



Our Ref: C2004/880
Contact Officer: Tania Mayrhofer
Contact Number: (02) 6243 1070

**Australian
Competition &
Consumer
Commission**

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Mr Ameet Bains
Minter Ellison Lawyers
GPO Box 769G
MELBOURNE VIC 3001

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
ph (02) 6243 1111
fax (02) 6243 1199
www.accc.gov.au

Dear Mr Bains

**Third line forcing notifications lodged by
Subaru (Aust) Pty Ltd (N91415, N91416, N91417)**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the Commission) on 21 June 2004.

You have described the conduct as follows:

N91415 – Repairer Incentive Program

Subaru Australia supplying, or offering to supply, loyalty program services to Repairers on the condition that the Repairer will acquire Subaru parts from a nominated Wholesale Dealer; and

Subaru Australia refusing to supply, or offer to supply, loyalty program services to Repairers for the reason that the Repairer has not acquired, or has not agreed to acquire, Subaru parts from a nominated Wholesale Dealer.

N91416 – Loyalty Reward Program

Subaru Australia supplying, or offering to supply, loyalty program services to Owners on the condition that the Owner will acquire after-sales servicing and support services for their Subaru motor vehicle from a Subaru Dealer; and

Subaru Australia refusing to supply, or offer to supply, loyalty program services to Owners for the reason that the Owner has not acquired, or has not agreed to acquire, after-sales servicing and support services for their Subaru motor vehicle from a Subaru Dealer.

N91417 – Trade Customer Incentive Program

Subaru Australia supplying, or offering to supply, loyalty program services to Trade Customers on the condition that the Trade Customer will acquire their Subaru parts and/or accessories from a Wholesale Dealer;



Subaru Australia refusing to supply, or offering to supply, loyalty program services to Trade Customers for the reason that the Trade Customer has not acquired, or has not agreed to acquire, their Subaru parts and/or accessories from a Wholesale Dealer;

Subaru Australia giving, or offering to give, discounts, allowances, rebates or credits to Trade Customers on the condition that the Trade Customer will acquire their Subaru parts and/or accessories from a Wholesale Dealer; and

Subaru Australia refusing to give, or offer to give, discounts, allowances, rebates or credits to Trade Customers for the reason that the Trade Customer has not acquired, or has not agreed to acquire, their Subaru parts and/or accessories from a Wholesale Dealer.

Legal immunity conferred by the notifications commenced on 5 July 2004.

On the basis of the information provided, it is not intended that further action be taken in this matter at this stage.

In relation to Subaru's Repairer Incentive Program (N91415), the Commission notes the concerns expressed by some interested parties that the program will provide incentives for repairers to use new Subaru parts instead of recycled and/or non-branded parts which would increase the cost of repairs. On the basis of the information provided to it, in particular the level of competition in the market for the provision of repair services, the Commission is satisfied that the notified arrangements will not result in a significant increase in the cost of these services. However, should the Commission receive any information which suggests that the incentives provided by the notified conduct have resulted in an increase in the cost of repairs to consumers it will revisit whether the immunity granted by the lodging of the notification should continue to be allowed to stand.

More generally, as with any notification, please note that the Commission may act to remove the immunity afforded by these notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This letter has been placed on the Commission's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Tania Mayrhofer on 02 6243 1070.

Yours sincerely



Tim Grimwade
General Manager
Adjudication Branch