



Your ref: N98055
Contact officer: Andrew Mahony
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22 December 2020

Nick McHugh
Partner
Norton Rose Fulbright

By email: [REDACTED]

Dear Mr McHugh

Hyundai Motor Company Australia Pty Limited - Use of exclusive dealing notification N98055

In light of the ACCC's recent consideration of a notification lodged by Mitsubishi Australia in relation to extended warranty arrangements, I am writing to enquire about the extent to which Hyundai Motor Company Australia Pty Ltd (**Hyundai**) continues to rely upon the protection provided by an exclusive dealing notification previously lodged with the Australian Competition and Consumer Commission (**ACCC**).

On 19 December 2014, Hyundai lodged third-line forcing notification [N98055](#). The notification involves the supply of extended warranties on motor vehicles on condition the customer has the vehicle serviced by, and any repairs undertaken under the warranty performed by, an authorised Hyundai dealer. On 22 December 2015, on the basis of the information provided, the ACCC advised that it did not intend to take further action in relation to the notification at that time.

The ACCC may revisit a notification at any time and take steps to remove the protection provided by any notification. Triggers for review might include complaints from those affected by the notified conduct, a change in market conditions or new information coming to light. As you would be aware, following changes to Australia's competition laws in 2017, third line forcing is no longer a per se breach of the *Competition and Consumer Act 2010* and the ACCC can only revoke a notification if it is satisfied that the notified conduct:

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

To understand whether Hyundai is relying on the notification, the ACCC is seeking the following information:

- Is Hyundai engaging in the conduct the subject of the notification?

- If yes, please provide a detailed description of the extended warranty being offered by Hyundai.
- If Hyundai is not using this notification, would Hyundai consider withdrawing the notification?

I would appreciate a response from Hyundai to these questions by 31 January 2021.

A copy of this letter and your response (subject to any request for material to be excluded) will be placed on the public register.

If you would like to discuss any part of this letter, please contact Andrew Mahony on 03 9290 1983 or by email to Andrew.Mahony@acc.gov.au.

Yours sincerely



David Jones
General Manager
Competition Exemptions