



TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED
ABN 64 009 686 097



13 July 2009
AB0697

FILE No:
DOC:
MARS/PRISM:

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
Level 35
360 Elizabeth Street
MELBOURNE VIC 3000

Dear Dr Chadwick

Toyota Motor Corporation Australia Limited – Exclusive Dealing Notification

We enclose the following documents for your assessment:

1. Form G Exclusive Dealing Notification; and
2. a cheque for the filing fee in the amount of **\$100.00**

If you have any questions in relation to this notification or require any additional information, please do not hesitate to contact me on 03 9647 4307.

Yours sincerely

TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

**AMEET BAINS
CORPORATE SOLICITOR**

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:

Toyota Motor Corporation Australia Limited (TMCA) N94035
ABN 64 009 686 097

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

Manufacture, supply and distribution of motor vehicles and associated products and services including spare parts and accessories for motor vehicles.

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

C/- Ameet Bains
Toyota Motor Corporation Australia Limited
155 Bertie Street
Port Melbourne VIC 3207

2. Notified arrangement

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

The notification relates to:

(i) goods: being the supply of Toyota branded motor vehicles; and

- (ii) services: being NRMA motoring related services and the rebate TMCA will provide as a result of an eligible vehicle purchase.

(b) Description of the conduct or proposed conduct:

Toyota proposes to provide specified, existing NRMA Motoring and Services Members (**NRMA Members**) with a monetary rebate when selected Toyota vehicles are purchased and delivered from any authorised Toyota dealership during a defined promotional period.

From a technical perspective, it is possible to characterise the conduct as:

- (i) TMCA supplying, or offering to supply, a rebate when a Toyota vehicle is purchased, on condition that the purchaser also acquires NRMA membership; and/or
- (ii) TMCA refusing to supply or offer to supply, a rebate when a Toyota vehicle is purchased, on condition that the person has not acquired NRMA Membership.

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:

Specified NRMA Members who will be contacted directly and informed of the TMCA rebate offer.

(b) Number of those persons:

- (i) At present time:

85,000

- (ii) Estimated within the next year:

85,000

(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:

The conduct described in 2(b) above is a direct benefit to existing NRMA Members and will be of public benefit because:

- (i) it will encourage competition in the relevant markets and/or similar markets by encouraging competitors to match or better the offer proposed; and
- (ii) it provides NRMA Members with a financial benefit (rebate) when purchasing a Toyota vehicle on normal commercial terms.

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

In support of this, it should be noted that the offer is voluntary and is being made to existing NRMA Members when they purchase a Toyota vehicle on normal commercial terms. NRMA Members remain free to choose to purchase any brand of motor vehicle, including Toyota. If NRMA Members choose to purchase a Toyota vehicle, the rebate becomes an ancillary benefit during the promotional period.

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 relevant markets are:

- (i) the national retail market for new motor vehicles; and
- (ii) the national retail market for motoring related services.

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:

TMCA submits that there will be no detriment to the public from the conduct in question and that the conduct is a technical breach of the third line forcing provisions.

(b) Facts and evidence relevant to these detriments:

No public detriment will arise from the Promotion for the following reasons:

- (i) competition in the relevant markets is vigorous;
- (ii) the promotion will not require individuals to acquire NRMA membership, as the promotion will be targeting specified existing NRMA Members only;
- (iii) redemption of the offer will be voluntary and an NRMA Member is not obliged to purchase a Toyota vehicle;
- (iv) obtaining the rebate does not require NRMA Members to purchase a Toyota vehicle on anything other than normal commercial terms;
- (v) the promotion will not prevent competitors from competing effectively as NRMA Members remain free to purchase any brand of motor vehicle; and
- (vi) there are a relatively small number of potential consumers involved (especially compared to the number of consumers who purchase products in each of the relevant markets), and given that a promotion will only run for a limited time period, it is unlikely to have any effect on competition in the relevant markets.

7. Further information

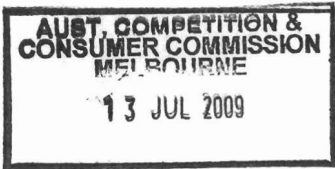
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Ameet Bains
 Toyota Motor Corporation Australia Limited
 155 Bertie Street
 Port Melbourne VIC 3207
 03 9647 4307

Dated..... 13 July 2009
 Signed by/on behalf of the applicant

 (Signature) Ari Perzick

 (Full Name)



TOYOTA MOTOR CORPORATION AUSTRALIA LTD
 (Organisation)
CORPORATE COUNSEL
 (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 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.