

15 November 2019

Peter Lee  
&  
PWG Limited  
c/o SDM Law  
2 Enfield St  
Mount Eden  
Auckland, 1025

Dear Mr Lee,

**Warning letter to Mr Peter Meng Huat Lee and PWG Limited trading as 'Property Wise' and 'Auckland House Buyers'**

1. The Commerce Commission (Commission) has been investigating the conduct of PWG Limited (**PWG**) and Mr Peter Meng Huat Lee under the Fair Trading Act 1986 (**Act**). We note that PWG trades under the Property Wise and Auckland House Buyers brand names.
2. We have now completed our investigation and write to issue you with a warning that in our view, PWG and Mr Lee are each likely to have breached sections 12A and 14(1) of the Act by:
  - 2.1 making unsubstantiated representations in likely contravention of section 12A about:
    - 2.1.1 the endorsements received by PWG;
    - 2.1.2 the length of time PWG had been operating in the property market; and
  - 2.2 making misleading representations in likely contravention of section 14(1) about the advantages consumers would enjoy if they sold their property to PWG compared to selling the property through a real estate agent.

3. A warning is not a finding of non-compliance; only Courts can decide whether a breach of the law has occurred, and we have determined that at this time we will not be bringing legal action to establish fault.<sup>1</sup>

### **The investigation**

4. The Commission commenced its investigation after it received a complaint concerning the conduct of PWG Limited and you (as its sole director and shareholder) in attempting to purchase property from a potentially vulnerable vendor in 2016.
5. The complaint alleged that, during the course of your dealings with the potential vendor, you made statements which were not accurate and could not be substantiated about:
  - 5.1 your role in PWG;
  - 5.2 the savings to be made in dealing with you and PWG;
  - 5.3 the value of the property being sold; and
  - 5.4 the fairness of the purchase price you were offering to the vendor.
6. As part of our investigation, we gathered information from vendors and yourself about previous private property transactions entered into by PWG. We reviewed statements made on PWG's two websites [www.aucklandhousebuyers.co.nz](http://www.aucklandhousebuyers.co.nz) and [www.property-wise.co.nz](http://www.property-wise.co.nz).
7. We also obtained information about you and PWG from the New Zealand Companies Register, which records that PWG was incorporated on 15 September 2016, and that you are PWG's sole director and shareholder.

### *Issues Investigated*

8. The Commission's investigation focused on whether the claims made to induce members of the public to contact PWG to use its services, were accurate and could be substantiated. These were claims made by you and PWG personally to vendors when purchasing property privately, and more generally on the PWG websites.
9. The particular claims made by you and PWG on the PWG websites were to the effect that:
  - 9.1 the price PWG offered for real estate property was "fair market value";
  - 9.2 vendors would be better off selling to PWG than selling through a real estate agent because of savings in real estate agent fees and marketing fees;

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<sup>1</sup> Commission's published Enforcement Response Guidelines at [41]

- 9.3 PWG trading as Auckland House Buyers had over fourteen years of real estate experience;
- 9.4 PWG trading as Property Wise had twenty years of real estate experience;
- 9.5 PWG trading as Property Wise was the recipient of an award “Property Professional of the year in 2013/2014”; and
- 9.6 vendors’ endorsements on the Auckland House Buyers and Property Wise websites were genuine and from satisfied customers of PWG.

*PWG’s response to allegations*

- 10. You provided the Commission with information in response to the Commission’s requests and advised that you:
  - 10.1 believed you were offering a fair value for the properties you purchased given the circumstances of the sale;
  - 10.2 acquired the PWG business and websites from a third party and believed nothing needed to be updated and you could continue to use the references to the business’s awards and experience in the real estate industry;
  - 10.3 had stopped using the websites for finding new customers and were no longer purchasing properties privately.
- 11. Your lawyer advised the Commission that you would take down the websites. We understand you took down the [www.property-wise.co.nz](http://www.property-wise.co.nz) website on 15 March 2019 and that you took down the [www.aucklandhousebuyers.co.nz](http://www.aucklandhousebuyers.co.nz) website on 2 May 2019.
- 12. You also indicated that after receiving complaints from two vendors, PWG rescinded their sale and purchase agreements. The complaints were covered by the media and PWG did not enforce its right to complete the purchase of those properties.

**Legal framework**

- 13. Section 12A of the Act provides:

**12A Unsubstantiated representations**

- (1) A person must not, in trade, make an unsubstantiated representation.
- (2) A representation is **unsubstantiated** if the person making the representation does not, when the representation is made, have reasonable grounds for the representation, irrespective of whether the representation is false or misleading.
- (3) This section does not apply to a representation that a reasonable person would not expect to be substantiated.
- (4) In this section and sections 12B to 12D, **representation** means a representation that is made—
  - (a) in respect of goods, services, or an interest in land; and



(b) in connection with—

- (i) the supply or possible supply of the goods or services; or
- (ii) the sale or grant or possible sale or grant of the interest in land; or
- (iii) the promotion by any means of the supply or use of the goods or services or the sale or grant of the interest in land.

14. Section 14(1) of the Act relevantly provides:

**14 False representations and other misleading conduct in relation to land**

- (1) No person shall, in trade, in connection with the sale or grant or possible sale or grant of an interest in land or with the promotion by any means of the sale or grant of an interest in land,—
- (a) make a false or misleading representation that a person has any sponsorship, approval, endorsement, or affiliation; or
  - (b) make a false or misleading representation concerning the nature of the interest in the land, the price payable for the land, the location of the land, the characteristics of the land, the use to which the land is capable of being put or may lawfully be put, or the existence or availability of facilities associated with the land.

**The Commission's view**

15. Having considered the available evidence, including the information provided by you and PWG, the Commission's view is that both you and PWG have likely contravened section 12A of the Act by making representations on websites controlled by PWG:
- 15.1 that PWG would purchase property for fair market value, when neither PWG nor you had reasonable grounds for making the representation because PWG's business was premised on purchasing property for less than fair market value;
  - 15.2 that, by selling to PWG, vendors would "keep more money in their pocket", when neither PWG nor you had reasonable grounds for making the representation because PWG's business was premised on purchasing property for less than fair market value;
  - 15.3 that PWG trading as Auckland House Buyers had 14 years of experience, when neither PWG nor you had reasonable grounds for making the representation because PWG did not exist prior to 15 September 2016 (we note that you had only three years of experience in the real estate industry at the time the representation was made);
  - 15.4 that PWG trading as Property Wise had 20 years of experience in the real estate industry, when neither PWG nor you had reasonable grounds for making the representation because PWG did not exist prior to 15 September 2016;

- 15.5 that PWG trading as Property Wise was the recipient of an award “Property Professional of the year in 2013/2014”, when neither PWG nor you had reasonable grounds for making the representation because PWG did not exist at the time the award was bestowed; and
- 15.6 that vendors’ endorsements on the Auckland House Buyers and Property Wise websites were genuine and from satisfied customers of PWG, when neither PWG nor you had reasonable grounds for making the representation because the vendor endorsements related to the previous owner of each brand name.
16. Further, the Commission considers that you and PWG, in making each of the representations set out in paragraphs 15.3 to 15.6 inclusive have likely contravened section 14(1)(a) of the Act because each of the representations was false.
17. We recommend that, in any further commercial endeavours involving the sale and purchase of property, or the making of representations in trade to consumers, you seek legal advice to ensure that you comply with the Act. We also encourage you to regularly review your compliance procedures and policies.
18. While we will not be taking any further action against you and PWG at this time, we will take this warning into account if this conduct continues or if you or a company you control engage in similar conduct in the future. We may also draw this warning to the attention of a court in any subsequent proceedings brought by the Commission against you and/or PWG.
19. This warning letter is public information. We may make public comment about our investigations and conclusions, including a media release or making comment to media.

### **The Commission’s role**

20. The Commission is responsible for enforcing and promoting compliance with a number of laws that promote competition in New Zealand, including the Act. The Act prohibits false and misleading behaviour by business in the promotion and sale of goods and services.

### **Penalties for breaching the Act**

21. Only the courts can decide if there has actually been a breach of the Act. The court can impose penalties where it finds the law has been broken. A company that breaches the Act can be fined up to \$600,000 and an individual up to \$200,000 per offence.
22. You should be aware that our decision to issue this warning letter does not prevent any other person or entity from taking private action through the courts.

**Further information**

23. We have published a series of fact sheets and other resources to help businesses comply with the Act and the other legislation we enforce. These are available on our website at [www.comcom.govt.nz](http://www.comcom.govt.nz). We encourage you to visit our website to better understand your obligations and the Commission's role in enforcing the Act.
24. You can also view the Act and other legislation at [www.legislation.co.nz](http://www.legislation.co.nz).
25. Thank you for your assistance with this investigation. Please contact [REDACTED] on [REDACTED] or by email at [REDACTED] if you have any questions in relation to this letter.

Yours sincerely

[REDACTED]