



**Australian
Competition &
Consumer
Commission**

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2 August 2012

Colin Hallinan
Polo Smash Repairs
11 By the Sea Rd
MONA VALE NSW 2103

By email: [REDACTED]

Dear Mr Hallinan

Notification N93529 lodged Vero Insurance Ltd (Suncorp Group)

I refer to your letter to the Australian Competition and Consumer Commission (ACCC) opposing Vero Insurance's exclusive dealing notification N93529.

I understand you are opposed to the notification for reasons including that:

- You believe the ACCC should not allow notifications from a business as large as the Suncorp Group to stand;
- Your business will suffer hardship from the ACCC letting the notification stand; and
- You believe that the notifications enable Suncorp to dictate the terms of repair contracts with affiliated smash repairers which, due to cost-cutting pressures, may result in repairs that are unsafe and detrimental to consumers.

The ACCC is responsible for administering the *Competition and Consumer Act 2010* (the Act). A key objective of the Act is to prevent anti-competitive conduct and encourage competition and efficiency in business, resulting in greater choice for consumers in price, quality and service.

Third line forcing involves the supply of goods or services on condition that the buyer takes goods or services from a particular third party. As you would be aware, Vero and other Suncorp/Promina businesses have lodged a number of notifications for third line forcing with the ACCC to implement their preferred-repairer schemes.

Under the Act, notifying parties obtain statutory protection for the notified conduct 14 days after the notification is lodged. The ACCC can only 'revoke' a third-line forcing notification if it is satisfied that the conduct's likely public benefits will not exceed its detriments.

Since early 2000, the ACCC has identified that there are structural changes occurring in the relationships between insurers and the smash-repair industry. The ACCC has consulted extensively with stakeholders, including the nation's motor trades associations, and performed detailed assessments of complaints and notifications. For example in 2002, the ACCC hosted industry/government round table meetings to discuss issues including repair networks/accredited repair schemes and consumer choice. In 2007, the Motor Trades Association of Australia and its member bodies applied for authorisation to develop and promote a real time guide for smash repairers. The guide was authorised by the ACCC following a public consultation process.

The ACCC has acknowledged that preferred-repairer schemes have caused concern for many repairers. However, after the wide ranging consultation referred to above, the ACCC has concluded that such schemes have resulted in consumer benefits such as lower insurance premiums. The ACCC did not identify any proven impacts on consumer safety.

The ACCC has assessed all the notifications lodged by Vero and the Promina/Suncorp Group and allowed each of these to stand as it concluded that the public benefits of the conduct were greater than its detriments.

As explained in its *Guide to Exclusive Dealing Notifications* and addendum, the ACCC does not engage in a specific public consultation process on all notifications. The decision on whether to conduct a limited assessment is dependent on the circumstances, including whether it is the first time the ACCC has considered such industry arrangements. The primary issue is not the size or ownership arrangements of the notifying party but rather the effect of the conduct in the relevant markets.

Consistent with the Guide, the ACCC decided not to consult publicly on more recent Suncorp group notifications, including the Vero notification, as it has previously conducted comprehensive consultations on, and assessments of, similar conduct.

The ACCC typically requires specific information about why the benefits of a particular notification are unlikely to outweigh the detriments before starting a wide ranging review. That is particularly so here, where the ACCC has consulted repair-industry stakeholders a number of times over the last decade on preferred-repairer issues.

If you have any questions about this letter, please contact John Rouw on (03) 9290 1402.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long horizontal line.

Richard Chadwick
General Manager
Adjudication Branch