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Australian Competition & Consumer Commission

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia

Ph (02) 6243 1111
Fax (02) 6243 1199

Our Ref: N90889
Contact Officer: Joanne Palisi
Your Ref:

Mr Greg Ochs
Corporate Counsel
Legal Department
Caltex Australia Petroleum Pty Ltd
MLC Centre
19-29 Martin Place
SYDNEY NSW 2000

4 September 2001

Dear Mr Ochs,

**Notification of Exclusive Dealing N90889
Caltex Australia Petroleum Pty Ltd**

The above notification was lodged with the Australian Competition and Consumer Commission (the Commission) on 13 August 2001. Legal immunity provided by the third line forcing provisions of the Trade Practices Act came into force on 27 August 2001.

Acting under delegation from the Commission, I have granted confidentiality for the four figures contained in points (a) and (b) under Part B and the two numbers contained in the third line on page 5 of the document headed 'Confidential Attachment 1'. I have also granted confidentiality for the documents headed 'Confidential Attachments 2 and 3'.

On the basis of the information that you have provided, I have decided not to make inquiries at this time concerning the notified conduct. The Commission may act to remove the immunity afforded by this notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment.

As discussed with Joanne Palisi of this office, the Trade Practices Act does not permit a notification to be lodged on behalf of other parties. While the notification lodged by Caltex will provide protection for all Caltex owned sites engaging in the third line forcing conduct, it does not provide protection for other parties namely the franchised outlets. I confirm that the



Commission has publicly stated that it does not intend to take action against smaller players that are engaging in such conduct, however, you should be aware that under the Trade Practices Act it is possible for private parties to take legal action in these matters. I would ask that you bring this to the attention of those parties who are not protected by this notification.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Joanne Palisi on (02) 6243 1182.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tim Grimwade', written in a cursive style.

Tim Grimwade
General Manager
Adjudication Branch.