

**IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
ŌTAUTAHI ROHE**

**CIV-2021-409-316
[2021] NZHC 3423**

UNDER the Commerce Act 1986
BETWEEN COMMERCE COMMISSION
Plaintiff
AND MOOLA.CO.NZ LIMITED
Defendant

Hearing: (Determined on the Papers)

Counsel: J D Every-Palmer QC, F J Cuncannon and P I C Comrie-Thomson
for Plaintiff
J B M Smith QC, N C Crang and E M Greig for Defendant

Judgment: 13 December 2021

JUDGMENT OF ASSOCIATE JUDGE LESTER

[1] This proceeding, alleging breaches of the Commerce Act 1986 (the Act) by Moola.co.nz Limited (Moola), was commenced by the Commerce Commission on 20 July 2021. No statement of defence was filed, with the parties advising the Court that they were engaging in discussions to resolve or streamline the proceeding.

[2] These discussions resulted in the filing of an amended statement of claim setting out agreed declarations together with an agreed statement of facts under s 9 of the Evidence Act 2006 and a notice of admissions pursuant to r 15.16 of the High Court Rules 2016.

[3] As the agreed orders are sought by consent they are within the jurisdiction of an Associate Judge under s 20(1)(g) of the Senior Courts Act 2016.

[4] The amended statement of claim alleges breaches by Moola of ss 30(1)(a) and 30(1)(b) of the Act.

[5] Moola carries on business as a consumer finance company, providing short term personal loans through its website: www.moola.co.nz.

[6] Moola has a number of competitors in the consumer finance sector. One of the ways consumer finance companies compete is to promote their services by advertising to the public, including on the internet. Since approximately September 2015, it is accepted that Moola attempted to and has entered into contracts or arrangements or arrived at understandings with its competitors as to how they would advertise on the internet.

Advertising on Google

[7] The following is taken largely unaltered from the agreed statement of facts filed by the parties.

[8] Google Ads is an online advertising service offered by Google LLC. Google Ads was known as Google Adwords until 24 July 2018, when it was rebranded (Google Ads).

[9] Search results displayed following a search on Google may include both "organic" search results and paid search results. Organic search results are what Google considers to be the most relevant search results according to its algorithms for the search terms entered by the user. Paid search results are displayed by Google Ads on behalf of advertisers who pay to display advertisements that are connected to the search terms entered by the user.

[10] Google Ads are displayed above the organic listings on a search results page on both desktop computers and mobile devices and are designated in the results by an "Ad" icon.

[11] Google Ads is principally run as a live second-price auction or spot market. The advertiser places a maximum bid on specific words or phrases (keywords) with the aim of securing an advertisement when the search terms entered by a user on Google match the chosen keywords. This bid is referred to as the "maximum cost-per-click".

[12] Whether an advertisement is displayed by Google Ads in response to a user's search is determined by the "ad ranking" which is a combination of:

- (a) the maximum cost-per-click bid for the relevant keyword; and
- (b) the relevance of the advertisement as determined by a Google algorithm to the search terms entered by the user (which is called the "quality score").

[13] The display ranking of an advertisement (from higher on the screen to lower on the screen) is also determined by the ad ranking.

[14] If the user does not click on the advertisement, the advertiser is not charged. If the user does click on the advertisement, the advertiser is charged the minimum amount needed to exceed the ad ranking of the next best bidder. This is referred to as the "actual cost-per-click". The actual cost-per-click is based on the bids of other advertisers rather than on the successful advertiser's own maximum cost-per-click.

[15] Google Ads also allows an advertiser to add "negative keywords", which prevents the advertiser's advertisement from being triggered by a search for the negatively matched keyword, even if the advertisement would ordinarily be considered relevant to the search terms entered by the user.

Competitive keyword advertising

[16] Since at least October 2015, Moola has bid on "Moola" as a keyword (among other keywords) on Google Ads.

[17] Competitive keyword advertising on Google Ads involves companies bidding on competitors' brand names. Depending on the maximum-cost-per-click and the quality score, it enables a company to have its advertisement displayed along with the organic search results of a Google search for the brand name of a competitor.

[18] Competitive keyword advertising is an important online advertising strategy, particularly for lesser known market participants and new entrants to a market. Among other things, it allows vendors to advertise their products and services:

- (a) to customers or potential customers of vendors whose brands are better known; and
- (b) at a time when consumers are likely to be actively searching for the relevant products and services.

[19] Competitive online advertising is also important for consumers. Consumers benefit from obtaining information on competing products and services in response to searches for a particular brand, and restricting competitive keyword advertising may result in consumer harm as a result of consumers:

- (a) paying higher prices for products and services; and/or
- (b) obtaining lower quality, and/or less suitable, products and services.

The Agreements

[20] Since at least September 2015, Moola attempted to enter into, and did enter into, contracts, arrangements or understandings with competing consumer finance companies:

- (a) to restrict bidding on specified keywords on Google Ads so it would be less likely that the competing consumer finance company's advertisements would be displayed when a user searched for those terms; and
- (b) in some cases, requiring the use of negative keywords to prevent the competing consumer finance company's advertisement from being displayed when a user searched for specified keywords,

(Agreements).

[21] Moola entered into, and gave effect to, Agreements including, but not limited to, the following Agreements with:

- (a) Acorn Finance 2012 Limited (Acorn Finance);
- (b) Finance Now Limited (Finance Now);
- (c) Latitude Financial Services Limited (trading as "Gem Finance") (Gem Finance);
- (d) The Lending People Limited (The Lending People);
- (e) One Partner Limited (trading as "Loan Spot" and "Loan Hub") (One Partner); and

- (f) Zethus Holdings Limited, Cash Burst Limited and Payday Advance Limited (trading as "Cash Burst", "Payday Advance", "Cash Till Payday" and "Cashwise") (Zethus),

(the Named Counterparties).

[22] The terms of the Agreements varied but included requiring:

- (a) the counterparties to the Agreements to remove "Moola" and other specified keywords from their Google Ads keywords;
- (b) Moola to remove certain specified keywords relevant to the counterparties to the Agreements from its Google Ads keywords;
- (c) the counterparties to the Agreements to include "Moola" and other specified keywords as negative keywords on Google Ads; and/or
- (d) Moola to include specified keywords relevant to the counterparties to the Agreements as negative keywords on Google Ads.

[23] The Agreements were contracts, arrangement or understandings, having the effect or likely effect, both individually and in combination, of:

- (a) controlling or maintaining the price paid for certain Google Ads advertising services; and
- (b) preventing, restricting, or limiting the acquisition or likely acquisition of certain Google Ads advertising services from Google by both Moola and the counterparties to the Agreements.

[24] Moola acknowledges that the Commission considers the Agreements also harmed consumers by limiting consumers' access to information about consumer finance companies, and those companies' services, thereby likely:

- (a) inhibiting consumers' ability to compare prices and quality;

- (b) resulting in consumers:
 - (i) paying higher prices; and/or
 - (ii) purchasing lower quality, and/or less suitable, services; and
- (c) reducing competition for consumer finance services between Moola and the counterparties to the Agreements.

[25] By entering into and giving effect to the Agreements, Moola contravened s 30 of the Act.

The One Partner Agreement

[26] On 15 March 2018 and 20 March 2018, Moola (through its solicitors) wrote to One Partner (in relation to Loan Spot and Loan Hub) alleging that One Partner was bidding on the keyword "Moola" on Google Ads, and that this constituted an infringement of Moola's registered trademarks, passing off, and misleading and deceptive conduct under the Fair Trading Act 1986. Moola requested that One Partner provide undertakings by 21 March 2018 that it would, among other things, permanently remove "Moola" from its purchased keywords on Google Ads, failing which Moola would take such further steps as it considered appropriate, including by issuing court proceedings.

[27] On 20 April 2018, Moola sent another letter (through its solicitors), alleging that One Partner's use of Moola's trade marks ("Moola" and "Moola Fast Little Loans Online") on Google Ads may constitute unjust enrichment, passing off, a breach of the Fair Trading Act, and infringement of Moola's trademarks under the Trade Marks Act 2002. The letter requested signed undertakings by no later than 27 April 2018 that One Partner would:

- (a) cease all use of "Moola" on Google Ads; and
- (b) not use any mark that would amount to an infringement of Moola's trademarks, unjust enrichment, passing off, or a breach of the Fair

Trading Act (including, without limitation, "Moola", "Moolah", "Fast Little Loans", or any similar mark).

[28] The letter stated that Moola had a number of remedies available to it if proceedings became necessary, and that it reserved all rights.

[29] On 22 May 2018, Moola sent a further letter (through its solicitors), noting that it had not received a response to its letter of 20 April 2018. It stated that "all other leading industry money lenders have cooperated and ceased use of our client's Adword and associated intellectual property", and that if One Partner ignored Moola's demands, it was prepared to take further legal action to protect its interests.

[30] On 28 May 2018, One Partner confirmed that it had removed all references to "Moola" from its Google Ads keywords lists from 5 April 2018.

[31] Moola filed proceeding CIV-2018-404-1271 in the High Court at Auckland against One Partner and its directors on or about 2 July 2018. In the course of that proceeding, on or about 6 August 2018, the High Court made orders by consent (Consent Orders), requiring that One Partner and its directors:

- (a) not use the words "MOOLAH", or any close relation of "MOOLAH" in any of their advertising or marketing material, including but not limited to:
 - (i) keywords that the defendants have purchased from Google Inc. to generate advertisements from each or any of the defendants promoting the websites "loanspot.co.nz" and "loanhub.co.nz"; and/or
 - (ii) the defendant's on-line advertisements on "Google" (www.google.co.nz or www.google.com); and
- (b) apply a "negative match" to the keywords "MOOLA" and "MOOLAH" in their current and future Google Adwords campaigns (so long as Google Inc continues to offer that capability).

[32] The Consent Orders remain extant but Moola will not take any steps to enforce the Consent Orders in future and has agreed to provide an undertaking to the Court to this effect and notify One Partner of that undertaking.

Finance Now Agreement

[33] On 15 March 2018, Moola (through its solicitors) wrote to Finance Now, alleging that Finance Now was bidding on the keyword "Moola" on Google Ads, and that this constituted an infringement of Moola's registered trademarks, and misleading and deceptive conduct. Moola requested that Finance Now provide undertakings that it would, among other things, permanently remove "Moola" from its purchased keywords on Google Ads.

[34] On 26 March 2018, Finance Now responded (through its solicitors), and denied that its use of "Moola" in connection with Google Ads infringed Moola's registered trademarks or breached the Fair Trading Act or constituted passing off, and declined to provide the requested undertakings.

[35] On 5 April 2018, Moola (through its solicitors) sent a letter reiterating its allegation that Finance Now's use of "Moola" on Google Ads amounted to trade mark infringement, passing off and a breach of the Fair Trading Act. It noted that Moola had used competitors' trading names on Google Ads in an effort to mitigate the damage caused by competitors using "Moola" on Google Ads, and that it was addressing these issues with each of those competitors.

[36] In order to resolve the issue between Moola and Finance Now, Moola proposed that:

- (a) Finance Now cease use of the following keywords, including on Google Ads or any other platform: "Moola", "Need Cash Today", "Loan Ranger", "Moola Fast Little Loans Online", "Fast Little Loans", "Moola.co.nz", "Humpday", "Zooma", or "any other word trade mark registered for relevant financial services in the future to Moola, and notified to [Finance Now]"; and
- (b) Moola cease use of the following keywords, including on Google Ads or any other platform: "Finance Now", "Money Your Way", "Finance Now Money Your Way", "QIK", "Marble Finance", or "any other word

trade mark registered for relevant financial services in the future to [Finance Now] and notified to Moola".

[37] Moola sought confirmation in writing that the terms proposed were acceptable to Finance Now.

[38] On 17 April 2018, Finance Now (through its solicitors) wrote to Moola, reiterating its denials, but accepting the terms of the proposal in Moola's 5 April 2018 letter. It proposed that Moola and Finance Now de-select and cease use of the relevant keywords on Google Ads with effect from 23 April 2018, and from any other platform, website or advertising material with effect from 4 May 2018. Finance Now confirmed that it had already initiated these steps on Google Ads, and was reviewing its platforms, websites and advertising materials. It sought confirmation in writing that Moola would take the same steps and would comply with the proposed timeframe.

[39] On 19 April 2018, Moola (through its solicitors) notified Finance Now that it agreed with the proposed timetable, was taking the necessary steps to remove the keywords on Google Ads, and was reviewing its other platform. It stated that it considered the matter to be settled.

[40] On 31 January 2020, following inquiries from the Commission but on a without prejudice basis, Moola (through its solicitors) wrote to Finance Now giving notice of immediate termination of the Finance Now Agreement.

Zethus Agreement

[41] On 20 October 2016, Moola (through its solicitors) wrote to Zethus (in three letters addressed to Zethus Holdings Limited, Cash Burst Limited, and Payday Advance Limited) alleging that Zethus was bidding on the keyword "Moola" and had not negatively matched the keyword "Moola" on Google Ads, and that this may constitute passing off, unjust enrichment, a breach of the Fair Trading Act, and infringement of Moola's registered trademarks. Moola requested that Zethus provide signed undertakings by no later than 27 October 2016 that Zethus would:

- (a) cease all use of "Moola" on Google Ads; and

- (b) not use any mark that would amount to an infringement of Moola's trademarks, passing off, or a breach of the Fair Trading Act (including, without limitation, "Moola", "Moolah", "Fast Little Loans", or any similar mark).

[42] The letters stated that Moola had a number of remedies available to it if proceedings became necessary, and that it reserved all rights.

[43] On 31 October 2016, Zethus responded (through its solicitors), and denied that its use of the keyword "Moola" in connection with Google Ads infringed Moola's registered trademarks, breached the Fair Trading Act, or constituted passing off or unjust enrichment, and declined to provide the requested undertakings. The letter also noted that Moola was bidding on keywords related to Zethus, including "Cash Burst", "PayDay Advance", "Cash Till Pay Day", as well as keywords relating to other traders operating in the financial services sector.

[44] On 25 November 2016, Moola wrote (through its solicitors) to Zethus, indicating its intention to file proceedings to protect its position given Zethus had declined to provide the requested undertakings, but noting Moola was not averse to exploring resolution outside formal court proceedings. A draft statement of claim was enclosed with the letter.

[45] On 29 November 2016, Zethus responded (through its solicitors) reiterating Zethus' position as outlined in the letter dated 31 October 2016, and accepted service of any proceedings filed by Moola.

[46] Following the failed attempts to obtain undertakings from Zethus in 2016, Moola revived its efforts in 2018.

[47] On 16 March 2018, Moola (through its solicitors) sent a further letter reiterating its allegation that Zethus' use of the keyword "Moola" on Google Ads amounted to trade mark infringement, passing off, and a breach of the Fair Trading Act. It stated that Moola had bid on the keyword "payday advance" on Google Ads in an effort to mitigate the damage caused by Zethus bidding on "Moola" on Google Ads,

and that Moola was prepared to cease bidding on the keyword once Zethus had permanently ceased bidding on "Moola". Moola requested Zethus provide undertakings by 23 March 2018 that it would, among other things, cease all bidding on the keyword "Moola" on Google Ads; failing which, Moola would take such further steps as it considered appropriate, including filing proceedings in the High Court.

[48] On 3 July 2018, following a telephone conversation between Zethus and Moola's solicitors on 25 June 2018, Zethus (through its solicitors) wrote to Moola notifying its intention to explore an informal understanding regarding the use of certain keywords in online advertising, noting that Moola had a similar arrangement with another party. The email proposed that Zethus and Moola would action changes to their respective advertising on Google Ads and other platforms to address the concerns raised by the other party, and then review what the other party had changed to see if there were any outstanding issues which could be "discussed and solutions explored".

[49] On 15 July 2018, Zethus (through its solicitors) requested confirmation of the steps Moola had taken in light of the informal arrangement outlined in Zethus' email on 3 July 2018.

[50] On 24 July 2018, Moola (through its solicitors) confirmed that it had, among other things:

- (a) ceased using the keywords "Payday Advance", "Cash Burst", "Cash Till Payday", "Cashwise", "Loanwise", "Living Debt Free", "Fair Go Loans", and "Fair Go Finance" on Google Ads; and
- (b) negatively matched the keywords "Payday Advance" and "Cash Burst" on Google Ads.

[51] Moola requested confirmation that Zethus had, among other things:

- (a) ceased bidding on the keywords "Moola", "Mulla", "Moolar", "Moolah", "Moolaa" and other alternative spellings of "Moola", as well

as "Need Cash Today", "Loan Ranger", "Moola Fast Little Loans Online", "Fast Little Loans", "Moola.co.nz", "Humpday" and "Zooma" on Google Ads; and

- (b) negatively matched "Moola", "Loan Ranger", "Need Cash Today", "Fast Little Loans", "Humpday" and "Zooma" on Google Ads.

[52] On 8 August 2018, Zethus confirmed (through its solicitors) that it had ceased bidding on, and had negatively matched, the keyword "Moola" on Google Ads. Zethus noted that Moola was still bidding, or had recommenced bidding, on keywords such as "Payday Advance" and "Cash Burst" on Google Ads, and requested Moola cease bidding on those keywords.

[53] On 10 August 2018, Moola confirmed (through its solicitors) that it had ceased bidding on the keywords "Payday Advance" and "Cashburst", and negatively matched the keywords "Payday Advance" and "Cashburst" and "a number of combinations that include those words" on Google Ads.

[54] On 31 January 2020, following inquiries from the Commission but on a without prejudice basis, Moola (through its solicitors) wrote to Zethus giving notice of immediate termination of the Zethus Agreement.

Gem Finance Agreement

[55] On 1 August 2018, Moola (through its solicitors) wrote to Gem Finance, alleging that Gem Finance was bidding on the keyword "Moola" on Google Ads, and that this constituted an infringement of Moola's registered trademarks, passing off, and misleading and deceptive conduct under the Fair Trading Act. Moola requested that Gem Finance provide undertakings by 7 August 2018 that it would, among other things, permanently remove "Moola" from its purchased keywords and negatively match the keyword "Moola" on Google Ads.

[56] In correspondence on 10 August 2018 and 14 August 2018, Gem Finance and Moola (through their solicitors) reached a position that:

- (a) Gem Finance would not bid on, and would negatively match, the keyword "Moola" on Google Ads; and
- (b) Moola would not bid on, and would negatively match, the keywords "GEM" and "Latitude" on Google Ads.

[57] On 31 January 2020, following inquiries from the Commission but on a without prejudice basis, Moola (through its solicitors) wrote to Gem Finance giving notice of immediate termination of the Gem Finance Agreement.

Acorn Finance Agreement

[58] On 11 September 2018, Moola (through its solicitors) wrote to Acorn Finance, alleging that Acorn Finance was bidding on the keyword "Moola" on Google Ads, and that this constituted an infringement of Moola's registered trademarks, passing off, and misleading and deceptive conduct under the Fair Trading Act. Moola requested that Acorn Finance provide undertakings by 19 September 2018 that it would, among other things, permanently remove "Moola" from its purchased keywords and negatively match the keyword "Moola" on Google Ads.

[59] On 11 September 2018, Acorn Finance provided the signed letter of undertaking to Moola's solicitors.

[60] On 31 January 2020, following inquiries from the Commission but on a without prejudice basis, Moola (through its solicitors) wrote to Acorn Finance giving notice of immediate termination of the Acorn Finance Agreement.

The Lending People Agreement

[61] On 11 February 2019, Moola wrote to The Lending People alleging that The Lending People was bidding on the keyword "Moola" on Google Ads, and in doing so The Lending People was using Moola's registered trademarks and engaging in misleading conduct under the Fair Trading Act. Moola requested The Lending People cease bidding on the keyword "Moola" and confirm this in writing to Moola, failing which Moola would escalate the matter to its legal team.

[62] The Lending People responded the same day, confirming that it was bidding on the keyword "Moola" on Google Ads, and noting that Moola was bidding on the "The Lending People" keyword on Google Ads.

[63] This email exchange was followed by a letter on 12 February 2019 from Moola's solicitors, alleging that The Lending People's use of "Moola" on Google Ads constituted an infringement of Moola's registered trademarks, passing off, and misleading and deceptive conduct under the Fair Trading Act. Moola requested that The Lending People provide undertakings by 15 February 2019 that it would, among other things, permanently remove "Moola" from its purchased keywords and negatively match the keyword "Moola" on Google Ads, failing which Moola would take such further steps as it considered appropriate, including by issuing court proceedings.

[64] The letter stated further that Moola had bid on the keyword "The Lending People" on Google Ads in an effort to mitigate the damage caused by The Lending People using "Moola" on Google Ads, and that Moola was prepared to cease bidding on that keyword once The Lending People provided the requested undertakings.

[65] On 20 February 2019, The Lending People (through its solicitors) wrote to Moola and agreed to provide the undertakings requested by Moola, if Moola provided undertakings that it would cease bidding on, and negatively match, the keyword "The Lending People" on Google Ads.

[66] The Lending People provided a signed letter of undertaking to Moola's solicitors on 22 February 2019, and Moola provided a signed letter of undertaking to The Lending People's solicitors on 26 February 2019.

[67] On 31 January 2020, following inquiries from the Commission but on a without prejudice basis, Moola (through its solicitors) wrote to The Lending People giving notice of immediate termination of the Lending People Agreement.

