

Deacons

10 August 2005

Australian Competition & Consumer Commission
470 Northbourne Avenue
Dickson ACT 2602

Attention: Mr Scott Gregson
A/g General Manager
Adjudication Branch

Our Ref: 185133

Dear Mr Gregson

Honda MPE Exclusive Dealing Notification N40769

We refer to your letter of 21 July, our response of 27 July 2005 and our subsequent discussions.

On the question of confidentiality, Honda MPE does not seek confidentiality in respect of the attachments to our letter of 15 April or paragraph 10 of our letter of 7 June. However, Honda MPE requests that the material used in its presentation on 9 June not be included on the public record.

On the question of what constitutes a "copy product", Honda MPE seeks an additional 3 weeks to respond to the issues raised by you in your letter of 21 July. If this is accepted, Honda's response will be due on Wednesday 31 August 2005. We will certainly attempt to respond earlier if possible.

The reason for Honda's request for further time to respond is that it is our understanding from your letter of 21 July that the ACCC is not yet convinced that consumers are likely to be misled when acquiring a copy product, except where the copy product is significantly similar in appearance to the corresponding genuine Honda product, with the likely consequence that the consumer believes they are acquiring a genuine product when they are not. We are instructed that the confusion among consumers is broader than this, and occurs not only when the consumer is misled as to whether the product is genuine or not, but also where the consumer knows that the product is not genuine but nevertheless believes that the copy product has characteristics that it does not in fact have. Honda requires the short additional period requested in order to collate and forward to you supporting material in this regard.

We will also be seeking to reinforce Honda MPE's contention that the distribution channels for genuine products and copy products are such that the notified conduct is

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not likely to have any anti-competitive detriment (leaving aside the issue of public benefit). In this context and as part of its response, Honda MPE will consider rationalising Notifications N40595, N40557 and N40769, having regard to the concerns raised in your letter of 21 July as to the supply channels potentially affected by the notified conduct.

Yours sincerely

Michael Wilton
Partner
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