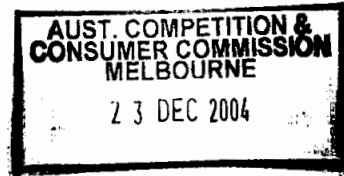


FILE No:
DOC: D04/62355
MARS/PRISM:

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

20 December 2004



Dear Mr Grimwade

**Third line forcing notifications - FAL nominated supermarkets - BP, Caltex and Peak service stations - sale of discount fuel in Perth**

We enclose three third line forcing notifications in relation to the sale of discount petrol on behalf of:

- Koondoola Service Centre Pty Ltd (ABN 60 009 252 206) ("**Koondoola**") which operates Caltex service stations in the Perth metropolitan area;
- White Gum Petroleum Pty Ltd (ABN 61 074 507 074) ("**White Gum**") which operates Peak service stations in the Perth metropolitan area; and
- Sanzone Nominees Pty Ltd (ACN 008 830 466) ("**Sanzone**") which operates BP service stations in the Perth metropolitan area.

We also enclose a cheque for \$300.00.

As set out in previous notifications, Foodland Associated Limited (ABN 13 008 667 650) ("**FAL**") has introduced a promotion in Western Australia whereby customers have the opportunity to purchase discounted petrol at participating service stations if the customers spend at least a specified amount at nominated supermarkets ("**the Promotion**").

FAL has now been approached by Koondoola, White Gum and Sanzone in relation to participation in the Promotion.

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 it has had discussions with each of the fuel retailers individually, offering them the opportunity to participate in the Promotion. Each of the fuel retailers has agreed individually with FAL 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 each of the fuel retailers listed above has given written authorisation to Mr Peter Hede of FAL to sign the third line forcing notification on its behalf. Copies of these authorisations are attached.

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

A handwritten signature in black ink, appearing to read 'Peter Hede', written in a cursive style.

Peter Hede  
Divisional Manager – Fuel & Convenience

Encl

## 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:**Koondoola Service Centre Pty Ltd (ABN 60 009 252 206) ("**Koondoola**").**(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:**Caltex Koondoola  
Koondoola Ave (corner of Burbridge Ave)  
Koondoola WA 6064**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 Koondoola to consumers purchasing petroleum products at Caltex service stations operated by Koondoola in Perth, Western Australia, on the condition that the consumers have acquired goods of a specified value from participating supermarkets branded "Dewsons", "Supa Valu" or any other supermarkets which are participating from time to time in a discount retail petroleum products scheme with Koondoola in Western Australia ("**the Promotion**").

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

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

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

- **The proposed conduct will generate a culture of discounting -** Koondoola considers that the Promotion will promote a culture of discounting in the retail fuel market; and
- **The proposed conduct will increase non-price competition in the retail fuel 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 large number of petrol service stations in the Perth metropolitan area; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on fuel purchased at a large number of petrol 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 fuel 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 in the Perth metropolitan area of Western Australia.

**(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 Ben Naidu  
c/- Caltex Koondoola  
Koondoola Ave (corner of Burbridge Ave)  
Koondoola WA 6064

Dated 23 JAN 04.

Signed by/on behalf of the person giving this notice

*P. C. Hecke*

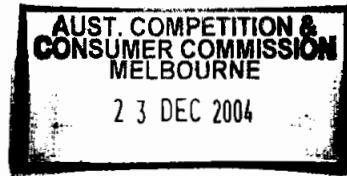
.....  
**Signature**

*P. C. Hecke.*

.....  
**Full name**

*Divisional Manager.*

.....  
**Position**



## **DIRECTIONS**

- 1 If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act* 1974 have been reduced in whole or in part to writing, a copy of the writing is to be furnished with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## **NOTICE**

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practice Act* 1974 ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.



**CALTEX KOONDOOLA**

Cnr Burbridge & Koondoola Ave

KOONDOOLA WA 6064

Telephone: (09) 342 4422

Franchisee: Koondoola Service Centre P/L

A.C.N. 009 252 206

20th December, 2004

MR. PETER HEDE  
FOODLAND ASSOCIATED LTD.  
CANNING HIGHWAY  
PERTH

RE: PETROL VOUCHERS

Dear Sir,

We hereby authorise Mr. Peter Hede of FAL to make an application on our behalf to ACCC to accept petrol discount vouchers at our above service station from supermarkets associated with FAL.

Yours Sincerely,

*[Signature]*

Director (B.A. NAIDU).

