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5 July 2019

General Manager  
Adjudication, Merger and Authorisation Review Division  
Australian Competition & Consumer Commission  
Level 20, 175 Pitt Street  
Sydney NSW 2000

Dear Sir/Madam

**Hyundai Motor Company Australia Pty Ltd, trading as Genesis Motors Australia  
(‘Genesis Motors Australia’)  
Form G Notification of Exclusive Dealing**

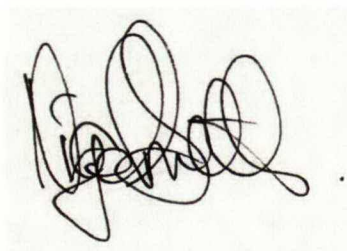
I act for Genesis Motors Australia.

I attach for your consideration:

- (a) Form G – Notification of Exclusive Dealing lodged on behalf of Genesis Motors Australia in respect of possible third line forcing conduct; and
- (b) a cheque for \$2,500.00 in payment of the lodgement fee.

Please do not hesitate to contact me if you have any queries in relation to this Notification.

Yours faithfully



Nigel Smith  
Principal  
**Nigel Smith Legal**

## 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:  
(Refer to direction 2)

Hyundai Motor Company Australia Pty Ltd (ACN 008 995 588) trading as Genesis Motors Australia (**Genesis Motors Australia**).

- (b) Short description of business carried on by that person:  
(Refer to direction 3)

Genesis Motors Australia is an importer and supplier to consumers of Genesis branded luxury motor vehicles (**Genesis Vehicles**) and associated replacement parts, components and accessories (**Genesis Parts**). Genesis Motors Australia is also an importer and distributor of equipment and tooling required for certain elements of the service and repair of Genesis Vehicles (**Genesis Equipment**) and a wholesaler of Genesis Parts. Genesis Motors Australia has appointed approximately six Genesis Parts and Service Dealers across Australia (**Dealers**), to provide after-sales servicing of Genesis Vehicles, and for the sale of spare parts for Genesis Vehicles to consumers and independent repairers, including smash, collision and bodywork repairers.

Hyundai Motor Company Australia Pty Ltd is a wholly owned subsidiary of Hyundai Motor Company of South Korea.

While Hyundai Motor Company Australia Pty Ltd also imports and distributes Hyundai motor vehicles, associated products and accessories through an authorised Hyundai dealer network, this notification only relates to "Genesis" branded motor vehicles and the business that Hyundai Motor Company Australia Pty Ltd carries on under the business name "Genesis Motors Australia".

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

Nigel Smith  
Principal  
Nigel Smith Legal  
PO Box 4747  
North Rocks NSW 2151

**2. Notified arrangement**

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

The notified arrangement relates to:

- (i) Smash, collision and bodywork repairs for Genesis Vehicles.
- (ii) Replacement parts, components and accessories for Genesis Vehicles.
- (iii) Equipment used for the service and repair of Genesis Vehicles.
- (iv) Support services, including the provision of training Genesis Motors Australia requires, which may be delivered to Genesis Certified Repairers (as described in paragraph 1(b) below) by Genesis Motors Australia or third-party providers.

- (b) Description of the conduct or proposed conduct:  
*(Refer to direction 4)*

Genesis Motors Australia wishes to establish a network of "Genesis Certified Repairers". Such network will comprise selected smash, collision and bodywork repairers who will be accredited as a Genesis Certified Repairer and who will receive the right to use the Genesis trade mark, the right to publicly designate themselves as a "Genesis Certified Repairer", and support services from Genesis Motors Australia on the following conditions:

- (i) The Genesis Certified Repairer must in connection with smash, collision and bodywork repairs on Genesis Vehicles use Genesis Parts and, to the extent necessary for each repair, Genesis Equipment, acquired from Genesis Motors Australia or Dealers;
- (ii) A Genesis Certified Repairer, as Genesis Motors Australia requires from time to time, must acquire training services from Genesis Motors Australia or any third party provider Genesis Motors Australia nominates.

**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:  
(Refer to direction 5)

Genesis Certified Repairers.

- (b) Number of those persons:

- (i) At present time:

None.

- (ii) Estimated within the next year:

(Refer to direction 6)

Genesis Motors Australia estimates that it is likely that there will be approximately ten smash, collision and bodywork repairers in the Genesis Certified Repairer network, throughout Australia.

- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:

Not applicable – as Genesis Motors Australia does not know who are likely to be Genesis Certified Repairers, it is not able to provide the information sought.

**4. Public benefit claims**

- (a) Arguments in support of notification:  
(Refer to direction 7)

Genesis Motors Australia has only recently launched Genesis Vehicles in Australia, and hopes to establish a reputation of luxury, quality, technical excellence and reliability in Genesis products and services. Genesis Motors Australia proposes to endorse as Genesis Certified Repairers only those repairers who meet certain standards in terms of the quality of their smash, collision and bodywork repairs, their expertise and the products used in smash, collision and bodywork repairs. The public will benefit from the proposed conduct through improvements in the quality and consistency of smash, collision and bodywork repairs. In particular:

- (i) The requirement that Genesis Certified Repairers use Genesis Parts and Genesis Equipment in the repair of Genesis Vehicles will ensure high standards in the delivery of repair services.
- (ii) The requirement that Genesis Certified Repairers will, from time to time, acquire training services from Genesis Motors Australia or a supplier nominated by Genesis Motors Australia will ensure that Genesis Certified Repairers are able to perform smash, collision and bodywork repairs on Genesis Vehicles to the high standard required by Genesis Motors

Australia.

- (iii) The public will benefit from the proposed conduct through increased choice, as Genesis motor vehicle owners will have the option to choose a smash, collision and bodywork repairer that meets quality standards set by Genesis Motors Australia.
- (iv) Establishing a network of Genesis Certified Repairers will save consumers time and expense in locating a Genesis Motors Australia approved smash, collision and bodywork repairer.
- (v) The improved quality of work carried on by Genesis Certified Repairers will likely increase competition in the market generally since, in order to remain competitive, other smash, collision and bodywork repairers will be encouraged to maintain or improve the quality of their service.
- (vi) Finally, the proposed conduct will deliver greater business efficiencies for Genesis Motors Australia, Dealers and the Genesis Certified Repairers. By forming a network of Genesis Certified Repairers, it will be possible to align and integrate business systems in order to deliver a more consistent, timely and cost-effective service for consumers.

**The public benefits outlined above outweigh the detriment (if any) arising from the notified conduct.**

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

See paragraph (a) above.

## **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):  
(Refer to direction 8)

The markets affected by the proposed conduct are:

- (a) markets for the supply of motor vehicle smash, collision and bodywork repairs and related services (**Bodywork Repair markets**);
- (b) markets for the supply of motor vehicle spare parts (**Spare Parts markets**);
- (c) markets in which the relevant training services are provided (**Training markets**).

The Bodywork Repair markets are likely to have localised regional geographical boundaries. The Spare Parts markets and Training markets are likely to have broader geographic boundaries and may be national. In each of the relevant markets there is a high degree of competition with many suppliers and acquirers of goods and 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:

*(Refer to direction 9)*

Genesis Motors Australia considers that the proposed conduct will not give rise to any public detriments. Competition in the relevant markets with the proposed conduct will remain unchanged from the situation without the proposed conduct.

(b) Facts and evidence relevant to these detriments:

Genesis Motors Australia considers that the proposed conduct will not result in any detriment to the public because:

- (i) the agreement between Genesis Motors Australia and a Genesis Certified Repairer will not be an exclusive arrangement, meaning:
  - a. Genesis Certified Repairers will be free to purchase spare parts & components, equipment, tooling and services from other sources for use in the smash, collision and bodywork repair of vehicles other than Genesis Vehicles;
  - b. Genesis Certified Repairers will be free to conduct smash, collision and bodywork repairs for other motor vehicle manufacturers and on motor vehicles other than Genesis Vehicles; and
  - c. Dealers will continue to supply Genesis Parts and Genesis Equipment to repairers who are not Genesis Certified Repairers;
- (ii) Genesis Certified Repairers will continue to compete with other smash, collision and bodywork repairers to supply their services to motor vehicle owners;
- (iii) Owners of Genesis Vehicles will be free to choose whether to have their Genesis Vehicle repaired at a Genesis Certified Repairer or at an alternative repairer. Genesis Motors Australia imposes no obligation on owners of Genesis Vehicles to have their vehicle repaired at a Genesis Certified Repairer; and
- (iv) more broadly, strong competitive discipline is imposed in the relevant markets from motor vehicle insurers. These insurers require that competitive quotes are obtained from repairers and adopt practices that impose strong competitive disciplines on suppliers of smash, collision and bodywork repairs and spare parts. The proposed conduct has no effect on this competitive discipline.

**7. Further information**

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

Nigel Smith  
Principal  
Nigel Smith Legal  
PO Box 4747  
North Rocks NSW 2151

Dated: 5 July 2019

Signed by/on behalf of the applicant:

A handwritten signature in black ink, appearing to be 'Nigel Smith', written over a light grey rectangular background.

.....  
Nigel Smith  
Nigel Smith Legal  
Principal

## 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 (Cth) 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.



17 July 2019

General Manager  
Adjudication, Merger and Authorisation Review Division  
Australian Competition & Consumer Commission  
Level 20, 175 Pitt Street  
Sydney NSW 2000

Dear Sir/Madam

**Hyundai Motor Company Australia Pty Ltd, trading as Genesis Motors Australia  
(‘Genesis Motors Australia’)  
Form G Notification of Exclusive Dealing**

I refer to my letter dated 5 July 2019 and confirm that I act for the Notifying Party in this matter.

The undersigned declares that, to the best of their knowledge and belief, the information given in response to questions in the Form G Notification of Exclusive Dealing dated 5 July 2019 is true, correct and complete, that complete copies of documents required by the form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned is aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).

Please do not hesitate to contact me if you have any queries in relation to this Notification.

Yours faithfully



Nigel Smith  
Principal  
**Nigel Smith Legal**