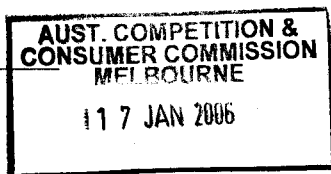


BLAKE DAWSON WALDRON

L A W Y E R S



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Partner
Ayman Guirguis
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Contact
Maddi Palser
Telephone (03) 9679 3058

Our reference
AAG MAJP 03 1393 2111

17 January 2006

Mr Scott Gregson
Acting General Manager, Adjudication
Australian Competition & Consumer Commission
C/- Level 35, The Tower
360 Elizabeth Street
MELBOURNE VIC 3000

Dear Mr Gregson

mecu Limited: Exclusive Dealing Notification

On behalf of mecu Limited, we enclose the following:

1. a notification of exclusive dealing (Form G);
2. a submission in support of the notification of exclusive dealing; and
3. a cheque for the amount of \$1,000 being the filing fee for the notice.

Please contact Ayman Guirguis on 9679 3778 or Maddi Palser on 9679 3058 if you have any queries in relation to the attached notification.

Yours sincerely


Ayman Guirguis
Partner
Tel: (03) 9679 3778
ayman.guirguis@bdw.com

FILE No:
DOC:
MARS/PRISM:

MELBOURNE
SYDNEY
BRISBANE
PERTH
CANBERRA
LONDON
PORT MORESBY
JAKARTA
SHANGHAI

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FORM G
COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 — Subsection 93 (1)
EXCLUSIVE DEALING: NOTIFICATION

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 in subsection 47 (6) and (7) of that Act in which the person giving notice engages or proposes to engage.

1. (a) Name of person giving notice

mecu Limited (**mecu**)

ABN: 21 087 651 607

Address: 222 High Street, Kew VIC 3101

(b) Short description of business carried on by that person

mecu is a member owned financial services organisation providing personal banking, insurance and financial planning services.

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

c/- Ayman Guirguis

Partner

Blake Dawson Waldron

Level 39, 101 Collins Street

MELBOURNE VIC 3000

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

The supply of finance and the supply and installation of approved water and energy saving products.

(b) Description of the conduct or proposed conduct

mecu wishes to make an offer to consumers to finance (at discounted rates) the purchase of an incentive package to be known as the 'Ecosaver Pack', which comprises a range of water and energy saving products selected from the savewater product library (**Ecosaver proposal**). Initially the Ecosaver proposal will be tested via a pilot program and **mecu** has established an exclusive partnership with the savewater!® Alliance (**savewater!®**) to support the pilot program.

3. (a) Class or classes of persons to which the conduct relates

The pilot program will involve specified metropolitan water authorities distributing promotional water and energy saving material developed by savewater!® for the pilot program to its customers through their standard water billing systems. Interested customers will then contact **mecu** to determine whether they are eligible to participate in the program and receive discounted finance to pay for the Ecosaver products.

(b) Number of those persons —

(i) At present time

Initially, 4000 households will receive the offer via mail drop with 1% take up of offer anticipated

(ii) Estimated within the next year

Maximum capacity take up of 2000

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses

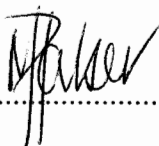
Not applicable

4. Name and address of person authorized by the person giving this notice to provide additional information in relation to this notice

Ayman Guirguis, Partner, Blake Dawson Waldron
Level 39, 101 Collins Street, Melbourne VIC 3000

Dated 17 January 2006

Signed on behalf of the person giving this notice



Ayman Guirguis

Partner

Blake Dawson Waldron



Submission to the Australian Competition and Consumer Commission by mecu Limited (mecu)

1. INTRODUCTION

This submission is in support of a notification lodged under section 93(1) of the *Trade Practices Act 1974* (Cth) ("**the Act**") in relation to conduct potentially falling within sections 47(6) or (7) of the Act. Accordingly, the relevant test to be applied by the Commission is set out in section 93(3A) of the Act, whereby the Commission assesses whether the public benefits associated with the relevant conduct outweigh any likely public detriment.

2. PARTIES

2.1 mecu Limited ("mecu")

mecu is a member owned financial services organisation providing personal banking, insurance and financial planning services.

2.2 Other Participants

The proposed arrangement will also involve other entities, including:

- (a) product suppliers and installers (also referred to as Sustainable Retail Outlets or SROs); and
- (b) the savewater!® Alliance Inc (**savewater!®**), a not for profit alliance of water saving companies¹ that have joined together to promote water conservation initiatives and products. savewater!® has compiled a large library of water and energy saving products (sourced from a variety of suppliers) which it promotes to consumers via its website (**savewater!® product library**).

The role of each of these participants is described below.

