



Australian
Competition &
Consumer
Commission

Our Ref: N40958
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8 February 2006

Mr Ayman Guirguis
Blake Dawson Waldron
GPO Box 4958
MELBOURNE VIC 3001

Dear Mr Guirguis

**Re: Third line forcing notification No. [N40958],
lodged by mecu Limited**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 17 January 2006. The notification has been placed on the ACCC's public register.

You have described the conduct in the notification form as follows:

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.

The Ecosaver proposal will be co-ordinated by *savewater* which is a not for profit alliance of water saving companies* that have joined together to promote water saving initiatives and products.

I understand from the supporting submission to the notification that consumers will be able to choose from a range of eligible Ecosaver products from nominated manufacturers/installers. At a minimum, a consumer wishing to acquire the Ecosaver Pack will be required to purchase:

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

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



As you are aware, third line forcing conduct involves a supplier supplying goods or services to a purchaser or purchasers on condition that the purchaser/s buys goods or services from a particular third party, or a refusal by the supplier to supply because the purchaser will not agree to that condition.

As previously discussed by Ms Maddi Palser and Ms Jaime Norton, the ACCC seeks clarification of the notified conduct, as it appears on the notification form. In particular, please confirm the identity of the supplier, purchaser/s, third party and good/service in the context of the notified conduct.

In order to assist our assessment of the notification the ACCC also seeks further information on the following issues.

Number of nominated manufacturers/installers

Page 2 of the supporting submission states that the Ecosaver Pack will comprise a suite of approximately 100 water saving products from the *savewater* product library. Once consumers qualify for the Ecosaver Pack and have made financing arrangements with mecu, they will access the *savewater* website to identify the Ecosaver Products they are interested in and the accredited installers that source, supply and install the relevant products. Consumers then select the installers from which they 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 then pays the manufacturers of the Ecosaver products.

1. Could you please advise whether there will be multiple manufacturers and installers for each product in the Ecosaver Pack? If so, has *savewater* selected these nominated manufacturers and installers?

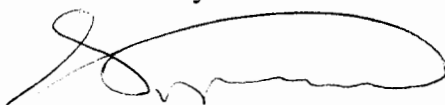
Selection of installers

Paragraph 4.2 of the supporting submission states that several installers in each region, for example Melbourne, will be selected by *savewater* to participate in the proposal. It also states that, among other things, to be selected in the Ecosaver proposal, installers must agree to a maximum charge out hourly labour rate.

2. Could you please explain who sets the maximum charge out hourly labour rate and how this rate will be determined?
3. Is it expected that installers will compete on price under this price cap?

A copy of this letter will be placed on the public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Ms Jaime Norton on (03) 9290 1477 or at jaime.norton@accc.gov.au.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch