

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:

N99164 Goodyear & Dunlop Tyres (Aust) Pty Ltd (ACN 004 098 346) (“**GDTA**”)

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

GDTA carries on various businesses in Australia, including as a retailer of tyres and ancillary services through a chain of company-owned retail stores trading as “Beaurepaires”, as a wholesaler of Goodyear and Dunlop branded tyres for consumer vehicles, trucks, performance vehicles and specialty formats (including aviation tyres) and retreads, as franchisor of franchise systems trading under the “Beaurepaires” and “Goodyear Autocare” names, and as licensor in respect of stores trading as “Dunlop Super Dealer”.

GDTA makes this notification in connection with a trade sale promotion which is proposes to conduct through its Beaurepaires retail outlets, both its own retail stores and its franchisee stores.

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

Company Secretary
Goodyear & Dunlop Tyres (Aust) Pty Ltd
Level 1, 630 Church Street
Richmond VIC 3121

2. Notified arrangement

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

Tyres for fitting to consumer vehicles.

(b) Description of the conduct or proposed conduct:

GDTA sells tyres to Nissan Motor Co. (Australia) Pty Ltd (“**Nissan Corporate**”) who on-sells those tyres to its authorised Nissan dealers (“**Dealers**”).

GDTA wishes to conduct a trade sale promotion where it rewards Dealers who make the highest number of purchases of tyres from Nissan Corporate ("**Qualifying Tyres**"). The promotion will run for a defined period which will be less than one year ("**Promotion Period**"). Prizes will be awarded to the highest purchasing Dealers by GDTA.

This conduct may be of a kind which is prohibited by section 47(6) of the Competition and Consumer Act 2010 (Cth) if it was construed as GDTA offering prizes to the Dealers on the condition that the Dealers purchase Qualifying Tyres from Nissan Corporate.

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:

Dealers, as defined above.

- (b) Number of those persons:

- (i) At present time:

GDTA is aware of 194 eligible Dealers.

- (ii) Estimated within the next year:

This number should not increase or decrease significantly during the Promotion Period.

- (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:

The notified conduct offers Dealers the opportunity to access benefits in the form of prizes which encourages Dealers to be innovative in their marketing of the Qualifying Tyres. In turn, competition in the market is encouraged as competitors look at ways to respond to the notified conduct through their own marketing strategies.

The notified conduct encourages Dealers to offer discounts on the Qualifying Tyres or other benefits to their customers as a means of inducing those customers to purchase Qualifying Tyres to improve the Dealers' chances of winning a prize through the promotion. Public benefits would potentially flow through to customers of the Dealers.

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

Please refer to our comments above.

5. Market definition

GDTA submits that the most appropriate market definition is the market for consumer tyres in Australia, which is highly competitive due to the abundance of tyre retailers across the geographic territory.

6. Public detriments

The notified conduct would not result in any public detriment and would not have the purpose or likely effect of substantially lessening competition in the retail market for tyres. While the notified conduct encourages Dealers to purchase Qualifying Tyres, it does not prevent Dealers, or any of the Dealers' customers, from purchasing tyres from GDTA's competitors.

The notified conduct is not exclusive and nothing prevents GDTA's competitors from responding with similar marketing strategies.

In fact, GDTA submits that the notified conduct is pro-competitive as it encourages innovation by the Dealers and benefits may ultimately flow through to consumers.

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 Hall
Senior Legal Counsel and Company Secretary
Goodyear & Dunlop Tyres (Aust) Pty Ltd
Level 1, 630 Church Street
Richmond VIC 3121
(03) 8416 7270
Tim_hall@goodyear.com

Dated.....21 JUNE 2016.....

Signed by/on behalf of the applicant



.....
(Signature)

.....TIMOTHY JACOB HALL.....
(Full Name)

.....GOODYEAR & DUNLOP TYRES (AUST) PTY LTD.....
(Organisation)

.....COMPANY SECRETARY.....
(Position in Organisation)