



Our ref: N10000491
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1 October 2019

Nigel Smith
Principal
Nigel Smith Legal

Dear Mr Smith

Exclusive dealing notification N10000491 – Hyundai Motor Company Australia Pty Ltd t/a Genesis Motors Australia – No further action

I refer to the notification lodged with the Australian Competition and Consumer Commission (the **ACCC**) by Hyundai Motor Company Australia Pty Ltd t/a Genesis Motors Australia (**Genesis**) on 17 July 2019. It has been allocated the registration number N10000491.

The ACCC has decided to take no further action at the current time.

Commencement of legal protection

The protection from legal action provided by this notification commenced automatically when it was validly lodged with the ACCC on 17 July 2019.

The notified conduct

Genesis notified the ACCC of conduct that may constitute exclusive dealing under Section 47 of the *Competition and Consumer Act 2010* (Cth) (the **Act**). Genesis proposes to establish a network of accredited smash, collision and bodywork Genesis Certified Repairers (**GCRs**).

GCRs will receive:

- the right to use the Genesis trade mark,
- the right to publicly designate themselves as a GCR, and
- support services from Genesis.

In return, GCRs must:

- in connection with smash, collision and bodywork repairs (repairs) on Genesis vehicles use Genesis parts and, to the extent necessary for each repair, Genesis equipment, acquired from Genesis or its parts and service dealers.
- acquire training services, from time to time, from Genesis or any third party provider Genesis Motors Australia nominates.

ACCC assessment

The ACCC can remove the protection provided by a notification if it is satisfied that the notified conduct:

- Has the purpose, effect, or likely effect of substantially lessening competition, and
- In all circumstances, will not result in likely public benefit which would outweigh the likely public detriment.

Based on the information that you have provided, the ACCC considers that the notified conduct is unlikely to have the purpose, effect or likely effect of substantially lessening competition and the conduct is likely to result in a net public benefit. In particular:

- Independent repairers and GCRs will be able to compete to provide repairs for Genesis vehicles; GCRs will be free to repair other makes of cars and Genesis will continue to supply parts and equipment to independent repairers. Owners of Genesis vehicles will be free to take their car to independent repairers.
- The notified conduct is likely to enable consumers to readily identify repairers that have undertaken training ensuring a level of familiarity with Genesis vehicles and that they will use genuine Genesis parts and Genesis equipment.

As such, the ACCC has decided to take no further action at the current time. The legal protection provided by the notification therefore continues unless or until the ACCC later revokes the notification or you withdraw the notification.

Future steps

If circumstances change, or the ACCC receives further information, such that it is satisfied that the notified conduct has the purpose, effect or likely effect of substantially lessening competition and that the public benefits from the conduct do not outweigh the public detriments, the ACCC may take steps to remove the legal protection by revoking the notification.

Exclusive dealing notification provides protection from legal action pursuant to Section 47 of the Act for the notified conduct. It does not provide protection for conduct that contravenes any other section of the Act.

We remind Genesis to ensure it meets its consumer guarantee obligations under the Australian Consumer Law, including the guarantee to supply spare parts, in this case to independent repairers. We note the Hyundai Motor Company Australia Pty Ltd made a court enforceable undertaking to the ACCC to improve its compliance with consumer guarantee obligations.

We have placed your notification, and this letter, on our [exclusive dealing notifications public register](#).

Please contact Simon Bell on (02) 6243 1232 or by email to adjudication@acc.gov.au if you have any questions about this matter.

Yours sincerely



David Jones
General Manager
Adjudication