

24<sup>th</sup> October 2011

Imogen Hartcher-O'Brien  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Dear Imogen

Please find enclosed the required documents and funds for Gull Spearwood that forms part of the Australian Fuel Distributors IGAD agreement.

- Signed letter to the ACCC for the site
- Two Copies of the Form G for the site
- Cheque for \$100.00

If you require any further information or documentation please let me know.

Regards



Mike Waddell  
Retail Business Development Manager

FILE No:
MARS/PRISM:



24<sup>th</sup> October 2011

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Dear Sir

**Re:** Australian Fuel Distributors Pty Ltd trading as Gull Spearwood  
Notification for Third line forcing

Please find enclosed a completed Form G notification in respect of proposed conduct by our company which may raise issues under section 47(6) the *Trade Practices Act 1974* together with a cheque in the sum of \$100.00 being the lodgement fee.

We propose to introduce a promotion in Western Australia under which customers who spend a qualifying amount on prescribed groceries at participating IGA stores receive a fuel voucher which entitles them to a discount on petrol and other motor fuels at our participating service stations.

Details of the public benefits of the proposed conduct are set out in Form G. In summary we believe that the proposed conduct will result in a number of public benefits including:

- increased competition;
- price discounting; and
- the promotion of non-price competition

and that no detriment to the public would arise from the proposed conduct.

Please do not hesitate to contact us should *you* wish to discuss this matter or require any further information.

Yours sincerely



Mike Waddell  
Australian Fuel Distributor Pty Ltd

# Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010 — 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 *Competition and Consumer Act 2010*, 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.

## 1. Applicant

(a) Name of person giving notice:

N95614

Australian Fuel Distributors Pty Ltd trading as Gull Spearwood

ABN: 340 096 441 51

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

**Retail and petroleum related products**

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

333 Rockingham Road

Spearwood 6163 WA

## 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 supply of retail petroleum products and retail grocery products**

(b) Description of the conduct or proposed conduct:

**The proposed conduct comprises the giving or offering of a discount in relation to the supply or proposed supply of motor fuels by Australian Fuel Distributors to consumers purchasing these products at participating service stations in Western Australia, on the condition that the consumer has purchased prescribed groceries (of a qualifying amount) at participating IGA stores nominated by IGA Distribution (WA) Pty Limited (ACN 008 667 650) (IGA) in Western Australia. Up**

to 150 IGA stores may participate in the proposed conduct. Consumers who spend the qualifying amount at the participating IGA stores would receive a voucher which entitles them to a fuel discount at Australian Fuel Distributors service station (the Promotion). Approximately 50 service stations will participate in the promotion.

**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:

**Retail and potential retail customers of Australian Fuel Distributors and IGA who wish to purchase products from IGA stores in WA and or motor fuels from participating service stations of Australian Fuel Distributors.**

- (b) Number of those persons:

- (i) At present time:

**A maximum of 150 IGA stores and 50 service stations will participate in the proposed conduct in WA. The number of customers at these outlets is unknown.**

- (ii) Estimated within the next year:

**Unknown but more than 50**

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

**N/A**

**4. Public benefit claims**

- (a) Arguments in support of notification:

**The proposed conduct is likely to be of public benefit for the following reasons:**

- consumers who choose to accept the offer will benefit from lower fuel prices;
- the proposed conduct is likely to increase the ability of Australian Fuel Distributors and IGA to compete with much larger competitors in the retail fuel and grocery markets (most of whom already engage in similar conduct) with a likely result of greater competition in those markets;
- the proposed conduct may also further enhance non-price competition in the retail fuel and grocery markets by encouraging competitors to devise innovative and alternative non-price incentives to attract consumers.

**There is no anticompetitive effect in such conduct and it is not against the public interest because:**

- there are large numbers of service stations and supermarkets in Western Australia, of which only a relatively small number ( 65 service stations and approximately 150 supermarkets) would be involved in the proposed conduct;
- the proposed conduct will not affect the ability of consumers to purchase fuel from whichever services stations they may choose;
- the proposed conduct will not affect the ability of consumers to purchase groceries from whichever supermarkets they may choose;
- the participating Australian Fuel Distributors service stations will continue to provide fuel independently of the proposed conduct;
- consumers will therefore not be forced to purchase grocery products and fuel from particular outlets or retailers.

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

- The ACCC report of 2004 'Assessing Shopper Docket Petrol Discounts and Acquisitions in the Petrol and Grocery Sectors' (Shopper Docket Report) found that the introduction of the shopper docket schemes has encouraged competition and lower prices in the fuel market. The Shopper Docket Report also reported the ACCC's view that there are significant benefits to consumers from shopper docket petrol discount schemes (pg 3).
- The major supermarket chains have implemented similar discount fuel promotions with large fuel retailers, under which their customers receive a voucher entitling them to receive a discount on petrol purchased at a number of stations nationwide. The proposed conduct will enhance the ability of IGA and Australian Fuel Distributors to compete against these retailers.
- There is are only a small number of Australian Fuel Distributors service stations that would be involved in the proposed conduct, compared to the large amount of other service stations in Western Australia. It follows that the proposed conduct will affect only a relatively small proportion of retail fuel outlets in WA.

## 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 relevant markets are the retail fuel market in Western Australia, and the retail groceries market in Western Australia.**

**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:

**The Applicant is unable to identify any public detriment**

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

N/A

**7. Further information**

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

**Mike Waddell  
PO Box 695  
Vic Park WA 6879  
Ph: (08) 9366 4700**

Dated: 14<sup>th</sup> September 2011

Signed by/on behalf of the applicant



Michael Waddell

**Australian Fuel Distributors Pty Ltd**

Retail Business Development Manager