

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)*

N98583 BMW Australia Finance Ltd ACN 007 101 715 (BMWAF)

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

BMWAF carries on the business (amongst other things) of providing automotive finance for the retail acquisition of motor vehicles.

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

Chandra Kham, Legal & Compliance Manager

BMW Australia Finance Ltd

783 Springvale Road, Mulgrave, Victoria 3170

Email: chandra.kham@bmwfinance.com.au

2. Notified arrangement

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

Supply of automotive finance for the retail acquisition of vehicles and insurance policy(s).

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

BMWAF proposes, from time to time, to provide customers with a discounted interest rate for motor vehicle finance to customers who acquire insurance policy(s) from BMWAF, which may result from the process of acquiring motor vehicle finance from a dealership or introducer prescribed by BMWAF (**Authorised Dealership**).

The timing and duration of each offer period will be agreed upon between BMWAF and where applicable, the Authorised Dealership. The

eligibility criteria and offer periods will be communicated to potential customers through advertisement material and by representatives of BMWAF and where applicable, the Authorised Dealership.

The Authorised Dealership may indirectly contribute to the cost of the interest rate discount by reimbursement or subsidy to BMWAF.

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 potential customers of BMWAF who satisfy BMWAF's lending and approval criteria and wish to acquire and insure a motor vehicle from an Authorised Dealership that is subject to the proposed offer.

(b) Number of those persons:

(i) At present time:

None.

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

In excess of 100.

(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)*

The proposed conduct will be of benefit to the public as it will:

- (i) Stimulate competition between automotive financiers.
- (ii) Stimulate competition between automotive dealerships.
- (iii) Stimulate competition between insurers.

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

During the proposed offer periods customers are not obliged to obtain finance from BMWAF to:

- (i) fund the acquisition of a specified motor vehicle from an Authorised Dealership; or
- (ii) acquire an insurance policy.

If a customer elects to obtain finance or insurance from BMWAF, which may form part of the acquisition of a specified motor vehicle from an

Authorised Dealership during a proposed offer period, the customer will benefit from discounted interest rate on their motor vehicle.

It is likely that the proposed offer will also increase the sales volume of motor vehicles, and may encourage competitor automotive financiers, automotive dealerships and insurers to make similar offers to their customers.

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 automotive finance, automotive dealerships and insurers. The three markets are highly competitive and there is a high degree of substitutability between automotive financiers, vehicle suppliers and insurers. During offer periods customers will:

- (a) not be compelled to obtain automotive finance from BMWAF;
- (b) not be required to purchase a specified vehicle from an Authorised Dealership to obtain automotive finance from BMWAF;
- (c) not be compelled to obtain insurance from an Authorised Dealership;
- (d) not be required to purchase a specified vehicle from an Authorised Dealership to obtain insurance from BMWAF; or
- (e) be permitted to acquire vehicles from an Authorised Dealership or any other dealership that is not subject to the proposed offer.

The proposed conduct will not impact a substantial segment of the overall market for automotive finance, automotive sales or insurance products. Accordingly, the proposed conduct will not create barriers to entry or restrict the supply or acquisition of automotive finance, automotive sales or insurance products.

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)

There does not appear to be a public detriment from the proposed conduct. Customers will continue to be permitted to select the most appropriate vehicle (which may include optional extras or accessories), method of

payment for the vehicle (which may not be finance) and insurance products to acquire.

(b) Facts and evidence relevant to these detriments:

The proposed conduct will not decrease competition in the markets for automotive finance, motor vehicle sales, servicing or insurance as:

- (i) competition between automotive financiers, motor vehicle sales, motor vehicle insurers is extremely competitive;
- (ii) other financiers are permitted to offer similar, or more competitive, offers to customers; and
- (iii) the number of customers that could be affected by the proposed conduct (as noted in 3(b)(ii) above) is insignificant compared to the total number of customers that will obtain motor vehicle finance or insurance during the proposed offer periods.

7. Further information

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

Chandra Kham
Legal & Compliance Manager
BMW Australia Finance Ltd
783 Springvale Road, Mulgrave Victoria 3170
Email: chandra.kham@bmwfinance.com.au
Telephone: 03 9264 4039

Dated: 24/09/2015

Signed by the applicant

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(Signature)

John Braden
Head of Insurance
BMW Australia Finance Ltd ACN 007 101 715

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.