3. THE ECOSAVER PROPOSAL

mecu wishes to make an offer to consumers to finance (at discounted rates) the purchase of an incentive package to be known as the 'Ecosaver Pack', which comprises a range of water and energy saving products selected from the savewater!® product library (**Ecosaver proposal**). The Ecosaver proposal will enable consumers to take out a new loan or refinance their existing home loan at competitive rates. In many cases, the savings generated by refinancing the loan at a lower interest rate will offset (or exceed) the cost of the Ecosaver Pack products, so monthly loan repayments may in many cases be unchanged.

¹ Currently, South East Water, Yarra Valley Water, City West Water and the Wannon, Barwon, East & South Gippsland, Gippsland, NEWater, Western, Westernport, Lower Murray, Mid Coast, Port Macquarie, Coffs Harbour and North Coast water authorities.

The Ecosaver proposal will be co-ordinated and promoted by savewater!®. It is intended to initially test the Ecosaver proposal via a pilot program and **mecu** has established an exclusive partnership with savewater!® to support the pilot program. If the pilot is successful, other financiers will be invited to become involved via a tender process.

The Ecosaver Pack will comprise a suite of approximately 100 water saving products from the savewater!® product library (**eligible products** – see further below). A customer wishing to acquire the Ecosaver Pack will be required to purchase, at a minimum:

- a solar hot water unit or heat pump;
- a tank connected to toilet rain water system; and
- AAA rated shower heads.

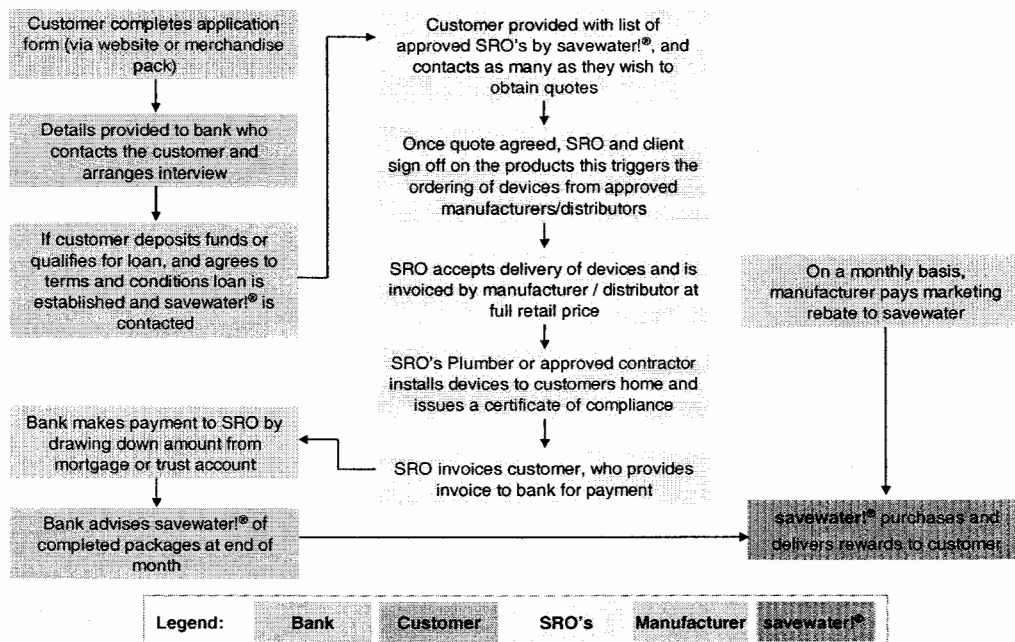
In each case, the consumer will be able to choose from a range of eligible products from a range of manufacturers. Customers will also earn "bonus points" when acquiring Ecosaver products, which can be redeemed against a range of additional products, including family holidays, homeware and electrical items, and home makeovers.

To qualify for the Ecosaver Pack the consumer must:

- (a) be a home owner; and
- (b) be a customer of a water retailer who is a savewater!® alliance member, or if not a customer, reside in an alliance member's zone; and
- (c) have enough equity in their home to support the lenders' requirements; or
- (d) commit to pay the total installed amount of the products as selected from the shopping list, either by:
 - (i) committing their own funds into a trust account at a **mecu** branch; or
 - (ii) financing the Ecosaver Pack with a mortgage or a personal loan with **mecu** (which will be offered at a discount between 0.7% - 1.0% off the standard variable rate).

The following flowchart sets out the proposed transaction process. Essentially, once a consumer qualifies for the Ecosaver Pack and has made financing arrangements with **mecu**, it will access the savewater!® website to identify the Ecosaver products it is interested in and the accredited installers that source, supply and install the relevant products. The consumer will select the installers from which he/she would like a quote and a representative of the installer will then visit the consumer to discuss product selection and provide a quote. Once the products have been ordered and installed, the installer will be paid by **mecu** and will itself pay the manufacturers of the Ecosaver products.

