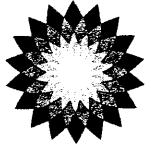


bp



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14 October 2003

**BY FACSIMILE AND POST – (02) 6243 1199**

Ms Stephanie Chenoweth  
A/g Director  
Adjudication Branch  
Australian Competition and Consumer  
Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Ms Chenoweth

**EXCLUSIVE DEALING NOTIFICATIONS N91143, N91144, N91145, N91146 AND N91147**

I refer to your letter of 25 September 2003 regarding the above notifications relating to the fuel discount promotion being conducted by BP Australia Pty Ltd (“BP”) and Foodland Association Limited (“FAL”) in the Townsville area (“Promotion”).

BP requests that for commercial reasons the Commission keep confidential sections 1, 2, 3 and the first paragraph of section 7 of this letter.

- 1 Terms and Conditions Relating to Promotion and Circumstances Relating to the Promotion**

**CONFIDENTIALITY  
GRANTED**

**CONFIDENTIALITY  
GRANTED**

**CONFIDENTIALITY  
GRANTED**

**4 Supply of Fuel to Customers**

BP owns the fuel at BP Sites and is the party supplying fuel to consumers. BP at the wholesale level supplies fuel to Reliance Petroleum and BP Dalrymple. Fuel at the BP Branded Sites is not owned by BP and is supplied to consumers by the BP Branded Sites.

**5 Market Information**

BP believes there are the following fuel and grocery outlets in the Townsville area:

- (a) Grocery: 5 Woolworths, 4 Coles, 3 Action, 1 BiLo, 4 Independents (IGA etc). There are also 2 Target stores, 1 Kmart and 1 Big W.
- (b) Fuel: 2 Ampol, 13 BP (ie BP Sites and BP Branded Sites), 5 Caltex (4 franchise operated), 6 Mobil, 8 Shell (4 franchise operated), 2 United and 2 Woolworths Petrol Plus.

Townsville has a population of approximately 150,000 with a growth rate of approximately 5%. The population is biased towards the 18-35 age bracket given the location of the James Cook University and Lavarack Army base.

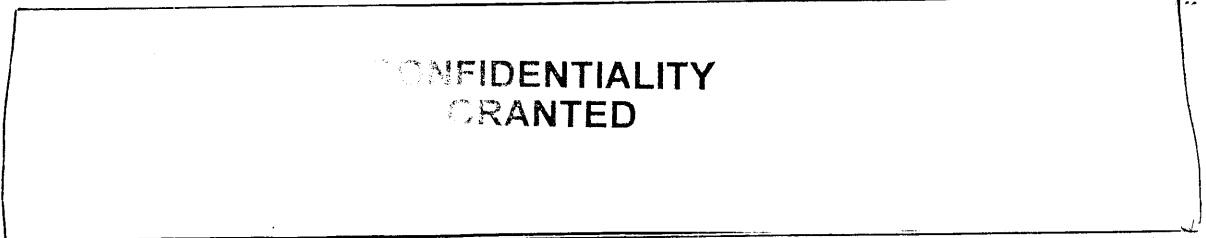
The market between fuel outlets is highly competitive.

**6 Petrol Discount in Townsville**

As outlined above, Woolworths currently offers a 4cpl discount in the Townsville area and has been doing so for more than 12 months. BP believes that the terms of the Woolworths offer are similar to the terms of the Promotion. IGA has also been offering a discount of 5cpl whereby grocery buyers can buy fuel at any site and redeem the discount (as savings on groceries) when they purchase \$30 or more of groceries at an IGA store. BP believes

the discount rate has recently been reduced to 4cpl and is now being offered across Queensland and may be further expanded.

7 **Public Benefits**



Consumers are free to determine whether to participate in the Promotion. Neither the supply of fuel from a BP Site/BP Branded Site or the supply of groceries by Action stores is conditional upon the acquisition of goods from the other party.

The Promotion also has the public benefit of promoting competition between fuel outlets and grocery outlets. It assists BP Sites, BP Branded Sites and FAL Action stores in competing against others who are also offering grocery/fuel discounts. The inclusion of BP Branded Sites and BP's/FAL's funding of the Promotion discount at those sites, expands the choice of discounted fuel outlets for consumers and also assists smaller independent fuel outlets to compete against other fuel outlets including oil company owned sites (including BP Sites).

To disallow the continuation of the Promotion would limit the capacity of BP Sites, BP Branded Sites and FAL Action stores to compete with others offering similar promotions. The exclusion of the BP Branded Sites would place such sites at a disadvantage to BP Sites and other competitor fuel outlets.

Please contact me on (03) 9268 4842 if you wish to discuss this matter.

Yours faithfully  
**BP AUSTRALIA PTY LTD**



// **Megan O'Brien**

**Regional Legal Adviser**