

7 CLAIMS GOOD ENVIRONMENTAL CHOICE AUSTRALIA HAS MADE AND CONTINUES TO MAKE THAT UNITED NATIONS SUSTAINABILITY AWARD WINNER INSTYLE BELIEVES ARE NOT TRUE

Federal Court granted INSTYLE leave to further expand its statement of claim

INSTYLE has been concerned for many years about the monopoly which the Green Building Council bestowed upon Good Environmental Choice Australia (GECA), the inadequacy of the GECA Textile Standard, and the way in which GECA operates its ecolabelling program. From March 2006 until May 2010, GECA was the only third party whose certification for furniture was recognised by the Green Building Council for their Green Star rating tool. From 5 May and 22 June 2010 respectively, the Green Building Council now also recognises both Ecospecifier and AFRDI's furniture standards. By letter dated 12 July 2010, Instyle was advised that the Commonwealth Government Procurement Policy does not preference products certified by GECA Source . We have set out below 7 claims GECA has made and continues to make which INSTYLE believes are not true.-----Claim 1 GECA claims its program "is the only environmental labelling program in Australia which indicates the environmental performance of a product from a whole of product life perspective for consumer goods" Source Fact 1 This claim is not true. For example, the GECA Textile Standard is not a "whole of product life perspective" standard. The GECA Textile Standard only addresses one part of the life cycle i.e.manufacturing It does not address resource extraction nor disposal and is therefore not a "whole of product life perspective standard". The GECA Textile Standard also allows for certification of non-environmental textiles such as polyester, acrylic, nylon and PVC vinyl which contain substances hazardous to the environment. This is one of many reasons why INSTYLE has decided not to have its textiles certified by GECA. Important Note: The Green Building Council has NOT recognised the GECA Textile Standard nor any other textile standard under its new assessment framework for third party certification schemes. Source Claim 2 GECA claims that its "label is awarded to products which meet voluntary environmental performance standards". Source Fact 2 GECA does not always award its label as claimed above. For example, some applicants who want white furniture certification have been advised by GECA's exclusive auditor, Environmental Assurance, that white furniture certification is not available to them, even though their white furniture complies with all of the applicable requirements of the GECA Furniture Standard. GECA has been informed about this but so far as Instyle is aware GECA has taken no corrective action. White furniture, which is furniture pending finishing (ie. by upholstery), is one of the 8 categories of final ready to use furniture which can be certified as complying with the GECA Furniture Standard (Clause 2, GECA Furniture Standard). Source Claim 3 Peter Johnson, managing director of Environmental Assurance and the founder and former chairman and director of GECA, has claimed that "...white furniture ... certification does not allow [manufacturers] to earn full points under the GBCA Green Star framework". Source .Fact 3 This claim is not true. GECA certified White Furniture will earn the maximum Green Star points available (appropriate to the furniture certification level). Source Furthermore ANY textile can be used to upholster certified White Furniture, and further still, provided that the textile contributes less than 10% of the total furniture weight, which it almost always does, that furniture will achieve the maximum Green Star points available (appropriate to the furniture certification level). Source Claim 4 GECA claims "The applicant [a furniture manufacturer] should note that the nominated product lines will be required to have certified textile in order to comply to the full point score available under the Green Star Rating tool in Australia". Source Fact 4 This claim is not true. The Green Star's Materials Calculator Guide version 4 states the following (see section 4.0, page 6): Source "Where 90% or more (by mass) of an item can be categorised as 'Environmentally Innovative', the project may enter the entire item as 'Environmentally Innovative' in the calculator and may disregard any non-compliant components". The Green Building Council has also confirmed that a non-GECA certified textile can be substituted for a certified textile on GECA-certified finished furniture (ie where the furniture is certified inclusive of the textile) and provided that the textile contributes less than 10% of the total weight of the finished item of furniture (which it almost always does), the GECA-certified finished furniture with the substituted textile will still achieve the maximum Green Star points available (appropriate to the furniture certification level). Source Claim 5 GECA claims that certified fabrics satisfy the requirements of the GECA Furniture Standard. GECA states "[Suppliers Name withheld] is upholstering its furniture and fittings in only GECA certified fabrics This ensures that the fabrics applied to the furniture and fittings will comply with all requirements of GECA 28 (Furniture and Fittings) Standard, including those sections that apply regardless of the weight of the fabrics". Source Fact 5 This claim is not true. There are substances prohibited by the GECA Furniture Standard which the GECA Textile Standard allows a manufacturer to use in the manufacturing process and/or to be contained in the certified textile. For example, there are a number of chemicals such as arsenic and formaldehyde that can be used in the production of textiles under the GECA Textile Standard, however these chemicals are expressly prohibited by the GECA Furniture and Fittings Standard (Section 3.3). Source Claim 6 GECA claims that "the Australian Eco-label Program complies with ISO 14024" Source Fact 6 Instyle believes that GECA's ecolabel program does not comply with ISO 14024 in the following significant respects: ISO 14024 states that the "life cycle stages to be taken into account when developing product environmental criteria should

