

21 September 2000

Mr J O'Neil  
Senior Assistant Commissioner  
Australian Competition & Consumer Commission  
470 Northbourne Avenue  
DICKSON ACT 2602

Dear Sir

**Wishlist.com.au PtyLtd ("wishlist") - THIRD LINE FORCING NOTIFICATION**

Wishlist is advised that technically the conduct described in the attached notification may possibly breach the third line forcing provisions of the Trade Practises Act. On this basis, we enclose ;

- a notification for wishlist in accordance with section 93(1) of the Trade Practices Act 1974, concerning the proposed offer of wishlist products at particular prices or subject to a discount, allowance, rebate or credit, on the condition that persons supplied or offered supply may acquire products from BP Australia Limited or, refusing to supply wishlist products at a particular price or subject to a discount unless introduced to wishlist by BP as part of a special promotion;
- a submission in support of the notification; and
- a cheque for \$100 in payment of the applicable statutory fees.

If you require any further information, please contact Grant Lister on (03)9326-3833

Yours faithfully



**Grant lister**  
**Chief Financial Officer**  
encl

ACCC  
25 SEP 2000

**Wishlist.com.au Pty Ltd**

**SUBMISSION TO  
THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION  
REGARDING THIRD LINE FORCING NOTIFICATION**

- 1 Wishlist.com.au Pty Ltd (“**Wishlist**”) is an on-line retailer operating a number of Wishlist branded internet sites and providing on-line retailing services to other businesses.
- 2 BP Australia Limited ACN 004 085 616 (“**BP**”) is a manufacturer, distributor and marketer of refined petroleum products in Australia. BP’s petroleum products are sold at retail level in Australia directly by BP and indirectly through approximately 1,200 franchisee, distributor and privately owned BP branded sites throughout Australia.
- 3 BP and Wishlist have entered into a strategic relationship aimed at:
  - (i) increasing their respective customer bases;
  - (ii) providing a convenient chain of locations for Wishlist customers to pick up purchases and drop off returns of Wishlist products; and
  - (iii) increasing the number of reasons for consumers to visit BP stores.
- 4 To promote the BP/Wishlist relationship the parties wish to conduct a promotion. The promotion will operate in either or both of the following ways:
  - (i) for those persons who have not purchased from Wishlist or registered as a Wishlist member prior to the start of the promotion, and who are subsequently introduced to Wishlist through BP as a result of the promotion and who purchase a gift worth at least \$25 (excluding delivery and wrapping and including GST) from Wishlist before 30 November 2000 (or such later date agreed by the parties) they will receive a voucher for \$25 worth of fuel which they can redeem at participating BP service stations (it is anticipated these sites will include BP owned sites, franchisee owned sites, distributor supplied sites and privately owned sites); and/or
  - (ii) for persons who have not participated in promotion (i) above and who purchase \$25 worth of fuel and/or convenience store items from a participating BP service

station, who have not purchased from Wishlist or registered as a Wishlist member prior to the start of the promotion, they will receive a \$25 gift voucher to spend at Wishlist.

5 The parties intend to run a trial of approximately two weeks duration at approximately 15 sites to determine which offer is more attractive to consumers.

6 Wishlist and BP may agree to increase the purchase and corresponding voucher offer from \$25 to \$30 prior to the start of the promotion. The maximum number of vouchers will initially be 60,000. Wishlist and BP may together agree to increase the maximum number of customers who will receive a free voucher to 80,000 based on a reasonable assessment of Wishlist's fulfillment capability and merchandising position at the time. Vouchers will expire on 15 December 2000 (or such later date agreed by the parties) and will be limited to one per customer.

7 Persons who have purchased from Wishlist or registered as a Wishlist member prior to the start of the promotion may be offered a \$12 super car wash voucher, for purchases of \$25 and over (excluding delivery and wrapping and including GST). Wishlist will purchase the vouchers from BP for \$2 cash per voucher up to a maximum of 10,000 vouchers. Vouchers will expire on 15 December 2000 (or such later date agreed by the parties) and will be limited to one per customer.

8 This proposal may involve Wishlist in a contravention of the prohibition against third line forcing in sub-sections 47(6) and (7) of the Trade Practices Act ("TPA").

9 The proposal is in the interests of consumers, in that:

- customers can buy the package of fuel and Wishlist products at a genuine saving on the total price of the products bought separately; and
- the conduct results in lower prices for customers and serves to increase competition in the markets for both fuel and on-line products.

10 The proposal will not substantially lessen competition. On the contrary, it may assist BP in competing with other retail fuel providers, and, it may assist Wishlist in competing with other on-line retailers. The supply of BP products or Wishlist products is not conditional

upon customers purchasing products from both BP and Wishlist. Only the supply of free vouchers will be subject to such a condition.

- 11 To avoid any risk of contravening the prohibition against third line forcing, Wishlist is lodging notification with the Commission in accordance with sub-section 93(1) of the Trade Practices Act 1974.

FORM G

COMMONWEALTH OF AUSTRALIA

*Trade Practices Act 1974 - Sub-section 93(1)*

**EXCLUSIVE DEALING  
NOTIFICATION**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d) of that Act in which the person giving notice engaged or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1. (a) Name of person giving notice:

Wishlist .com.au Pty Ltd ABN 38 085 529 979 ("**Wishlist**")

(b) Short description of business carried on by that person:

Provider of Internet services and retail products.

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

Wishlist.com.au Pty Ltd  
17-27 Laurens Street,  
West Melbourne, Vic . 3003

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

Supply of petrol, other refined petroleum products and other goods and services ("**BP Products**") by BP Australia Ltd (ACN 004 085 616) ("**BP**") and of retail products by Wishlist ("**Wishlist Products**").

(b) Description of the conduct or proposed conduct:

Offering to supply the Wishlist Products, or supplying or offering to supply the Wishlist Products at a particular price or subject to a discount, allowance, rebate or credit, on the condition that the person supplied or offered supply may acquire BP Products, or has acquired BP Products of not less than a nominated value from BP, and refusing to supply the Wishlist Products at a particular price or refusing to give a discount, allowance, rebate or credit in relation to the supply of the Wishlist Products, for the reason that the person has not been introduced by BP

3. (a) Class or classes of persons to which the conduct relates:

BP, Wishlist and all retail customers and all potential customers of BP and Wishlist, wishing to purchase Wishlist Products from Wishlist and/or BP Products from BP.

(b) Number of those persons:

(i) At the present time:

All potential customers of BP and Wishlist who have not purchased from Wishlist or registered as a Wishlist member prior to the commencement of the promotion and who are introduced to Wishlist by BP as a result of the promotion.

(ii) Estimated within the next year:

45,000 – 60,000.

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

Not applicable.

4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

Grant Lister  
c/- Wishlist.com.au Pty Ltd  
17 - 27 Laurens St.  
West Melbourne, Vic, 3003.

Dated: 22 SEPTEMBER, 2000. Signed by/on behalf of the person giving this notice.



\_\_\_\_\_  
(Signature)

GRANT LISTER

(Full Name)

CHIEF FINANCE OFFICER

(Description)