

# TOYOTA



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**TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED**

A.C.N. 009 686 097 A.B.N. 64 009 686 097

12 October 2012

Australian Competition & Consumer Commission  
Level 35 The Tower  
360 Elizabeth St  
Melbourne Central  
MELBOURNE VIC 3000

MARS/PRISM
DOC:
FILE NO:

Dear Sir/Madam

**Toyota Motor Corporation Australia Limited - Exclusive Dealing Notification**

Please find enclosed:

- a notification application under sub-section 93(1) of the *Competition and Consumer Act 2010* (Cth); and
- a cheque for \$100 for the fee payable in respect of the lodgment of the notice.

Please contact Eliza Morgans on (03) 9647-4756 if you have any questions in relation to this notification or if you require further information.

Yours faithfully

**TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED**

A handwritten signature in black ink, appearing to read "Eliza Morgans".

**Eliza Morgans  
Corporate Solicitor**

**Form G**  
Commonwealth of Australia  
*Competition and Consumer Act 2010 - 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 *Competition and Consumer Act 2010*, 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:  
*(Refer to direction 2)*

N96203 Toyota Motor Corporation Australia Limited (TMCA).

ABN 64 009 686 097

- (b) Short description of business carried on by that person:  
*(Refer to direction 3)*

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

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

General Counsel  
Legal Risk & Compliance  
Toyota Motor Corporation Australia Limited  
155 Bertie Street  
Port Melbourne  
Victoria 3207

**2 Notified arrangement**

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

The supply of Toyota branded motor vehicles.

- (b) Description of the conduct or proposed conduct:

TMCA proposes to:

- supply, or offer to supply, a discount on Toyota motor vehicles to a person on the condition that the person is a member of (or becomes a member of) an Eligible Association, and so acquiring services from an Eligible Association; and

- refuse to supply, or offer to supply, a discount on Toyota motor vehicles to a person for the reason that they are not a member of an Eligible Association and so have not agreed to acquire services from an Eligible Association.

Eligible Associations are the Master Builders Association and the Clipsal Club (together and individually “**Eligible Association**”).

By way of practical example, TMCA may offer members of Eligible Associations a Gold Fleet discount on eligible Toyota vehicles.

*(Refer to direction 4)*

### **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:

*(Refer to direction 5)*

Persons who are members of or prospective members of Club Clipsal or the Master Builders Association.

- (b) Number of those persons:

- (i) At present time:

Unknown but greater than 50.

- (ii) Estimated within the next year:

*(Refer to direction 6)*

Unknown but greater than 50.

- (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:

*(Refer to direction 7)*

Persons who are members of an Eligible Association will benefit from the proposed arrangement as they will receive discounts on eligible Toyota motor vehicles.

The arrangement proposed by TMCA should encourage TMCA’s competitors to offer similar benefits which in turn should result in increased competition.

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

In addition to the above self-evident benefits, TMCA is aware that some of its competitors have similar arrangements with other clubs and associations.

## 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):  
*(Refer to direction 8)*

The relevant market is the national retail market for sale of new motor vehicles.

## 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:  
*(Refer to direction 9)*

TMCA considers that the proposed conduct will not give rise to any public detriments.

- (b) Facts and evidence relevant to these detriments:

TMCA considers that the proposed conduct will not result in any detriments to the public because:

- the arrangement will not be an exclusive arrangement conditional upon acquisition of services from an Eligible Association. Customers will be free to purchase Toyota motor vehicles from TMCA and TMCA dealers at their own negotiated prices, without acquiring services from an Eligible Association; and
- the arrangements between TMCA and Eligible Associations are not exclusive and would not prevent TMCA's competitors from forming similar arrangements with Eligible Associations in parallel.

## 7 Further information

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

Eliza Morgans  
Corporate Solicitor  
Legal Risk & Compliance  
Toyota Motor Corporation Australia Limited  
155 Bertie Street  
Port Melbourne  
Victoria 3207

Dated 12 October 2012

Signed by/on behalf of the applicant



(Signature)

ELIZA MORGANS

(Full Name)

TOYOTA MOTOR CORPORATION  
AUSTRALIA LIMITED

(Organisation)

CORPORATE SOLICITOR

(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 the 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 *Competition and Consumer Act 2010* 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.