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Mr Tim Grimwade  
General Manager Adjudication Branch  
Australian Competition and Consumer Commission  
470 Northbourne Avenue  
DICKSON ACT 2602

9 September 2004

N40758

*No inquiry  
of this type  
& 13/9/04*

Dear Mr Grimwade

### Third line forcing notifications - Action Supermarkets - sale of discount fuel

We enclose ten third line forcing notifications in relation to the sale of discount petrol on behalf of the following fuel retailers:

- Dennis Investments Pty Ltd (ACN 010 093 875) as trustee for the Dennis Family Trust trading as BP Moss Marine (ABN 26 226 979 718);
- J.R. Lowe & G.M. Swift & L.J. Swift (ABN 72 689 642 459) trading as Lowes Auto Centre;
- Kiwi Black Properties Pty Ltd (ABN 93 103 090 017) operating the BP service station at Chinderah;
- William R & Cheryl M Smith (ABN 12 978 370 648) trading as BP Landsborough Central;
- JE and DJ Squires Pty Ltd & J.J. Keelan & L Keelan (ABN 45 603 159 863) operating the Park Beach Mini Mart;
- P.B. Watson & S.J. Watson (ABN 57 388 648 023) trading as Bananaland Service Station;
- M. & H. J. Webb Pty Limited (ABN 56 001 662 040) operating the BP service stations at South West Rocks and Macksville;
- Passions Petroleum Pty Ltd (ABN 72 104 057 516) operating the BP service station at Glenview; and
- Openday Pty Limited (ABN 14 050 103 912) operating the BP service station at North Urunga.

We also enclose a cheque for \$1000.00.

As set out in the attached notifications, Action Supermarkets Pty Ltd (ABN 43 008 882 488) (**Action**), a wholly-owned subsidiary of Foodland Associated Limited (ABN 13 008 667 650) (**FAL**), has introduced a promotion in New South Wales and Queensland whereby customers have the opportunity to purchase discounted petrol at participating service stations if the customers spend at least a specified amount at Action supermarkets (**the Promotion**).

In addition to the fuel retailers which are already participating in the Promotion, Action has been approached by various independent service stations at which fuel is sold in New South Wales and Queensland.

In summary, the following fuel retailers have indicated their intention to participate in the Promotion:

- BP service station operated by Dennis Investments Pty Ltd as trustee for the Dennis Family Trust in the Mackay region of New South Wales;
- the Lowes Auto Centre (selling BP branded fuel) operated by J.R. Lowe & G.M. Swift & L.J. Swift in the Kingscliff region of New South Wales;
- BP service station operated by Kiwi Black Properties Pty Ltd in the Chinderah region of Queensland;
- BP service station operated by William R & Cheryl M Smith in the Landsborough region of Queensland;
- the Park Beach Mini Mart (selling BP branded fuel) operated by JE and DJ Squires Pty Ltd & J.J. Keelan & L Keelan in the Coffs Harbour region of New South Wales;
- the Bananaland Service Station (selling BP branded fuel) operated by P.B. Watson & S.J. Watson in the Coffs Harbour region of New South Wales;
- BP service stations operated by M. & H. J. Webb Pty Limited in the Kempsey and Coffs Harbour regions of New South Wales;
- BP service station operated by Passions Petroleum Pty Ltd in the Glenview region of Queensland; and
- BP service station operated by Openday Pty Limited in the Coffs Harbour region of New South Wales.

As detailed in the notifications, the fuel retailers believe the proposed conduct will result in a number of public benefits, will promote competition, and will not have any negative effect on competition in any relevant market.

While FAL is assisting each of the fuel retailers with the logistics of preparing and lodging the notifications, FAL wishes to confirm that Action has approached each of the above fuel retailers individually, offering them the opportunity to participate in the Promotion. Each of the fuel retailers has agreed individually with Action to participate. In particular, we are not aware of any discussion or agreement among the fuel retailers with respect to entering into, or the terms of, the Promotion.

In addition, we confirm that the Promotion will operate concurrently with Action's existing arrangements with fuel retailers which have already been notified to the ACCC as follows:

- notifications lodged by BP Australia Pty Ltd (ABN 53 004 085 616) on behalf of various operators of BP service stations under cover of a letter dated 14 July 2003;
- notification dated 24 November 2003 from Central Queensland Petroleum Pty Ltd (ABN 15 580 256 612);
- notifications dated 30 June 2004 from Centrel Pty Ltd (ABN 50 091 614 667), Tweed Coast Sands Pty Ltd (ACN 001 498 979), Dojoo Pty Ltd (ACN 001 891 854), M & HJ Webb Pty Ltd (ABN 56 001 662 040) and Ruth Dragos, Mark Dragos and Thomas Dragos, trading as Greenmeadows General Store; and
- notification dated 12 August 2004 from BP Australia Pty Ltd (ABN 53 004 085 616).

If you have any questions in relation to any of the matters raised in the enclosed notifications, please do not hesitate to contact us.

Yours sincerely,



Peter Hede  
Divisional Manager Fuel & Convenience

FORM G

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)*

**EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition & Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

1. (a) **Name of person giving notice:**

Openday Pty Limited (ABN 14 050 103 912) (**Openday**).

(b) **Short description of business carried on by that person:**

Retailing of petroleum and related products.

(c) **Address in Australia for service of documents on that person:**

8451 Pacific Highway  
North Urunga NSW 2455

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

(b) **Description of the conduct or proposed conduct:**

*Outline of proposed conduct*

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Openday to consumers purchasing petroleum products at the BP service station at North Urunga on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Coffs Harbour region of New South Wales (**the Promotion**).

*Proposed conduct will deliver public benefits*

Openday considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Openday considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting -** Openday considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market -** the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Coffs Harbour region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Coffs Harbour region of New South Wales.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Maria and James Orr  
8451 Pacific Highway  
North Urunga NSW 2455

Dated

Signed by/on behalf of the person giving this notice

*Peter Heale*

.....  
**Signature**

PETER HEALE

.....  
**Full name**

Divisional Manager

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**Passions Petroleum Pty Ltd (ABN 72 104 057 516) (**Passions Petroleum**).**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**2632 Glasshouse Mountains Road  
Glenview QLD 4553**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Passions Petroleum to consumers purchasing petroleum products at the BP service station at Glenview on the condition that the consumers have acquired goods of a specified value from the participating supermarket owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in Beerwah, Queensland (**the Promotion**).

***Proposed conduct will deliver public benefits***

Passions Petroleum considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Passions Petroleum considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting -** Passions Petroleum considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market -** the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Glenview region of Queensland; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Glenview region of Queensland.

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

- (i) **At present time:** Unknown, but more than 50.
- (ii) **Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

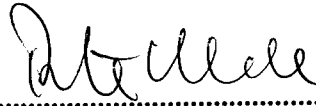
**4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**

Mr Gaurang Parekh  
40 Darcy Street  
Libcombe NSW 2141



Dated

Signed by/on behalf of the person giving this notice



.....  
**Signature**

PETER HEDE

.....  
**Full name**

DIVISIONAL MGR.

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**M. & H. J. Webb Pty Limited (ABN 56 001 662 040) (**M & H Webb**).**(b) Short description of business carried on by that person:**

Retailing of petroleum, convenience store and related products.

**(c) Address in Australia for service of documents on that person:**Pacific Highway  
Macksville NSW 2447**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by M & H Webb to consumers purchasing petroleum products at BP Macksville on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Kempsey and Coffs Harbour region of New South Wales (**the Promotion**).

***Proposed conduct will deliver public benefits***

M & H Webb considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - M & H Webb considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting** - M & H Webb considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Kempsey and Coffs Harbour region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Kempsey and Coffs Harbour region of New South Wales.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

M and H J Webb  
PO Box 323  
Macksville NSW 2447

Dated

Signed by/on behalf of the person giving this notice



.....  
**Signature**

PETER HEDE

.....  
**Full name**

DIVISIONAL MGR

.....  
**Position**

FORM G

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)*

**EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition & Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

1. (a) **Name of person giving notice:**

William R & Cheryl M Smith (ABN 12 978 370 648) trading as BP Landsborough Central (**BP Landsborough Central**).

(b) **Short description of business carried on by that person:**

Retailing of petroleum and related products.

(c) **Address in Australia for service of documents on that person:**

Corner of Railway Street and Caloundra Street  
Landsborough QLD 4550

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

(b) **Description of the conduct or proposed conduct:**

***Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by BP Landsborough Central to consumers purchasing petroleum products at BP Landsborough Central on the condition that the consumers have acquired goods of a specified value from the participating supermarket owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in Beerwah, Queensland (**the Promotion**).

***Proposed conduct will deliver public benefits***

BP Landsborough Central considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - BP Landsborough Central considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting - BP** Landsborough Central considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market -** the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Landsborough region of Queensland; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Landsborough region of Queensland.

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

- (i) **At present time:** Unknown, but more than 50.
- (ii) **Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Mr William Smith  
 Corner of Railway Street and Caloundra Street  
 Landsborough QLD 4550

Dated

Signed by/on behalf of the person giving this notice

*P. Heede*

.....  
**Signature**

PETER HEED

.....  
**Full name**

DIVISIONAL MGR

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**

Dennis Investments Pty Ltd (ACN 010 093 875) as trustee for the Dennis Family Trust trading as BP Moss Marine (ABN 26 226 979 718) (**Moss Marine**).

**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**

Corner of Harbour Road and Hamilton Street  
Mackay QLD 4740

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Moss Marine to consumers purchasing petroleum products on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Mackay region of Queensland (**the Promotion**).

***Proposed conduct will deliver public benefits***

Moss Marine considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Moss Marine considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;



- **The proposed conduct will generate a culture of discounting** - Moss Marine considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Mackay region of Queensland; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Mackay region of Queensland.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Mr Garth Dennis  
 BP Moss Marine  
 Corner of Harbour Road and Hamilton Street  
 Mackay QLD 4740

Dated

Signed by/on behalf of the person giving this notice

*P. Hede*

.....  
**Signature**

*DIVISIONAL MGR*

.....  
**Full name**

*PETER HEDE*

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**

J.R. Lowe & G.M. Swift & L.J. Swift (ABN 72 689 642 459) trading as Lowes Auto Centre (**Lowes Auto Centre**).

**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**

76 Marine Parade  
Kingscliff NSW 2487

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Lowes Auto Centre to consumers purchasing petroleum products at Lowes Auto Centre on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Kingscliff region of New South Wales (**the Promotion**).

***Proposed conduct will deliver public benefits***

Lowes Auto Centre considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Lowes Auto Centre considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting** - Lowes Auto Centre considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Kingscliff region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Kingscliff region of New South Wales.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Mr Greg Swift  
Lowes Auto Centre  
76 Marine Parade  
Kingscliff NSW 2487

Dated

Signed by/on behalf of the person giving this notice

*P. Hede*

.....  
**Signature**

PETER HEDE

.....  
**Full name**

DIVISIONAL MGR.

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**Kiwi Black Properties Pty Ltd (ABN 93 103 090 017) (**Kiwi Black**).**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**Chinderah Bay Drive  
Chinderah QLD 2487**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Kiwi Black to consumers purchasing petroleum products at the BP service station at Chinderah on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Kingscliff region of Queensland (**the Promotion**).

***Proposed conduct will deliver public benefits***

Kiwi Black considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Kiwi Black considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting** - Kiwi Black considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Chinderah region of Queensland; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Chinderah region of Queensland.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Tony and Paula Nash  
Chinderah Bay Drive  
Chinderah QLD 2487

Dated

Signed by/on behalf of the person giving this notice

*RT Cleece*

.....  
**Signature**

*PETER Heck*

.....  
**Full name**

*DIVISIONAL MGR*

.....  
**Position**



## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**

JE and DJ Squires Pty Ltd & J.J. Keelan & L Keelan (ABN 45 603 159 863)  
(Squires and Keelan).

**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**

33 Ocean Parade  
Coffs Harbour NSW 2450

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Squires and Keelan to consumers purchasing petroleum products at the Park Beach Mini Mart on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Coffs Harbour region of New South Wales **(the Promotion)**.

***Proposed conduct will deliver public benefits***

Squires and Keelan considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Squires and Keelan considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting** - Squires and Keelan considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Coffs Harbour region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Coffs Harbour region of New South Wales.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Messrs John Keelan and John Squires  
33 Ocean Parade  
Coffs Harbour NSW 2450

Dated

Signed by/on behalf of the person giving this notice

*PC Heede*

.....  
**Signature**

*PC Heede*

.....  
**Full name**

*Divisional Mgr.*

.....  
**Position**

## FORM G

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**

P.B. Watson & S.J. Watson (ABN 57 388 648 023) trading as Bananaland Service Station (**Bananaland Service Station**).

**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**

Corner of Pacific Highway and Hurley Drive  
Coffs Harbour South NSW 2450

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by Bananaland Service Station to consumers purchasing petroleum products at the Bananaland Service Station on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Coffs Harbour region of New South Wales (**the Promotion**).

***Proposed conduct will deliver public benefits***

Bananaland Service Station considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - Bananaland Service Station considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting -** Bananaland Service Station considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market -** the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Coffs Harbour region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Coffs Harbour region of New South Wales.

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

- (i) **At present time:** Unknown, but more than 50.
- (ii) **Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

Messrs Phillip Watson and Garry Watson  
 Corner of Pacific Highway and Hurley Drive  
 Coffs Harbour South NSW 2450

Dated

Signed by/on behalf of the person giving this notice

*Pt Clele*

.....  
**Signature**

PETER HEDF

.....  
**Full name**

DIVISIONAL MGR

.....  
**Position**

## FORM G

## Regulation 9

Commonwealth of Australia

*Trade Practices Act 1974 - sub-section 93(1)***EXCLUSIVE DEALING: NOTIFICATION**

To the Australian Competition &amp; Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

**1. (a) Name of person giving notice:**M. & H. J. Webb Pty Limited (ABN 56 001 662 040) (**M & H Webb**).**(b) Short description of business carried on by that person:**

Retailing of petroleum and related products.

**(c) Address in Australia for service of documents on that person:**

Gregory Street  
South West Rocks  
Kempsey NSW 2440

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Retail petroleum products.

**(b) Description of the conduct or proposed conduct:*****Outline of proposed conduct***

The giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply of retail petroleum products by M & H Webb to consumers purchasing petroleum products at BP South West Rocks on the condition that the consumers have acquired goods of a specified value from participating supermarkets owned by Action Supermarkets Pty Ltd (ABN 43 008 882 488) in the Kempsey region of New South Wales (**the Promotion**).

***Proposed conduct will deliver public benefits***

M & H Webb considers that the proposed conduct will be of benefit to the public because:

- **Consumers will benefit from lower petrol prices** - M & H Webb considers that the Promotion will provide consumers with lower petrol prices and should result in greater availability of cheaper fuel;

- **The proposed conduct will generate a culture of discounting** - M & H Webb considers that the Promotion will promote a culture of discounting in the retail petrol market; and
- **The proposed conduct will increase non-price competition in the retail petrol market** - the Promotion will encourage innovative, competitive responses from competitors in order to attract and retain custom.

***Proposed conduct will promote competition and should have no adverse impact on competition***

The proposed conduct will not lessen competition in any relevant market as:

- there are a number of petrol service stations in and around the Kempsey region of New South Wales; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on petrol purchased at a large number of service stations nationwide. Accordingly, the proposed conduct is a competitive response to the existing levels of intense competition that exists between retail grocers.

Instead, the proposed conduct will promote competition between retail grocers and drive competition between supermarkets and petrol retailers, which encourages price discounting and increases non-price competition.

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

The general public of the Kempsey region of New South Wales.

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

**(i) At present time:** Unknown, but more than 50.

**(ii) Estimated within the next year:** Unknown, but more than 50.

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

Not applicable.

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

M and H J Webb  
PO Box 323  
Macksville NSW 2447



Dated

Signed by/on behalf of the person giving this notice

*P. Heale*

.....  
**Signature**

*PETER HEALE*

.....  
**Full name**

*DIVISIONAL MGR*

.....  
**Position**