believe it is of **detriment to the Community** because:-

As Cartridge World franchises are individually owned and are very localized, we take a great deal of interest in the local community. We support many local schools and organizations in our franchise areas, and are actively involved in recycling programmes. Many businesses and the general public look to us as the leaders in our field, not only through our product knowledge, but our ability to meet their supply requirements promptly and cost effectively. To enable us to continue our support to the community, we must remain competitive and not be restricted in our ability to meet community expectations.

Summary:

We are one of the longest operating Cartridge World franchisees in Queensland, and have worked very hard to educate, both businesses, and the general public on the benefits of refilling and recycling printer cartridges. Not only the environmental benefits, but also the financial benefits. We have become a “local” business rather than a multi-national business and have gained the respect of the local community. We offer our customers personal, friendly, efficient, prompt and cost effective services.

Cartridge World promote the slogan, “One Stop Shop for all your printer needs”. But how can we achieve this if we have these proposed restrictions placed on us.

We have concerns that there may be a conflict of interest between Cartridge World Pty Ltd and it wholly owned subsidiary Cartridge World Supplies.

In the notification Cartridge World Pty Ltd have submitted they indicate that 91% of wholesale products are acquired from suppliers other than Cartridge World Supplies. We find this extraordinary when aprox. 50% of our core business uses product that can be sourced from Cartridge World Supplies. I believe it comes down to costing. Currently we can source these products, and in some cases, the same product, for considerably less cost, from alternate suppliers. Sensient Ink is a classic example. If alternate suppliers are removed from the list, for one reason or another, it is very feasible that Cartridge World Supplies can become the sole supplier. We consider this to be restrictive trading, and impact greatly on our ability to remain competitive.

At the National Conference in June 2008, Cartridge World Pty Ltd informed us, that as there are over 200 Cartridge World stores in Australia, Cartridge World Supplies would use this as leverage to source products at more cost efficient rates. To date we see very little cost savings attached to Cartridge World Supplies.

We strongly reject the idea of having an “**Authorised Supplier**” list for OEM, hardware, software and other associated IT products, as there is no issue with quality. We should be also given the opportunity to take advantage of special offers made to us by suppliers.

We are not opposed to a “**Preferred Supplier**” list for marketing products, branded packaging, bulk ink, refilled/remanufactured cartridges, compatible/after market cartridges, and toner/laser cartridge components. This list may be different from State-to-State and region-to-region to consider local suppliers, from which goods can be sourced and obtained both quickly and cost effectively. This list would need to include:

1. A minimum of 3-4 suppliers other than Cartridge World Supplies
2. Local suppliers where appropriate
3. A more streamlined and time efficient method of assessing the criteria and process for the approval of preferred suppliers
4. The ability of Franchisees in conjunction with Masters to determine suppliers to be added

5. Regular review of lists to be undertaken e.g. at quarterly Franchise Meetings
6. The ability of the Master Franchisee to have authority to approve immediate purchase from another source if required
7. A full disclosure of commissions and discounts provided by suppliers and be advised to franchisees

Too often we have had systems, terms and conditions enforced upon franchisees, which have directly impacted not only our profitability but also on the integrity we have achieved in our communities.

We consider that should the Australian Competition and Consumer Commission approve the Third Line Forcing (Exclusive Dealing) Notifications, this will erode the integrity and the ability of the franchisees to operate as a truly local small business in their community.

We therefore urge the Commission to deny this submission by Cartridge World Pty Ltd and the Masters.

Submitted by:-

**Robert DANN and
Joanne BELLINGHAM
Bluewater Bay Nominees Pty Ltd Trading as:-**

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CARTRIDGE WORLD – ALBANY CREEK
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