



Australian  
Competition &  
Consumer  
Commission

Our Ref: C2005/1686  
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5 January 2006

sent to attached  
list GJ 5/1/06

Dear

**Re: Third line forcing notification N70435  
lodged by Cash Converters Pty Ltd (Cash Converters)**

I refer to the letter sent to you dated 26 October 2005, relating to a notification lodged with the Australian Competition and Consumer Commission (the ACCC) by Cash Converters. The ACCC does not intend to take any action in relation to the notification at this stage.

Broadly, Cash Converters has notified arrangements whereby it proposes to alter its franchise agreements in jurisdictions other than South Australia and the Northern Territory to require that:

- existing franchisees who wish to offer cash advances (also known as pay day lending) use a banking platform developed by Mon-e Pty Ltd in doing so;
- all new franchisees must offer cash advances and use the Mon-e system in doing so; and
- all existing and new franchisees offering cash advances must also offer money transfer services as an agent for Western Union Financial Services Inc (Western Union) and personal loan services as an agent for Safrock Finance Corporation (Qld) Pty Ltd (Safrock).

Cash Converters proposes to enter into similar arrangements in South Australia and the Northern Territory except that franchisees will be required to use a banking platform developed by Quickdraw Pty Ltd instead of Mon-e and franchisees will not be required to offer personal loan services as an agent for Safrock.

**Background**

By way of background, the competition provisions of the *Trade Practices Act* (the TPA) prohibit third line forcing conduct. Third line forcing conduct occurs when one business supplies goods or services, or discounts, allowances, rebates or credits on the condition that the purchaser acquires goods or services from another business.



The TPA however recognises that in some circumstances third line forcing conduct may be of benefit to the public. Businesses seeking to engage in third line forcing conduct may notify the ACCC under section 93 of the TPA and statutory immunity against action under section 47 will arise after 14 days. The ACCC may revoke a notification only where it is not satisfied that the public benefits of the conduct outweigh the resulting detriments.

### **ACCC's consideration**

In considering the notification, the ACCC has not been asked to consider all aspects of the cash advance, money transfer or personal loan products offered by Cash Converters. Cash Converters requiring franchisees to offer cash advances, money transfers and personal loans to customers would be unlikely, in itself, to raise concerns under the TPA. Most franchisees will continue to offer, and indeed could be required by Cash Converters to offer, these services absent the notified arrangements. The ACCC's assessment was therefore limited to considering the pros and cons of Cash Converters requiring franchisees to use the Mon-e or Quickdraw systems, and act as agents for Western Union and Safrock, in offering these services.

The ACCC considers that the notified conduct could assist in ensuring a uniformity of services across the Cash Converters franchise system and minimise the costs involved in providing the relevant services. The ACCC also considers that the notified arrangements will assist in ensuring more responsible pay day lending practices across Cash Converters stores than may otherwise be the case.

The ACCC does not consider that the notified conduct, which as noted, primarily relates to the administrative means by which the relevant services will be offered rather than whether they will be offered, is likely to result in a significant level of detriment.

Therefore, the ACCC is not satisfied that the likely public benefit from the notified conduct will not outweigh the likely detriment to the public from the conduct. As such, the ACCC does not intend to take any further action at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by this notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

If you have any further questions about this matter please do not hesitate to contact Gavin Jones on (03) 9290 1475.

Yours sincerely



Scott Gregson  
General Manager  
Adjudication Branch

	<b>Name</b>	<b>Sal</b>	<b>Address1</b>	<b>End</b>
	Mr Robert Booth Chief Executive Officer	Mr Booth	Australian Consumers Association 57 Carrington Road MARRICKVILL E NSW 2204	sincerely
	Ms Su Mahalingham Coordinator	Ms Mahalingham	Consumer Credit Legal Service (WA) Level 1, 231 Adelaide Terrace PERTH WA 6000	sincerely
	Mr Dennis Fitzgerald Assistant Manager	Mr Fitzgerald	Office of Fair Trading and Business GPO Box 123A Melbourne Vic 3001	sincerely
	General Manager	Sir / Madam	ACT Office of Fair Trading Ground Floor Shopfront 12 Moore St, CFM Building CANBERRA CITY ACT 2601	faithfully
	Mr Matt Miller Commissioner	Mr Miller	Queensland Office of Fair Trading GPO Box 3111 BRISBANE QLD 4001	sincerely
	Mr Roy Ornerod Director – Consumer Affairs Fair and Trading	Mr Ornerod	Tasmanian Department of Justice GPO Box 1244 HOBART TAS 7001	sincerely
	Mr Dever Regional Manager	Mr Dever	Department of Tourism, Racing & Fair Trading 209 Bolsover Street Rockhampton City QLD 4700	sincerely

	<b>Name</b>	<b>Sal</b>	<b>Address1</b>	<b>End</b>
	General Manager	Sir / Madam	SA Office of Fair Trading GPO Box 1719 Adelaide SA 5001	faithfully
	Ms Jan Pentland Chairperson	Ms Pentland	Australian Financial Counselling & Credit Reform Association 18 Mangarra Road CANTERBURY VIC 3126	