

JOHNSON WINTER & SLATTERY
L A W Y E R S

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Our Ref: A3601
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2 October 2009

Mr Richard Chadwick
General Manager
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

EMAIL

Dear Mr Chadwick

Form G Notification of Third Line Forcing

We act for Macquarie Bank Limited (**MBL**).

On behalf of each of MBL and Perpetual Limited (**Perpetual**), we **enclose** the following:

- (a) a confidential version of a Form G Notification of Exclusive Dealing (**Notification**) and accompanying documents; and
- (b) a non-confidential (public) version of the Notification.

We have sent two cheques for \$100 each, as the applicable lodgement fees for notification by each party, to the Sydney office of the Commission.

The confidential Notification and accompanying documents contain information that is commercially sensitive to each of MBL and Perpetual. Accordingly, the parties request that the Commission exclude this version of the Notification and the accompanying documents from publication on the public register.

The non-confidential (or public) version of the Notification redacts information that is commercially sensitive to each of MBL and Perpetual and can be placed on the public register.

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Please do not hesitate to contact Sar Katdare on (02) 8274 9554 if you have any queries.

Yours faithfully

Johnson Winter & Slattery

Form G

Commonwealth of Australia

Trade Practices Act 1974 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

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 subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) Name of person giving notice

This notification is made on behalf of each of the following corporations:

- N94249 • Perpetual Limited (ABN 86 000 431 827) (**Perpetual**).
- N94250 • Macquarie Bank Limited (ABN 46 008 583 542) (**MBL**).

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

Perpetual Limited is a publicly listed company on the Australian Stock Exchange.

Perpetual's Corporate Trust division is a leading provider of corporate trustee and transaction support services to the financial services industry. Products and services include trustee services for mortgage-backed and other securitisation programs for major banks and non-bank organisations; regulatory compliance services for fund managers; custody, unit registry and accounting services for property and mortgage funds; trusteeships for corporate debt issues, infrastructure projects and other structures.

MBL is a financial services provider offering a full range of investment, commercial banking and retail financial services. In April 2007, MBL began issuing credit cards and currently offers Platinum, Gold and Low Rate credit cards in Australia.

MBL is the sponsor of the PUMA Securitisation Programme (the Programme) established on 13 July 1990 and Macquarie Securitisation Limited (**MSL**), a wholly owned subsidiary of MBL, is the Programme manager (**Programme Manager**).

Perpetual (at the direction of MSL as Program Manager) offers residential mortgage loan products to consumers under the PUMA Programme. Perpetual is the trustee for the PUMA Programme and also mortgagee (i.e. 'lender of record') for the mortgages (which are held on trust for the

beneficiaries of the relevant trust). At the time the loan is originated the beneficiary is MBL.

Any reference to Perpetual in this notification is a reference to Perpetual's Corporate Trust division and (where relevant) as the trustee of the PUMA securitisation program.

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

Mr Sar Katdare
Senior Associate
Johnson Winter & Slattery
Level 30, 264 George Street
Sydney NSW 2000
Australia

sar.katdare@jws.com.au
(02) 8274 9554

2. Notified arrangement

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

The relevant goods/services are:

- mortgage products; and
- credit card products.

(b) Description of the conduct or proposed conduct:

From [Confidential Information Redacted], Perpetual (at the direction of MSL as Programme Manager and MBL as mortgage manager) and MBL will supply a new product suite, [Confidential Information Redacted]. The suite contains a range of options combining mortgage products from Perpetual [Confidential Information Redacted] and credit card products from MBL.

MBL will manage the customer relationship and day to day management of the loans. MSL's principal activity is origination, servicing and securitisation of the trust mortgages and other assets.

The notified conduct in which Perpetual (at the direction of MSL as Programme Manager and MBL as mortgage manager) proposes to engage is:

- Perpetual will offer consumers a discount on [Confidential Information Redacted] mortgage products on condition that the consumer also acquires a credit card product from MBL.
- Perpetual will not offer consumers a discount on [Confidential Information Redacted] mortgage products unless the consumer also acquires a credit card product from MBL.

[Confidential Information Redacted].

The notified conduct in which MBL proposes to engage is:

- MBL will offer consumers an annual fee waiver on credit card products on condition that the consumer also acquires a [Confidential Information Redacted] mortgage product from Perpetual.
- MBL will not offer consumers an annual fee waiver on credit card products unless the consumer also acquires a [Confidential Information Redacted] mortgage product from Perpetual.

