



**Australian
Competition &
Consumer
Commission**

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Your Ref: RB: CAS
Our Reference: C2007/1609
Contact Officer: Sarah Chubb
Contact Number: (02) 6243 1088

7 September 2007

Mr Robert Barnes
Attorney
Barnes & Wenden
Level 2, 222 Clarence Street
SYDNEY NSW 2000

Dear Mr Barnes

Third line forcing notifications N93090-N93092 lodged with respect to the Servo Savers scheme

I refer to the above third line forcing notifications which were lodged with the Australian Competition and Consumer Commission (the ACCC) on 16 August 2007. The notifications have been placed on the ACCC's public register.

The notifications were lodged by:

- Wakelin Nominees Pty Ltd (N93090);
- Highway Servos Pty Ltd (N93091); and
- Appletree Creek Petrol Company Pty Ltd (N93092).

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

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

Legal immunity conferred by the notifications came into force on 30 August 2007.

The ACCC has considered the above notifications in light of submissions previously put to it by interested parties in relation to similar notifications, as well as its own investigations. In light of this previous consideration and the information you have provided, the ACCC does not intend to take any further action in relation to the notifications at this stage.

I note that, as with previous notifications lodged in respect of the Servo Savers scheme, the notifications make reference to attachments which were not attached to the Form Gs. In response to previous requests from the ACCC, you undertook to provide the relevant attachments. However, the ACCC is yet to receive the attachments. Consequently, I have noted the absence of the attachments for the purposes of the public register in respect of notifications N93090-N93092. Should you consider the attachments to be unnecessary, please remove the reference to the attachments in future Servo Savers notifications.

As with any notification, the ACCC may act to remove the immunity afforded by notifications N93090-N93092 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 discount 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 contact Sarah Chubb on (02) 6243 1088.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'S' followed by a long, horizontal, wavy line that tapers off to the right.

Scott Gregson
General Manager
Adjudication Branch