

4 March 2004

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## BY COURIER

Mr Scott Gregson  
General Manager - Adjudication Branch  
Australian Competition and Consumer Commission  
470 Northbourne Avenue  
DICKSON ACT 2602

Dear Sir

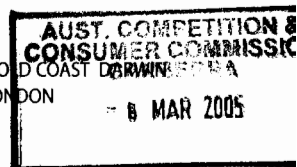
### **Inchcape Automotive Retail Pty Ltd - Impreza WRX Club Incorporated members**

We act on behalf of Inchcape Automotive Retail Pty Ltd (**Subaru Melbourne**) and enclose:

- notification under section 93(1) of the *Trade Practices Act* 1974 (**TPA**); and
- a cheque for \$100 as payment of the required lodgement fee.

#### **1. Background**

- 1.1 Subaru Melbourne, among other things, retails Subaru-branded motor vehicles and associated spare parts and accessories, and provides related servicing for Subaru vehicles across four dealerships (Docklands, Doncaster, Mentone, Glen Waverley) and two service centres (Camberwell and Ringwood) in the Melbourne metropolitan area (**Dealerships**).
- 1.2 Subaru Melbourne plans to introduce a number of financial benefits for members of the Impreza WRX Club Incorporated (**WRX Club**) who acquire servicing and support services, or purchase new or used Subaru vehicles, from one of the Dealerships.
- 1.3 It is proposed that WRX Club members would receive:
  - (a) discounts, allowances, rebates or credits on the costs associated with servicing their Subaru vehicles (including both parts and labour); and
  - (b) discounts, allowances, rebates or credits when purchasing new or used Subaru vehicles.
- 1.4 The WRX Club is a club designed to cater for owners of all wheel drive, turbo charged Subaru vehicles (including Liberty RS Turbo, Impreza WRX and Forester GT vehicles). Ownership of one of these vehicles is a pre-requisite for membership of the WRX Club.



1.5 The WRX Club is affiliated with the Confederation of Australian Motor Sports and, among other things, conducts competitive motor sport events and driver training days. The WRX Club has approximately 600 members, of which the overwhelming majority reside in the metropolitan Melbourne area.

## 2. Notified Conduct

2.1 The notified conduct may be formulated as:

- (a) Subaru Melbourne giving or offering to give, discounts, allowances, rebates or credits in relation to the servicing of Subaru vehicles at the Dealerships, to persons on the condition that the person will acquire membership and related services from the WRX Club;
- (b) Subaru Melbourne refusing to give, or offer to give, discounts, allowances, rebates or credits in relation to the servicing of Subaru vehicles at the Dealerships, to persons for the reason that the person has not acquired, or has not agreed to acquire, membership and related services from the WRX Club;
- (c) Subaru Melbourne giving or offering to give, discounts, allowances, rebates or credits in relation to the purchase of new or used Subaru vehicles from the Dealerships, to persons on the condition that the person will acquire membership and related services from the WRX Club; and
- (d) Subaru Melbourne refusing to give, or offer to give, discounts, allowances, rebates or credits in relation to the purchase of new or used Subaru vehicles from the Dealerships, to persons for the reason that the person has not acquired, or has not agreed to acquire, membership and related services from the WRX Club.

2.2 As this may result in a technical contravention of section 47(6) & (7) of the *Trade Practices Act 1974 (TPA)* our client lodges the attached notification pursuant to section 93(1) of the TPA.

2.3 We do not believe that the proposed conduct raises any significant competition issues (particularly given the very insignificant segments of the overall markets affected) and submit on behalf of our clients that the Commission should not serve a notice under section 93(3A) of the TPA.

If you have any questions in relation to this notification or require any further information, please do not hesitate to contact Peter George or Ameet Bains of our office.

Yours faithfully

**MINTER ELLISON**



Contact: Ameet Bains Direct phone: +61 3 8608 2063 Direct fax: +61 3 8608 1084  
Email: ameer.bains@minterellison.com  
Partner responsible: Peter George Direct phone: +61 3 8608 2634  
Our reference: PAG 30-4494204

**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 engaged or proposes to engage.

1. (a) Name of person giving notice:

*Inchcape Automotive Retail Pty Ltd (Subaru Melbourne)*  
*ABN 94 000 806 904*

- (b) Short description of business carried on by that person:

*Retail supply of new and used Subaru motor vehicles and spare parts and accessories and associated services (Subaru Dealers).*

- (c) Address in Australia for service of documents on that person:

*C/- Ameet Bains*  
*Minter Ellison Lawyers*  
*525 Collins Street*  
*MELBOURNE VIC 3000*

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

*After-sales servicing and support of Subaru motor vehicles across Subaru Melbourne's four dealerships (Docklands, Doncaster, Mentone, Glen Waverley) and two service centres (Camberwell and Ringwood) in the Melbourne metropolitan area (Dealerships).*

*Retail goods and services provided by Subaru Melbourne, including the sale of new and used vehicles at the Dealerships.*

- (b) Description of the conduct or proposed conduct:

*Subaru Melbourne plans to offer Impreza WRX Club Incorporated (WRX Club) members:*

- discounts, allowances, rebates or credits on the costs associated with servicing their Subaru vehicles (including both parts and labour) at the Dealerships; and*
- discounts, allowances, rebates or credits when purchasing new or used Subaru vehicles from the Dealerships.*

*This conduct can be characterised as:*

- (i) *Subaru Melbourne giving or offering to give, discounts, allowances, rebates or credits in relation to the servicing of Subaru vehicles at the Dealerships, to persons on the condition that the person will acquire membership and related services from the WRX Club;*
  - (ii) *Subaru Melbourne refusing to give, or offer to give, discounts, allowances, rebates or credits in relation to the servicing of Subaru vehicles at the Dealerships, to persons for the reason that the person has not acquired, or has not agreed to acquire, membership and related services from the WRX Club;*
  - (iii) *Subaru Melbourne giving or offering to give, discounts, allowances, rebates or credits in relation to the purchase of new or used Subaru vehicles from the Dealerships, to persons on the condition that the person will acquire membership and related services from the WRX Club; and*
  - (iv) *Subaru Melbourne refusing to give, or offer to give, discounts, allowances, rebates or credits in relation to the purchase of new or used Subaru vehicles from the Dealerships, to persons for the reason that the person has not acquired, or has not agreed to acquire, membership and related services from the WRX Club.*
3. (a) Class or classes of persons to which the conduct relates:
- WRX Club members*
- (b) Number of those persons:
- (i) At the present time:  
**Approximately 600**
  - (ii) Estimated within the next year:  
**Approximately 700**
- (c) Where the 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 the person giving this notice to provide additional information in relation to this notice:

*Ameet Bains  
Minter Ellison Lawyers  
525 Collins Street  
MELBOURNE VIC 3000*

**DATED**

*3 March*

, 2005

**SIGNED** by/on behalf of the applicant

  
(Signature)

ANTHONY ROSS THOMAS  
(Full Name)

DIRECTOR  
(Description)

## DIRECTIONS

1. Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
6. In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## NOTICE

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the Trade Practices Act 1974 ('the Act'), it comes into force at the end of the period prescribed for the purposes of sub-section 93(7A) of the Act ('the prescribed period') unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before June 30 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under sub-section 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct or a kind referred to in sub-section 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.