



**Australian
Competition &
Consumer
Commission**

Your Ref: RB:CAS
Our Ref: N92477 – N92480
Contact Officer: Hew Atkin
Contact Number: (02) 6243 1235

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
ph (02) 6243 1111
fax (02) 6243 1199
www.accc.gov.au

2 May 2006

Mr Robert Barnes
Barnes & Wenden Attorneys
Level 12
44 Market Steet
SYDNEY NSW 2000

Dear Mr Barnes

Re: Third line forcing notifications No.s N92477 – N92480 lodged with respect to the Servo Savers scheme

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 21 April 2006. These notifications have been placed on the ACCC's public register.

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

Sale of fuel at a discount subject to customer purchasing a specified dollar amount of goods or services at 'participating businesses'.

The notifications were lodged by the following:

- Focus Trading Group Pty Ltd
- Liberty Lurnea
- Patoga Pty Ltd
- Tony & Amal Nakad t/as A.P.S. Discount Fuel Peak Hill

Legal immunity conferred by the notifications will commence on 5 May 2006.

Pursuant to the notification provisions of the *Trade Practices Act 1974* (the Act) only legal entities can lodge a notification for exclusive dealing conduct. I note that one of the parties listed above appears to be a partnership. Similarly, it is unclear whether one of the notifying parties listed above is a proprietary company and as such eligible for the \$100 concessional fee. You may wish to clarify the legal entities engaging in the notified conduct.



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 notifications 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 these notifications 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 Hew Atkin on (02) 6243 1235.

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