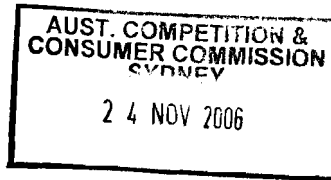


Partner Simon Snow
T +61 2 9263 4246
ssnow@gtlaw.com.au
Our ref SHS:1000375



LAWYERS

24 November 2006

By hand

Scott Gregson, General Manager, Adjudication
Australian Competition & Consumer Commission
C/- Level 7
Angel Place
123 Pitt Street
SYDNEY NSW 2000

Gilbert + Tobin

2 Park Street
Sydney NSW 2000
Australia

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Sydney NSW 2001

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FILE No:	
DOC:	
MARS/PRISM:	

Dear Mr Gregson

Notification under section 93(1) of the Trade Practices Act

Please find enclosed notifications on behalf of Insurance Manufacturers of Australia Pty Limited (**IMA**) as the primary notifying party and its related bodies Insurance Australia Limited (**IAL**) and CGU Insurance Limited (**CGU**) (together, the **Notifying Parties**) under s 93(1) of the *Trade Practices Act* 1974.

Further to a discussion between Sue Philp and Simon Snow on 23 November 2006, we enclose a cheque in the amount of \$500, being the required filing fee on the following basis:

- the primary applicant is IMA (which holds the greatest number of policies (see Confidential Attachment B)) - \$100; and
- IAL and CGU are filing additional notifications attracting the concessional fee - \$200 each.

The Notifying Parties claim confidentiality over the information set out in Confidential Attachment B to the notification, on the grounds that the information disclosed therein is commercially sensitive. The Notifying Parties therefore request that that information not appear on the public register.

Please do not hesitate to contact me if you would like to discuss the Notifying Parties claim for confidentiality or any other aspect of this notification.

Yours sincerely,

Simon Snow
Partner
T +61 2 9263 4246
ssnow@gtlaw.com.au

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-sections 47(6) or (7) of that Act in which the person giving notice proposes to engage.

1 (a) Name of persons giving notice:

Insurance Manufacturers of Australia Pty Limited ABN 93 004 208 084 (IMA)

N92714

Insurance Australia Limited ABN 11 000 016 722 (IAL) N92715

CGU Insurance Limited ABN 27 004 478 371 (CGU) N92716

(together, the **Notifying Parties**)

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

The provision of general insurance services including the following, each of which may be provided by one or more of the Notifying Parties: emergency assistance services, comprehensive motor vehicle and motor cycle insurance, third party property damage insurance for motor vehicles and motor cycles, on-site caravan insurance, touring caravan or trailer insurance, home buildings insurance, home contents insurance, personal effects insurance, strata titles insurance, boat insurance, commercial insurance, rural insurance, personal insurance, marine insurance, home warranty insurance, professional risk insurance, fleet insurance and travel insurance.

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

Simon Snow
Partner
Gilbert + Tobin
2 Park Street
Sydney NSW 2000

Facsimile: (02) 9263 4111

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

Arranging payment for motor vehicle hire services.

(b) Description of the conduct or proposed conduct:

See Attachment A.

3 (a) Class or classes of persons to which the conduct relates:

Motor vehicle insurance policyholders of the Notifying Parties whose policies include cover in respect of the cost of hiring replacement vehicles.

(b) Number of those persons:

See paragraph 3.2 of Attachment A.

(c) Where the number of persons stated in items 3(b) is less than 50, their names and addresses:

N/A

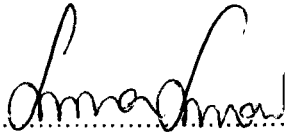
4 Name and address of persons authorised by the person giving this notice to provide additional information in relation to this notice:

Simon Snow
Partner
Gilbert + Tobin
2 Park Street
Sydney NSW 2000

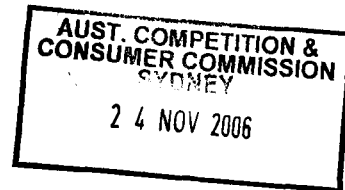
Telephone: (02) 9263 4246
Facsimile: (02) 9263 4111

Date: 24 November 2006

Signed on behalf of the person giving this notice


.....

Simon Snow
Partner
Gilbert + Tobin



Attachment A

1. Background

Under some motor vehicle insurance policies issued by the Notifying Parties, policyholders whose vehicles are damaged and/or stolen are entitled to claim up to a certain amount per day in respect of the cost of hiring a rental car. To take advantage of this benefit, policyholders usually pay for a hire vehicle themselves and then seek reimbursement from their respective insurer.

On 29 November 2001 and 16 January 2003, IAL (formerly NRMA Insurance Limited), IMA, SGIO Insurance Limited and SGIC General Insurance Limited respectively, lodged notifications (No.s N31210, N31211 and N31123) in relation to their arrangement with Hertz Australia Pty Limited (ACN 004 407 087) (**Hertz**).

