



**Australian Competition & Consumer Commission**

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25 September 2003

Ms Megan O'Brien  
Regional Legal Adviser  
BP Legal  
BP Australia Pty Ltd  
GPO Box 5222BB  
MELBOURNE VIC 3001

Dear Ms O'Brien

**Re: Exclusive dealing notifications N91143, N91144, N91145, N91146 and N91147  
lodged by BP Australia Pty Ltd (BP)**

I refer to the above exclusive dealing (third line forcing) notifications lodged with the Australian Competition and Consumer Commission (the Commission) on 15 July 2003. I refer also to a letter dated 24 July 2003 sent by Tim Grimwade of this office in relation to these notifications. This immunity extends only to the third line forcing conduct notified and does not extend to protect any other conduct that may be at risk of breaching the *Trade Practices Act*. I refer also to your telephone conversations with Joanne Palisi and Stefanee Lovett of 23 September 2003 in relation to the above notifications.

As discussed, the Commission has received a large number of notifications with respect to third line forcing conduct in the petrol retailing industry.

The Commission has received a number of complaints relating to petrol discounting conduct similar to that notified by BP, No 1 Riverside Quay, Centrel Pty Ltd, PLA Enterprises Pty Ltd, S & K Lardi and W & B Osborne and Townswood Pty Ltd (the Parties). Accordingly, it is conducting market inquiries in relation to petrol discounting to determine whether immunity should continue to stand.

In order to gain a better understanding of the arrangements that facilitate the third line forcing conduct covered by the abovementioned notifications, we would be grateful if you could provide us with the following information:

1. What are the terms and conditions of the arrangements between BP, Foodland Associated Limited (FAL) and the other notifying Parties mentioned in your letter



dated 14 July 2003? Please also provide details as to how the arrangement to offer a discount was reached between all the Parties, that is, including what role each Party played in the making of the arrangements relating to the offer of a petrol discount on condition that a minimum amount of goods were purchased from FAL.

2. What are the ownership and management arrangements of the petrol sites operated by the notifying Parties? For example, please indicate which Parties are BP owned and how many sites they operate, and also whether the other Parties are franchisee sites and how many sites each run.
3. To what extent, if any, do the individual franchisees have the discretion to set their own pump prices or the discount to be provided under these arrangements? Is the level of the discount reviewed? If so, who is involved in the reviews and how often are they undertaken?
4. Who supplies the petrol to the consumers who are entitled to a discount based on their purchases from FAL?
5. Please provide information as to the market in which the notifying Parties operate. Information provided could include: number of sites and proportion owned/operated by majors and large/small independents; level of competition in the market and other competition related factors.
6. Are other petrol discounting schemes offered in the area and by whom? Broadly, who are the parties involved and what are the terms of other such discounting arrangements?
7. Please outline the public benefits you consider flow from the arrangements and the third line forcing conduct. We would appreciate receiving your views as to how you consider the arrangements and the third line forcing conduct are in the public interest.

I would be grateful if you could provide a written response by close of business, **Friday 10 October 2003**. If you have any queries or questions regarding the above, please do not hesitate to contact me on (02) 6243 1057 or Stefanee Lovett of this office on (02) 6243 1359.

A copy of this letter will be placed on the Commission's public register.

Yours sincerely



Stephanie Chenoweth  
A/g Director  
Adjudication Branch