



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2007/1043
Contact Officer: Sarah Chubb
Contact Number: (02) 6243 1088

30 July 2007

Mr Stephen Kroker
Partner
Corrs Chambers Westgarth
GPO Box 9925
MELBOURNE VIC 3001

Dear Mr Kroker

Third line forcing notification N92928 lodged by BP Australia Pty Ltd

Thank you for your letter of 17 July 2007 regarding the concerns raised in relation to the above third line forcing notification.

Under the notification, BP Australia Pty Ltd (BP) proposes to:

- Supply and offer BP Products to Single Site Franchisees and Agency Franchisees on condition that the franchisees acquire Cash-in-Transit Services from a provider of such services determined by BP (a Nominated or Accredited Provider); and
- Refuse to supply BP Products to Single Site Franchisees and Agency Franchisees if the franchisees do not agree to acquire Cash-in-Transit Services from a provider of such services determined by BP.

In your letter of 17 July 2007, you indicated that if a Single Site or Agency Franchisee refuses or fails to acquire Cash-in-Transit Services from a Nominated or Accredited Provider, then BP would attempt to resolve the matter by engaging in dialogue with the relevant franchisee. You also indicated that in deciding what action to take, BP would consider a range of legal and commercial issues, and would comply with the provisions of BP's agreement with the relevant franchisee, the requirements of the *Trade Practices Act 1974* (the Act) and the requirements of the *Trade Practices (Industry Codes – Oilcode) Regulations 2006*.

On the basis of this information, as well as the previous information provided by BP in relation to notification N92928, the ACCC does not intend to take any further action in this matter at this stage.

As you are aware, the ACCC may act to remove the immunity afforded by the 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.

Please note that, consistent with the concerns raised by the Motor Trades Association of Australia, the ACCC is likely to be concerned with any unreasonable treatment of franchisees who may have difficulties with the requirement to obtain Cash-in-Transit Services from a Nominated or Accredited Provider. BP's advice that it would endeavour to resolve such issues by engaging in dialogue with the relevant franchisee in the first instance is important in this respect.

I also note your comments that, in addressing concerns that may arise in relation to the notified conduct, BP will consider other provisions of the Act, as well as more general legal and commercial considerations.

Should the ACCC receive concerns from affected franchisees, it may review the notification at that time.

A copy of 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 Sarah Chubb on (02) 6243 1088.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Gregson', written over a horizontal line.

Scott Gregson
General Manager
Adjudication Branch