

# Freehills

D00/34678



RAC000655L

9 October 2000

Our ref Wayne Condon/Richard Hoad  
Phone 03 9288 1592  
Email wayne\_condon@freehills.com.au  
File no 20889120  
Doc no MELCD\00370819.0

Mr Tim Greenwade  
General Manager, Adjudications  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

By registered post

Dear Sir

## S.C.T. Pty Ltd (ACN 004 182 192) - Notification of Exclusive Dealing

We act for S.C.T. Pty Ltd (SCT).

We enclose on behalf of our client a Notification pursuant to sub-section 93(1) of the *Trade Practices Act 1974* (Cth) (Act). As you will see from the Notification, the conduct in question concerns the offer of discounts to purchasers of Toyota vehicles who present a valid "Golf Card" credit card.

The relevant discounts will be offered by certain participating Toyota dealers which will include the Toyota dealership trading as "Sydney City Toyota", which is owned and operated by SCT, a wholly-owned subsidiary of Toyota Motor Corporation Australia Limited. For the purposes of sections 47(6) and 47(7) of the Act, the relevant "services" are the discounts (being "benefits or privileges to be provided, granted or conferred in trade or commerce").

With reference to the test that must be satisfied pursuant to section 93(3)(A) of the Act, we submit that there will be no detriment to the public from the conduct in question. We submit that, in fact, there will be a significant benefit to the public. As you will see from the Notification, it is currently estimated that there will be approximately  Golf Cards on issue by the end of August 2001. It is currently estimated that there will be  Golf Cards on issue by the end of August 2005. The offer of a discount on the purchase price of Toyota vehicles to such a large number of Australian citizens can only amount to a benefit.

*Confidentiality granted to  
areas outlined in red*

101 Collins Street Melbourne Vic 3000 Australia Telephone 61 3 9288 1234 Facsimile 61 3 9288 1567  
GPO Box 128A Melbourne Vic 3001 Australia [www.freehills.com.au](http://www.freehills.com.au) DX 240 Melbourne

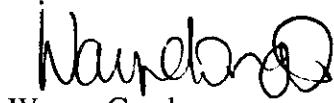
SYDNEY MELBOURNE PERTH CANBERRA BRISBANE HANOI HO CHI MINH CITY Correspondent Offices JAKARTA KUALA LUMPUR SINGAPORE

Liability limited by the Solicitors' Limitation of Liability Scheme, approved under the Professional Standards Act 1994 (NSW)

There is also a strong argument (based on the Full Federal Court judgment in the case of *SWB Family Credit Union Ltd v. Parramatta Tourist Services Pty Ltd* (1980) 48 FLR 445) that the proposed conduct would not, in any event, fall within the terms of section 47(6) of the Act because it has no "attributes of compulsion and futurity", to use the words of Justice Northrop in that case. Nevertheless, our client has taken the responsible course of notifying the conduct concerned. We have therefore enclosed a cheque for \$100 in payment of the filing fee.

If you require any further information, please contact us on (03) 9288 1592.

Yours faithfully  
Freehills



Wayne Condon  
Partner

Enc.



Richard Hoad  
Solicitor



# 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 *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47 (2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d) of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of person giving notice:**  
S.C.T. Pty Ltd (ACN 004 182 192) (SCT)
  
  - (b) **Short description of business carried on by that person:**  
The sale of new and second-hand motor vehicles.
  
  - (c) **Address in Australia for service of documents on that person:**  
Freehills  
Level 43  
101 Collins Street  
MELBOURNE VIC 3000  
DX 240 MELBOURNE  
Ref: WMC:RRH:20889120
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**  
The services in question are discounts on the purchase price of certain Toyota vehicles.
  
  - (b) **Description of the conduct or proposed conduct:**  
SCT and certain other participating Toyota dealers propose to offer to customers who purchase certain Toyota vehicles, certain discounts in relation to the purchase price of those vehicles if those customers present a valid "Golf Card" credit card, which is a MasterCard credit card issued by the Commonwealth Bank of Australia (the **Golf Card**). The amount of the discounts and the vehicles to which those discounts apply will be capable of being varied from time to time at the discretion of the Toyota dealers which will offer the discounts.

3. (a) **Class or classes of persons to which the conduct relates:**

Consumers who hold a valid Golf Card credit card and purchase certain Toyota vehicles from SCT and certain other participating Toyota dealers.

(b) **Number of those persons:**

(i) **At the present time:**

The Golf Card credit cards have only been issued since early September 2000. Between  and  Golf Card credit cards were on issue as at 12 September 2000.

(ii) **Estimate within the next year:**

At this point in time, it is impossible to estimate the number of Golf Card holders who are likely to take advantage of the proposed discounts. However, it is estimated that there will be approximately  Golf Card holders by the end of the first year (end August 2001).

(c) **Where number of persons stated in Item 3(b)(i) is less than 50, their names and addresses:**

Not applicable.

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

Wayne Condon  
Freehills  
Level 43  
101 Collins Street  
MELBOURNE VIC 3000  
DX 240 MELBOURNE  
Ref: WMC:RRH:20889120

*Confidentiality  
granted to areas  
outlined in  
red*

Dated: 9<sup>th</sup> October 2000

Signed by/on behalf of the person giving this notice

.....  
*Wayne Condon* (Signature)  
.....  
*Wayne Condon* (Full Name)  
.....  
*Partner Freehills on behalf of  
SCT Pty Ltd.* (Description)

# Freehills

This facsimile is confidential. If you are not the intended recipient, you must not disclose or use the information contained in it. If you have received this facsimile in error, please tell us immediately (reverse charges).

