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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 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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### 1. Applicant

- (a) **Name of person giving notice:**  
(Refer to direction 2)

N95494

Jet Ski World

QLD BN2765986 (the Applicant)

- (b) **Short description of business carried on by that person:**  
(Refer to direction 3)

The Applicant owns and operates 1 Jet Ski and Water Sport Equipment store under the brand 'Jet Ski World'

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

John Moyle

Dealer Principal

Jet Ski World

25 Gateway Drive, Labrador, Queensland 4215

07 5537 9290

#### 2. Notified arrangement

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

This notification relates to the provision by the Applicant of a lay-by service to its customers as a method of purchasing goods from the Applicant.

In order to provide customers with a more efficient and convenient lay-by service, and to assist the Applicant to manage its lay-by sales, the Applicant is seeking to use (and to require customers to use) the Certegy Lay-Buy *Express* service.

The Certegy Lay-Buy *Express* service is an online lay-by management service developed and offered by Certegy Ezi-Pay Pty Ltd (**Certegy**), a company unrelated to the Applicant.

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CONSUMER COMMISSION  
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To access the Certegy Lay-Buy *Express* service, the Applicant will be provided with an account by Certegy enabling authorised personnel of the Applicant to access, view and enter data onto the online platform to record new lay-by sales and monitor existing lay-by sales. Customers of the Applicant who purchase a good from the Applicant by lay-by will be provided with a Certegy Lay-Buy *Express* account to review and manage their lay-by purchase.

As part of the Certegy Lay-Buy *Express* service the Applicant will receive access to the service, a starter kit, training and support for the Applicant's personnel, access to the Certegy Lay-Buy *Express* service for the Applicant to view, monitor and manage all lay-by sales across all of the Applicant's stores, reporting on lay-by sales and access to the Certegy Lay-Buy *Express* service for its customers who purchase goods from the Applicant by lay-by. For the Certegy Lay-Buy *Express* service the Applicant will pay Certegy a joining fee and then an ongoing monthly fee.

As part of the Certegy Lay-Buy *Express* service customers will receive access to a website to view and manage their lay-by purchases from the Applicant (and any other retailer that offers a lay-by service in conjunction with the Certegy Lay-Buy *Express* service) and the ability to alter payment methods, banking details and payment timing, update personal information, schedule automatic payments, make manual payments and request a collection date change for the goods on lay-by. For the Certegy Lay-Buy *Express* service customers will pay Certegy a monthly fee of \$2.90 per lay-by purchase.

Customers will still be able to purchase goods using other payment methods, such as cash, eftpos or credit card. The introduction of the Certegy Lay-Buy *Express* service will not affect the ability of customers to use these alternative payment means.

**(b) Description of the conduct or proposed conduct:**

The third line forcing conduct can be described as follows:

- The Applicant will supply, or offer to supply, customers of the Applicant with a lay-by service, which eligible customers may use to purchase goods from the Applicant.
- As a condition of the Applicant providing the lay-by service, customers must enter into a contract with Certegy for the Certegy Lay-Buy *Express* lay-by management and payment service.

**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:  
(Refer to direction 5)**

Customers who purchase goods from the Applicant by lay-by.

**(b) Number of those persons:**

**(i) At present time:**

Nil. Existing lay-by customers of the Applicant will not be affected and will not be required to use the Certegy Lay-Buy *Express* service.

**(ii) Estimated within the next year:**

*(Refer to direction 6)*

Approximately 50 of the Applicant's customers will purchase goods from the Applicant by lay-by each year.

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

As no customers have purchased both goods from the Applicant by lay-by and the Certegy Lay-Buy *Express* service, there are no names and addresses of affected persons to be provided.

