



Australian
Competition &
Consumer
Commission

Our Ref: C2004/1499
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20 October 2004

Mr Michael Wilton
Partner
Deacons
GPO Box 4592
MELBOURNE VIC 3001

Dear Mr Wilton

**Re: Exclusive dealing notification No N40769
lodged by Honda Australia Motorcycle and Power Equipment Pty Ltd**

I refer to the above exclusive dealing notification lodged with the Australian Competition and Consumer Commission (ACCC) on 14 September 2004.

You have described the conduct as:

- Supplying or offering to supply Honda Products, whether or not at a particular price, on the condition that:
 - the person to whom Honda supplies or offers or proposes to supply Honda Products (Person Supplied); and/or
 - related bodies corporate of the Person Supplied, and persons controlled by or associated with (within the meaning of the *Corporations Act* 2001) the Person Supplied (Affiliates)will not acquire Copy Products and will not re-supply Copy Products.
- Giving, allowing, or offering to give or allow a discount, allowance, rebate or credit in relation to the supply or proposed supply of Honda Products on condition that the Person Supplied and its Affiliates will not acquire Copy Products and will not re-supply Copy Products.
- Refusing to supply Honda Products, whether or not at a particular price, for the reason that the Person Supplied and/or its Affiliates have acquired or have not agreed not to acquire Copy Products.
- Refusing to give, allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of Honda Products for the reason that the Person Supplied and/or its Affiliates have acquired or have not agreed not to acquire Copy Products.



Based on your submission, the ACCC's interpretation of what are encompassed by the term Copy Products are copies of genuine Honda products which are deceptively similar to genuine Honda products, and which may contravene the copyright held by Honda's parent company, Honda Motor Company Ltd. In my view, immunity from the notification would not extend to products that compete with Honda's products outside this interpretation.


Legal immunity provided by the notification commenced on 14 September 2004.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage. However should any information provided by the notifying party prove to be incorrect or incomplete, the ACCC may choose to revisit this decision.

As with any notification, please note that the ACCC may act to remove the immunity afforded by this notification at a later stage if it is satisfied that the notified conduct substantially lessens competition and the benefit to the public does not outweigh the detriment to the public resulting from the lessening of competition.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Sarah McCarthy on (02) 6243 1235.

Yours sincerely

The image shows two handwritten signatures. The first signature, on the left, is a stylized 'T' followed by a 'G' and a flourish. The second signature, on the right, is a more cursive 'T' followed by a 'G' and a flourish.

Tim Grimwade
General Manager
Adjudication Branch