



**Australian
Competition &
Consumer
Commission**

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23 January 2009

Mark Fitzgerald
Solicitor General
Guild Lawyers
5 Burwood Rd
Hawthorn VIC 3122

[by email: mfitzgerald@gll.com.au]

Dear Mr Fitzgerald

**Notification submitted by ProVision Eye Care Pty Ltd on 20/1/09 –
request for further information**

I refer to the exclusive dealing notification lodged by ProVision Eye Care Pty Ltd (ProVision) with the Australian Competition and Consumer Commission (the ACCC) on 20 January 2009.

Under the notified arrangement ProVision proposes to offer current members access to product prices and agreements negotiated by ProVision with preferred suppliers for the provision of eye care and healthcare products, services and support on condition that the members:

- join ProVision's Comprehensive Program and agree to comply with the respective Terms and Conditions. One of the conditions is that program members must purchase at least 75 per cent of their eye care and healthcare products and service needs from the preferred suppliers and
- pay the requisite joining fee and monthly service fees.

Request for further information

To assist its assessment of ProVision's notification, the ACCC seeks further information or clarification in relation to the notified conduct. In particular:

- What will be the requisite joining and monthly fees for members of the Comprehensive Program?
- What will be the process for members wishing to leave the Comprehensive Program and will there be any financial or other penalties associated with leaving?
- What will be the penalties, financial or otherwise, for not adhering to the 75 per cent purchase requirement?
- Please provide more information on the process by which ProVision will satisfy itself that members of the Comprehensive Program continue to meet the 75 per cent purchase requirement.
- To clarify, is the 75 per cent purchase requirement based on the number of items purchased or a proportion of the total value of purchases?
- To clarify, is the estimated 100 to 150 members of the Comprehensive Program in the next year, individual practising optometrists or are they optometrist practices/clinics?
- If the estimated members of the Comprehensive Program are optometrist practices/clinics, please provide an estimate of how many practising optometrists this would cover.
- Approximately how many practising independent optometrists are there in Australia? Of these, how many are members of ProVision?

It would enable the ACCC to progress its assessment of the notified conduct in a timely manner if you could provide the requested information by no later than **Friday 6 February 2009**.

As you are aware, you may request that information included in a submission relating to this notification be excluded from the public register. If a request to exclude information from the public register is made, please provide the ACCC with reasons justifying the claim for the information to be excluded.

This letter has been placed on the ACCC's public register and website. If you wish to discuss any aspect of this matter, please do not hesitate to contact Simon Mitchell on 03 9290 6909 or at simon.mitchell@acc.gov.au

Yours sincerely



David Hatfield
Director
Adjudication Branch