

Our reference
SCK/CD/BPAU7602-9063660

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CHAMBERS
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FILE No:
DOC:
MARS/PRISM:

21 July 2009

Richard Chadwick
General Manager - Adjudication Branch
Australian Competition and Consumer
Commission
GPO Box 3131
CANBERRA ACT 2601

Contact
Claire Davie (03) 9672 3513
Email: claire.davie@corrs.com.au

Partner
Stephen Kroker (03) 9672 3494
Email: stephen.kroker@corrs.com.au

Dear Dr Chadwick

BP Australia Pty Ltd

We act for BP Australia Pty Ltd and **attach** on behalf of our client:

- notification in accordance with section 93(1) of the *Trade Practices Act 1974*; and
- a cheque for \$100 in payment of the applicable statutory lodgement fee.

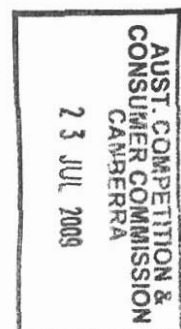
If you have any queries, please contact me on (03) 9672 3494 or Claire Davie on (03) 9672 3513.

Yours sincerely



Stephen Kroker
Partner

attachments



Form G Notification of exclusive dealing
(regulation 71)

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)

N94046 BP Australia Pty Ltd ABN 53 004 085 616 (BP).

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

BP is involved in the refinement, wholesale and retail sale of petroleum and related products and the operation of retail sites, including convenience stores, cafés, bakeries and diners. It also licences third parties, including its franchisees, to operate a large number of BP branded retail sites, convenience stores, cafés, bakeries and diners in Australia. BP's business includes manufacturing, marketing, wholesaling and retailing a range of bulk and packaged lubricants including grease, grease products, white oil, transformer/transmission oil, packed fuels, detergents, base oils, diesel engine oils, hydraulic oils, passenger car motor oils, drive line fluids, industrial oils, railroad engine oils, gas engine oils, marine engine oils and other speciality products (**BP Lubricants**).

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

c/- Corrs Chambers Westgarth
600 Bourke Street
MELBOURNE VIC 3000
Reference: Stephen Kroker

2 Notified arrangement

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

BP has some BP Lubricants manufactured by Australasian Lubricants Manufacturing Company Pty Ltd ABN 66 088 894 857 (**ALMC**). This notice relates to:

- base oil (**BP Base Oil**) supplied by BP to ALMC for the purposes of manufacturing BP Lubricants; and
 - components of BP Lubricants, including base oil and other ingredients and packaging (**Components**) acquired by ALMC for the purposes of manufacturing BP Lubricants.
- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)
- BP proposes to:
- supply or offer to supply (or give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply of) BP Base Oil to ALMC on the condition that ALMC will acquire Components from suppliers nominated by BP from time to time (**Nominated Component Suppliers**); and/or
 - refuse to supply (or refuse to give or allow, a discount, allowance, rebate or credit in relation to the supply of) BP Base Oil to ALMC for the reason that ALMC has not acquired, or has not agreed to acquire, Components from Nominated Component Suppliers.

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)
- ALMC.
- (b) Number of those persons:
- (i) At present time:
One.
- (ii) Estimated within the next year:
(Refer to direction 6)
One
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
- Australasian Lubricants Manufacturing Company Pty Ltd
1 Tanker Street
LYTTON QLD 4178

4 Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)
- (i) The proposed conduct is likely to result in ALMC acquiring Components more cost effectively, thereby potentially promoting competition in relation to the manufacture, distribution and retail supply of lubricants.

- (ii) The proposed conduct will facilitate the manufacture of BP Lubricants by ALMC in accordance with quality standards prescribed by BP. This results in better quality products, such as engine oil which lasts longer before needing to be changed.
 - (iii) The proposed conduct will facilitate the manufacture of BP Lubricants by ALMC in accordance with safety standards prescribed by BP.
- (b) Facts and evidence relied upon in support of these claims:
Not applicable.

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 (for example geographic or legal restrictions):
(Refer to direction 8)

Base oil and other components used to manufacture lubricants are supplied in national markets. Similarly, lubricants are supplied at the wholesale level in a national market.

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)

BP is not aware of any detriments that are likely to flow from the proposed conduct.

- (b) Facts and evidence relevant to these detriments:
Not applicable.

7 Further information

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

Stephen Kroker
Partner
CORRS CHAMBERS WESTGARTH
600 Bourke Street
MELBOURNE VIC 3000

Dated 21 July 2009

Signed by/on behalf of the applicant


(Signature)

Stephen Kroker
(Full Name)

Corrs Chambers Westgarth
(Organisation)

Partner
(Position in Organisation)

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.