



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2007/679  
Your Ref: LXW:AZW:1000879  
Contact Officer: Sarah Chubb  
Contact Phone: (02) 6243 1088

30 July 2007

Mr Luke Woodward  
Partner  
Gilbert + Tobin  
GPO Box 3810  
SYDNEY NSW 2001

Dear Mr Woodward

**Third line forcing notifications N92848 and N92849 lodged by CNH Australia Pty Ltd and CNH Capital Australia Pty Ltd**

I refer to notifications N92848 and N92849 lodged by CNH Australia Pty Ltd (CNH Australia) and CNH Capital Australia Pty Ltd (CNH Capital) with the Australian Competition and Consumer Commission (the ACCC) on 12 March 2007. I also refer to our previous correspondence in relation to the notifications.

According to notification N92848, CNH Australia proposes to offer its Standard Warranty and Extended Warranties to purchasers of new Case IH and New Holland tractors on the condition that the purchaser uses only genuine parts and specified lubricants.

According to notification N92849, CNH Capital proposes to offer fully maintained leases of Case IH and New Holland branded tractors on the condition that:

- The purchaser acquires the Extended Service Plan for New Holland tractors or Red Cover for Case IH tractors; and
- The lessee uses the equipment in accordance with CNH Australia's instructions and recommendations relating to the care and operation of such equipment (including the use of only genuine parts and specified lubricants).

Legal immunity conferred by the notifications came into effect on 26 March 2007.

On the basis of the information that you have provided, as well as the information provided by interested parties, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by these notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

**Request for material to be excluded from the public register**

You have requested that the following information contained in your letter of 16 July 2007 be excluded from the public register:


1. The figure referred to in the third sentence of the answer to question 5(b)(i);
2. The fourth sentence of the answer to question 5(b)(i); and
3. The answer to question 5(b)(ii).

As you are aware, the ACCC is generally required under section 95 of the *Trade Practices Act 1974* (the Act) to place documents provided to it in relation to a notification on the ACCC's public register. The Act provides that a person submitting a document in relation to a notification may request that the document or parts thereof be excluded from the public register by reason of the nature of certain information contained in the document.

As a person authorised to make a decision for and on behalf of the ACCC in relation to such a request, I advise that the information referred to in points 1-3 above will not be placed on the public register.

A copy of this letter has been placed on the ACCC's public register. If you have any questions in relation to this matter, please contact Sarah Chubb on (02) 6243 1088.

Yours sincerely



Scott Gregson  
General Manager  
Adjudication Branch