

Allen Allen & Hemsley

LAWYERS

ALLENS
ARTHUR ROBINSON
GROUPThe Chifley Tower
2 Chifley Square
Sydney NSW 2000
Australia
Tel 61 2 9230 4000
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6 September 2000

Regional Director, New South Wales
Australian Competition & Consumer
Commission
Level 5
Skygarden
77 Castlereagh Street
Sydney NSW 2000**BY COURIER**Correspondence
GPO Box 50
Sydney NSW 2001
Australia
DX 105 Sydney
www.allens.com.au

Dear Sir

Third Line Forcing Notification

We enclose a notice under s93(1) of the Trade Practices Act together with a cheque for \$1,000. If you require any additional information in relation to the notice please contact me on 9230 4994.

Yours faithfully

Catherine Parr
Partner
catherine.parr@allens.com.au
Tel (02) 9230 4994

Our Ref CPPS:201165313

FORM G

Regulation 9

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Sub-section 93(1)

EXCLUSIVE DEALING:

NOTIFICATION

To the Australian Competition & Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974* of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(6) or (7), of that Act in which the person giving notice engages or proposed to engage.

-
1. (a) **Name of person giving notice:**
Toyota Finance Australia Limited (ACN 002 435 181)
 - (b) **Short description of business carried on by that person:**
Financial Services
 - (c) **Address in Australia for service of documents on that person:**
C/- Catherine Parr
Allen Allen & Hemsley,
Level 17, Chifley Tower,
2 Chifley Square
Sydney, NSW 2000
 2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**
Vehicle finance.
 - (b) **Description of the conduct or proposed conduct:**
See Attachment A.
 3. (a) **Class or classes of persons to which the conduct relates:**
Consumers of vehicle finance.
 - (b) **Number of those persons:**
 - (i) At the present time – substantially in excess of 50.
 - (ii) Estimate within the next year – substantially in excess of 50.
 - (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**
Not applicable.

FORM G - continued

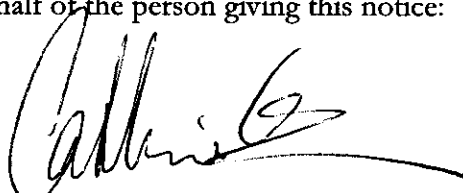
4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

Catherine Parr
Allen Allen & Hemsley
Level 17, Chifley Tower
2 Chifley Square
SYDNEY NSW 2000

Dated: 6 September 2000

Signed on behalf of the person giving this notice:

(Signature)



CATHERINE PARR

PARTNER, ALLEN ALLEN & HEMSLEY,

solicitors for the person giving

this notice

ATTACHMENT A

Description of Proposed Conduct for Exclusive Dealing Notification

Background

Vehicle Loans

Toyota Finance Australia Limited (*TFA*) provides loans to current and new customers for the purchase of motor vehicles from motor vehicle dealers. These are loans secured on the relevant vehicle. TFA sells these loans through the motor vehicle dealers, who receive a commission for a successful referral to TFA. TFA charges an establishment fee on each loan it provides.

Extended Warranty

Toyota Motor Corporation Australia Limited (*TMCA*) offers an extended warranty product to purchasers of:

- (a) new vehicles which it manufactures, imports and/or distributes; and
- (b) certain used vehicles which it originally manufactured, imported and/or distributed.

TFA and TMCA are both wholly owned subsidiaries of Toyota Motor Corporation (Japan) and therefore are related companies.

TFA acts as TMCA's agent in relation to sale and administration of TMCA's extended warranty product. Purchasers of the product obtain a warranty for an additional period beyond the standard warranty offered by TMCA as manufacturer/importer/distributor on purchase of a new vehicle or by the dealer on purchase of a used vehicle.

TFA also offers an extended warranty insurance product for:

- (a) new vehicles which are not manufactured, imported or distributed by TMCA; and
- (b) used vehicles.

The insurer (and therefore the supplier of that product) is Allianz Australia Limited (*Allianz*). TFA acts as agent for Allianz in relation to the sale and administration of this product.

Dealers receive a commission on sale of the TMCA extended warranty product and the Allianz extended warranty product.

Roadside Assist

TFA offers to purchasers of new and used vehicles a product called Roadside Assist which provides emergency repairs and assistance similar in nature to that provided by the motoring associations (eg NRMA, RACV) in each state and territory.

Dealers receive a commission on sale of Roadside Assist.

Proposed Conduct

It is proposed that TFA will offer customers who purchase certain vehicles using TFA finance a lower interest rate and/or a discount off the standard establishment fee on the vehicle loan if the borrower purchases a package.

The basic package will comprise a vehicle loan and an extended warranty. If the customer takes these two products and Roadside Assist as well there will be an additional benefit (greater concession on the interest rate and/or greater discount on the establishment fee).

The commission payable by TFA to a dealer selling a package may be (but will not always be) different from the commission TFA would pay on a vehicle loan taken without the package. The commissions payable to dealers for the extended warranty products and the Roadside Assist product will be the same whether those products are sold as part of the package or not.

The objective of promoting the package is to promote TFA vehicle loans and simultaneously to increase the awareness of customers, and prospective customers, of the benefits which can be obtained from a broader relationship with the Toyota group.

Section 47(6) and (7)

It is possible that the proposed conduct described above might involve conduct of the kind in Section 47(6) or (7) of the Trade Practices Act in that TFA may not offer the same interest rate or level of discount off the establishment fee if the customer does not take a "package", which includes products offered by persons other than TFA.

Public Benefit

The proposed conduct is not anti-competitive. Offering the package is intended to stimulate demand for TFA's vehicle loans.

If the products were all provided by the same legal entity there would be no question of a breach of section 47(6) or (7). The possibility of a breach only arises because the extended warranty products referred to above are offered by separate legal entities.

Customers are free to choose, on the normal commercial basis of quality and price, whether or not to purchase individual products or to take the package. They are also free to purchase a vehicle from the relevant motor vehicle dealer without taking finance from TFA at all.

The package is of benefit to customers who have a need for the products offered in the package as it offers a genuine saving on what the total price of the products would be if they were bought separately.

Many of the motor vehicle dealers through which TFA will offer the package also offer finance from competitors of TFA. The package is designed to promote competition with those competitors.

Given that each of the relevant markets in which each of TFA, TMCA and Allianz operates are competitive markets with many providers there is no prospect the

proposed conduct will lessen or substantially lessen competition, in those or any other relevant markets.