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Mark Swivel Legal
mark@swivel.net.au- swivel.net.au - 0407875398
PO Box Tamarama 2026

28 July 2009

Mr Richard Chadwick
General Manager
Adjudication Branch
Level 7
123 Pitt Street
SYDNEY NSW 2000
Lodged by email: adjudication@acc.gov.au

Dear Sir

Exclusive Dealing Form G Notification

I act for WAW Credit Union Co-Operative Limited ('WAW') and enclose a Form G Notification in respect of potential Third Line Forcing conduct on their behalf. I have elected to lodge by email as contemplated in your on-line guide at: <http://www.accc.gov.au/content/index.phtml/itemId/776339>.

I would like to pay the \$100 lodgment fee by electronic funds transfer (by internet banking). Please provide me with instructions on how I can do this.

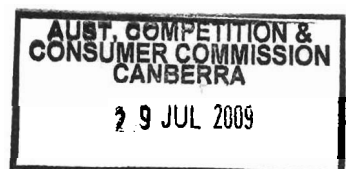
If you have any queries, please do not hesitate to contact me on 0407-875398.

Yours sincerely



Mark Swivel

Our Ref: WAW: 0902:TPA
Mark Swivel Legal
PO Box 3288 Tamarama 2026
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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 in subsections 47(6) and 47(7) of that Act in which the person giving notice engages or proposes to engage.

1 Applicant

(a) Name of person giving notice:

WAW Credit Union Co-Operative Limited ('WAW') N94051

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

WAW is a credit union providing financial services, including mortgage loans, to its members. WAW is a public company, an Authorised Deposit-Taking Institution and an Australian Financial Services Licensee.

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

c/- Mark Swivel
Mark Swivel Legal
PO Box 3288
Tamarama 2026

2 Notified arrangement

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

WAW provides mortgage loans to many of its members.

(b) Description of the conduct or proposed conduct:

WAW proposes to provide a retail mortgage loan product (a 'Loyalty Loan') at a particular interest rate the conditions of which will require borrowers to take up certain other products offered by WAW ('Loyalty Products'). The Loyalty Products will be primarily WAW products (e.g. term deposits, access cards, payment instruments) but may also include products or services provided by third party suppliers of other WAW products (e.g. insurance products, credit cards or financial planning services). The interest rate for Loyalty Loans will be lower than the standard variable rate offered by WAW.

The proposed offer may constitute third line forcing pursuant to section 47(6) and 47(7) of the Trade Practices Act (Cth) where a borrower elects to take up a third party product offered by or through WAW (e.g. an insurance product, credit card or financial planning services).

WAW makes no admission of liability under the Trade Practices Act in this Notification but recognises that it is arguable that the lower interest rate offered on a Loyalty Loan may be construed as a discount under section 47(6) or 47(7) and that such discount may be construed as conditional upon taking up a product offered by a third party company.

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:

WAW members

(b) Number of those persons:

(i) At present time:

WAW has 21,500 members as at 30 June 2009

(ii) Estimated within the next year:

The number of WAW members in Australia is estimated to grow by 3% in the next year.

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

Not applicable.

4 Public benefit claims

(a) Arguments in support of notification:

(i) The proposed conduct will offer WAW members a lower mortgage loan rate than the current lowest rate offered by WAW;

(ii) The proposed conduct allows members to choose the Loyalty Products that must be taken up as a condition of the Loyalty Loan from a range of WAW and third party products;

(iii) WAW members can choose another WAW mortgage loan product at a higher but still competitive interest rate;

(iv) The proposed conduct is in substance a loyalty program style offering which is a common feature of Australian products and services sales and marketing;

(v) There is unlikely to be any significant effect on competition in the market within which WAW operates other than a modest increase to WAW mortgage loans business. Competition in the relevant markets is vigorous and consumers will continue to have the opportunity to choose between loans from a large number of mortgage lenders.

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

(i) The proposed Loyalty Loan rate is 5.04%; and the current WAW standard variable rate is 5.29%; although these rates may change, the proposed 'discount' of 0.25% should remain unchanged.

(ii) The contract terms for the Loyalty Loan clearly state that members are able to choose freely between a suite of product options including WAW and third party products.

(iii) WAW has always and continues to offer a standard variable rate product; the current interest rate for that product is: 5.29% (see www.wawcu.com.au).

(iv) Loyalty programs are commonplace; evidence of their prevalence can be found in the Notifications lodged by many Australian companies with the ACCC.

(v) The proposed interest rate for the Loyalty Loan will amount to a modest discount and, at current rates, would not be the lowest interest rate in Australia (a number of lenders offer standard variable rates under 5.00%).

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 goods and services are supplied in the retail mortgage loan market in the regional area serviced by WAW, namely North East Victoria and Southern NSW centered on the cities of Albury, Wodonga and Wangaratta.

Substitutes available to the goods and services include other mortgage products offered by WAW and its competitors including major banks which operate in the market and area serviced by WAW.

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:

There will be no detriment suffered by any member of the public. The effect of the proposed conduct, where the Loyalty Loan offer is taken up by a member of WAW, will be limited to a modest discount on a mortgage loan product.

There may be a consequential impact on mortgage loan product pricing in the markets and areas in which WAW operates if competitors wish to match or better the discounted rate offered by WAW.

(b) Facts and evidence relevant to these detriments:

Information on current retail mortgage interest rates is available at www.cannex.com.au. As submitted above at 4, the proposed conduct amounts to a modest discount against the WAW standard variable interest rate which is competitive but not market leading.

7 Further information

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

c/- Mark Swivel
Mark Swivel Legal
Telephone: 0407875398
Email: swivel@swivel.net.au

Dated

Signed on behalf of the applicant



Mark Swivel
Mark Swivel Legal
Principal

Directions

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the Trade Practices Act 1974 have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.