

JB

30 July 2009

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

FILE No.
700
2009

By mail

Dear Sir,

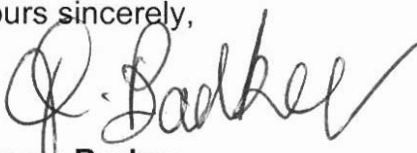
HASTINGS CO-OPERATIVE LIMITED – THIRD LINE FORCING NOTIFICATION

We act on behalf of Hastings Co-operative Limited (ABN 86 601 035 121).

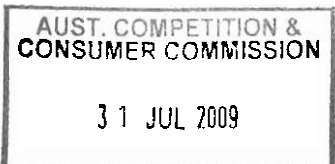
We enclose for lodgement a notification relating to third line forcing and a cheque of \$100 being the required lodgement free.

If you require any further assistance, please contact me on (02) 9460 6611 or at james.barker@anisimoff.com.au.

Yours sincerely,



James Barker
Solicitor
Anisimoff Legal



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)

N94055 Hastings Co-operative Limited (ABN 86 601 035 121) of 39 Cameron Street, Wauchope NSW 2446 ("Hastings Co-op").

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Hastings Co-op is the owner of the retail store known as Hastings Co-op SUPA IGA Timbertown, which is a grocery store.

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

c/o- Anisimoff Legal – PO Box 358, St Leonards NSW 1590. Attention: James Barker.

2. Notified arrangement

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

Hastings Co-op wishes to invite selected businesses in the Wauchope area in New South Wales to participate in a promotional activity. The businesses that agree to participate will be deemed "Participating Outlets". Under the promotional activity, consumers can purchase \$50 or more of goods and/or services at these Participating Outlets, which will then entitle the consumer to a 5% discount off their next shop at SUPA IGA Timbertown, plus the ability to enter a competition.

In the case of the SUPA IGA Timbertown, the goods will be groceries that would be typically sold by a supermarket.

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

Hasting Co-op intends to offer a discount and enable the customer to enter a competition on the condition that the consumer purchases goods from its store as well as goods and/or services from another Participating Outlet.

Hastings Co-op is concerned that the above conduct amounts to third line forcing in accordance with Section 47 (6) and (7) of the Trade Practices Act.

(Refer to direction 4)

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)

Customers of Participating Outlets and SUPA IGA Timbertown.

- (b) Number of those persons:

- (i) At present time:

The number of expected customers during the promotional period at IGA Timbertown would be anticipated at approximately 15,000 individuals, although not all would take part in the promotional activity.

- (ii) Estimated within the next year:

(Refer to direction 6)

Not applicable, as it will not be occurring in one year's time.

- (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)

The promotional activity will only be conducted for a limited duration. It is scheduled to run for approximately 8 weeks.

The promotional activity is intended to promote trade within the Wauchope area and encourage people to buy locally.

The promotional activity will provide the consumer with a discount on their shopping at SUPA IGA Timbertown, as well as the opportunity to enter a competition for the chance to win a prize of shopping vouchers which can be spent at any one or more of the Participating Outlets.

The proposed conduct will have little or no public detriment.

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

None other than the facts stated above.

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)

The market that will be affected by the proposed conduct will be businesses within the Wauchope/Timbertown area. The goods and services affected will be grocery goods, and will also be a variety of goods and/or services offered by the Participating Outlets. At this stage, it is envisaged that the Participating Outlets could include newsagents, butchers, fruit shops, bakeries, hairdressing salons, beauty therapists, clothing stores, department store, sport store, convenience stores, hardware stores, etc.

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)

There will be no detriment to prices as the customers will be receiving a discount.

The promotional activity will run for a short period of time (approximately 8 weeks) and provide customers with opportunity to receive discounts, as well as additional benefits such as the chance to win prizes.

The promotional activity is designed to promote businesses in the local Wauchope community.

The businesses who are invited to participate can choose whether they want to participate.

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

None other than the facts stated above.

7. Further information

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

c/o-Anisimoff Legal – PO Box 358, St Leonards NSW 1590. Attention:
James Barker. (02) 9460 6611.

Dated..... 30 July 2009

Signed by/on behalf of the applicant

..... J. Barker

(Signature)

..... James Barker

(Full Name)

..... Anisimoff Legal

(Organisation)

..... Solicitor

(Position in Organisation)

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.