

AMERICAN
EXPRESS

FILE No:

DOC:

MARS/PRISM:

General Counsel's Office

26 September 2008

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

**American Express
Australia Limited**
American Express House
12 Shelley Street
Sydney NSW 2000 Australia
Tel: (61 2) 9271 3283
Fax: (61 2) 9271 2393

Dear Sir / Madam

Third Line Forcing Notification

American Express Australia Limited ABN 92 108 952 085 (**American Express**) has entered into an arrangement with BP Petrol Stations where American Express will, during a promotional period, offer additional rewards points to eligible American Express Cardmembers who purchase goods and services from Virgin Blue.

We enclose for your attention:

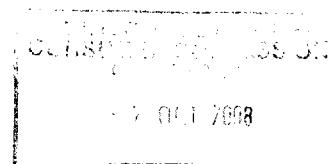
- an Exclusive Dealing Notification Form relating to the above arrangement for lodgment; and
- the applicable lodgment fee of \$100.

We would be grateful for your confirmation of receipt. If you have any questions in relation to this matter, please do not hesitate to contact myself on (02) 9271 1817.

Yours faithfully



John Galletta
Attorney
General Counsel's Office
Email: john.galletta@aexp.com
Fax: (02) 9271 2393



Form G

Commonwealth of Australia
Trade Practices Act 1974 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N93611

American Express Australia Limited
ABN 92 108 952 085

- (b) Short description of business carried on by that person:
(Refer to direction 3)

American Express Australia Limited (**American Express**) conducts a payment services business, predominantly as an issuer of credit and charge cards and provider of merchant acquiring services.

- (c) Address in Australia for service of documents on that person:

John Galletta
Attorney, General Counsel's Office
American Express Australia Limited
Level 28, 175 Liverpool Street
Sydney NSW 2000
Fax (02) 9271 2393

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

This notice relates to the provision of:

- The supply of credit cards and related services by American Express; and
- The supply of goods and services by BP Petrol Stations.

- (b) Description of the conduct or proposed conduct:

(Refer to direction 4)

American Express plans to run a targeted promotion with BP petrol stations in which American Express will offer bonus rewards points for purchases over \$50 made at BP Petrol Stations (**Eligible Purchases**). There are 2 versions of the offer:

- 1,000 bonus rewards points for the first Eligible Purchase and 5 bonus rewards points for every \$1 spent on subsequent Eligible Purchases; and

- 5 bonus rewards points for every \$1 spent on Eligible Purchases.

American Express will:

- offer the benefits described above to its customers on the condition that the customer acquires goods or services from BP Petrol Stations; and
- refuse to supply these benefits for the reason that the person has not acquired goods or services from BP Petrol Stations.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)

American Express Cardmembers who receive an invitation to participate in the promotion.

- (b) Number of those persons:

- (i) At present time:

Nil.

- (ii) Estimated within the next year:

(Refer to direction 6)

Approximately 50,000.

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable.

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)

The proposed conduct offers significant benefits to eligible American Express Cardmembers by giving them the opportunity to obtain a benefit from American Express if they purchase goods and services from BP Petrol Stations.

- (b) Facts and evidence relied upon in support of these claims:

The proposed conduct results in eligible American Express Cardmembers receiving bonus rewards points when they purchase goods and services from BP Petrol Stations.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 8)

In the market for the provision of payment card services, customers have a significant number of product options available to them, including charge and credit cards provided by Diners Club and American Express and credit or debit cards offered by financial institutions on the MasterCard and Visa networks.

The petroleum market in which BP competes is highly competitive. Competitors in this market offer various discounts or rewards to attract customers.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

(Refer to direction 9)

American Express submits that there is no likely detriment to the public resulting from the proposed conduct, and that the proposed conduct would have a negligible effect on competition in the markets noted above in clause 2(a).

- (b) Facts and evidence relevant to these detriments:

The proposed conduct:

- in no way limits the genuine choice of customers in choosing whether to obtain a payment card from American Express or any other payment card issuer, and the proposed conduct does not otherwise affect other qualities of the card, such as pricing.
- will not lessen competition as customers will be under no obligation to acquire card services from American Express and customers will be able to purchase goods and services from BP Petrol Stations at the same prices without acquiring any products or services from American Express.

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

John Galletta
Attorney, General Counsel's Office
American Express Australia Limited
Level 1, 12 Shelley Street
Sydney NSW 2000

Tel: (02) 9271 1817
Fax: (02) 9271 2393
Email: john.galletta@aexp.com

Dated 26 September 2008

Signed by/on behalf of the applicant



.....
(Signature)

John Galletta
(Full Name)

American Express Australia Limited
(Organisation)

Attorney
(Position in Organisation)