That arrangement allowed Hertz to bill the relevant insurer directly for the hire costs of replacing an insured's vehicle. The relevant insurer pays that car hire company directly rather than requiring the insureds to pay the costs themselves and then seek reimbursement.

2. Proposed conduct

The Notifying Parties now propose to enter into arrangements with preferred hire car companies to allow those preferred hire companies to bill them directly (rather than their policyholders) for these hire costs. IAL, IMA or CGU, as the case may be, will then pay the car hire company directly, rather than require the insured to pay the costs and then seek reimbursement.

The proposed preferred hire car companies currently include Kingmill Pty Ltd (ABN 58 003 966 649) formerly known as Thrifty (Australia) Pty Limited (**Thrifty**) and Hertz. It is proposed, however, that additional preferred hire car companies may be added from time to time, and the then existing preferred hire car companies may, similarly, be removed from time to time.

The Notifying Parties may refuse to allow other hire car companies to directly bill them for the cost of hire of a rental vehicle by their policyholders. In those circumstances, the policyholders would pay for a hire vehicle themselves and then seek reimbursement up to the limit of the particular policy from the relevant Notifying Party.

The proposed arrangements with Hertz, Thrifty and any preferred hire car company to be included in a list of preferred hire car companies held by the Notifying Parties from time to time, are intended to apply throughout Australia.

There is an argument that the payment of hire costs directly by the Notifying Parties, rather than requiring an insured to pay and then seek reimbursement, may constitute the provision of a service by the Notifying Parties to policyholders. There is therefore an argument (not necessarily accepted by the Notifying Parties) that the offering of the direct billing facility (**Proposed Conduct**) may amount to a contravention of section 47(6) and/or section 47(7) of the *Trade Practices Act 1974 (Act)*.

3. Public benefit and competition issues

For the reasons noted below, the impact of the Proposed Conduct is not such that, under the test laid down in s 93(3a)(b) of the Act, the likely benefit to the public will be outweighed by the likely detriment to the public.

3.1 Public benefits for customers

The proposed arrangements provide a convenient option for relevant policyholders who need to hire a hire vehicle whilst their own vehicle is being repaired or replaced. By taking advantage of the proposed arrangements, policyholders do not have to make payments for the hire vehicle from their own funds. Additionally, they do not need to retain receipts or to make further claims in order to be reimbursed for rental costs by IAL, IMA or CGU (as the case may be).

This reduction in handling through the Notifying Parties dealing directly with the hire car company rather than the policyholder should translate into administrative cost savings. Accordingly, the proposed arrangements are likely to be efficiency enhancing.

Policyholders are under no obligation to take advantage of these arrangements. If a policyholder wishes to hire a vehicle from a company other than one with which IAL, IMA or CGU has a direct billing arrangement, or wants to hire a vehicle which is not covered by IAL, IMA or CGU's direct billing arrangements, or simply prefers to pay for a hire vehicle themselves and then seek reimbursement, then the current arrangement will continue to be available. Policyholders are free to choose any car from any hire car company and will continue to be reimbursed in accordance with their policy.

The proposed conduct does not in any way preclude other hire car companies and insurance companies from introducing similar hire car rental arrangements.

3.2 Public detriment

There is no public detriment resulting from the Proposed Conduct for the following reasons:

- (a) The Proposed Conduct will only apply in relation to policyholders who hold a comprehensive motor vehicle insurance policy with the Notifying Parties. Table 1 of Confidential Attachment B sets out:
 - (i) the number of comprehensive motor vehicle insurance policies issued by the Notifying Parties respectively as at September 2006 and
 - (ii) the total number of comprehensive motor vehicle insurance policies issued by all insurers in Australia as at September 2006.
- (b) The Notifying Parties anticipate that only approximately 10% of all comprehensive motor vehicle insurance policyholders will agree to pay an additional premium for the hire car option in order to obtain the right to claim up to a certain amount per day in respect of the cost of the hire of a rental vehicle to replace their insured vehicle where it is damaged or stolen.
- (c) The Notifying Parties further estimate that only approximately 19% of those insureds will make claims under the policies in relation to the cost of hire of such a rental vehicle. As a result, it is expected that only 2% of policies will be directly affected.
- (d) The Proposed Conduct only relates to car hire services for those insureds during the period in which their vehicles are being repaired or replaced.
- (e) It is not anticipated that the substitution or addition of other preferred hire car companies is likely to significantly affect these figures.

3.3 Conclusion

Due to the public benefits that will flow from the Proposed Conduct and the absence of any public detriment, IAL, IMA and CGU request that the Commission allow the notification to stand.

**EXCLUDED FROM
PUBLIC REGISTER**

**Confidentiality Claimed
Confidential Attachment B**

