



**CALTEX**  
Caltex Australia

8 August 2001

Mr Tim Grimwade  
General Manager  
Adjudication Branch  
The Australian Competition & Consumer Commission  
PO Box 1199  
**DICKSON ACT 2602**



Dear Sir,

**RE: NOTIFICATION OF EXCLUSIVE DEALING - CALTEX AUSTRALIA  
PETROLEUM PTY LTD**

Please find attached:

- (i) Notification of Exclusive Dealing relating to proposed third line forcing activity involving the provision of fuel discounts to entitled customers;
- (ii) a cheque for \$100.00 to cover the lodgement fee

Would you kindly advise the registration number of the notification by return.

Yours faithfully,



Greg Ochs  
Corporate Counsel  
Legal Department  
Direct phone: 02 9250 5625  
Direct fax: 02 9250 5018

14 AUG 2001

## FORM G

N90889

## 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 engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE AT END OF FORM)

1. (a) Name of person giving notice  
*Caltex Australia Petroleum Pty Ltd ACN 000 032 128 ("Caltex")*  


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(See Direction 2 below)
- (b) Short description of business carried on by that person  
*Caltex operates and controls the petroleum refining and marketing and franchise activities of the Caltex and Ampol brands. This notice concerns Caltex's retail franchise operations conducted through its network of owned/controlled fuel retailing facilities in Australia ("Caltex Outlets").*  


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- (c) Address in Australia for service of documents on that person  
*Helen Conway, Company Secretary, Caltex Australia Petroleum Pty Ltd, MLC Centre, 19-29 Martin Place, Sydney NSW 2000.*
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates  
*This notice relates to the supply of motor fuel to customers at a discounted prices upon presentation of authorised discount tokens ("FB Tokens") issued to customers by third party retailers in connection with the purchase of goods and/or services by the customers from the retailers.*
- (b) Description of the conduct or proposed conduct  
*The conduct involves customers being issued FB Tokens by third party retailers in connection with the purchase of goods and/or services by the customers from the retailers; the FB Tokens entitling the customers to discounts on the price of motor fuel at participating Caltex Outlets.  
Further details are set out in Confidential Attachment 1.  
(See Direction 4 below)*

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

The conduct relates to Caltex direct retail fuel sale operations (conducted by Caltex and its subsidiary Calstores Pty Ltd ACN 000 175 342) and Caltex's franchisees ("Caltex Operations") and third party retailers, details of which are provided in confidential Attachments 2 and 3.

(b) Number of those persons:

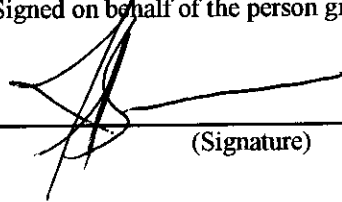
(i) At present time See confidential Attachments 2 and 3  
(ii) Estimated within the next year See confidential Attachments 1 and 2

(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  
Helen Conway, Company Secretary, Caltex Australia Petroleum Pty Ltd, MLC Centre, 19-29 Martin Place, Sydney NSW 2000

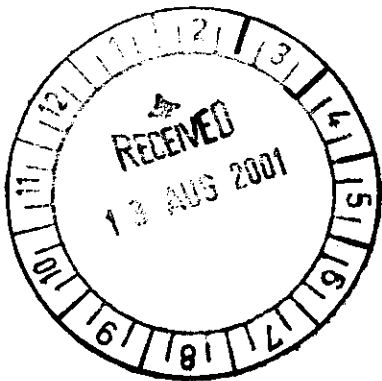
Date 8 August, 2001

Signed on behalf of the person giving this notice

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

JOHN L BANNER  
\_\_\_\_\_  
(Full Name)

GM MARKETING  
\_\_\_\_\_  
Caltex Australia Petroleum Pty Ltd



## DIRECTIONS

1. If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
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. In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
6. In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## NOTICE

If this Notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d), of the *Trade Practices Act 1974* ("the Act"), it comes into force at the end of the period prescribed for the purposes of sub-section 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, the notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under sub-section 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in sub-section 47(2),(3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.

~~CONFIDENTIAL ATTACHMENT 1~~

**A. PROPOSED CONDUCT**

Fuel Busters Pty Ltd ABN 48 096 708 397 will sell discount tokens to participating third party retailers.

Participating Retailers will provide tokens to consumers upon purchasing a given dollar value in their shop, as determined at the discretion of each retailer (for example they may receive a 1cpl token for spending say a \$10 spend, a 2cpl token for say a \$20 spend, a 5cpl token for say a \$50 spend and a 10cpl token for say a \$100 or more spend or any combination if the spend is over say \$150).

Consumers can redeem the tokens for a fuel purchase (petrol, diesel, or autogas) at any participating Caltex/Ampol service station. The tokens have a discount value of either 1cpl, 2cpl, 5cpl or 10cpl off the pump price on a maximum fuel purchase of up to 50 litres per transaction.

The token must be handed over at time of fuel purchase and are not (in whole or in part) redeemable for cash by the consumer. The tokens will have an expiry date clearly shown on the face of the token and so must be presented by the consumer prior to that expiry date in order to get the benefit of the fuel purchase discount.

See details of current participating third party retailers shown in confidential Attachment 2.

**B. CALTEX SUBMISSION**

Caltex operates throughout Australia a network of approximately:

- (a)  retail motor fuel outlets,  presently operated by commission agents appointed by Caltex for the sale of motor fuel to customers, and  presently operated by Calstores Pty Ltd, a wholly owned Caltex subsidiary; and
- (b) has  franchised retail outlets under distinctive Caltex identifications (which includes the 'Ampol' brand) ("Caltex franchisees")

[ see details of sites/franchisees shown in confidential Attachment 2 ]

Caltex hopes that the proposed conduct by Caltex and by participating Caltex franchisees (potentially all Caltex retail motor outlets and all Caltex franchisees), involving discounting of

the price of fuel to authorised Australian consumers, (being consumers able to verify the purchase of particular goods and services from participating third party retailers (presently numbering  being those shown in confidential Attachment 3 and expected to number  in 12 months time ) will maximise the competitiveness of Caltex and Caltex franchisees.

In connect with the fuel sales component, the main competitors of Caltex and the franchise group in Australia are BP, Shell, Mobil. It also includes Woolworths Supermarkets (operating approximately 138 company owned combined fuel and grocery sites and as we understand soon to operate 69 stand alone fuel sites and which conducts a similar arrangement to that proposed).

Caltex's objective is to place itself and its large body of franchise operators in the best position to compete effectively with competitors. Although the proposed conduct described above may be considered to amount to exclusive dealing conduct within section 47(6) of the *Trade Practices Act*, Caltex is firmly of the view that it will have a pro-competitive effect on the relevant markets.

The proposed conduct, involving discounting the price of fuel to customers, exert downward pressure on fuel prices generally at the retail level.

The proposed conduct is therefore of great public benefit, and is also directly comparable to conduct covered in other notifications previously lodged with the Commission by similar organisations and competitors of Caltex which have not been contested or revoked.

**August 2001**

" Annexures B + C "

12 pages -

**RESTRICTION OF PUBLICATION**

CLAIMED

GRANTED

DECISION PENDING