

13 November 2007

FILE No:
DOC:
MARS/PRISM:

By courier
also by email: adjudication@accc.gov.au

Scott Gregson, General Manager, Adjudications Branch
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Acton ACT 2601

Dear Mr Gregson

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

Please find enclosed:

1. notification on behalf of Auto & General Insurance Company Ltd (**A&G**) and Insurers Hotline Pty Ltd (**IH**) as its agent (together the **Notifying Parties**) under section 93(1) of the *Trade Practices Act* 1974;
2. Supporting Submissions to the notification; and
3. Confidential attachments to the Supporting Submissions.

Confidentially claimed

The Notifying Parties consider that the information in the documents marked "Confidential attachment A" and "Confidential attachment B" include information that is confidential and commercially sensitive. Accordingly, the Notifying Parties claim confidentially over those documents and request that the Commission exclude these documents from the public register.

Lodgement fee

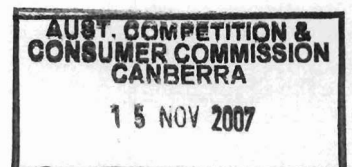
The lodgement fee of \$200 will be paid by cheque payable to the Australian Competition & Consumer Commission and forwarded with the original of this letter to the Canberra Office.

Please do not hesitate to contact me on 07 3377 8859 if you would like to discuss the Notifying Parties claim for confidentially, or Geoff Auckland on 07 3377 8806 to discuss any other aspect of the notification.

Yours sincerely



Kate Dickson
Corporate Lawyer
ens.



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

1. Applicant

(a) Name of person giving notice:

(i) Auto & General Insurance Company Limited ACN 111 586 353 *N93217*
(A&G)

(ii) Insurers Hotline Pty Ltd ACN 003 617 909 **(Insurers Hotline)** *N93218*

(collectively, the **Applicants**).

A&G proposes to engage in the proposed conduct through its agent, Insurers Hotline.

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

Providing services in relation to general insurance.

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

Level 6 Toowong Tower

9 Sherwood Road

Toowong, QLD 4066.

2. Notified arrangement

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

Car hire services in connection with comprehensive motor vehicle insurance.

(b) Description of the conduct or proposed conduct:

See attached submissions.

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:
People who choose to purchase the optional benefit of hire car after an accident cover when they purchase comprehensive motor vehicle insurance from A&G (**Customers**).
- (b) Number of those persons:
- (i) At present time:
Nil.
- (ii) Estimated within the next year:
Refer to Item 1 of Confidential attachment A.
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
N/A.

4. Public benefit claims

- (a) Arguments in support of notification:
Refer to the attached supporting submissions.
- (b) Facts and evidence relied upon in support of these claims:
Refer to the attached supporting submissions.

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):

Refer to the attached supporting submissions.

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 the attached supporting submissions.
- (b) Facts and evidence relevant to these detriments:
Refer to the attached supporting submissions.


7. Further information


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

Geoffrey Auckland
Corporate Services Director
Insurers Hotline Pty Ltd
PO Box 342
Toowong QLD 4066
Telephone: (07) 3377 8801
Facsimile: (07) 3377 8802

Dated 13th November, 2007

Signed by/on behalf of the applicants:


(Signature)


(Signature)

Geoffrey AUCKLAND
(Full Name)

Geoffrey AUCKLAND
(Full name)

Auto & General Insurance Company Ltd
(Organisation)

Insurers Hotline Pty Ltd
(Organisation)

Company Secretary
(Position in Organisation)

Company Secretary
(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

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 applicant.

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. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 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. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

Supporting Submissions

These submissions are provided in support of the information included in the Form G Notification dated 13/11/2007 relating to conduct of the kind described in section 47(6) or 47(7) of the Act Auto & General Insurance Company Limited (**A&G**) and Insurers Hotline Pty Ltd (**Insurers Hotline**) propose to engage, given to the Australian Competition and Consumer Commission in accordance with subsection 93(1) of the *Trade Practices Act 1974 (Act)*.

1. Background

- 1.1 A&G is authorised by the Australian Prudential Regulation Authority to carry on a general insurance business in Australia. Though A&G operates nationally, currently it does not issue motor vehicle insurance in the Northern Territory.
- 1.2 A&G offers comprehensive, third party property and third party, fire and theft motor vehicle insurance products through a related body corporate, Insurers Hotline under a number of its own brands. Insurers Hotline markets, sells and administers the products and manages claims as agent for A&G.
- 1.3 The comprehensive motor vehicle insurance product issued by A&G (the **Policy**) currently includes cover for the reasonable costs of hiring a car, that is similar to the insured car, for up to 14 days to a maximum amount of \$1,000, (**limit of cover**) only in circumstances where the insured car is stolen (the **existing benefit**).
- 1.4 A customer who utilises the existing benefit can arrange the hire car themselves and claim their reasonable hire car costs back from Insurers Hotline, or they can obtain hire car services from a hire car provider recommended by Insurers Hotline. In the latter case, the hire car provider will bill Insurers Hotline directly for the daily rental costs of the hire car.
- 1.5 The Policy currently does not cover hire car costs in any other circumstances.

