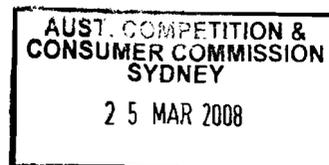


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**Form G**  
Commonwealth of Australia  
*Trade Practices Act 1974 — subsection 93 (1)*  
**NOTIFICATION OF EXCLUSIVE DEALING**

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:*

Mobil Oil Australia Pty Ltd ABN 88 004 052 984 (**Mobil**) N93346

(b) *Short description of business carried on by that person:*

Mobil is a private company that markets and distributes petroleum products to wholesale customers, including high quality motor fuels and lubricants.

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

12 Riverside Quay  
Southbank  
Melbourne VIC 3006  
Australia

**2. Notified arrangement**

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

The supply of automotive gasoline, automotive distillate oil and liquefied petroleum gas (**Petroleum Products**) by Mobil to distributors who have been licensed to use Mobil's branding (**Branded Distributors**).

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

The proposed conduct involves an offer by Mobil of a rebate on Petroleum Products supplied to Branded Distributors where the Branded Distributors agree to participate in a Brand Incentive Program (**BIP**).

The key element of the BIP is that Branded Distributors will be offered an incentive to sub-license the use of the Mobil branding to dealers, to assist the dealers to sell a greater volume of Mobil products in regional areas. As part of the BIP, Mobil will require Branded Distributors to purchase, from third party suppliers, signage which complies with Mobil's established brand standards to provide to dealers to whom the Branded Distributors sub-license Mobil branding. In return for participating in the BIP, Mobil will provide Branded Distributors an incentive in the form of a rebate on Petroleum Products purchased by the Branded Distributors from Mobil.

**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:*

Mobil

Branded Distributors who have or will at some time in the future have entered into contractual arrangements with Mobil to distribute Mobil products, and who choose to participate in the BIP.

Gadsden Signs Pty Ltd and other suppliers of signage

(b) *Number of those persons:*

(i) *At present time:*

25

(ii) *Estimated within the next year:*

25

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

See Annexure 1

**4. Public benefit claims**

(a) *Arguments in support of notification:*

See **attached** submission.

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

See **attached** submission.

**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):*

The markets affected by the BIP are likely to be:

- the market/s for the wholesale distribution of petroleum products; and
- the market/s for the supply of signage services.

It is likely that there will be a number of geographic markets relevant to the markets identified above. Mobil has not sought to identify each of the separate geographic markets for the purposes of this notification.

The likely effect on the above markets is discussed in the attached submission.

**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:*

See **attached** submission.

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

See **attached** submission.

**7. Further information**

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

Ayman Guirguis  
Partner  
Blake Dawson Waldron  
Level 36  
Grosvenor Place  
225 George Street  
Sydney NSW 2000  
Telephone: 02 9258 6262  
Facsimile: 02 9258 6999  
E-mail: ayman.guirguis@bdw.com

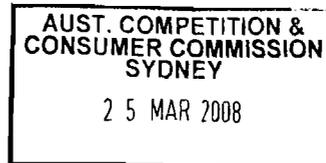
Dated 25 March 2008

Signed by/on behalf of the applicant

  
.....  
Ayman Guirguis

Blake Dawson Waldron

Partner



## **DIRECTIONS**

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

### Annexure 1 – List of Branded Distributors

Company Name	Address	ABN
Barrett Distributors Pty Ltd	P.O. Box 406 Naracoorte 5271	41 007 754 010
Barrett Petroleum Pty Ltd	112 Swanport Rd Murray Bridge 5253	19 008 109 117
Belford Petroleum Ferntin Pty Ltd	P.O. Box 86 Griffith 2680	58 546 234 391
Bentleys Fuel Service	P.O. Box 104, Warracknabeal 3393	76 656 223 756
K & R Carrison Pty Ltd	McLeod St Bairnsdale 3875	53 530 315 217
Central State Fuels Pty Ltd	69 Hanson Rd Gladstone, 4680	27 010 238 696
Cocks Petroleum Pty Ltd	P.O. Box 294 Eden 2551	20 523 411 536
Evans Petroleum (Gipps) Pty Ltd	Hughes St Leongatha 3953	44 007 455 192
GPG Mobil Pty Ltd	P.O. Box 795 Traralgon 3844	68 110 006 052
Hill & Co	PO Box 3373 Bankstown Square 2200	87 002 889 474
KI Fuel Services KI Fuel Pty Ltd	P.O. Box 315 Kingscote 5223	77 050 165 814
Lowes Petroleum Services T/A Chippen Holdings Pty Ltd	P.O. Box 300 Goondiwindi 4390	75 054 492 474
Malpass Enterprises Pty Ltd	25-27 Bolam St Garbutt 4814	52 356 203 817
McDonald Murphy Pty Ltd	P.O. Box 5772 Mackay MC 4741	47 518 644 208
Mogas Regional Pty Ltd	P.O. Box 1163 North Adelaide 5006	79 111 402 110
Pacific Petroleum Products Pty Ltd	P.O. Box 988 Archerfield 4108	36 689 242 093
LH Perry & Sons Pty Ltd	23 Bowman St Crystal Brook 5523	14 007 886 884
Petrogas Pty Ltd	Private Bag 5 Newport 3015	64 006 960 372
Power Petroleum Hippocrene Pty Ltd	P.O. Box 911 Albury 2640	73 070 478 625
Sabadin Petroleum Pty Ltd	P.O. Box 1021 Alice Springs 0870	66 008 113 362
Scott Petroleum Scotts Agencies Pty Ltd	P.O. Box 656 Ballarat 3352	85 007 592 261
South State Fuel Pty Ltd	P.O. Box 2398 Toowoomba 4350	26 052 484 269
Tasco Inland (Aust) Pty Ltd	P.O. Box 5034 Mildura Pvt Boxes 3502	73 070 478 625
Trinity Petroleum Services Pty Ltd	P.O. Box 5244 Cairns 4870	52 010 708 102
Wessel Petroleum Pty Ltd	7 Whittred St, Bundaberg 4670	46 054 032 099

