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General Counsel's Office

6 October 2009

Dr Richard Chadwick  
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 Dr Chadwick,

**Third Line Forcing Notification: American Express Australia Limited**

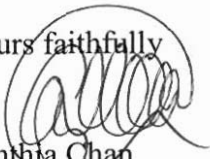
We are filing this notification on behalf of American Express Australia Limited ("Amex").

We enclose for your attention:

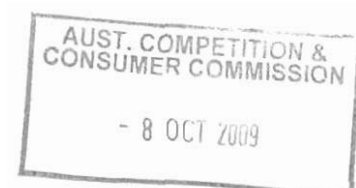
- A Form G - exclusive dealing notification pursuant to section 93(1) of the Trade Practices Act. We have enclosed two versions of the Form G, one marked "Confidential". Amex submits that this document contains commercially confidential information and requests that the version marked "Confidential" is not placed on the Public Register. We have provided a redacted version for the Public Register; 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 3290.

Yours faithfully

  
Cynthia Chan  
General Counsel's Office

Email: Cynthia.Chan@aexp.com  
Telephone: (02) 9271 3290  
Facsimile: (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)*

N94252 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:

Cynthia Chan  
Attorney, General Counsel's Office  
American Express Australia Limited  
Level 1, 12 Shelley Street  
Sydney NSW 2000  
Fax (02) 9271 3290

### 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 payment card services by American Express; and
- The supply of petroleum and fuel products and related services available in BP Australia Pty Limited service establishments.

(b) Description of the conduct or proposed conduct:

*(Refer to direction 4)*

1. American Express and BP Australia Pty Limited ("**BP**") have entered into an arrangement pursuant to which they intend to offer a new co-brand American Express BP Corporate Card ("**AEBPCC**") and enhance the existing American Express Qantas Corporate Card ("**AEQCC**") (together, the "**Cards**") with the following benefits:

- i. eligible account holders may be entitled to rebates on qualifying purchases at BP services establishments using the Cards;
    - ii. account holders may be provided with enhanced reporting on fuel and other spend at BP service establishments;
    - iii. account holders may be able to enable fuel spend controls on the Cards; and
    - iv. other discounts, offers and promotional benefits for holders of the Cards from time to time.
  2. American Express will:
    1. offer the benefits described in direction 2(b)(ii), (iii) and (iv) above to its customers on the condition that the customer acquires goods or services from BP; and
    - ii. refuse to supply these benefits for the reason that the customer has not acquired goods or services from BP.
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)*  
Current and future holders of the Cards.
  - (b) Number of those persons:
    - (i) At present time:  
[Confidential]
    - (ii) Estimated within the next year:  
*(Refer to direction 6)*  
  
Unknown.
  - (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 holders of the Cards by giving them the opportunity to obtain a benefit from American Express if they purchase goods and related services from BP.
  - (b) Facts and evidence relied upon in support of these claims:  
We submit that the notified conduct will result in:
    - benefits of increased choice for customers who wish to obtain a Card with an associated loyalty program and fuel rebate scheme and increased competition in the market for these products;

- benefits to relevant Card holders of the opportunity to earn and use fuel rebate points when using their Cards; and
- benefits to the relevant Card holders of the opportunity to receive promotional benefits and privileges, including fuel promotions, enhanced credit terms and other benefits.

## 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.

Co-branded card products which award benefits through the accumulation of points are widespread in Australia and elsewhere.

The market for petroleum and fuel products and services, in which BP competes, is highly competitive. Petroleum and fuel products and services are offered by Shell, Caltex, Ampol, Mobil and other independent operators. Competitors in this market will be encouraged to introduce or extend similar schemes attaching competitive benefits and privileges to their customers. There are a large number of competitive offers available to the public in respect of the provision of petroleum and fuel products and services at any given time.

## 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:

Customers are free to choose whether or not to apply for a Card from American Express, whether or not they wish to have a Card, or whether or not they wish to use their Card to accrue rebate points or other promotional benefits or privileges. In addition, customers not holding the Card will continue to have access to goods in BP services establishments at the usual prices.

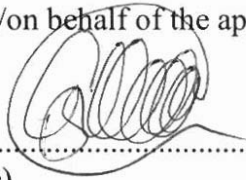
**7. Further information**

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

Cynthia Chan  
Attorney, General Counsel's Office  
American Express Australia Limited  
Level 1, 12 Shelley Street  
Sydney NSW 2000  
Tel: (02) 9271 3290  
Fax: (02) 9271 2393  
Email: cynthia.chan@aexp.com

Dated 6 October 2009

Signed by/on behalf of the applicant



.....  
(Signature)

Cynthia Chan  
(Full Name)

American Express Australia Limited  
(Organisation)

Attorney  
(Position in Organisation)