



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2004/979  
Contact Officer: Susan Sullivan  
Contact Number: 02 6243 1354

28 October 2004

Mr David Flavell  
Partner  
Corrs Chambers Westgarth  
GPO Box 9925  
Melbourne VIC 3001

Dear Mr Flavell

**Notification of third line forcing lodged by BP Australia Pty Limited (N91423)**

I refer to the third line forcing notification lodged by BP Australia Pty Limited (BP) with the Australian Competition and Consumer Commission (ACCC) on 7 July 2004.

Under the notification BP proposes to supply goods and/or services to its franchisees, dealers and distributors on the condition that they will acquire EFTPOS/credit card processing services from the National Australia Bank Limited (National).

In support of this notification BP has submitted that the arrangement will result in benefits to its franchisees, dealers and distributors by allowing them to obtain debit and credit card processing services at significantly reduced rates, thereby reducing their operating costs. While franchisees, dealers and distributors will be able to obtain debit and credit card processing services from a different provider, BP has noted that this will require the installation of a second terminal which will not have the 'BP Plus' functionality. It has also been noted that the notified conduct does not require franchisees, dealers or distributors to obtain their general banking services from the National.

Legal immunity provided by this notification commenced on 20 July 2004.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage. However, should any of the information



provided by the BP prove to be incorrect or incomplete the ACCC may choose to revisit this decision. Similarly, the ACCC may review this decision should the quality of service provided by the National to individual franchisees deteriorate as a result of the notified conduct.

I would also like to take this opportunity to bring to your attention the requirement under the Franchising Code of Conduct for a franchisor to disclose in the Franchise Disclosure Document any commission or rebate received through an agreement with a third party supplier. I note that this may be relevant to the notified arrangements.

More generally, please note that the ACCC may act to remove the immunity afforded by this notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct. The ACCC may also review a notification at any time.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Joanne Palisi on 02 6243 1051.

Yours sincerely

A handwritten signature in black ink, appearing to be 'T. Grimwade', written in a cursive style.

Tim Grimwade  
General Manager  
Adjudication Branch