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31 May 2004

Mr Tim Grimwade
General Manager - Adjudication
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Sir

Subaru (Aust) Pty Ltd - third line forcing notifications

We refer to our conversation with Stefanee Lovett and Scott Philp on 28 May 2004 in relation to the three notifications lodged on behalf of our client Subaru (Aust) Pty Ltd (**Subaru Australia**) on 18 May 2004. We appreciate the opportunity to clarify the Commission's concerns regarding the breadth of the notified conduct.

We confirm that the conduct of Subaru Australia being notified does not contemplate an outright refusal to supply vehicle parts or accessories by Subaru Australia if the party being supplied does not acquire, or agree to acquire, the specified goods and services from a third party. Rather, Subaru Australia proposes to refuse to supply secondary value-added services, comprising discounts, allowances, rebates or credits on the primary goods, unless the acquirer agrees to acquire the primary goods or services from Subaru dealers or wholesale parts dealers authorised by Subaru Australia.

Accordingly, we confirm that we wish to delete the following from the notifications lodged on 18 May:

- paragraphs 2.1(a) and (b) from each of the covering letters; and
- clauses 2(b)(i) and (ii) from each Form G.

Subject to any objection from the Commission under section 93 of the *Trade Practices Act 1974* (Cth), we confirm that Subaru Australia proposes to engage in the notified conduct from 1 June 2004, the date 14 days from the lodgement of the notifications.

MINTER ELLISON GROUP AND ASSOCIATED OFFICES
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We look forward to hearing from you.

Yours faithfully
MINTER ELLISON



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