



ASIC

Australian Securities & Investments Commission



S02586068

## INFRINGEMENT NOTICE

### Section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue: 10 November 2017

Unique identification code: S02586068

TO: Volkswagen Financial Services Australia Pty Ltd  
ACN 097 071 460  
Level 1, 24 Muir Road  
CHULLORA NSW 290

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001 (Cth) (ASIC Act)*.
2. ASIC has reasonable grounds to believe that in the period 13 November 2016 to 31 January 2017, Volkswagen Financial Services Australia Pty Ltd (ACN 097 071 460) (VWFSFA) contravened section 12DB(1)(g) of the ASIC Act by, in trade or commerce, in connection with the supply or possible supply of financial services, or in connection with the promotion by any means of the supply or use of financial services, making false or misleading representations with respect to the price of services.

#### Particulars

Between 13 November 2016 and 31 January 2017, VWSFA made the following representations in an advertisement published on the CarAdvice website (the **Advertisement**) in relation to the purchase of selected Volkswagen models:

- a) The purchase of a Polo model Volkswagen could be financed from \$49 per week on a 1% per annum Finance Comparison Rate; and
- b) The purchase of a Golf model Volkswagen could be financed from \$67 per week on a 1% per annum Finance Comparison Rate.

#### (the **Representations**)

ASIC has reasonable grounds to believe the Representations were misleading because:

- a) the Advertisement did not display:
  - a. that the finance contract in relation to the offer would be provided for a period of 48 months only;
  - b. that the consumer would be required to pay a significant residual loan balance at the end of the 48 months to retain ownership of the vehicle; and

- c. that a significant additional fee may be imposed by the relevant Volkswagen dealer for arranging finance;
- b) to the extent that the consumer could access additional information relating to the finance offer by way of a 'click through' facility, the provision of additional information through that facility was inadequate to correct the misleading overall impression conveyed by the Representations.

### **Penalty under this notice**

3. The penalty payable under this notice in relation to the alleged contravention is \$10,800.

This penalty is payable to ASIC on behalf of the Commonwealth.

This penalty can be paid using one of the methods detailed in the enclosed invoice.

### **Consequences of complying with this notice**

4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
  - (a) no proceedings (whether criminal or civil) will be brought against you by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
  - (b) you will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

### **Consequences of failing to comply with this notice**

5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Division 2 of Part 2 the consumer protection provisions of the ASIC Act (whether criminal or civil) against you for the alleged contravention of the infringement notice provision or offence constituted by the same conduct.
6. The maximum pecuniary penalty that a court may order you to pay for the alleged contravention is \$1.8 million.

### **Time for payment**

7. The time for payment is:
  - (a) within 28 days after the day on which the notice is issued to you; or
  - (b) if ASIC extends, by notice in writing the compliance period for this notice, within that further period allowed.

### **Applying for more time to pay the penalty under this notice**

8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.
9. If you wish to apply for an extension of time to pay the penalty specified in this notice, you should do so in writing within 28 days after the day the notice is issued to you (see paragraph 15).

### **Applying to have this notice withdrawn**

10. Within 28 days after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn.
11. Evidence or information that you or your representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against you or your representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

### **Withdrawal of this notice**

12. ASIC may, by written notice given to you, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not you have applied to have this notice withdrawn.
13. A withdrawal notice must be given to you within the time for payment of this infringement notice to be effective.
14. If the withdrawal notice is given after you have paid the penalty specified in this infringement notice, ASIC will refund to you the amount paid under the infringement notice.

### **Requirements for applications**

15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
  - (a) must be in writing; and
  - (b) must include the unique identification code set out at the top of this notice; and
  - (c) must include your reasons for making the application; and
  - (d) may be made by forwarding your application to ASIC at the address in paragraph 16.

16. You may contact ASIC in relation to this notice by contacting:

**Tim Brooks**  
**Australian Securities and Investments Commission**  
**GPO Box 9827**  
**SYDNEY NSW 2000**

or by email: [tim.brooks@asic.gov.au](mailto:tim.brooks@asic.gov.au)



Peter Kell  
as a delegate of the Australian Securities and Investments Commission