



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*:

Ms Kaylah Christie Horner

1. PERSONS GIVING THIS ASSURANCE

1.1 This Assurance is given to the Commissioner for Consumer Affairs ("the Commissioner") by Ms Kaylah Christie Horner of Berri in the state of South Australia for the purposes of section 79 of the *Fair Trading Act 1987*.

2. BACKGROUND

2.1 Ms Horner is a natural person.

2.2 Ms Horner does not hold (and has never held) a second hand vehicle dealer's licence.

2.3 Section 7(1) of the *Second Hand Vehicle Dealers Act 1995* ("the SHVD Act") requires a person who carries on business as a dealer to be licensed. A dealer is a person who carries on the business of buying and selling second hand vehicles. In the absence of proof to the contrary, a person is presumed to be a dealer if that person has sold, offered to sell, bought or offered to buy at least 4 vehicles within a 12 month period. It is an offence to carry on business as a dealer unlicensed.

3. CONDUCT OF CONCERN

3.1 Between 22 May 2018 and 22 May 2019 Ms Horner bought, sold, advertised for sale or exchanged 13 vehicles priced between \$500 and \$5,000 via the websites 'Gumtree' and 'Facebook'.

3.2 At no time was Ms Horner authorised by licence under the SHVD Act to carry on business as a dealer.

4. CONTRAVENTIONS

4.1 As a result of the matters outlined above, the Commissioner considers, and Ms Horner acknowledges, it is likely that Ms Horner has carried on business as a second-hand vehicle dealer without a licence contrary to section 7(1) of the SHVD Act.

5. ASSURANCE GIVEN BY KAYLAH HORNER FOR THE PURPOSES OF SECTION 79 OF THE *FAIR TRADING ACT 1987*

5.1 In response to the concerns raised by CBS on behalf of the Commissioner, Ms Horner provides an Assurance to the Commissioner that she will not carry on business as a second-hand vehicle dealer unless authorised by licence under the SHVD Act.

6. COMMENCEMENT OF ASSURANCE

6.1 This Assurance comes into effect when:

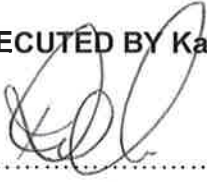
- 6.1.1 the Assurance is executed by Ms Kaylah Horner; and
- 6.1.2 the Commissioner accepts the Assurance so executed.

7. ACKNOWLEDGMENTS

7.1 Kaylah Horner acknowledges that:

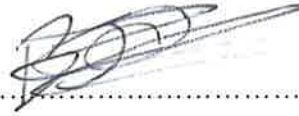
- 7.1.1 it is an offence to breach an Assurance, as set out in section 81 of the *Fair Trading Act 1987*;
- 7.1.2 CBS will make this Assurance publicly available including by publishing it on CBS' public register of Assurances & Undertakings on its website;
- 7.1.3 CBS may, from time to time, make public reference to the Assurance including in news media statements and in CBS publications;
- 7.1.4 this Assurance in no way derogates from the rights and remedies available to any other person arising from the alleged conduct; and
- 7.1.5 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 Kaylah Horner



Kaylah Horner

Date: 12.09.19



Signature of Witness

Name: Brendan Obst

Date: 12.09.19

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



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Commissioner for Consumer Affairs (SA)

Date: 30/9/19