



**ASSURANCE**  
*Fair Trading Act 1987*  
Section 79

Assurance to the Commissioner for Consumer Affairs given for the purposes of s79 of the *Fair Trading Act 1987* by:

**Mr Andrew Martin**

**PERSONS GIVING THIS ASSURANCE**

1. This Assurance is given to the Commissioner for Consumer Affairs ("the Commissioner") by Mr Andrew Martin for the purposes of section 79 of the *Fair Trading Act 1987* (SA).

**BACKGROUND**

2. Mr Andrew Martin is a natural person.
3. Mr Martin does not hold a Second-hand Vehicle Dealer licence pursuant to the *Second-hand Vehicle Dealers Act 1995* (SA) ("the Act").
4. Section 7 of the Act prohibits a person from carrying on business as a dealer unless licenced under the Act.
5. Section 50 of the Act relevantly provides:
  - 5.1. For the purpose of this Act
    - 5.1.1. if a person buys or offers to buy, or sells or offers for sale, at least 4 second-hand vehicles during a period of 12 months, the person will in absence of proof to the contrary, be presumed to have been a dealer during that period; and
    - 5.1.2. ...
    - 5.1.3. if the registration of a second-hand vehicle is transferred from 1 person to another –
      - 5.1.3.1. the transferor will be presumed, in the absence of proof to the contrary, to have sold the vehicle to the transferee; and
      - 5.1.3.2. the transferee will be presumed, in the absence of proof to the contrary, to have bought the vehicle from the transferor.

### **CONDUCT OF CONCERN**

6. Between 11 December 2020 and 24 April 2021, Mr Martin bought, advertised and/or sold 9 second-hand vehicles in South Australia.
7. At no time was Mr Martin authorised by licence under the Act to carry on business as a dealer.

### **CONTRAVENTIONS**

8. The Commissioner considers and Mr Martin acknowledges, that it is likely that Mr Martin has carried on business as a second-hand vehicle dealer without a licence contrary to section 7(1) of the Act.

### **ASSURANCE BY MR ANDREW MARTIN FOR THE PURPOSES OF SECTION 79 OF THE FAIR TRADING ACT 1987**

9. In response to the concerns raised by CBS on behalf of the Commissioner for Consumer Affairs, Mr Martin hereby provides an Assurance to the Commissioner that he will not carry on business as a second-hand vehicle dealer unless authorised by licence under the Act.

### **COMMENCEMENT OF ASSURANCE**

10. This Assurance comes into effect when:
  - 10.1. The Assurance is executed by Mr Martin; and
  - 10.2. The Commissioner for Consumer Affairs accepts the Assurance so executed.

### **ACKNOWLEDGMENTS**

11. Mr Martin acknowledges that:
  - 11.1. It is an offence to breach an Assurance, as set out in section 81 of the *Fair Trading Act 1987*.
  - 11.2. CBS will make this assurance publicly available including by publishing it on CBS' public register of Assurances & Undertakings on its website.
  - 11.3. CBS may from time to time, make public reference to the Assurance including in news media statements and in CBS publications; and
  - 11.4. This Assurance in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.
  - 11.5. This Assurance may be produced to any Court in respect of any proceedings alleging any future contraventions of the *Fair Trading Act 1987* or a related Act.

EXECUTED BY Andrew Martin in his personal capacity for the purposes of this Assurance


..... A Martin .....

Mr Andrew Martin

..... 26.7.21 .....

Date

Accepted by the Commissioner for Consumer Affairs (SA) pursuant to s79 of the *Fair Trading Act 1987*

.....  .....

Commissioner for Consumer Affairs (SA)

..... 2/8/21 .....

Date