Phone [+61 3] (03) 9288 1234 (switch) [+61 3] (03) 9288 1341 (fax operator)  
Fax [+61 3] (03) 9288 1567  
Address Level 43, 101 Collins Street, Melbourne Vic 3000 Australia

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9 October 2000

Our ref Wayne Condon:Richard Hoad  
Phone 03 9288 1592  
File no 20889120  
Page 1 of 4

Mr Tim Greenwade  
General Manager, Adjudications  
Australian Competition and Consumer Commission  
Fax (02) 6243 1211  
Phone (02) 6243 1058

Pin no 41005  
Checked by *RH*

Dear Sir

## **S.C.T. Pty Ltd - Notification of Exclusive Dealing**

Please find attached a copy of our letter relating to the filing of an Exclusive Dealing Notification on behalf of S.C.T. Pty Ltd. The letter will be sent by tomorrow's mail, together with the cheque in payment of the filing fee.

Yours faithfully  
Freehills



Wayne Condon  
Partner



Richard Hoad  
Solicitor

enc.

# Freehills

9 October 2000

Our ref Wayne Condon/Richard Hoad  
Phone 03 9288 1592  
Email wayne\_condon@freehills.com.au  
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We enclose on behalf of our client a Notification pursuant to sub-section 93(1) of the *Trade Practices Act 1974 (Cth) (Act)*. As you will see from the Notification, the conduct in question concerns the offer of discounts to purchasers of Toyota vehicles who present a valid "Golf Card" credit card.

The relevant discounts will be offered by certain participating Toyota dealers which will include the Toyota dealership trading as "Sydney City Toyota", which is owned and operated by SCT, a wholly-owned subsidiary of Toyota Motor Corporation Australia Limited. For the purposes of sections 47(6) and 47(7) of the Act, the relevant "services" are the discounts (being "benefits or privileges to be provided, granted or conferred in trade or commerce").

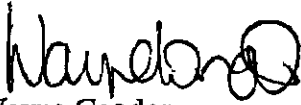
With reference to the test that must be satisfied pursuant to section 93(3)(A) of the Act, we submit that there will be no detriment to the public from the conduct in question. We submit that, in fact, there will be a significant benefit to the public. As you will see from the Notification, it is currently estimated that there will be approximately [redacted] Golf Cards on issue by the end of August 2001. It is currently estimated that there will be [redacted] Golf Cards on issue by the end of August 2005. The offer of a discount on the purchase price of Toyota vehicles to such a large number of Australian citizens can only amount to a benefit.

*Confidentiality granted to areas outlined in red.*

There is also a strong argument (based on the Full Federal Court judgment in the case of *SWB Family Credit Union Ltd v. Parramatta Tourist Services Pty Ltd* (1980) 48 FLR 445) that the proposed conduct would not, in any event, fall within the terms of section 47(6) of the Act because it has no "attributes of compulsion and futurity", to use the words of Justice Northrop in that case. Nevertheless, our client has taken the responsible course of notifying the conduct concerned. We have therefore enclosed a cheque for \$100 in payment of the filing fee.

If you require any further information, please contact us on (03) 9288 1592.

Yours faithfully  
Freehills



Wayne Condon  
Partner



Richard Hoad  
Solicitor

Enc.

## Form G

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

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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 (2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d) of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of person giving notice:**  
S.C.T. Pty Ltd (ACN 004 182 192) (SCT)
- (b) **Short description of business carried on by that person:**  
The sale of new and second-hand motor vehicles.
- (c) **Address in Australia for service of documents on that person:**  
Freehills  
Level 43  
101 Collins Street  
MELBOURNE VIC 3000  
DX 240 MELBOURNE  
Ref: WMC:RRH:20889120
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**  
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- (b) **Description of the conduct or proposed conduct:**  
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3. (a) **Class or classes of persons to which the conduct relates:**

Consumers who hold a valid Golf Card credit card and purchase certain Toyota vehicles from SCT and certain other participating Toyota dealers.

(b) **Number of those persons:**

(i) **At the present time:**

The Golf Card credit cards have only been issued since early September 2000. Between and Golf Card credit cards were on issue as at 12 September 2000.

(ii) **Estimate within the next year:**

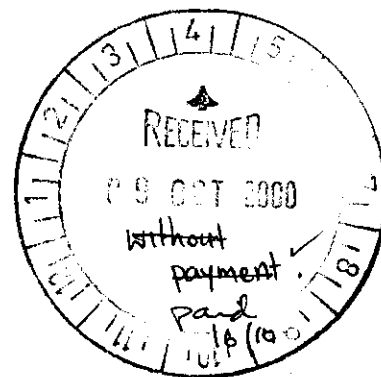
At this point in time, it is impossible to estimate the number of Golf Card holders who are likely to take advantage of the proposed discounts. However, it is estimated that there will be approximately Golf Card holders by the end of the first year (end August 2001).

(c) **Where number of persons stated in Item 3(b)(i) is less than 50, their names and addresses:**

Not applicable.

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

Wayne Condon  
Freehills  
Level 43  
101 Collins Street  
MELBOURNE VIC 3000  
DX 240 MELBOURNE  
Ref: WMC:RRH:20889120



Dated: 9th October 2000

Signed by/on behalf of the person giving this notice

*Wayne Condon*

(Signature)

*WAYNE CONDON*

(Full Name)

*Partner Freehills on behalf of  
SCT Pty Ltd*

(Description)

Approved for Public Register and  
to be published on the Internet

YES  NO

*[Signature]*

16 1 101 00

but NOT  
the figures  
circled in 3 (4)(i) & (ii)  
of Form G

## FOLIOS

### RESTRICTION OF PUBLICATION

Claimed

Granted

Decision Pending

*Figures; number of Golf Cards  
& Golf card holders .*