



HYUNDAI

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12 December 2014

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

Dear Dr Chadwick

Hyundai Motor Company Australia Pty Ltd – Notification of Exclusive Dealing

We enclose:

1. Form G Notification of Exclusive Dealing under subsection 93(1) of the *Competition and Consumer Act 2010 (Cth)*; and
2. Cheque in the amount of \$100.00 as payment of the required fees.

If you have any queries in relation to this Notification, please don't hesitate to contact me on (02) 8873 6080.

Yours faithfully

Nigel Smith
General Counsel & Company Secretary
Hyundai Motor Company Australia

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)

N98055 Hyundai Motor Company Australia Pty Ltd (ACN 008 995 588) (HMCA).

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

HMCA imports, supplies and distributes Hyundai motor vehicles, associated products and services (including spare parts) and accessories for motor vehicles.

HMCA distributes Hyundai motor vehicles, associated products, services and accessories to end-user customers in Australia through its network of franchisee authorised dealers (**authorised Hyundai dealer/s**).

HMCA is a wholly owned subsidiary of Hyundai Motor Company of South Korea.

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

Mr Nigel Smith
General Counsel & Company Secretary
Hyundai Motor Company Australia
Cnr 394 Lane Cove Road and Hyundai Drive
Macquarie Park NSW 2113

2. Notified arrangement

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

The notified arrangement relates to:

- After-sales servicing and support of certain new or used Hyundai vehicles (**Hyundai Vehicles**) by an authorised Hyundai dealer; and

- Extended warranty against defects services to owners of Hyundai Vehicles.

(b) Description of the conduct or proposed conduct:
(Refer to direction 4)

HMCA proposes to offer, either as part of a comprehensive customer care program or as special offers from time to time, a comprehensive extended warranty against defects, for a length of time to be determined and on terms and conditions similar to its existing 5 year/unlimited kilometre new car express warranty against defects (**Extended Warranty**), to owners of Hyundai Vehicles on the condition that they have their Hyundai Vehicle serviced at an authorised Hyundai dealer, together with any repairs covered by the Extended Warranty.

This conduct could potentially be characterised as HMCA:

- supplying, or offering to supply, an Extended Warranty on the condition that the owner of the Hyundai Vehicle will acquire after-sales servicing and warranty repair services for their Hyundai Vehicle at an authorised Hyundai dealer in accordance with certain terms and conditions: and
- refusing to supply, or offer to supply, an Extended Warranty for the reason that the owner of the Hyundai Vehicle has not acquired, or has not agreed to acquire, after-sales servicing and warranty repair services for their Hyundai Vehicle at an authorised Hyundai dealer in accordance with certain terms and conditions.

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)

Existing and/or prospective owners of Hyundai Vehicles.

(b) Number of those persons:

(i) At present time:

New service/customer care offering and therefore no existing persons.

(ii) Estimated within the next year:
(Refer to direction 6)

Approximately up to 10,000 owners of Hyundai vehicles.

(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)

HMCA is proposing to introduce a “Hyundai Australia” Extended Warranty, of a length of time or kilometres travelled that is yet to be determined (and, depending on any particular offer, may change from time to time) with respect to certain Hyundai Vehicles. This Extended Warranty would be offered by HMCA and would be a comprehensive warranty against defects similar to the existing Hyundai 5 year/unlimited kilometre new car express warranty against defects.

The Extended Warranty would not be an optional extra and would not be available separately for purchase. The Extended Warranty would also be transferrable to future owners of the applicable Hyundai Vehicle, at no extra cost.

HMCA submits that the Commission should not serve a notice under section 93(3A) of the CCA because:

- the notified conduct will not adversely affect competition in any relevant market; and
- the conduct in question will result in public benefits and no public detriment.

The notified conduct comprises the acquisition, at the option or choice of owners of Hyundai Vehicles, of after-sales servicing and warranty repair services for their Hyundai Vehicle at the authorised Hyundai dealer of their choice. At the date of this Notification, there are 162 authorised Hyundai dealers across Australia.

Owners of Hyundai Vehicles would retain their genuine choice to deal with any after-sales servicing or repair services supplier on the terms that those suppliers offer. They can freely choose whether or not to purchase after-sales servicing or repair services from any supplier whatsoever, or to accept HMCA’s terms for after-sales servicing or repair services and the Extended Warranty. By retaining Hyundai Vehicle owner’s genuine choice, the notified conduct is not inherently anti-competitive.

Public benefits may include:

- (i) owners of Hyundai Vehicles being offered the opportunity to receive continued vehicle manufacturer warranty against defects protection (that is, for a period of time longer than HMCA’s existing 5 year/unlimited kilometre new car express warranty against defects) at no additional cost to the owner of the Hyundai Vehicle;
- (ii) the offer of a more competitive or longer vehicle manufacturer warranty against defects from HMCA is pro-competitive and may encourage competitors of HMCA to consider improving their

existing warranty against defects or other value-added offerings in order to attract customers to purchase their vehicles, and may therefore promote competition in the retail market for new and/or used motor vehicles;

- (iii) offering vehicle owners the opportunity to receive extended vehicle manufacturer warranty against defects protection ultimately reduces the cost of vehicle repairs to vehicle owners; and
- (iv) the proposed conduct will offer the market for Hyundai Vehicles with increased vehicle manufacturer warranty against defects protection, which is a significant benefit for those subsequent owners of eligible used Hyundai Vehicles who could not afford to purchase new vehicles.

The public benefits outlined above outweigh the detriment (if any) arising from the notified conduct.

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

Customer feedback HMCA has received over many years has revealed that vehicle manufacturer warranty against defects protection is viewed by many customers as a highly valued benefit during the life of their ownership of a Hyundai Vehicle, and (notwithstanding the consumer benefits of the consumer guarantees under the Australian Consumer Law) that they bring “security” and “peace of mind”. It is expected that the opportunity for owners of Hyundai Vehicles to obtain an extension of this benefit will only be welcomed by them.

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 markets are the retail markets for motor vehicles and their parts, servicing and repairs and the market for extended warranty services.

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)

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

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

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

- owners of Hyundai Vehicles retain their genuine choice to deal with any after-sales servicing or repair services supplier on the terms that those suppliers offer. They can choose on a normal commercial basis whether or not to purchase after-sales servicing or repair services from any supplier whatsoever, or to accept HMCA's terms for after-sales servicing or repair services and the Extended Warranty. HMCA merely proposes to offer the benefits of the Extended Warranty to owners of Hyundai Vehicles who freely choose to have after-sales servicing from an authorised Hyundai dealer; and
- by retaining Hyundai Vehicle owner's genuine choice, the notified conduct is not inherently anti-competitive. As mentioned above, we think the opportunity for owners of Hyundai Vehicles to obtain an Extended Warranty will only be welcomed by them.

7. Further information

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

Mr Nigel Smith
General Counsel & Company Secretary
Hyundai Motor Company Australia
Cnr 394 Lane Cove Road and Hyundai Drive
Macquarie Park NSW 2113

Dated... 11 December 2014

Signed by/on behalf of the applicant

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(Signature)

Nigel Smith
(Full Name)

Hyundai Motor Company Australia Pty Ltd
(Organisation)

General Counsel & Company Secretary
(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.