

2 April 2004

Mr Tim Grimwade
General Manager -
Adjudication
Australian Competition and
Consumer Commission
PO Box 1199
DICKSON ACT 2602

By Courier

FILE No:
DOC: D04 16310
MARS/PRISM:

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Dear Mr Grimwade

**Confederation of Australian Motor Sport Limited -
notification under s.93**

We act for the Confederation of Australian Motor Sport Limited (CAMS). We enclose:

- a notification under section 93(1) of the Trade Practices Act; and
- a cheque for \$1000 as payment of the required fee.

If you have any questions in relation to this matter, or require any further information in relation to the notification, please do not hesitate to contact us.

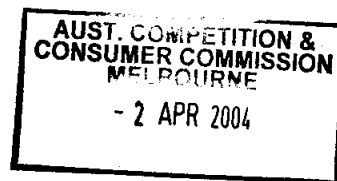
Yours sincerely



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Our Ref DDB:000000

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Regulation 9

FORM G

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - subsection 93(1)

EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition & Consumer Commission:

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

1. (a) **Name of person giving notice:**
Confederation of Australian Motor Sport Ltd (ACN 069 045 665) (*CAMS*).

 - (b) **Short description of business carried on by that person:**
CAMS is the sole delegate of the Federation Internationale de l'Automobile (*FIA*) in Australia. The *FIA* aims to ensure that motor sport is conducted in accordance with the highest standards of safety and fairness. *CAMS* has been delegated authority by the *FIA* to regulate motor sport in Australia. *CAMS'* objects are to promote, encourage and advance motor sport in Australia, and to ensure that the sport is safe, fair and socially responsible.

 - (c) **Address in Australia for service of documents on that person:**
Dr Rob Nethercote
Chief Executive Officer
Confederation of Australian Motor Sport Ltd
851 Dandenong Road
Malvern East VIC 3145
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**
See Attachment A

 - (b) **Description of the conduct or proposed conduct:**
See Attachment A.

Regulation 9

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

Registered participants in the Australian Rally Championship competing with vehicles with four-wheel-drive and/or turbocharged engines.

(b) **Number of those persons:**

Approximately 50, based on estimates from 2003.

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

The names and addresses of the persons stated in item 3(b)(i) can be supplied to the Commission upon request, once all competitors in respect of each relevant event have registered.

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

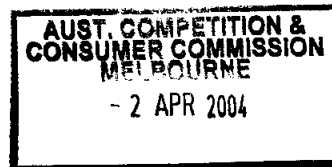
David Brewster
Partner
Allens Arthur Robinson
Stock Exchange Centre
530 Collins Street
Melbourne Vic 3000

Dated: 2 April 2004

Signed on behalf of the person giving this notice:



Rosilyn Ivanyi
Legal Counsel
Confederation of Australian Motor Sport Ltd
851 Dandenong Road
Malvern East VIC 3145



ATTACHMENT A

Description of Proposed Conduct for Exclusive Dealing Notification

CAMS is responsible for the management and administration of various motor sports events, including the Australian Rally Championship, under delegation from FIA. Hi-Tec Fuels Australia Pty Ltd (ACN 082 778 890) supplies fuel products in Australia, including a fuel known as 'Elf WRF'.

The Australian Rally Championship is the premier rally series in Australia and consists of a six-round championship. CAMS proposes to require that competitors registered to compete using turbo/super charged four-wheel-drive vehicles in Australian Rally Championship events use Elf WRF fuel, if such competitors wish to accrue 'points' which are used in the calculations of placings and awards in the Australian Rally Championship. Competitors who do not use this fuel will still be able to compete in the events in every other respect save for the accrual of championship points.

Notified Conduct

It has been suggested by another fuel supplier that the proposed conduct would fall within sections 47(6) or 47(7) of the *Trade Practices Act 1974 (TPA)*.

CAMS does not accept that the proposed conduct would fall under these sections, however, in order to achieve commercial certainty and to achieve the benefits to competitors flowing from the proposed conduct, CAMS submits that this notification should be allowed to remain in force and the notified conduct be afforded the statutory protection provided by section 93 of the TPA. CAMS further submits that the proposed conduct will not give rise to any anti-competitive effect on the market.

Outlined below are the significant public benefits which will flow from the proposed conduct.

Public Benefits

1. Fairness and competitiveness of Australian Rally Championship events

The use of a specified fuel can promote fair competition between the competitors in the relevant events.

