

# TOYOTA

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## TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED

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

13 August 2013

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

By email: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)

Dear Sir/Madam

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

Enclosed is a notification application under sub-section 93(1) of the *Competition and Consumer Act 2010* (Cth).

This morning I contacted the ACCC and paid (by credit card) a \$100 fee for lodgement of the notice.

Please contact me on (03) 9647 8029 or by return email at [jeremy.davey@toyota.com.au](mailto:jeremy.davey@toyota.com.au) if you require any further information.

Yours faithfully

**TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED**



**Jeremy Davey**  
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)

N96910

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 is therefore acquiring services from that 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 therefore have not agreed to acquire services from an Eligible Association.

The Eligible Associations are the following Housing Industry Associations:

Housing Industry Association (ACT)
Housing Industry Association (NSW)
Housing Industry Association (VIC)
Housing Industry Association (QLD)
Housing Industry Association (SA)
Housing Industry Association (WA)
Housing Industry Association (TAS)
Housing Industry Association (NT & NQ)

(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 an Eligible 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 and seek to purchase an eligible Toyota vehicle will benefit to the extent that the proposed conduct will allow them to obtain a discount.

The proposed conduct may encourage TMCA's competitors to offer similar benefits, potentially resulting in increased competition and wider availability of discounts to the public.

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

TMCA currently participates in similar programs with other associations (see for example notification N96203), and 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

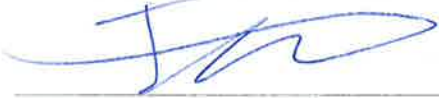
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Jeremy Davey  
Corporate Solicitor  
Legal Risk & Compliance  
Toyota Motor Corporation Australia Limited  
155 Bertie Street

Port Melbourne  
Victoria 3207

Dated 13 August 2013

Signed by/on behalf of the applicant



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(Signature)

JEREMY DAVEY

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(Full Name)

TOYOTA MOTOR CORPORATION  
AUSTRLAIA LIMITED

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(Organisation)

CORPORATE SOLICITOR

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(Position in organisation)