[Confidential Information Redacted]

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

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

The conduct relates to actual or potential consumers of Perpetual mortgage products and/or actual and potential consumers of MBL credit card products.

(b) Number of those persons:

(i) At present time:

None

(ii) Estimated within the next year.

MBL estimates that [Confidential Information Redacted] mortgage/credit card packages will be sold in the 2010 calendar year.

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

N/A.

4. Public benefit claims

(a) Arguments in support of notification:

The notified conduct will provide the following public benefits:

- it will introduce a new product offer to meet growing demand from MBL's target customer base;
- it will increase competition, innovation and efficiency in relevant markets which are largely dominated by the four major banks and their supply of comparable products;
- it will improve financial services to customers through increased choice and flexibility to mix and match products to suit individual requirements; and

- it will reduce borrowing costs to consumers through larger discounts/savings in purchasing the packages rather than stand alone products.

(b) Facts and evidence relied upon in support of these claims:

New product offer to meet growing demand by customers

[Confidential Information Redacted] mortgage/credit card products as being highly valued by consumers. [Confidential Information Redacted] The allocation of resources to meet this growing consumer demand increases efficiency in the relevant markets.

Increases competition, innovation and efficiency

APRA reports that the four major Australian banks dominate the mortgage market with a total of 82% of outstanding balances between them and the credit card market with a total of 61%¹ market share. The four major banks all offer mortgage/credit card packages with associated discounts to increase the number of bank products held by borrowers, which entrenches their significant market position.

In contrast to the four major banks, the market share of the mortgage products under the PUMA Programme is currently [Confidential Information Redacted] for outstanding loan balances and MBL's market share in the market for credit cards is [Confidential Information Redacted].

The introduction of the Perpetual/MBL package will result [Confidential Information Redacted]. This will be a competitive alternative to the comparable packaged products offered by the four major banks. MBL and Perpetual seek to become vigorous and effective competitors in the relevant markets.

Further, depending upon the success of this package offering, MBL anticipates [Confidential Information Redacted].

Improves financial services to consumers

As the offer of the Perpetual/MBL package will be managed by the one entity in MBL, the acquisition of a mortgage and credit card will be a more efficient process for consumers (than would otherwise be the case) as they will not be required to deal with two separate lenders. Consumers also benefit from the convenience of having one application process, greater functionality of banking products working together and consistent customer service experience.

Further, the Perpetual/MBL package provides consumers with the ability to mix and match products to customise the loan to suit their individual

¹ Credit card and mortgage market share information is obtained from statistics published by the RBA and APRA : <http://www.rba.gov.au/Statistics/> ; <http://www.apra.gov.au/statistics/monthly-banking-statistics.cfm>.

requirements. The customer has the ability to set up a number of different mortgage/credit card accounts, with different features as well as the flexibility to alter the features as the customer's financial circumstances change.

Despite the offer of the package, consumers will still be able to purchase a Perpetual mortgage product separately to a MBL credit card and vice versa. Any mortgage or credit card product purchased separately will not have the associated package discounts.

Reduces borrowing costs for consumers

The Perpetual/MBL package will offer consumers cheaper mortgage and credit card products than would be the case without the package.

The Perpetual/MBL package will offer Perpetual mortgage purchasers [Confidential Information Redacted]. Similarly, the package offers credit card products [Confidential Information Redacted].

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The relevant markets are:

- national market for the supply and acquisition of residential mortgage products; and
- national market for the supply and acquisition of consumer credit card.

6. Public detriments

(a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

The notified conduct will not result in any detriment to the public

(b) Facts and evidence relevant to these detriments:

The notified conduct will increase competition, innovation and efficiency in the relevant markets for the reasons in 4(a) and (b) above. The notified conduct will not lessen competition in any relevant market.

7. Further information


Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Sar Katdare
Senior Associate
Johnson Winter & Slattery
Level 30, 264 George Street
Sydney NSW 2000
Australia

sar.katdare@jws.com.au
(02) 8274 9554

Dated: 2 October 2009

Signed by/on behalf of the applicant

.....

(Signature)

.....SAR KATDARE.....

(Full Name)

.....JOHNSON WINTER & SLATTERY.....

(Organisation)

.....SENIOR ASSOCIATE.....

(Position in Organisation)