**4. Public benefit claims**

**(a) Arguments in support of notification:**

*(Refer to direction 7)*

The conduct will have, at least, the following public benefits:

- The use of the Certegy Lay-Buy *Express* service will enable the Applicant to provide a more flexible, efficient and responsive lay-by service to its customers for the following reasons:
  - currently, customers must attend one of the Applicant's stores to make their lay-by payments which can be inconvenient to customers, and result in increased cost for transportation and parking;
  - the customer's complete and current lay-by details will be accessible in one easy to access location so the Applicant's personnel will be able to address customer queries with greater speed and certainty; and
  - the Certegy Lay-Buy *Express* service will provide the retailer with prior notice of changes to pick-up dates for the goods so these can be prepared for collection, and it will monitor a customer's payments and provide the retailer with detailed reporting on its lay-by sales.
- The Certegy Lay-Buy *Express* service will remove the need for customers to attend one of the Applicant's stores or to contact the Applicant to manage their lay-by (other than for collection of their goods), saving the customer transport, parking and telephone costs.

- The online platform will provide the customer with efficient, easy and secure access to manage and review their lay-by account anywhere in the world (provided they have the necessary internet access) including the ability to:
  - make a lay-by payment online either manually (by direct debit, bill pay or credit) or by scheduling automated payments (by direct debit or credit) or plan a payment in person at one of the Applicant's stores (by cash, debit or credit);
  - change their selected payment method (between direct debit, bill pay, credit or in-store payment) and the timing of their lay-by payments;
  - track their lay-by payments;
  - review their outstanding lay-by balance; and
  - alter the collection date of goods; and
  - cancel the lay-by purchase.

The conduct will have no detriment on competition in any market(s). Rather, the conduct will increase competition, by providing customers with a competitive alternative method to purchase goods from the Applicant.

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

Nil.

**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):

*(Refer to direction 8)*

- The market for the sale of Jet Ski and Water Sport Equipment to retail customers in Australia.

The market for retail sale of Jet Ski and Water Sport Equipment is highly competitive in Australia. Significant competition is provided by other water sport equipment retail chains such as Jetski Warehouse, Brisbane Jet Ski, Gold Coast Sea Doo, Honda Marine and Watercraft. The barriers to entry are also low.

- The market for the provision of online systems for the management of deferred payment services in Australia.

Certegy Lay-Buy *Express* service is essentially an online portal that connects customers and retailers. It enables customers to make payments and for both customers and retailers to monitor the status of customer accounts. Certegy developed the Certegy Lay-Buy *Express* service in response to requests from retailers (who were already using other Certegy products and services) that Certegy supplement its existing offering with this service. As such, Certegy is a new entrant and has only limited familiarity with similar offerings in the market. Certegy is aware, however, of a number of other service providers who provide automated direct debit services for retailers (for example, Ezi-Pay and GE Money) and service providers such as IP Payments who provide online payment portals for specific industries such as real estate agents, childcare centres and schools.

## 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:**

*(Refer to direction 9)*

There is no conceivable detriment to the public likely to result from the conduct. Customers are completely free to choose to purchase goods from the Applicant by various payment methods other than lay-by, such as cash, eftpos or credit card.

As a result of the conduct, the Applicant will have the ability to offer its customers an improved lay-by service to those currently offered by its competitors. However, the Applicant has no exclusivity in relation to the Certegy service.

The Applicant (or Certegy) are not aware of any service similar to the Certegy Lay-Buy *Express* service on offer to retailers and customers in Australia. Therefore, the conduct proposed by the Applicant will not affect competition in the market for the management of deferred payment services.

- (b) **Facts and evidence relevant to these detriments:**  
Nil.

7. Further information

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

John Moyle  
Dealer Principal  
Jet Ski World  
25 Gateway Drive, Labrador, Queensland 4215  
07 5537 9290

Dated 14/7/11.....  
Signed by/on behalf of the applicant  
[Signature].....  
(Signature)  
JOHN MOYLE.....  
(Full Name)  
JET SKI WORLD.....  
(Organisation)  
DEALER PRINCIPAL.....  
(Position in Organisation)