

25 May 2010

**Tess Macrae
Adjudication Branch
Australian Competition and Consumer Commission
Level 38, The Tower
360 Elizabeth Street, Melbourne Central
GPO Box 520, Melbourne VIC 3001**

By Email: Tess.Macrae@accc.gov.au

Re: Hertz Australia Pty Limited collective bargaining notification CB00143

Dear Ms Macrae

I refer to your letter dated 13 May 2010. Redspot makes the following further submissions in response to the Draft objection Notice.

Redspot submits that the proposed collective bargaining by the bargaining group comprising the five largest providers of car rental services ("the group") will inevitably lead to a competitive and therefore public detriment.

Redspot brings the following matters to the attention of the ACCC.

1. Until recently it was common practice for airports to allocate the premium service facilities and share of facilities (rental desks, parking bays etc) to the rental operator/s with the highest market share. Under this practice the same amount of rent is charged for premium facilities as non-premium facilities distributed to the operators with lower market shares, such as Redspot. Recent examples of market share verses competitive tender allocation are:

- o In 2009 Gold Coast Airport Limited (GCAL) redeveloped its airport terminals and built 6 new rental desks for its 6 existing on-airport car rental licensees.

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GCAL allocated the premium desks to the operators with the highest market share. The same rental is paid by each of the six car rental operators.

- o In 2009 Cairns Airport Pty Ltd (CAPL) called for expressions of interest in a competitive tender for airport licences and service facilities.
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Commercial in confidence ends

Redspot was successful in securing premium desks in both the international and domestic terminals as well as premium parking bay positions.

2. Redspot submits that the group favours and has historically achieved the allocation of premium facilities and share of facilities at most airports based on market share. Redspot disputes the assertion made by Hertz on behalf of the group that a collective bargaining process will not undermine the integrity of competitive tendering. Redspot submits that it is likely the group will seek to negotiate with Westralia Airport Corporation (WAC) for the allocation of premium facilities and other facilities based on market share.

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Commercial in confidence ends

3. Redspot submits that the base prices WAC is asking for parking bays and rental desks is commensurate with prices charged for similar facilities at other Australian airports.
4. Redspot submits that its competitors being the group are presently taking advantage of underpriced service facilities at Perth Airport to service their large high volume corporate customers at the expense of the general public who are charged higher rental rates to subsidise the disproportionately lower rates paid by the large corporates. Redspot submits that as a result members of the group have up until now each been able to secure a large number of underpriced parking bays by claim of market share while restricting the supply of such facilities to other competitors (namely Redspot). Redspot submits that if the group achieve any reduction in facility pricing it is likely they will not pass on lower prices to the public. Instead they will use this to continue their market dominance and disproportionate pricing regimes.
5. Redspot submits that discussions between the members of the group as part of the collective bargaining are likely to put it at a competitive disadvantage. Members of the group are likely discuss and get to know each others views, valuations and competitive intentions while Redspot will be at a competitive disadvantage by not having the benefit of such knowledge. The other party likely to suffer a loss as a result of group discussions is WAC.

6. Redspot submits that car rental services compete with other forms of ground transport for limited terminal parking spaces namely, taxis, buses, chauffer driven hire cars, shuttles and public car parking. If the return on investment received by WAC from the car rental industry is less than from other industries WAC is likely to offer premium facilities to industries other than car rental which is not in the public interest.
7. Redspot also submits that if successful at Perth Airport, having been successful in Mackay Airport the group will likely use these airports arrangements and agreements as precedents to collectively bargain with other Australian airports.

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Redspot submits that its competitors (the group) negotiated with MAPL in their own best interests and gained a competitive advantage by negotiating a greater reduction in parking bay fees at the expense of higher turnover based fees and by changing the definition of Operator's Turnover. For Redspot, the change in the definition of Operator's Turnover provided no relief.

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8. At Mackay, Perth and other airports there are significant differences between Redspot and its on-airport competitors in business methods and rates offered. Redspot offers airport concession recovery fees, registration fees, liability reduction, additional drivers and other inclusions in its all-inclusive Drive-Away rates while its competitors separate these charges.

This has the effect of reducing the commission and turnover based fees payable to airports and maximising additional charges payable by customers. Examples of the different methodologies of Redspot Rentals and a competitor for a similar rental car and rate package can be seen in Appendices 3 and 4.

