



Australian  
Competition &  
Consumer  
Commission

Our Ref: N92191 – N92192  
Contact Officer: Ursula Everett  
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6 December 2005

Mr James Barker  
Anisimoff Legal  
PO Box 358  
St Leonards NSW 1590

Dear Mr Barker

**Re: Third line forcing notification Nos. N92191 and N92192 lodged by Franklins  
Pty Ltd and Megaplay Amusements Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 25 November 2005. The notifications have been placed on the ACCC's public register.

You have described the conduct as follows:

*Franklins and the operator of the Caltex branded service station at 286 Maitland Road, Mayfield NSW 2304 (Megaplay Amusements Pty Ltd) wish to jointly conduct an offer whereby the service station will provide 4 c per litre off the cost of the petrol on the proviso that the consumer produces a receipt from Franklins store at Mayfield recording having spent \$30 in this store. Proposed conduct is that the organisations will jointly be conducting an offer whereby a consumer can obtain a discount on the proviso that it deals with the other.*

Legal immunity conferred by the notifications will come into force on 9 December 2005.

I note that Franklins Pty Ltd (Franklins) simultaneously lodged a related notification (N92192) for the relevant conduct. Notification has the effect of conferring immunity to the person who has lodged the notification and is engaging in the third line forcing conduct.

From the information you have provided there is some doubt as to whether Franklins is engaging in third line forcing conduct and thus whether immunity is required. However, in any event, immunity will be conferred to Franklins on the date outlined above.

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.

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 Ursula Everett on (02) 6243 1271.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping loop at the end.

Scott Gregson  
General Manager  
Adjudication Branch