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23 November 2010

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

Dear Sir/Madam

**Exclusive Dealing Notification  
Volkswagen Financial Services Australia Pty Limited (VWFS)**

We act for the abovementioned company and **enclose** the following:

1. Exclusive Dealing Notification under section 93(1) of the Trade Practices Act 1974 ("TPA"); and
2. A cheque for \$100 in payment of the required lodgement fee.

If you have any questions in relation to this Notification or require any further information, please contact Jill Milburn of our office.

Yours faithfully

**Jill Milburn**  
Partner

Direct Dial +61 2 8267 3807  
Mobile +61 402 077 313  
[j.milburn@duncancotterill.com](mailto:j.milburn@duncancotterill.com)

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*A directory of Partners and Associates is available on request at any office or may be viewed at [www.duncancotterill.com](http://www.duncancotterill.com)  
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# 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:

N95194 Volkswagen Financial Services Australia Pty Ltd ABN 20 097 071 460  
(VWFS)

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

VWFS conducts the business of supplying finance to car dealers and customers. VWFS supplies finance for the automotive brands within the Volkswagen Group, including Audi vehicles. Audi Finance is a division of VWFS which specifically provide finance for Audi vehicles.

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

C/- Jill Milburn  
Duncan Cotterill  
Level 18, 39 Martin Place  
Sydney NSW 2001

### 2. Notified arrangement

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

Supply of finance to purchasers of Volkswagen Group cars from authorised dealers of VWFS.

The vehicles will be supplied by Audi Australia Pty Ltd (ABN 86 077 092 776) (**Audi Australia**), a related body corporate of VWFS.

Supply of finance to eligible customers for the maintenance and servicing of Volkswagen Group cars (“**Servicing**”) by the authorised dealers on behalf of Audi Australia.

Supply of Servicing by Audi Australia.

Supply of the following insurance products to be provided by Allianz Australia Insurance Limited ABN 15 000 122 850 (“**Allianz**”).

Standard comprehensive car insurance cover for 12 months together with:

Tyre & Rim Insurance Cover for the life of the finance contract (“**Insurance**”).

(b) Description of the conduct or proposed conduct:

VWFS may from time to time as part of a special offer, offer customers finance, at a reduced interest rate, on the purchase of a Volkswagen Group car, if the vehicle is bought from an authorised dealer.

The finance may cover the purchase of the vehicle, the Servicing costs and the premiums for the above Insurance. VWFS proposes to offer to customers who decide to take this total finance package subsidies towards the insurance premiums and Servicing costs.

The authorised dealer may support such an offer, by paying a certain amount to VWFS for each concluded purchase of a vehicle financed by VWFS.

When the offer or offers are available, the specific terms of the interest rate, term, eligibility criteria and subsidies will be clearly communicated to consumers in the relevant advertising material.

(a) We consider that the notified conduct may be formulated in two ways:

(i) VWFS giving or allowing or offering to give or allow a discount, allowance, rebate or credit in relation to the finance of a Volkswagen Group car, on condition that the customer acquires the vehicle from a participating authorised dealer of VWFS and, in relation to the subsidies, will acquire and finance with VWFS, the Insurance and Servicing for the purchased Vehicle.

(ii) VWFS refusing to give or allow or refusing to offer to give or allow a discount, rebate or credit in relation to the finance of a Volkswagen Group car, if the customer does not acquire the vehicle from a participating authorised dealer of VWFS and, in relation to the

subsidies, acquire the Insurance and Servicing for the purchased Vehicle.

**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:  
Customers and potential customers of VWFS.
- (b) Number of those persons:
  - (i) At present time:  
None.
  - (ii) Estimated within the next year:  
Unknown.
- (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 proposed conduct will be of benefit to the public as it will:
  - (i) Provide eligible customers with the opportunity to obtain reduced finance for the acquisition of the Volkswagen Group car, Servicing and Insurance; and
  - (ii) Potentially encourage other car finance companies to offer similar value added products and services and therefore promote competition in the relevant markets;
  - (iii) Enable the offering of a more competitive product that will foster business efficiency for VWFS and its authorised dealers; and
  - (iv) Encourage the servicing of the Volkswagen Group car by Audi Australia and the authorised dealers who have direct access to current service information provided by the manufacturer and access to specialised training and equipment provided to them by the manufacturers which may enable the Volkswagen Group car to be serviced more effectively.
- (b) Facts and evidence relied upon in support of these claims:

Please refer to 4(a) above.

## **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):

We consider that the relevant markets for the purpose of assessing this notification are the markets for providing wholesale financial services to motor vehicle dealers, providing retail finance services to customers, the retail markets for servicing vehicles, comprehensive car insurance and insurance for tyres and rim.

We consider that these markets are highly competitive and there is a high degree of substitutability between vehicle brands, financial services, servicing of vehicles, comprehensive car insurance and insurance for tyres and rim.

The conduct will only affect a minor segment of the overall retail market for motor vehicles. VWFS' market share in comparison with the number of other financial service providers which provide finance for the purchase of motor vehicles is small. Accordingly, the notified conduct will not create barriers to entry or otherwise harm competition in the relevant markets, referred to above.

Customers remain free to source alternative finance options through other service providers and remain free to negotiate on the price of the finance and the vehicle.

We also consider that only a minor segment for the overall retail market for car servicing and car insurance will be affected by the conduct. Customers remain free to seek alternative car service providers, insurance and servicing options.

## **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:

We believe the notified conduct will not result in any public detriment as VWFS, Audi Australia and Allianz are not restricting customer choice. Further, neither the price of the finance offered by VWFS nor the purchase price of the Vehicle will be negatively impacted.

The applicant believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

(b) Facts and evidence relevant to these detriments:

The proposed conduct will not lessen competition in the markets for the relevant products and services as:

- (i) potential Volkswagen Group car purchasers remain free to choose whether or not to accept the offer or whether or not to use Allianz as their car insurer or Audi Australia for their car servicing. An eligible customer is free to obtain finance from any other finance provider or to obtain alternative insurance and servicing from other suppliers;
- (ii) competition in the relevant markets is extremely vigorous and there are many competitors who provide finance for the acquisition of vehicles, vehicle servicing and insurances;
- (iii) the number of customers potentially affected by the proposed conduct is insignificant compared to total number of customers who acquire finance, servicing and insurance on the purchase of a motor vehicle;
- (iv) customers may acquire the relevant finance, servicing and insurance products from a range of other suppliers; and
- (v) dealers are free to deal with other financiers of their choice on competitive terms offered by that financier.

**7. Further information**

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

C/- Jill Milburn  
Duncan Cotterill  
Level 18, 39 Martin Place  
Sydney NSW 2001  
Phone: (02) 8267 3800

Dated 24 November 2010

Signed on behalf of the applicant

  
.....  
(Signature)

Jill Milburn  
(Full Name)  
Duncan Cotterill  
(Organisation)  
Partner  
(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.