



**Australian  
Competition &  
Consumer  
Commission**

Our ref: N96151  
Your ref: SRK 233863  
Contact officer: Marie Dalins  
Contact phone: 03 9290 1893

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6 November 2013

Mr Stephen Kerr  
Partner  
HWL Ebsworth

By email: [skerr@hwle.com.au](mailto:skerr@hwle.com.au)

Dear Mr Kerr

### **Third line forcing notification N96151 lodged by NWG Pty Ltd**

I refer to the above mentioned notification lodged by NWG Pty Ltd trading as The National Windscreen Group (NWG) with the Australian Competition and Consumer Commission (ACCC) on 12 September 2012.

Since the notification was assessed by the ACCC and allowed to stand in December 2012, the ACCC has received complaints and additional information from interested parties. The ACCC is now seeking further information from NWG regarding:

- how it is implementing the proposed conduct;
- market share information in relation to the proportion of windscreen repair/replacement work contracted to NWG by insurers and car fleet companies; and
- its contractual arrangements with independent operator owned automotive glass repairers and replacement operators.

The notification notes that NWG is appointed by insurance companies and car fleet companies to carry out automotive glass repair work and that NWG does so by sub-contracting the work to members of its group of independent, generally owner/operated automotive glass repair and replacement operators (Members).

The notification lodged by NWG proposes to sub-contract automotive glass repair work to its Members (who are independent, operator owned automotive glass repair and replacement operators) on the condition that those members acquire glass and other inputs from suppliers nominated by NWG from time to time.

The notification states that the current supplier with whom NWG seeks to negotiate and appoint as its preferred supplier is the National Auto Glass Supplies Pty Limited (NAGS).

1. Is NWG **requiring** independent autoglass repairers to acquire inputs from its preferred supplier, NAGS, **for all repairs** as a condition of receiving a contract to undertake replacement/repairs on behalf of NWG?
2. Is NWG aware of any arrangements where a contract offer to undertake repairs on behalf of NWG has been conditional on the independent operator also acquiring glass from NWG approved suppliers for non-NWG repairs?
  - a. If so, please provide details around these circumstances.

The notification sets out market share information in relation to the supply of automotive glass *to consumers*.

3. To the extent possible, please provide data on the market share of NWG as a percentage of work contracted by insurers and car fleet companies.
  - a. With which insurers and car fleet companies does NWG have a contract?

The ACCC has also received a copy of NWG's standard agreement to Members (Agreement), on a confidential basis.

4. Please submit the most recent version of the Agreement.

Separately, depending on the terms of the Agreement, it is possible that the Agreement may constitute a Franchise Agreement as defined by clause 4 of the *Trade Practices (Industry Codes – Franchising) Regulations 1998* (the Code) and that NWG may have relevant obligations under the Code.

Further information on the Code is set out in the ACCC's '*Franchising code of conduct compliance manual*' available on the ACCC website

<http://www.accc.gov.au/publications/franchising-code-of-conduct-compliance-manual>

The ACCC is seeking a response to the above questions and relevant documents by **26 November 2013**.

If you have any questions or queries regarding this letter, please contact Marie Dalins 03 9290 1893 or [marie.dalins@accc.gov.au](mailto:marie.dalins@accc.gov.au) . This letter will be placed on the ACCC's public register.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch