



**Australian
Competition &
Consumer
Commission**

Our Ref: CB00081-CB00137
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25 August 2009

Dear Madam/Sir

**Collective Bargaining Notifications CB00081-CB00137 lodged by PaintRight Ltd
- request for submission**

The Australian Competition and Consumer Commission (the ACCC) has received a series of related collective bargaining notifications from PaintRight Ltd. PaintRight proposes to negotiate on behalf of 56 independently owned paint retailers in its banner group with 57 suppliers, principally of paint and painting accessories but also of, for example, banking and marketing services. PaintRight has listed your business as one of the nominated suppliers.

The purpose of this letter is to ask for your comments on PaintRight's notifications.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct, including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, benefit the public. The Act, accordingly, allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notifications lodged by PaintRight Ltd

On 21 August 2009, PaintRight Ltd lodged a series of related collective bargaining notifications, as described above.

The immunity from legal action provided by notifications CB00081 to CB00137 will commence on 4 September 2009, provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

A copy of the collective bargaining notifications lodged by PaintRight is enclosed for your information and is also available from the ACCC's website at www.accc.gov.au/CollectiveBargainingRegister

Request for submissions

To assist the ACCC in its consideration of the notification it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC in conducting its assessment of the notified arrangements. Guidelines for seeking exclusion from the public register are attached for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Submissions can also be lodged by email to adjudication@acc.gov.au or by facsimile on 02 6243 1211.

If you have urgent concerns with the proposed arrangements, please contact the ACCC immediately at the number listed below. In any event, please ensure that your submission is lodged with the ACCC by **4 September 2009**.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact John Rouw on (03) 9290 1402.

Yours sincerely

A handwritten signature in black ink, appearing to be 'GJ' or similar initials, written in a cursive style.

Gavin Jones
Director
Adjudication Branch

Collective Bargaining Notifications CB00081 to CB00137 - Addressees for consultation invitation ('targets')

3M
Australian Brushware Corporation
Bondall
Bostik
C & A Brushware
Campbells Wholesale Pty Ltd
Colourtrend
CH Paint Rollers Pty Ltd
Commonwealth Bank of Australia
Contract Blinds
Melpaint Products Pty Ltd t/a Dispose-a-tray
Dominion Plastics
Dulux
E-Sime
Express Rollers
The Flood Company
G James Glass & Aluminium Pty Ltd
Hartman Pacific Pty Ltd t/a Gorilla Ladders
GSB Chemical Co Pty Ltd
Handi Home Supplies
Havmes Paint
HiChem Industries
Hills Industries
Hiretech
HSBC
Hume Internationale
Irwin Industrial Tools
ITW Polymers & Fluids P/L
Ladder Solutions
Macron Marketing
Nilfisk
Oldfields
Orica Woodcare
Pace Advertising
Phillro
PPG
Quantum
Recochem
Red Devil
Rokset Industries P/L
Sceneys
Selleys Chemicals P/L
Sequence
Simister
St Gobain Abrasives
Swepdri
Tenaru (Sikkens)
Thermoshield
Timbercare
Timbermate
Uni-Pro P/L

Viponds
Vision W/C (Aust) P/L
Wagner Spraytech
Wattyl (Vic) P/L
Yakka
Zinsser