include: extraction of resources, manufacturing, distribution, use and disposal". INSTYLE believes GECA does not comply with this ISO 14024 principle as outlined in Claim 1 above. Source ISO 14024 states "Application to ... environmental labelling programmes shall be open to all potential applicants. All applicants who fulfil the product environmental criteria for a given product category ... shall be entitled to be granted a licence and authorized to use the label". INSTYLE believes GECA does not comply with this ISO 14024 principle as outlined in Claim 2 above. Source Furthermore, Environmental Assurance, GECA's exclusive auditor is not certified to JAS-ANZ or an equivalent body, which accredits conformity assessment bodies for their credibility, independence and integrity in undertaking conformity assessments.Claim 7 GECA describes its Ecolabel trademark as being a "Certification Trademark" Source Fact 7 This claim is not true. GECA's ecolabel is not a Certification Trademark.A certification trademark such as the National Heart Foundation Tick is operated under strict rules which have been preapproved by the ACCC and the certification trademark holder is liable to operate its certification program strictly in accordance with those preapproved rules. Source GECA's Ecolabel trademark is a standard trade mark only. Source Court Case UpdateIn June 2009 Instyle filed a statement of claim in the Federal Court against GECA, Environmental Assurance and Petar Johnson. Instyle alleged in its June 2009 statement claim that GECA, Environmental Assurance and Petar Johnson had each breached the Trade Practices Act 1979 and the NSW Fair Trading Act 1987:by issuing environmental product declarations (EPD's) that contain false and misleading information, including about the Green Building Council's Green Star rating system; andby making misleading and false representations to one of Instyle's customers, and that in the circumstances, each of GECA, Environmental Assurance and Petar Johnson acted unconscionably in their dealings with that customer.In December 2009, Instyle successfully applied to expand its statement of claim to include an allegation that GECA, Environmental Assurance and Johnson made misleading statements about Instyle and its products in media releases to the marketplace in September 2009.On 13 December 2010, the Federal Court granted Instyle leave to further expand its statement of claim to include allegations that GECA, Environmental Assurance and Petar Johnson have made misleading statements about the compliance of GECA's program with ISO 14024, about GECA's trade mark being a certification trade mark, and to furniture manufacturers and suppliers about them not being able to obtain White Furniture certification. Instyle is seeking orders restraining the alleged conduct, corrective action and public notification, and damages.We appreciate the support that we have received from our clients since the court case has commenced and thank you in advance for your continued support.For further information visit www.instyle.com.au.Best RegardsMichael FitzsimonsManaging DirectorP: 02 9317 0250E: mfitzsimons@instyle.com.au20 December 2010Background INSTYLE is committed to the environment and to delivering real environmental change. Instyle has won several high profile sustainability awards, including the following:2010 WINNER NSW Government Sustainability Green Globe Awards – Small Business Sustainability Award2010 WINNER United Nations' World Environment Day Award–Business Environmental Best Practice Program2009 WINNER NSW Government Sustainability Green Globe Awards - Business Sustainability Award2009 FINALIST United Nations' World Environment Day Award – Best Specific Environmental Initiative2008 WINNER United Nations' World Environment Day Award - Business Sustainability Award 2008 WINNER NSW Government Sustainability Green Globe Awards – Premier's Sustainability Excellence Award2008 WINNER NSW Government Sustainability Green Globe Awards - Industry Environmental Sustainability2008 WINNER NSW Government Sustainability Green Globe Awards - Small Business Environmental Sustainability2007 FINALIST Banksia Environmental Award - Sustainability2006 FINALIST Banksia Environmental Award - Sustainability

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