3.



4. PRODUCT AND PARTNER SELECTION

4.1 Eligible Products and Suppliers

Eligible products will be selected from the savewater!® product library and the supplier or manufacturer of these products will be invited to participate in the Ecosaver proposal by savewater!®.

To qualify for the savewater!® product library a product must be accredited as a water or energy saving device by independent organizations such as Swinburne University, Industry Capability Network or an equivalent accreditation organization.

4.2 Installers

Several installers in each region, eg Melbourne, will be selected by savewater!® to participate in the Ecosaver proposal.

To be selected by savewater!® for participation in the Ecosaver proposal, installers need to:

- (a) agree to a maximum charge out hourly labour rate;
- (b) be technically competent in installing the relevant water and energy saving devices and provide all plumbing compliance certification as required by the Plumbing Industry Commission or relevant body or State Authority;
- (c) agree to a manner of good conduct in dealing with prospective customers; and
- (d) have or install a suitable showroom of water and energy saving products for public viewing.

5. **MANAGEMENT FEE**

savewater!® will charge manufacturers of the eligible products a management fee, which will be used to:

- (a) fund the rewards referred to above;
- (b) cover the costs of promoting the Ecosaver proposal; and
- (c) fund future water saving initiatives.

The fact that savewater!® is being paid a fee will be disclosed to consumers on the Ecosaver website.

6. **PUBLIC BENEFIT**

The proposed arrangement will have a number of public benefits:

- The Ecosaver proposal will offer consumers who might otherwise not be in a financial position to afford water saving products an opportunity to acquire such products with little or no upfront financial outlay.
- For those consumers choosing to refinance their existing home loan, the savings generated by such refinancing may cover or exceed the cost of the Ecosaver pack, making the proposal attractive to people who might otherwise have no interest in water or energy conservation. Accordingly, it will help to accelerate behavioural change in relation to the use of water and energy friendly products.
- By working together and combining the strengths of multiple water businesses, plumbers/installers, product suppliers, and financial institutions, the proposed arrangements will lead to:
 - economies of scale - the participation of many smaller water authorities across states (and nationally) enables the Ecosaver proposal to achieve a size and scale sufficient to attract strong discounts from financial institutions and product suppliers, which will be passed on to consumers;
 - simple, reliable and consistent communication messages and information to the consumer (thereby facilitating their understanding of water/energy saving options); and
 - significant cost reductions – a proposal of this nature (ie to upgrade existing and new dwellings with high water and energy saving devices) is likely to be attractive to many smaller water authorities who, due to their small size and lack of state or national coverage, could not afford the development cost and ongoing running costs. By working together through one business like savewater!®, costs are spread across many authorities, making the program viable to each authority, and thus enabling the creation of new and innovative community engagement programs in water and energy conservation.

- It may assist in gathering measurable water and energy saving data – one option being considered by savewater!® is to include electronic meters in each Ecosaver Pack to monitor ongoing household water and energy usage, generating real measures of the effectiveness of the program over time.
- It will offer a number of further benefits to consumers, including:
 - lower water and energy usage, and the environmental and financial benefits which result from reduced usage;
 - capital investment in the home (tanks, solar water heater etc) with potentially higher re-sale value;
 - potential entitlement to government rebates;
 - access to gifts through the bonus points scheme;
 - "feel good" social values; and
 - the increased number of installed water and energy saving products will increase the demand for plumbers and manufacturing outputs, resulting in more skilled jobs. It is estimated that the minimum installed Ecosaver Pack will require, on average, 3-4 plumber days to complete.

7. DETRIMENT

The proposed arrangement will not result in any public detriment. It will have no appreciable negative effect on competition in the supply of financial services, water saving products, plumbing/installation services or any other relevant market. In particular:

- Consumers are not in any way obligated to take up this offer.
- There are numerous and varied suppliers of:
 - financial services;
 - water saving products; and
 - plumbing/installation services.

Similarly, there are numerous consumers to whom these suppliers can market their products. **mecu** will have no exclusive arrangement with any of the other parties who will participate in the proposed arrangement. Accordingly, such parties are free to market their products and services independently of the proposed arrangement, without restriction from **mecu**.

- The proposed conduct does not prevent other financiers from developing similar schemes and marketing such schemes to consumers.

8. **CONCLUSION**

As set out above, the proposed offer by **mecu** will:

- result in substantial public benefits for consumers, the community generally and the environment; and
- have no offsetting detrimental effect for the public or suppliers of the relevant products and services.