**SUBMISSION TO AUSTRALIAN COMPETITION AND CONSUMER COMMISSION  
IN SUPPORT OF NOTIFICATION UNDER SECTION 93(1) OF THE *TRADE  
PRACTICES ACT 1974* (CTH)**

**1. INTRODUCTION**

This submission is in support of the notification lodged by Mobil Oil Australia Pty Ltd (ABN 88 004 052 984) (**Mobil**) under section 93(1) of the *Trade Practices Act 1974* (the **Act**) in relation to conduct potentially falling within section 47(6) or section 47(7) of the Act.

Accordingly, the relevant test to be applied by the Commission is set out in section 93(3A) of the Act, whereby the Commission assesses whether the public benefits associated with the relevant conduct outweigh any likely public detriment.

**2. BACKGROUND**

**2.1 Mobil**

Mobil markets and wholesales petroleum products in Australia.

**3. DESCRIPTION OF THE RELEVANT CONDUCT**

**3.1 Description**

The objective of the Brand Incentive Program (**BIP**) is to provide an incentive to Mobil distributors who have been licensed by Mobil to use its branding (**Branded Distributors**) to sub-license the Mobil branding to their dealers (**Dealers**), particularly those operating in regional Australia.

The key elements of the BIP are as follows:

- the arrangement would be between Mobil and Branded Distributors, but Branded Distributors would be under no obligation to enter into a BIP arrangement;
- the Branded Distributor would need to obtain the consent of Mobil to sub-license Mobil's branding to the Dealer (and any Dealer to whom Branded Distributors are proposing to sub-license would be subject to a Mobil-administered approval process);
- if approval is given to sub-licence Mobil branding to a Dealer, the Branded Distributor would purchase from a third party signage supplier, all necessary signage and the like to ensure that the Dealer meets established Mobil brand standards;
- Mobil is not proposing to specify to Branded Distributors any particular supplier of signage from whom signage should be acquired. However, it appears that Gadsden Signs Pty Ltd (**Gadsden**) is currently the sole supplier of signage services in at least some of the areas in which the BIP is likely to be offered;
- the Branded Distributors will present the invoices from the third party signage suppliers to Mobil; and

- Mobil would then provide the Branded Distributor with a rebate on automotive gasoline, automotive distillate oil and liquefied petroleum gas (**Petroleum Product**) purchases in order to assist them to recoup some or all of the cost of the signage.

### 3.2 **Rationale**

The intended benefits of the BIP proposal to Mobil are that:

- it will encourage Branded Distributors to seek to increase the volume of sales of Mobil-branded products; and
- the approval process that will be in place to assess Dealers to whom Branded Distributors are proposing to sub-license the Mobil brand will result in the relevant Dealer sites meeting established Mobil brand standards.

## 4. **PUBLIC BENEFITS**

Offering Branded Distributors the opportunity to participate in the BIP will be pro-competitive and welfare enhancing. In particular:

- The offer will enable Dealer sites to be significantly improved, providing benefits to:
  - consumers – who will be serviced by better equipped and presented sites;
  - Dealers and Branded Distributors – whose sites will be enhanced and better able to attract customers; and
  - Mobil – who is anticipating increased throughput of its product as a result of the upgrades of the Dealer sites.
- The upgrading of the Dealer sites (and the anticipated increase in demand for products sold from these sites that will result from such upgrades) also has the potential to increase competition in affected markets. That is, other sites in the affected markets may be encouraged to improve their price, service or product offerings in response to the upgrades at the Dealer sites. If this occurs, it will provide an additional benefit to consumers.
- The offer will increase demand for signage services. This may have the additional benefit of promoting increased competition in affected signage markets as it will provide an incentive for new entry in these markets.

## 5. **NO PUBLIC DETRIMENT**

The proposed conduct is unlikely to cause any public detriment.

While some Branded Distributors will, in practice, have to purchase signage services from Gadsden if they are to participate in the BIP (until such time as another company supplying appropriate signage services enters the market), it is submitted that this is not detrimental, as:

- there is no obligation on the Branded Distributors to participate in the BIP and purchase signage;

- the BIP proposal will not have any material effect on the wholesale supplies of Petroleum Products as the relevant Branded Distributors are already sourcing all of their Petroleum Product requirements from Mobil; and
- Gadsden is not prescribed as the sole supplier of signage services under the BIP; rather, Gadsden is currently the only supplier of the necessary signage services in some areas where the BIP is likely to be offered. However, as discussed above, the BIP may, in fact, increase competition in affected signage markets by encouraging new entrants into these markets to accommodate the additional demand for these services.

## 6. **CONCLUSION**

For the reasons set out above, the proposed conduct is likely to result in public benefits and is unlikely to cause any public detriment.