

ACCC

17 MAY 2012

PERTH



15 May 2012

Chief Executive Officer  
Australian Competition & Consumer Commission  
PO Box 6381  
EAST PERTH WA 6892

Dear Sir,

### Notification of Exclusive Dealing

I enclose:

1. A notification of exclusive dealing by Bluebay Finance Corporation Pty Ltd; and
2. A cheque for \$100.00 in respect to your fee

Please note that given the confidential nature of the information contained within the notification, I have attached two versions:

1. Version that contains the confidential information that is not for the public record. This version has been marked accordingly to highlight the confidential information
2. A version that has had the confidential information removed & may be used for the public record

This financial product & process has been lodged with the Australian Patent Office & as such, we believe supports our request to keep this information confidential.

If you have any queries in relation to this letter, or the notification, please do not hesitate to contact me.

I look forward to hearing from you.

Yours sincerely

  
Don Crellin  
Director  
Bluebay Finance Corporation Pty Ltd

**BETTER FINANCE SOLUTIONS**

Blue Bay Finance Corporation Pty Ltd trading as Bluebay Finance ABN 62 127 824 524

131 Hasler Rd Osborne Park WA 6017 PO Box 1602 Osborne Park DC WA 6916 T 1300 258 229 F (08) 9201 8349 W bluebayfinance.com.au

Australian Credit License number 389250

**Form G**

Commonwealth of Australia  
*Trade Practices Act 1974 --- Sub-section 93(1)*

**EXCLUSIVE DEALING  
NOTIFICATION**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 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 READ DIRECTIONS AND NOTICES ON BACK OF FORM)

**1. Applicant**

N95873

- a. Name of person giving notice  
Bluebay Finance Corporation Pty Ltd trading as Bluebay Finance.  
ABN 62 127 824 524 (Bluebay).
- b. Short description of business carried on by that person  
Mortgage Manager.
- c. Address in Australia for service of documents on that person  
PO Box 1602 Osborne Park DC WA 6916.

**2. Notified arrangement**

- a. Description of the goods or services in relation to the supply or acquisition of which this notice relates  
Loans secured by mortgages over residential real estate.
- b. Description of the conduct or proposed conduct  
The supply of a "Smart Families Loan" managed by Bluebay to borrowers on the condition that the borrowers also acquire a home loan product from Bluebay.

The Smart Families system will fund either:

- i. the acquisition of an established home, on the condition that it be acquired through one of the ABN group of companies;  
or
- ii. the construction of a residential dwelling (regardless of who the seller/owner of the land is) on the condition that the builder is one of the builders belonging to the ABN group of companies. Refer Annexure A for further details

### **3. Persons, or classes of persons to which the conduct relates**

#### **a. Class or classes of persons to which the conduct relates**

Consumers that are looking to purchase either an “established” home or build a “new” home and require additional finance over and above the level of finance usually provided by a first mortgagee.

#### **b. Number of those persons**

The numbers of affected persons are unknown at the present time and are difficult to predict within the next year. It is anticipated that the total number of persons will exceed 50.

### **4. Public benefit claims**

#### **a. Arguments in support of notification**

The proposed conduct will be of benefit to the public because it:

- (i) will make home ownership accessible to consumers who would otherwise be unable to obtain sufficient finance from a traditional lender;
- (ii) allows parents to assist their children to afford their first home in a formal way;
- (iii) provides a more viable alternative to traditional methods of parents supporting children to purchase their first home (including parents acting as joint borrowers or guarantors). Further, we consider the proposed conduct will not lessen competition because:
  - (iv) the retail mortgage market is a well-developed, competitive market with many other loans which consumers may access;
  - (v) the number of consumers potentially affected by the proposed conduct is immaterial compared to the total number of customers who acquire retail mortgages to purchase owner-occupied properties; and
  - (vi) potential customers and their parents will be fully informed about the full terms of the offer before taking up the offer.

**b. Facts and evidence relied on in support of these claims**

The Smart Families system has been specifically designed to assist borrowers attain home ownership. Recent restrictive lending practises have made home ownership, especially for first home buyers, more difficult to achieve. Many find that they are unable to afford the mortgage repayments required or save enough funds to raise a deposit

**c. Restriction of publication of part claimed - refer Annexure B.1**

**5. Market definition**

- a.** Markets that are likely to be affected are the residential housing market in Western Australia and Victoria

**6. Public detriment**

- a.** Given the highly competitive status of the market referred to in paragraph 5, there does not appear to be any significant public detriment associated with the proposed conduct.
- b.** We consider the proposed conduct will not lessen competition because:
- (i) the retail mortgage market is a well-developed, competitive market with many other loans which consumers may access;
  - (ii) the number of consumers potentially affected by the proposed conduct is immaterial compared to the total number of customers who acquire retail mortgages to purchase owner-occupied properties; and
  - (iii) potential customers and their parents will be fully informed about the full terms of the offer before taking up the offer.

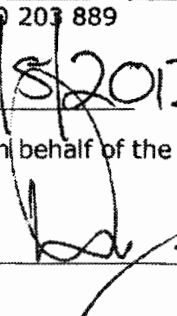
**7. Further information**

Don Crellin  
Bluebay Finance Corporation  
Po Box 1602 Osborne Park WA 6916

Contact: [donc@bluebayfinance.com.au](mailto:donc@bluebayfinance.com.au)  
Mobile: 0400 203 889

Dated 15/8/2012 .

Signed by/on behalf of the applicant

  
\_\_\_\_\_  
(Signature)

Donald William Crellin  
Bluebay Finance Corporation  
*Director*

## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence 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 person giving the notice.

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 *Competition and Consumer Act 2010* 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 qualifications 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.

## **Annexure A**

### **The ABN Group**

The ABN group of companies comprises the following residential builders & finance related companies:

- i. Homebuyers Centre;
- ii. Celebration Homes;
- iii. Dale Alcock Homes;
- iv. APG Homes;
- v. Webb & Brown-Neaves;
- vi. TR Homes;
- vii. Boutique Homes (VIC);
- viii. Homebuyers Centre (VIC).
- ix. Innov8
- x. Bluebay Finance Corporation Pty Ltd
- xi. Resolve Financial Solutions

Bluebay proposes to offer the Smart Families system to consumers looking to purchase their first home.

The Smart Families home loan product & associated process has been lodged with the Australian Patent Office & is currently patent pending.

### **Restriction of publication of part claimed – refer Annexure B.2**

The Smart Families system will fund either:

- i. the acquisition of an established home, on the condition that it be acquired through one of the ABN group of companies; or
- ii. the construction of a residential dwelling (regardless of who the seller/owner of the land is) on the condition that the builder is one of the builders belonging to the ABN group of companies.

**Annexure B**

**Annexure B.1 - Restriction of publication of part claimed**

**Annexure B.2 - Restriction of publication of part claimed**