

# 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)*

N98520 Toyota Motor Corporation Australia Limited (**Toyota**)  
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  
Corporate Affairs Division  
Toyota Motor Corporation Australia Limited  
155 Bertie Street  
Port Melbourne  
Victoria 3207

## 2. Notified arrangement

*(Refer to direction 4)*

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

The right to participate in a series of motor vehicle races; and associated motor vehicle race organisation and support services.

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

Toyota proposes to organise a series of motor vehicle races in different places in Australia during 2016, and to offer prospective entrants the opportunity to enter the races. In the races, the entrants will be driving the Toyota vehicle known as the Toyota 86. Conditions of entry will include

requirements that the entrants use specified “controlled parts” to be provided by nominated third party suppliers (**controlled parts**).

The controlled parts will include the following components, and ancillary items associated with each of them:

- Motec M150 branded engine control unit;
- MCA Shock Absorbers with King Springs (suspension);
- Sydney Motorsport Engineering branded extractors and exhaust system;
- AP Racing branded control brake kit;
- TRD branded rear trunk spoiler;
- TRD branded Oil Cooler;
- Dunlop Direzza Z 2 86 branded tyres; and
- other motor racing components (including substitutable part for those described above) to be determined from time to time.

Toyota intends to put in place agreements with one or more nominated suppliers of each controlled part that will set out terms of sponsorship, marketing, and supply of the relevant controlled parts to race participants. The agreements will include warranties from each supplier about the quality and availability of each controlled part.

**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)

Potential entrants in the Toyota race series, and their team members, employees and representatives.

Nominated suppliers of the controlled parts.

Confederation of Australian Motor Sport Ltd (CAMS) (which will not be a party to any of the agreements mentioned herein, but under whose auspices Toyota will be organising the race series).

- (b) Number of those persons:

- (i) At present time:

Nil, as the anticipated agreements are not in place and entry to the race series is not yet open.

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

Unknown but more 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)

Toyota will be conducting the race series in accordance with a range of licensing, safety, health and governance obligations under applicable laws, the auspicing arrangement with CAMS, and commitments to race entrants in their terms of entry. The chief reason for requiring that entrants use nominated controlled parts is that the quality and reliability of the parts contributes to Toyota's meeting these obligations.

The controlled parts have been tested against other options by Toyota's consultants, who have recommended the specific parts be mandated.

The nomination of suppliers for the controlled parts gives Toyota, CAMS and entrants assurance as to the quality and availability of each controlled part. It also promotes parity and competitive fairness amongst the race entrants on the basis that the controlled parts as well as the Toyota 86 vehicle are not of variable quality, so that all race entrants are on a level footing, creating an even playing field so as to best test each entrant's driving skill.

Nominating particular suppliers also allows Toyota to strike arrangements with each supplier for sponsorship and marketing, in return for discounted or agreed rate pricing. This ensures that suppliers will not take advantage of the entrants needing to acquire from them, but rather will supply the controlled parts at fair prices. This will promote competitive fairness amongst race entrants and encourage participation.

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

Toyota has commissioned consultants to test the Toyota 86 vehicle in different driving environments and using variable options for each of the component parts. Toyota has relied on the resulting report and internal quality assessment to determine the most suitable components for the race series.

The race series involves a relatively small number of entrants in a highly controlled and specific environment. Toyota submits it is in the public benefit that a sporting event such as the race series be organised with a high degree of control over racing conditions, for risk management and event integrity purposes.

## **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 motor vehicle parts. Toyota believes that there are numerous substitutes available for each of the controlled parts. The affected market participants are the organisations that are potential entrants to a series of motor vehicle racing events.

## **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)*

Toyota believes that the only potential detriment is the narrow one that competing suppliers of parts that are substitutable for the controlled parts will not have the opportunity to sell those parts to the race entrants.

It is not likely that the controls will have any effect on broader conduct in the markets for the parts or any other markets, or the prices of goods or services in any market.

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

The proposed Toyota race series consists of eight events, with the number of entrants likely to participate in the series being very low compared to the size of the broader market for any of the relevant types of parts. The volumes of each controlled part being sold to race entrants are not sufficient to have a detrimental effect on the competing providers of substitutable parts.

7. Further information

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

Tim Harper  
Toyota Motor Corporation Australia  
155 Bertie Street, Port Melbourne VIC 3207  
P +61 3 9647 8102 | M 0401 636 683  
E tim.harper@toyota.com.au

Dated..... 28/8/2015 .....

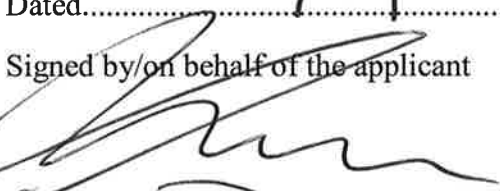
Signed by/on behalf of the applicant

(Signature)

(Full name)

(Organisation)

(Position in Organisation)

  
.....  
Tim Harper  
.....  
Toyota Motor Corporation Australia Ltd  
.....  
Company Secretary  
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## 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.