



**Australian
Competition &
Consumer
Commission**

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Our Ref: 41798
Contact Officer: Tess Macrae
Contact Phone: (03) 9290 1835

6 May 2010

Ms Rebecca Cook
Retail Business Development Manager
Westralia Airports Corporation Pty Ltd
PO Box 6
Cloverdale WA 6985

Dear Ms Cook

**Collective Bargaining Notification CB00143 lodged by Hertz Australia Pty Limited
- request for submission**

The Australian Competition and Consumer Commission (the ACCC) has received a collective bargaining notification from Hertz Australia Pty Limited with regard to Hertz, Thrifty, Avis, Budget and Europcar collectively bargaining with Perth Airport.

The purpose of this letter is to ask for your comments on the collective bargaining notification lodged by Hertz.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by Hertz Australia Pty Limited

On 3 May 2010, Hertz lodged a collective bargaining notification concerning Hertz, Thrifty, Avis, Budget and Europcar collectively bargaining with Perth Airport in relation to the price, terms and other conditions at which the rental car companies will acquire airport facility services (car parks and counter space) at the airport.

Hertz submits that the notified conduct will generate a number of public benefits including lower prices and/or improved levels of service or innovation for consumers of rental car services. Hertz submits that the notified conduct causes no identifiable detriment to the public.

A copy of the collective bargaining notification lodged by Hertz is enclosed for your information and is also available from the ACCC's website at www.accc.gov.au/CollectiveBargainingRegister.

Request for submissions

To assist the ACCC in its consideration of the notification it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC in conducting its assessment of the notified arrangements. Guidelines for seeking exclusion from the public register are attached for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Submissions can also be lodged by email to adjudication@acc.gov.au or by facsimile on (02) 6243 1211.

The immunity from legal action provided by notification CB00143 will commence on 17 May 2010 provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

If you have concerns with immunity coming into effect then please contact Tess Macrae urgently on (03) 9290 1835 or provide a submission as soon as possible.

The ACCC may act to remove the immunity afforded by a notification 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.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Tess Macrae.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'R Chadwick', with a long horizontal line extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch