

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:**

N99378 CLA Trading Pty Ltd (trading as Europcar), ACN 082 220 399

(b) **Short description of business carried on by that person:**

Europcar operates a vehicle rental business offering a range of motor vehicles for hire, ranging from small economy cars to people movers, four wheel drive vehicles, prestige motor vehicles, trucks and buses.

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

c/- Kimberley Lloyd
Thomson Geer Lawyers
Level 37, Rialto South Tower
525 Collins Street
Melbourne VIC 3000
Tel: 03 9641 8772
Email: klloyd@tglaw.com.au

2. Notified arrangement

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

The relevant goods and services are:

- the provision of rental vehicles by Europcar; and
- the provision of commercial passenger airline services to Virgin Australia Velocity Frequent Flyer members.

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

Europcar will offer a 15% discount off the standard rental price of a passenger vehicle rented for 3 days or more by any current Velocity Frequent Flyer member who has booked an eligible domestic Virgin Australia flight during the promotion period.

After booking the eligible flight, the Velocity Frequent Flyer member will be sent an email with a promotional code which they must then quote at the time of making a booking with Europcar in order to redeem the offer. The discounted car rental does not need to be used in conjunction with the flight booked.

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:

Persons who are Virgin Australia Frequent Flyer members at the time of the promotion, who have subscribed to receive Virgin Australia promotional updates and who wish to acquire a rental vehicle from Europcar.

(b) Number of those persons:

(i) At present time:

Substantially more than 50

(ii) Estimated within the next year:

Substantially 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:

Europcar submits that the notified conduct will generate public benefits and cause no identifiable public detriment for the reasons set out below.

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

The notified conduct will generate significant public benefits including:

- providing Virgin Australia Frequent Flyer members who choose to take up the offer with a genuine saving on the price of car rental;
- encouraging competitors of Europcar to offer their customers similar promotions; and
- encouraging other airlines to offer their loyalty card members with similar value-add benefits.

5. Market definition

The relevant markets are:

- the market for rental vehicles; and

- the market for commercial passenger airline services.

Europcar is a national hire car provider and the proposed conduct will be offered on a national basis. Other significant suppliers in this market include Hertz, Thrifty Car Rental, Budget Car Rental, Avis Australia, Red Spot and Vroomvroomvroom.

The market for commercial passenger airline services is also national and there are many competitors to Virgin Australia in this market, including major suppliers such as Qantas, Jetstar Airways and Tigerair.

6. Public detriments

- (a) **Detriments to the public resulting or likely to result from the notification:**
- (b) **Facts and evidence relevant to these detriments:**

Europcar submits that there will be no public detriment, anti-competitive or otherwise, as a result of the proposed conduct, because:

- Virgin Australia's Velocity Frequent Flyer members are under no compulsion to accept the offer from Europcar;
- the offer does not require persons to become Virgin Australia Frequent Flyer members in order to take advantage of the offer, as the offer is only available to existing members;
- consumers who are not Virgin Australia Frequent Flyer members are not prevented from acquiring services from Europcar or taking advantage of any other offer or promotion from Europcar or any other car rental provider;
- the proposed conduct does not hinder the ability of either Europcar's competitors, or Virgin Australia's competitors, to offer similar promotions.

7. Further information

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

Kimberley Lloyd
Thomson Geer Lawyers
Level 37, Rialto South Tower
525 Collins Street
Melbourne VIC 3000
Tel: 03 9641 8772
Email: klloyd@tglaw.com.au

Dated: 11 October 2016

Signed by/on behalf of the applicant

A handwritten signature in black ink, appearing to read "K Lloyd". The signature is written in a cursive, slightly slanted style.

Kimberley Lloyd
Thomson Geer
Special Counsel

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.