Motor sport is a very technical and complex sport, where advances in component design and materials used can produce significant performance gains. Some competitors have greater financial resources, which potentially allow them to obtain an unfair advantage over other competitors. The use of specified components and fuels is common in motor racing events overseas.

If every competitor has the same fuel then each competitor has a better chance of competing on a 'level playing field'. If the competition is characterised by an ability to obtain an unfair advantage through financial resources, participation rates are likely to drop - those who have fewer financial resources may choose not to compete. Concern was expressed to CAMS by many competitors in the Australian Rally Championship in 2003, and earlier, in relation to the cost of the fuel being used to generate the levels of performance required to be competitive, with many professional competitors spending in excess of \$7 per litre.

Regulation 9

In order to promote fairness, encourage competition and contain costs, the Elf WRF fuel has been proposed by CAMS as a specified fuel. This fuel sells for \$5.50 per litre, which CAMS believes to be a median price for fuel of this type.

The need for restrictions on fuels is recognised even in categories of racing where technical innovation is particularly encouraged. For example, restrictions have been imposed by the FIA on the type of fuel used in Formula 1 racing for some time.

CAMS submits that the proposed stipulation of Elf WRF fuel as a specified fuel will promote fairness in the competition, and will reduce costs and thereby encourage persons to compete in the Australian Rally Championship.

2. Costs of competing in events

In addition to the cost savings arising from the direct cost of fuel used in Australian Rally Championship events, the proposed arrangement will have the effect that the costs to all participants entering the competition are reduced.

The distributor of the Elf WRF fuel will contribute directly to the cost of the provision of medical services to competitors in all Australian Rally Championship events in the form of doctors, paramedics, fire fighting and rescue personnel and vehicles. Previously, the cost of arranging this medical support was a component of the registration fee for Australian Rally Championship events. The proposed arrangement will lead to a reduction in the entry fee for each competitor of at least \$200 per event because the distributor will meet the cost of organising this medical support.

Additionally, competitors benefit from the relative ease of scrutiny where a specified fuel is required. If, as is proposed, a single fuel is specified, a simple gas chromatograph comparison between the sample drawn from the vehicle and a reference sample is all that is required to verify that competitors have used the correct fuel. If a specified fuel is not used, the methods of scrutiny would be more complex, which is likely to result in additional expense and testing time.

3. Quality and safety

The stipulation of a specified fuel ensures a consistent quality of fuel is used by competitors. Fuel that is of variable quality or composition is a significant cause of engine damage. The Elf WRF fuel has an established reputation for quality, reliability and safety, and has been proven in racing competitions both in Australia and internationally. Using this fuel as a specified fuel contributes to quality and safety in Australian Rally Championship events.

No anti-competitive detriment

It is proposed that only four wheel drive vehicles with turbo/super charged engines will be required to use the control fuel to accrue points in the Australian Rally Championship events.

CAMS estimates that, in 2003, there were approximately 1300 competing rally crews in Australia. Of these, around 65 were registered as competitors in the Australian Rally Championship. Approximately 50 of these competitors used four-wheel-drive, turbo/super charged vehicles. Assuming similar figures for 2004, only around 50 competitors would be subject to the proposed requirement to use a specified fuel.

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The proposed conduct should be viewed in light of the fact that the Australian Rally Championship is only a small sub-set of the motor racing events in Australia in which fuels in the same class as Elf WRF can be used. In these circumstances CAMS submits that the proposed conduct will not have any significant effect on the level of competition on the supply of motor fuels.

Recommendations of Dawson Committee

CAMS also notes that the Dawson Committee has recommended that the prohibition of third line forcing should cease to be a per se prohibition and, instead, be made subject to a substantial lessening of competition test. The Federal Government has accepted this recommendation. If section 47 were amended as recommended by the Dawson Committee, it is clear that the notified conduct would be not give rise to any issue under section 47 as its effect on the market is minimal.

Conclusion

CAMS submits that its proposal to specify a fuel for competitors with turbo/super charged four-wheel-drive vehicles in the Australian Rally Championships will result in considerable public benefit to the competitors and potential competitors in these events. CAMS submits that the use of a specified fuel contributes to the events being more affordable, competitive, fair and safe. Additionally, given the limited scope of the proposed conduct, and the small subset of motor racing competitors who may be affected, CAMS submits that there will be no detrimental effect on competition.