

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)

N98748 *Smartsalary Pty Ltd ABN 24 096 796 100 (“Smartsalary”)*

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

Smartsalary is an outsourced provider of salary packaging and novated leasing services to employers in the government, health care, not-for-profit and corporate sectors within Australia. Smartsalary’s dedicated leasing division, Smartleasing, specialises in providing end-to-end novated leasing and vehicle sourcing services. Employer clients of Smartsalary and Smartleasing offer novated leasing and associated services as an employment benefit to their employees.

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

Level 8, 133 Castlereagh St, Sydney, NSW, 2000

2. Notified arrangement

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

This notice relates to Smartsalary’s novated lease management services, which include motor vehicle sourcing and delivery, arranging vehicle finance and insurance with third party financiers and insurers, administration of salary deductions and employee FBT reporting, management of vehicle maintenance and repairs (including roadside assistance services) and management of vehicle disposal.

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

Smartsalary intends, from time to time, to offer novated lease management services to employers on condition that the finance for vehicles the subject of novated leases arranged by Smartsalary is acquired from one or more financiers nominated by Smartsalary.

(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)

Employer clients of Smartsalary who enter into an agreement for Smartsalary to provide novated leasing services for the benefit of their employees.

- (b) Number of those persons:

- (i) At present time:

Nil

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

20

- (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 following benefits arise from the proposed conduct:

- ***Lower costs for Smartsalary's services*** – limiting the number of financiers with whom Smartsalary is required to interact allows Smartsalary to invest in system and process integration with selected financiers (who require compliance with a range of processes and obligations for introduced financing business). This in turn generates cost efficiencies by reducing the number of staff required to establish and administer novated leases. These cost efficiencies are passed on to the end consumer in the form of lower administration charges. If Smartsalary integrated its systems and processes with every financier, or alternatively dealt with all financiers on an ad-hoc basis, Smartsalary would incur materially higher costs in establishing and administering novated leases for its clients.
- ***Lower vehicle procurement costs passed on to consumers*** – customers who source finance through a financier that Smartsalary has an agreement with also benefit from Smartsalary's ability to negotiate discounts and benefits from vehicle dealerships, which are passed

through to the end customer. This benefit is not available to customers who source their own finance as Smartsalary's systems do not integrate with the financier's, and Smartsalary is only able to provide managed lease services once the vehicle has been sourced by the customer and the finance secured.

- ***Higher service levels for end customers*** – *the efficiencies obtained by integrating Smartsalary's systems and processes with those of its selected financiers significantly reduces the time to establish a novated lease and source a vehicle, compared to the time most customers take to complete this process independently. Smartsalary also acts as an intermediary between the customer and Smartsalary's financiers and vehicle dealerships, creating a seamless process and guiding customers through what can be a complex process.*
- ***Increased assurance of compliance*** – *the agreements that Smartsalary enters into with its financiers impose a range of compliance obligations and processing requirements, including obligations and processes in connection with legislative compliance (Privacy, Anti-money Laundering, National Credit Code, Competition and Consumer Law etc). Limiting the number of financiers with which Smartsalary is required to deal materially assists Smartsalary in training staff and ensuring compliance with these obligations.*

Most employers impose a range of conditions on the type or cost of vehicles it will permit its employees to salary package (for example, as restrictions on leasing luxury vehicles, or initial deferral of lease payments). Smartsalary administers these employer policies on behalf of each employer. It is Smartsalary's experience that where it is not involved in the sourcing and financing of a vehicle, issues and delays can arise from employees failing to understand and/or comply with their employer's conditions.

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

Refer to details provided in paragraph 4(a).

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)

Smartsalary supplies services in a market in Australia in which outsourced salary packaging are provided, including novated motor vehicle leasing services. That market is highly competitive, characterised by a large number of listed and private providers (see for example, the Australian Salary Packaging Industry Association website at www.aspia.com.au, and the National Automotive Leasing and Salary Packaging Association website at www.nalspa.org.au, for details).

Motor vehicle finance is provided by a range of AFSL holders including major banks in a market in Australia.

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)

Smartsalary does not consider that the proposed conduct will result in any public detriment for the following reasons:

- employers who engage outsourced novated leasing service providers can, and often do, appoint multiple providers to a panel under a fixed term contract arrangement. This gives employees a choice of provider, and enables employers to regularly review the panel to ensure competitive pricing, including administration fees and financing rates.*
- employees are able to source and finance a vehicle through a range of other channels, including other than via a novated lease, such as through specialist vehicle sourcing firms, obtaining retail financing or leasing a vehicle through a managed lease or operating lease service provider.*

- (b) Facts and evidence relevant to these detriments:
Refer to details provided in paragraph 6(a).

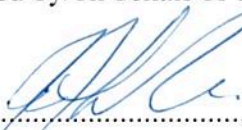
7. Further information

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

*Mr Jordan French
Senior Legal Counsel
Level 8, 133 Castlereagh St
SYDNEY NSW 2000
Telephone: 02 9119 8409*

Dated....14 December 2015.....

Signed by/on behalf of the applicant



.....
(Signature)

....Jordan French.....
(Full Name)

....Smartsalary Pty Ltd.....
(Organisation)

....Senior Legal Counsel.....
(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.