2. Proposed Conduct

- 2.1 It is proposed that from December 2007 people who buy a Policy (**Customers**) will be given an opportunity to purchase an optional extra, which will be added to their Policy. For an additional premium, this extra cover will allow the Customer to obtain the use of a compact class hire car for up to 14 days following an accident involving the insured car in circumstances where authorised repairs are being conducted on the

insured car (the **new benefit**). Customers are not obliged to purchase this optional extra.

2.2 There is an argument (not necessarily adopted by the Applicants) that the new benefit may amount to a contravention of section 47(6) or 47(7) of the Act.

2.3 The new benefit is distinct from the existing benefit because the Customer must accept hire car services from a third party hire car provider (the **Provider**) nominated by Insurers Hotline. The Provider will bill Insurers Hotline direct for the daily rental cost of the hire car. The customer is required to agree to the Provider's conditions of hire and pay all other costs associated with the hire of the car.

2.4 CLA Trading Pty Ltd (**Europcar**) has been selected as the Provider on a non-exclusive basis.

3 Public benefit claims

3.1 The proposed conduct provides a convenient option for relevant Customers who need to hire a car whilst their vehicle is being repaired after an accident. This means that such customers would not need to make their own arrangements for obtaining a hire car to use while repairs are performed on the insured car, track the hire car costs (to ensure that they remain under the limit of cover), pay the hire car provider for the daily hire car rental and then claim reimbursement of those costs from the Applicants.

3.2 The Applicants submit that the introduction of the new benefit will provide existing and potential Customers with a more comprehensive Policy at price that remains competitive.

3.3 The Applicants anticipate that the time efficiencies gained by the establishment of a direct payment arrangement will translate to administrative cost savings for the Applicants, a factor that will contribute to the ongoing delivery of competitively priced insurance premiums.

3.4 Customers who elect to utilise the new benefit will be able to enjoy the convenience of having their insurer arrange a hire car for their use and attending to payment of the daily rental for the hire car directly to the Provider.

3.5 The Applicants submit that direct payment of the daily hire car costs by the Applicant assists the Customer by removing the need for the Customer to retain rental receipts, track rental costs and incur out of pocket expenses that require an additional claim for reimbursement.

3.6 When utilising the new benefit, a Customer will be entitled to receive additional benefits from the Provider. The Provider will offer a Customer a discounted Damage Liability excess (to apply if the hire car is damaged), details of which are set out in Item 2 of Confidential attachment A, and a lower daily hire car rental rate if the Customer requires the hire car after the extra cover provided by the new benefit has ceased.

4 Market definition

The comprehensive motor vehicle retail insurance market in Australia.

4.1 The comprehensive motor vehicle insurance market in Australia is competitive with a high volume of insurance providers operating in the market¹.

4.2 Through its agent Insurers Hotline, A&G offers comprehensive motor vehicle insurance across Australia, excluding the Northern Territory (**passenger vehicles**).

4.3 Insurers Hotline estimates that there are approximately 11, 100,000 passenger vehicles in the Australian market, excluding the Northern Territory².

4.4 A&G's market share is relatively small, currently providing comprehensive motor vehicle insurance in respect to approximately the number of passenger vehicles identified in Item 3 of Confidential attachment A, accounting for the approximate market share identified in Item 4 of Confidential attachment A.

The domestic hire car market in Australia.

4.5 The domestic hire car market includes a number of competitive businesses providing hire car services, including Avis, Thrifty, Budget, Hertz and Europcar.

5 Public detriments

5.1 A Customer wishing to utilise the new benefit is required to accept hire car services from the Provider.

¹ Australian Prudential Regulation Authority (APRA), Half Yearly General Insurance Bulletin: December 2006 (Issued August 2007).

² Australian Bureau of Statistics, Motor Vehicle Census 9309.0: 31 March 2006 (p10). This figure includes fleet cars and commercial cars. Pursuant to its Underwriting Guidelines, A&G does not insure fleet cars and commercial cars. IH estimates that there are approximately 7, 500,000 passenger vehicles in Australia (excluding the Northern Territory) of the kind that may be eligible to be insured under a Policy.

5.2 The Applicants consider that the identified public detriment will not outweigh the likely public benefits of the proposed conduct for the following reasons:

- 5.2.1 The proposed conduct will only affect a Policy that includes the new benefit when a claim is made and the Customer elects to utilise the new benefit.
- 5.2.2 Insurers Hotline estimates that only 12% of its Customers will agree to pay an additional premium and purchase the new benefit. Of these, only the approximate percentage of Customers identified in Item 5 of Confidential attachment A will make a claim and utilise the new benefit in year one.
- 5.2.3 Accordingly, it is anticipated that during the first 12 months, the proposed conduct will only apply to the percentage of passenger vehicles identified in Item 6 of Confidential attachment A. The table in Confidential attachment B provides statistical data in support of this claim.
- 5.2.4 A Customer is not required to purchase the new benefit. In circumstances where they do choose to purchase the new benefit, they may elect not to take advantage of it. Instead they may make independent arrangements for a hire car from a provider of their own choice at their own cost.

6. Conclusion

The Applicants consider that the public detriment of the proposed conduct will not outweigh the likely public benefits of the proposed conduct and accordingly requests the Commission to allow the notification to stand.