



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2010/1016  
Contact Officer: Gina D'Ettorre  
Contact Number: 03 9290 1483

Mr Andrew McLean  
General Counsel  
United Petroleum Pty Ltd  
PO Box 1028  
COLLINGWOOD VIC 3066

8 December 2010

Dear Mr McLean

**Third line forcing notifications N95173 and N95174 lodged by  
United Petroleum Pty Ltd and United Petroleum Franchise Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 11 November 2010. The notifications have been placed on the ACCC's public register.

Under the notified arrangements United Petroleum Pty Ltd and United Petroleum Franchise Pty Ltd (collectively United Petroleum) propose to require current and future franchisees to acquire a designated range of goods and services from a list of approved suppliers specified by United Petroleum from time to time.

Legal immunity conferred by the notifications commenced on 25 November 2010.

On the basis of the information you have provided, it is not intended that further action be taken in relation to the notifications at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by these notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that United Petroleum will disclose all relevant terms and conditions to current and prospective franchisees. In particular I note that United Petroleum is required to comply with the disclosure requirements of the Franchising Code of Conduct in relation to the notified arrangement. Among other

things, these specify that a franchisor must provide information to franchisees in its disclosure document about:

- any restrictions on acquisition of goods or services by the franchisee from other sources
- whether the franchisor or an associate will receive a rebate or other financial benefit from the supply of goods or services to franchisees, including the name of the business providing the rebate or financial benefit and
- whether any such rebate or financial benefit is shared directly or indirectly with franchisees.

More generally I would note that the Franchising Code of Conduct also requires disclosure of:

- ownership by a franchisor or an associate of a franchisor of an interest in any supplier from which the franchisee may be required to acquire goods or services
- any restrictions by a franchisor on the goods or services that a franchisee may supply and
- any restrictions on the persons to whom a franchisee may supply goods or services.

### **Refund**

I note your advice in your covering letter of 11 November 2010 that you are expecting a refund of \$200 for payment in relation to an earlier notification. The cheque accompanying the notification was for \$100 rather than \$200 as indicated in your letter. You were advised by letter dated 30 September 2010 that the notification was considered by the ACCC to be invalid and that \$100 would be refunded to you. I apologise for the delay in providing you with the refund, please advise Gina D'Ettorre of this office, on the details below, if you do not receive a refund by 16 December 2010.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Gina D'Ettorre on 03 9290 1483.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch