

Murray Irrigation Limited gives ACCC court enforceable undertaking

Murray Irrigation has given the Australian Competition and Consumer Commission (ACCC) a court enforceable undertaking under s. 163 of the *Water Act 2007* after multiple breaches of the *Water Charge (Termination Fees) Rules 2009* (the Rules).

In or about September 2009, Murray Irrigation offered a ten per cent discount to customers that paid their quarterly tax invoice on time (the discount). Murray Irrigation offered the discount again when issuing a second quarterly invoice in or about December 2009.

Murray Irrigation has, for some time, imposed a \$220 fee for the surrender of delivery entitlements for the processing of an application for termination or surrender of delivery entitlements.

Under rule 5(1) of the Rules, which became effective from 1 September 2009, irrigation infrastructure operators must not impose a fee, charge or payment of any kind for, or in respect of, the termination of the whole or a part of a right of access to that operator's irrigation network except as expressly authorised under the Rules.

Rule 7 of the Rules authorises an irrigation infrastructure operator to impose a termination fee where that fee does not exceed the amount determined by multiplying by ten the relevant total network access charge payable to the operator by the holder of the right of access in respect of the financial year in which notice of termination or surrender is given.

Murray Irrigation has processed many termination transactions since the Rules came into effect following requests from customers for termination of their delivery entitlements. On sixty-four occasions Murray Irrigation's calculation of the termination fee did not have regard to the discount for on-time payment for those terminating customers that qualified for the discount.

Further, since 1 September 2009 Murray Irrigation imposed the \$220 fee for the surrender of delivery entitlements on one hundred and twelve occasions.

The undertaking provides, among other things, that Murray Irrigation will refrain, for a period of three years, from imposing termination fees that have not been appropriately calculated having regard to any discounts or concessions for which terminating customers have qualified in respect of the relevant financial year. Murray Irrigation has also ceased imposing the \$220 fee for the surrender of delivery entitlements.

Murray Irrigation has also issued refunds of over \$115,000 to affected customers and proposes to issue further refunds for the \$220 fee for the surrender of delivery entitlements.