The Agreements with the Named Counterparties contravened the Act

[68] Moola accepts that it entered into the following contracts, arrangements or understandings as set out above:

- (a) the One Partner Agreement;
- (b) the Finance Now Agreement;
- (c) the Zethus Agreement;
- (d) the Gem Finance Agreement;
- (e) the Acorn Finance Agreement; and
- (f) the Lending People Agreement.

[69] At all material times, Moola was in competition with each of the Named Counterparties to the Agreements listed in the preceding paragraph to acquire advertising services from Google.

[70] Each of the Agreements listed in [69] contained a cartel provision, or cartel provisions, which had the effect or likely effect of:

- (a) controlling or maintaining the price paid for advertising through Google Ads; and
- (b) preventing, restricting, or limiting the acquisition or likely acquisition of certain Google Ads advertising services from Google by both Moola and each of the Named Counterparties.

[71] Moola gave effect to the cartel provisions in each of the Agreements listed in [69], including by:

- (a) monitoring whether counterparties to the Agreements were bidding on "Moola" and other keywords they had agreed not to bid on under the Agreements;
- (b) not bidding on keywords Moola had agreed not to bid on under the Agreements; and
- (c) negatively matching keywords Moola had agreed to negatively match under the Agreements.

[72] It follows that Moola contravened s 30 of the Act by:

- (a) entering into each of the Agreements listed in [69]; and
- (b) giving effect to the cartel provisions contained within each of the Agreements listed in [69] from the date of entry until on or about 31 January 2020, with the exception of the Agreement with One Partner, which remains subject to the Consent Orders and therefore continues to be given effect.

Other relevant factual matters

Moola was not aware that its conduct contravened the Act

[73] Moola deliberately entered into the Agreements. However, the Commission acknowledges that Moola did not deliberately seek to breach the Act and the relevant correspondence, both entering into and giving effect to the Agreements, was in many cases through letters between the respective loan companies' solicitors and following their advice.

Extent of harm

[74] Moola acknowledges that the Commission considers the effect of the Agreements limit consumers' access to information about consumer finance companies and reduced the ability of consumers to make informed choices when selecting a loan provider. This may have resulted in consumers paying higher prices and acquiring consumer finance services on unfavourable or less suitable terms. The likelihood of harm would have been higher for vulnerable consumers with less experience and knowledge about consumer finance companies.

Commercial gain

[75] The Agreements (both individually and in combination) may have resulted in Moola paying less to acquire advertising services through Google Ads than it would have in the absence of the Agreements due to the removal of competing bids.

Co-operation

[76] Moola terminated all Agreements following inquiries from the Commission (with the exception of the One Partner Agreement, which is subject to the Consent Orders) and co-operated with the Commission throughout the Commission's investigation. It also acknowledged and accepted that it had contravened the Act at the earliest possible stage.

Previous contraventions

[77] Moola has not previously been investigated by the Commission under pt 2 of the Act.

Agreed Declarations

[78] The following orders are made by consent:¹

¹ The declarations are in terms of s 30 of the Commerce Act 1986 prior to its amendment on 8 April 2021. Order [79](b) refers to the amended s 30 – now s 30(1)(b) – as Moola continued to give effect to the One Partner Agreement after 8 April 2021.

- (a) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by entering into the One Partner Agreement;
- (b) there is a declaration that Moola contravened, and continues to contravene, s 30(b) (and from 8 April 2021, s 30(1)(b)) of the Commerce Act 1986 by giving effect to the One Partner cartel provisions;
- (c) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by entering into the Finance Now Agreement;
- (d) there is a declaration that Moola contravened s 30(b) of the Commerce Act 1986 by giving effect to the Finance Now cartel provisions;
- (e) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by entering into the Zethus Agreement;
- (f) there is a declaration that Moola contravened s 30(b) of the Commerce Act 1986 by giving effect to the Zethus cartel provisions;
- (g) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by entering into the Gem Finance Agreement;
- (h) there is a declaration that Moola contravened s 30(b) of the Commerce Act 1986 by giving effect to the Gem Finance cartel provisions;
- (i) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by entering into the Acorn Finance Agreement;
- (j) there is a declaration that Moola contravened s 30(b) of the Commerce Act 1986 by giving effect to the Acorn Finance cartel provisions;

- (k) there is a declaration that Moola contravened s 30(a) of the Commerce Act 1986 by enter into The Lending People Agreement; and
- (l) there is a declaration that Moola contravened s 30(b) of the Commerce Act 1986 by giving effect to The Lending People cartel provisions.

Costs

[79] No order for costs is sought and accordingly no order for costs is made.

Associate Judge Lester