Redspot Rentals website rate shows an all-inclusive rate of \$83 made up of:
\$75.45 - Rental Charges
\$ 7.55 – GST

The commission amounts payable to the airport will be as follows:

- o Based on the Original Licence Fee

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- o Based on the Revised Licence Fee
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, an increase of \$1.60 payable by Redspot over the Original Licence Fee payable.

The competitor website rate shows a total amount payable of \$110.84 made up of:

- \$53.00 – Base Rate
- \$24.00 – Excess Reduction
- \$23.76 – Premium Location Surcharge + Admin Fee + Vehicle Registration Fee (\$5.50)
- \$10.08 – GST

The commission amounts payable to the airport will be as follows:

- o Based on the Original Licence Fee
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- o Based on the Revised Licence Fee
Commercial in confidence

Commercial in confidence ends

, a reduction of \$3.72 payable by the competitor over the Original Licence Fee payable.

Redspot supports and adopts the ACCC view as set out in paragraphs 6.24 and 6.25 of the Draft Objection Notice that a competitive tender process is a more efficient mechanism for the allocating limited terminal space than through collective bargaining. A competitive tender process will allow all providers of car rental services to bid for space with the resultant public benefit.

Redspot is willing to participate in a pre- decision conference in relation to the draft notice should the ACCC determine such a conference is necessary.

Yours faithfully



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Appendix 1 – Commercial in confidence

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Appendix 2 – Commercial in confidence

Commercial in confidence

Commercial in confidence ends

Appendix 3

Example of Redspot Rentals Pricing



Reservations - Windows Internet Explorer
 https://www.redspotcars.com.au/reservations/cocode.aspx?code=CRDAWAY
 File Edit View Favorites Tools Help
 Norton Identifying Protection on Log Ins
 Favorites Reservations

Redspot.

RESERVATIONS MEET OUR FLEET OUR PROGRAMS BUSINESS CLUB CUSTOMER SERVICE CAR SALES ABOUT US LOCATIONS & CONTACT US

Options and Liability Reduction Package: need help, click here

Description	Price Per Qty
<input type="checkbox"/> Damage & Loss Liability Reduction (CDW) (Included)	25.00 Day 1
<input type="checkbox"/> Toll Road Pass hire	15.00 Day 1
<input type="checkbox"/> Satellite Navigation Hire (GPS)	10.00 Day 1
<input type="checkbox"/> Provisional Licence Driver Fee	10.00 Day 1
<input type="checkbox"/> Premium Road Side Coverage (Included)	3.00 Day 1
<input type="checkbox"/> Baby Seat suitable for children 18-36 months	10.00 Day 1
<input type="checkbox"/> Booster seat suitable for children 36+ months	10.00 Day 1
<input type="checkbox"/> Baby capsule suitable for children 0-18 months	10.00 Day 1

Quote

---- Rental For Period (Inc GST) ----	\$ 83.00	1 @ \$ 83.00
Days		
---- Detailed Quotation ----		
Rental Charges	\$ 75.45	
Duty and Administration Fee	\$ 0.00	
GST	\$ 7.55	
Total	\$ 83.00	

Start | Reservations - Windo... | Internet | 100% | 9:58 AM

Appendix 4

Example of Competitor Pricing

Avis Rent A Car: Make a Reservation - Options & Services - Step 3 - Windows Internet Explorer

https://www.avis.com.au/car-rental/reservation/select-car.ac

File Edit View Favorites Tools Help

Norton Protecting Protection on

Identity Sale Log-ins

Avis Rent A Car: Make a Reservation - Options & Ser...

AVIS Australia

STEP 1 2 3 4 : PRODUCTS & SERVICES

RENTAL OPTIONS

GPS Navigation

Child Safety Seats 1

[Information / Availability](#)

PROTECTIONS / COVERAGES

INCLUDED Loss Damage Waiver (LDW)

Excess Reduction

Charges may vary by age of renter, location, type of vehicle and rate.

[Cancel](#)

[CONTINUE](#)

Estimated Total

Base Rate: 1 day(s)	53.00 AUD
Protections - Coverages:	24.00 AUD
Loss Damage Waiver (LDW)	INCLUDED
Excess Reduction	24.00 AUD
Surcharges and GST	33.84 AUD
Surcharge	23.76 AUD
- \$5.50 per day (Vehicle Registration Fee)	
- 18% (Premium Location Surcharge)	
- Admin Fee	10.08 AUD
GST	
Kilometers:	Unlimited
Estimated Total	110.84 AUD

Note:

- Any modification of this reservation may change the Estimated Total.

About This Reservation

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Avis Rent A Car: Mak...