



Our Ref: N92181  
Contact Officer: Ursula Everett  
Contact Number: (02) 6243 1271

Australian  
Competition &  
Consumer  
Commission

2 November 2005

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Mr Michael Mullins  
General Manager Fuels  
Gull Petroleum (WA) Pty Ltd  
PO Box 2056  
Rockingham D.C. WA 6967

Dear Mr Mullins

**Re: Third line forcing notification No. N92181 lodged by Gull Petroleum (WA) Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 24 October 2005 and to your telephone conversation with Ms Ursula Everett of this office on 28 October 2005. The notification has been placed on the ACCC's public register.

You have described the conduct in the relevant Form G as:

*Mayne Pharmacy customers purchasing a pre-set value of non-prescription items will receive a Gull Fuel voucher (expressed as a cents per litre up to a maximum volume discount).*

Pursuant to the information contained in your supporting submission, I am of the view that the actual conduct for which you have notified, and which potentially contravenes the exclusive dealing provisions of the *Trade Practices Act 1974*), is:

*Gull offering to supply petrol, diesel and automotive LPG to consumers at a discount, on the condition that such consumers have acquired goods of a specified value from pharmacies operating under the Mayne Pharmacy brand.*

Legal immunity conferred by the notification will commence on 7 November 2005.

I note your supporting submission states that the notified conduct will be engaged in at all Gull operated sites and independently operated Gull branded sites which choose to participate in the arrangements.

As discussed with Ms Everett, it should be noted that notification N92181 only confers immunity to conduct engaged in by Gull. Entities that operate under the Gull banner, but which are independent from Gull will not be conferred legal immunity for the proposed conduct, by this notification. Such entities may wish to lodge separate notifications for the proposed conduct should they chose to engage in the arrangements.



In 2004, the ACCC concluded a comprehensive consultation process in relation to a number of similar notifications relating to the petrol and grocery sectors. The ACCC concluded that these arrangements were likely to be in the public interest. The ACCC has considered the above notification in light of submissions previously put to it by interested parties in relation to similar notifications and its own investigations. In light of previous consideration and the information you have provided, the ACCC does not intend to take any further action at this stage.

Please note, as with any notification, the ACCC may act to remove the immunity afforded by this notification at a later stage if it becomes satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

I also note that in promoting the offer consumers should be made aware of any exclusions or conditions that may apply. In addition, I draw your attention to compliance with industry specific requirements regarding the advertising and promotion of pharmaceutical products.

This letter has been placed on the ACCC's public register. The ACCC has released a report and media release in relation to the consideration of a number of acquisitions in the petrol and grocery sectors, which can be found on the ACCC's website at [www.accc.gov.au](http://www.accc.gov.au). If you wish to discuss any aspect of this matter, please do not hesitate to contact Ursula Everett on (02) 6243 1271.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping flourish extending to the right.

Scott Gregson  
General Manager  
Adjudication Branch