

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 in 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.

1. Applicant

(a) Name of person giving notice:

N99144 *Hertz Australia Pty Limited (ABN 31 004 407 087) (Hertz).*

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

The rental of motor vehicles and associated services

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

*Miranda Noble
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2. Notified arrangement

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

The supply of rental services for motor vehicles (Hertz services).

The supply of insurance insurances by Youi Pty Ltd (Youi).

(b) Description of the conduct or proposed conduct:

Hertz proposes to enter into a promotions agreement with TLC Marketing Worldwide Pty Ltd (TLC) under which Hertz proposes to offer benefits to policy holders of Youi insurance. These offers will be made available to policyholders by Hertz through the 'Youi loyalty platform' managed by TLC.

As part of the Youi loyalty platform, for all car groups, Hertz plan to make available the following offers to customers who hold a policy with Youi:

- (i) a \$10 discount off its rental rates for all car groups, rented for 6 days or less; or*
- (ii) a \$50 discount off its rental rates for all car groups, rented for 7 days or more.*

As part of the Youi loyalty platform, for the Prestige Group, Hertz also plans to offer to customers who holds a policy with Youi:

- (i) a \$20 discount off a rental of 6 days or less; or
- (ii) \$100 off 7 days or more rental.

Youi policyholders will have the option of redeeming these offers, when they book a car rental online with Hertz and enter the promotional code.

Youi policyholders are under no compulsion to take up any offer from Hertz.

Hertz is concerned that the proposed conduct could technically be characterised as third line forcing under sections 47(6) and (7) of Competition and Consumer Act 2010 (CCA), since it can be characterised as follows:

Hertz may:

- (i) supply or offer to supply Hertz services at a particular price; or
- (ii) give, allow or offer a discount, allowance, rebate or credit to customers who acquire Hertz services

on the condition that the customer has acquired, or agreed to acquire, insurance from Youi; and

Hertz may refuse to:

- (iii) supply or offer to supply Hertz services at a particular price; or
- (iv) give, allow or offer a discount, allowance, rebate or credit to customers who acquire Hertz services

for the reason that the customer has not acquired, or agreed to acquire, insurance from Youi.

Out of an abundance of caution, in order to minimise the risk of contravening sections 47(6) and (7), Hertz wishes to notify the conduct described above under section 93(1).

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:

Existing and potential policyholders of Youi.

- (b) Number of those persons:

- (i) At present time:

In excess of 50 persons

- (ii) Estimated within the next year:

In excess of 50 persons

- (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:

Hertz submits that the Commission should not serve a notice under section 93(3A) of the CCA, as the notified conduct will generate public benefits, and cause no identifiable public detriment.

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

The notified conduct will generate a number of public benefits, including:

- (i) *Providing customers who choose to purchase Youi insurance, or existing Youi policyholders, with a genuine benefit in the form of discounts or similar benefits relating to the supply of Hertz's car rental services;*
- (ii) *Enabling Hertz to offer more competitive car rental services and therefore foster business efficiency; and*
- (iii) *Encouraging other car rental companies and insurers to offer similar value-added benefits, and thereby encourage competition in the relevant markets.*

Hertz considers that providing the opportunity for customers purchasing Youi insurance or existing policyholders, with discounts or similar benefits relating to car rental services, would be welcomed by 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):

The relevant markets are:

- (i) *the markets for general and other insurance products; and*
- (ii) *the markets for car rental 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:

Hertz submits that the notified conduct will not cause any identifiable detriment to the public.

(b) Facts and evidence relevant to these detriments:

The conduct notified by Hertz comprises the offer of a benefit to customers relating to their car rental on the optional acquisition of a policy from Youi and / or where they already have an existing policy with Youi.

There is no requirement that consumers take advantage of the offer from Hertz for discounted car rental services, and consumers who do not hold a Youi policy are not prevented from utilising Hertz car rental services or from taking advantage of any other discount or benefit that may be offered by Hertz from time to time.

Hertz is a national car provider and competes with a number of other national car providers such as Avis, Budget and Thrifty.

By retaining consumers' genuine choice, Hertz does not consider that the conduct is will create barriers to entry or otherwise harm competition in the relevant markets.

Hertz considers that the proposed discount offers should be viewed as conferring an additional benefit on customers who choose to take out a policy with Youi (or already have a policy with Youi), rather than causing detriment to any customers who choose not to do so. The latter will still have access to Hertz's car rental services and any other discount or benefit that might be offered by Hertz to customers from time to time.

7. Further information

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

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Telephone (03) 8608 2489*

Dated **14 June 2016**

Signed by/on behalf of Hertz Australia Pty Limited

.....
(Signature)

.....
(Full Name)

.....
(Organisation)

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(Position in Organisation)