



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: C2004/479  
Contact Officer: Stefanee Lovett  
Contact Phone: (02) 6243 1359

8 April 2004

«Prefix» «First\_Name» «Last\_Name»  
«Title»  
«Organization\_Name»  
«Address\_1»  
«City» «State» «Postal\_Code»

Dear «Prefix» «Last\_Name»

**Re: Exclusive dealing notification lodged by  
the Confederation of Australian Motor Sports Limited (N40702)**

The Australian Competition and Consumer Commission (the Commission) has received a notification from the Confederation of Australian Motor Sport Limited (CAMS) in relation to the use of a particular type of motor fuel by competitors using turbo/super charged four wheel drive vehicles in Australian Rally Championship events. I am writing to you as a party that may be interested in providing a submission to the Commission in relation to this application.

As you may be aware, the competition provisions of the *Trade Practices Act 1974* (the Act) prohibit certain forms of anti-competitive conduct or arrangements. Section 47 of the Act prohibits conduct known as exclusive dealing where it has the purpose or effect of substantially lessening competition. Generally speaking, exclusive dealing involves one business trading with another, imposing restrictions on the other's freedom to choose with whom, or in what, it deals.

Sub-sections 47(6) and 47(7) of the Act specifically prohibit conduct known as 'third line forcing' which involves the supply of goods or services on condition that the customer also acquire goods or services from a third party. Third line forcing conduct is currently a per se provision, meaning that it amounts to a contravention of the Act regardless of its effect on competition.

*Notification process*

Businesses may obtain immunity in relation to conduct that might be at risk of breaching the exclusive dealing provisions of the Act by lodging a 'notification' with the Commission. Once lodged, immunity for the notified conduct commences automatically (or in the case of third-line forcing, after 14 days). The Commission may proceed to revoke a third-line



forcing notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

*Third line forcing notification lodged by CAMS*

CAMS lodged a notification involving third line forcing conduct with the Commission on 2 April 2004. Statutory immunity for the conduct outlined in the notification is due to commence on 16 April 2004.

The conduct is described in the notification as CAMS proposing 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 be able to compete in the events in every other aspect, but will not accrue championship points.

*Request for submissions*

To assist the Commission in its consideration of this notification it would be helpful to obtain your views on the likely public benefits and detriments flowing from the notification. The Commission would appreciate your views on the following issues which may or may not be relevant to you:

1. What are the benefits of competing in Australian Rally Championship events if a racing competitor can not accrue championship points?
2. CAMS claims that many professional competitors expressed concern to it regarding the cost of fuel being used to generate the level of performance required to be competitive. CAMS claims that the cost Elf WRF fuel is at the median price for fuel of this type. Please comment on whether you consider this to be the case?
3. How do different motor fuels impact on a competitor's ability to compete? Is competition amongst various rally teams likely to be stronger or fairer if each team is required to use the same type of fuel?
4. Please provide your views in relation to the claim made by CAMS that there will be a reduction in entry fees for competitors for at least \$200 per event as a result of Elf meeting the cost of organising medical support.
5. Do you consider that there is likely to be a reduction in expense and testing time as a result of one type of motor fuel being used by all competitors?
6. CAMS claims that the using Elf fuel as a specified fuel contributes to the quality and safety in Australian Rally championship events. Do you consider that other compliant brands of motor fuel would not be able to provide the same level of quality and safety?

In addition, we would ask that any submission you may wish to make focuses on the public benefits claimed by CAMS and any detriments to the public that might flow from the proposed conduct.

I have enclosed a copy of the CAMS notification and supporting submission.

The Commission asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

You may request that information you provide in a submission to the Commission be treated as confidential and not placed on the public register. The Commission may take into account information for which it grants confidentiality, even if that information is not publicly available. Guidelines for seeking confidentiality are attached for your information.

If you wish to lodge a submission please address the submission to:

The General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
Dickson ACT 2602

Submissions can also be lodged by e-mail to: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au).

The closing date for submissions is **23 April 2004**. A copy of this letter has been placed on the Commission's public register.

Should you have any questions or wish to discuss any aspect of the above notification, please contact Stefanee Lovett on (02) 6243 1359.

Yours sincerely

Tim Grimwade  
General Manager  
Adjudication Branch

Prefix	First Name	Last Name	Title	Organization Name	Address 1	Address 2	City	State	Postal Code
Mr	Phillip	Rogers	Team Manager	Subaru Rally Team	By email: captec@bigpond.net.au				
Mr	Neal	Bates		Neal Bates Motor Sport	28 Shepparton Street		HUME	ACT	2620
Mr	Steven	Bell	Technical Sales Manager	Ralli-Art Australia	19 Berry Street		GRANVILLE	NSW	2142
Mr	Brett	Middleton		MRT Performance	82 Belmore Street		RYDE	NSW	2112
Mr	Ed	Ordynski			RMB 1336		CLARENDON	SA	5157
Mr	Les	Walkden		Les Walkden Rallying	PO Box 347		KINGSMeadOWS	TAS	7249
Mr	Mark	Thompson			143 Coreen Avenue		PENRITH	NSW	2750
Mr	Martin	Lintott	Managing Director	Lincorp Automotive	388 Parramatta Road		BURWOOD		2134
Mr	Bill	Orders	Team Manager	Pedders	PO Box 247		NOBLE PARK	VIC	3174
Mr	Steven	Shepherd		GSA Wholesale Suspension	PO Box 830		SPRINGWOOD	QLD	4127
Mr	Alan	Heaphy	Director	Mitsubishi Ralli-Art	1/13 Healy Road		DANDENONG	VIC	3175
Mr	John	Agazzi		VP Racing Fuel	PO Box 513		MT PRITCHARD	NSW	2170

Prefix	First Name	Last Name	Title	Organization Name	Address 1	Address 2	City	State	Postal Code
Mr	Luke	Woodward		Australia Gilbert + Tobin Lawyers	GPO Box 3810		SYDNEY	NSW	2001