

Regional Director  
Australian Competition and  
Consumer Commission  
Level 35, The Tower  
360 Elizabeth Street  
Melbourne Centre  
Melbourne Vic 3000

12 November 2007

A Bodger  
Partner  
Direct line  
(61 3) 9643 4069

Dear Sir/Madam

**GM Holden Ltd - Notification of Third Line Forcing Exclusive Dealing**

We act for GM Holden Ltd (“Holden”).

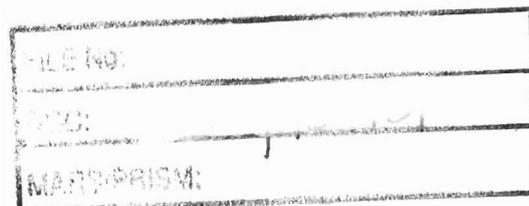
We enclose for lodgement an exclusive dealing notification on behalf of Holden together with a cheque for the applicable lodgement fees of \$100.00.

Please do not hesitate to contact Amanda Bodger should you have any queries or comments.

Yours faithfully

Mallesons Stephen Jaques

Encls. 2



**Form G**  
Commonwealth of Australia  
*Trade Practices Act 1974 - subsection 93(1)*  
**NOTIFICATION OF EXCLUSIVE DEALING**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1 Applicant

- (a) Name of person giving notice:

GM Holden Ltd (ABN 84 006 893 232) ("**Holden**") N93214

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

Holden manufactures and distributes motor vehicles, engines, components and parts.

Holden has a national network of retailers ("**Dealers**") who are authorised to market and sell GM Holden motor vehicles and related parts and accessories to retail customers.

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

C/- Amanda Bodger  
Mallesons Stephen Jaques  
Level 50  
Bourke Place  
600 Bourke Street  
Melbourne VIC 3000

2 Notified arrangement

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

Lead management systems, software and technology services provided by Data Motive, a division of Carsales.com.au Ltd, including but not limited to the Autogate Pro lead management program and a program for fulfilment of carline brochures.

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

GM Holden receives a significant amount of lead information generated from consumers visiting the Holden website. This may include:

- (i) requests for brochures in relation to a Holden carline;

- (ii) price enquiries for a Holden carline; and
- (iii) test drive requests.

GM Holden spends considerable time and effort in managing and responding to that lead information (or finding an appropriate Dealer to do so on its behalf).

GM Holden is proposing to implement a new customer lead management program (“**Program**”), to enable GM Holden and participating Dealer/s to better manage and respond to customer lead information. For example, this will enable GM Holden to pass a test drive request onto participating Dealers in that customer’s local area and allow the Dealers to directly contact the customer to fulfil their request.

Holden will enter into an arrangement with DataMotive, under which DataMotive will develop and operate the Program.

In order for the Dealers to be eligible to participate in the Program and receive the associated services from Holden, Dealers will require access to DataMotive’s software, systems and technology and will need to enter into contractual arrangements with DataMotive.

Holden will not provide the lead information or related services to Dealers who do not agree to participate in the Program.

Some dealers may be required to pay a low monthly subscription cost if they wish to participate in the Program. Additional low fees may be payable by dealers if they wish to have their own websites participate in the Program or if they wish to access the certified used car locator on Holden’s website. Dealers will also be charged a small fee per brochure for the fulfilment of brochure requests by Holden on their behalf. This fee covers the cost of the brochure, cover letter and postage.

Accordingly, Holden proposes to enter into arrangements with Dealers pursuant to which Holden will:

- (a) supply or offer to supply services, such as lead information, to Dealers on the condition that the Dealer will acquire services from DataMotive; and
- (b) refuse to supply services, such as lead information, to Dealers for the reason that the Dealer has not acquired, or has not agreed to acquire, services from DataMotive.

3 Persons, or classes of persons, affected or likely to be affected by the notified conduct

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

New and existing Holden dealers.

- (b) Number of those persons:

- (i) At present time:

270

(ii) Estimated within the next year:

270

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

Not applicable.

4 Public benefit claims

(a) Arguments in support of notification:

(b) Facts and evidence relied upon in support of these claims:

*(Refer to direction 7)*

The proposed conduct will be of benefit to the public as it will:

- enable GM Holden to more effectively manage and respond to lead information generated via its website. After the launch of the Program, GM Holden can be more confident that customer lead information is being acted on promptly and efficiently, without the need for follow up calls and reminders to the relevant Dealer. The Program will reduce the number of customer requests that go unanswered and significantly improve the time taken to respond to customer requests. This will in turn increase the competitiveness of GM Holden products and services;
- establish a streamlined and co-ordinated approach to allow Dealers to access and manage customer lead information more simply and efficiently;
- enable Dealers to offer more responsive, tailored and competitive products and services to customers and introduce Dealers to more potential customers;
- enable GM Holden to track Dealer's performance in managing and responding to lead information, to ensure that the service provided to retail customers by Dealers meets Holden's quality and performance standards;
- ensure that consumers who express interest in purchasing a GM Holden vehicle or who request further information about GM Holden vehicles receive prompt and personalised attention from a Dealer who is both able to assist with their query and committed to providing them with a timely response. This will reduce the time and expense needed to find that information and avoid the need for the consumer to send multiple requests or follow up queries to GM Holden.

Accordingly, the overall effect of the Program will be to ensure that customers' queries are managed effectively and efficiently.

The proposed conduct will not lessen competition in the markets for the relevant products and services as:

- competition in the relevant markets is extremely vigorous and there are many competitors who provide systems, software and technology services;
- participation in the Program will be optional. That is, a Dealer can choose not to participate in the Program; and
- consumers remain free to choose the Dealer from which to purchase their vehicle and are not required to purchase their vehicle (or any other goods or services) from the specific Dealer who responds to their request.

The applicant believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

## 5 Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The market for the sale of vehicles to retail customers within Australia and the market for the provision of systems, software and technology services.

As stated above, competition in the relevant markets is extremely vigorous and there are many competitors who provide systems, software and technology.

## 6 Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:  
*(Refer to direction 9)*

- (b) Facts and evidence relevant to these detriments:

The applicant does not consider there to be any public detriments resulting from the notification. Dealers and customers will be better off for the reasons noted in section 4 above.

## 7 Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Amanda Bodger  
Mallesons Stephen Jaques  
Level 50  
Bourke Place  
600 Bourke Street  
Melbourne Vic 3000

Dated 12 November 2007.

Signed by/on behalf of the applicant

A handwritten signature in black ink, appearing to be 'Amanda Bodger', written in a cursive style.

Amanda Bodger

Mallesons Stephen Jaques

Partner