Koondoola Service Centre Pty. Ltd

## 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:**  
Sanzone Nominees Pty Ltd (ACN 008 830 466) ("**Sanzone**").
- (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:**  
BP Erindale Self Serve  
53 Erindale Road  
Balcatta WA 6021
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 Sanzone to consumers purchasing petroleum products at BP service stations operated by Sanzone in Perth, Western Australia, on the condition that the consumers have acquired goods of a specified value from participating supermarkets branded "Dewsons", "Supa Valu" or any other supermarkets which are participating from time to time in a discount retail petroleum products scheme with Sanzone in Western Australia ("**the Promotion**").

*Proposed conduct will deliver public benefits*  

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

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



- **The proposed conduct will generate a culture of discounting** - Sanzone considers that the Promotion will promote a culture of discounting in the retail fuel market; and
- **The proposed conduct will increase non-price competition in the retail fuel 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 large number of petrol service stations in the Perth metropolitan area; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on fuel purchased at a large number of petrol 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 fuel 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 in the Perth metropolitan area of Western Australia.

**(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 Wayne Fraser  
c/- BP Erindale Self Serve  
53 Erindale Road  
Balcatta WA 6021

Dated 23 Dec 04.

Signed by/on behalf of the person giving this notice

*P. C. Hecke*

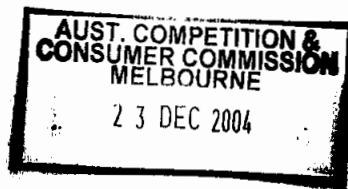
.....  
**Signature**

*P. C. Hecke.*

.....  
**Full name**

*DIVISIONAL MANAGER*

.....  
**Position**



## **DIRECTIONS**

- 1 If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act* 1974 have been reduced in whole or in part to writing, a copy of the writing is to be furnished with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## **NOTICE**

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practice Act* 1974 ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.

## 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:**White Gum Petroleum Pty Ltd (ABN 61 074 507 074) ("**White Gum**").**(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:**113 Clayton St  
Bellevue WA 6056**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 White Gum to consumers purchasing petroleum products at Peak service stations operated by White Gum in Perth, Western Australia, on the condition that the consumers have acquired goods of a specified value from participating supermarkets branded "Dewsons", "Supa Valu" or any other supermarkets which are participating from time to time in a discount retail petroleum products scheme with White Gum in Western Australia ("**the Promotion**").

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

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

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

- **The proposed conduct will generate a culture of discounting** - White Gum considers that the Promotion will promote a culture of discounting in the retail fuel market; and
- **The proposed conduct will increase non-price competition in the retail fuel 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 large number of petrol service stations in the Perth metropolitan area; and
- Woolworths and Coles have already implemented a similar “shopper docket” promotion which enables customers of Woolworths and Coles to receive a discount on fuel purchased at a large number of petrol 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 fuel 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 in the Perth metropolitan area of Western Australia.

**(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 Mark Quakenbush  
c/- White Gum Petroleum Pty Ltd  
113 Clayton St  
Bellevue WA 6056

Dated 23 DEC 04.

Signed by/on behalf of the person giving this notice

*P. C. Hecke*

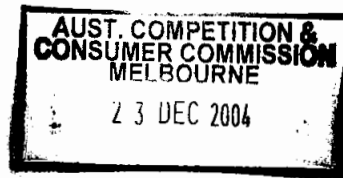
.....  
**Signature**

*P. C. Hecke*

.....  
**Full name**

*DIVISIONAL MANAGER.*

.....  
**Position**



## **DIRECTIONS**

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- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act* 1974 have been reduced in whole or in part to writing, a copy of the writing is to be furnished with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## **NOTICE**

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practice Act* 1974 ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.

**Peter Hede**

---

**From:** Mark Quackenbush [mark@peakpetroleum.com.au]  
**Sent:** Friday, 17 December 2004 3:17 PM  
**To:** Peter Hede  
**Cc:** 'Lou Pratarelli'  
**Subject:** RE:

Peter,

In relation to seeking ACCC exemption for the proposed fuel discount offer at Peak service stations, we appoint Peter Hede to sign applications and similar documents on behalf of White Gum Petroleum Pty Ltd.

Mark Quackenbush  
Sole Director

---

**From:** Peter Hede [mailto:Peter.Hede@fal.com.au]  
**Sent:** Friday, 17 December 2004 11:35 AM  
**To:** Mark Quackenbush  
**Subject:**

**This email message contains information that is confidential and which may be subject to privilege.**

**If you are not the intended recipient, you must not peruse, use disseminate or copy this message.**

**If you have received the message in error, please notify us immediately by facsimile or telephone and return the original to us by mail. We will reimburse reasonable telephone and mail costs incurred in this process. Thank you**