



FILE No:

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MARS/PRISM:

The Shell Company of Australia Limited  
ABN 46 004 610 459

Legal

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9 December 2011

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

Dear Sir,

### Notification of Exclusive Dealing

Please find enclosed a notification on behalf of The Shell Company of Australia Limited under section 93(1) of the *Competition and Consumer Act*, in respect of conduct which may constitute exclusive dealing under sections 47(6) and (7) of that Act.

We have paid the required lodgement fee of \$100 to the ACCC via credit card, receipt number A05387.

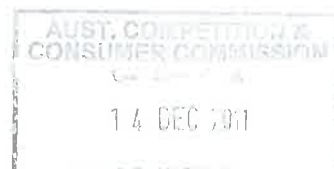
Please do not hesitate to contact me if you would like to discuss this notification.

Yours faithfully

**THE SHELL COMPANY OF AUSTRALIA LIMITED**

**Chris Ryan**  
Managing Counsel, Downstream

Encl:



**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*, of particulars of conduct or of proposed conduct of a kind referred to in 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:

N95656 The Shell Company of Australia Limited (ABN 46 004 610 459).

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

The marketing of petroleum products.

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

8 Redfern Road  
Hawthorn East  
Victoria 3123

**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 fuel via Shell Card.

(b) Description of the conduct or proposed conduct:

The giving of a discount on automotive fuel purchased from Shell via Shell Card to business entities who are participants (either directly itself or indirectly via another organisation) in EMSquared's buying group programs ("**EMSquared Participants**"), and the possible refusal to give such a discount to persons who are not EMSquared Participants. Participation in EMSquared's buying group programs involves the acquisition of services directly or indirectly from EMSquared Australia Pty Ltd (ABN 47 147 214 668).

### 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:

Business entities who are EMSquared Participants and who acquire or wish to acquire automotive fuel via fuel card.

- (b) Number of those persons:

- (i) At present time:

2,100

- (ii) Estimated within the next year:

11,100

- (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:

EMSquared Participants are entitled to a discount on automotive fuel purchased via Shell Card.

The offer of a discount to EMSquared Participants will help to reduce EMSquared Participants' input costs for their business, which potentially will translate into cost savings for customers acquiring goods and services in the various markets in which EMSquared Participants members operate.

It is submitted that there would be no lessening of competition because the discount is presented as an option to EMSquared Participants. EMSquared Participants are free to acquire automotive fuel from other suppliers, and from Shell on standard terms.

The offering of a discount may also be pro-competitive by encouraging other automotive fuel and automotive LPG suppliers to offer their products at cheaper rates.

- (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 in 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; and restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The relevant markets are:

- the market for automotive fuel supplied to commercial customers via fuel card; and
- the various markets in which EMSquared Participants operate.

## 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 considers that the notified conduct causes no public detriment.

- (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:

Chris Ryan  
Managing Counsel, Downstream  
8 Redfern Road  
Hawthorn East VIC 3123  
Phone: (03) 8823 4063

Dated 9 December 2011

Signed on behalf of the applicant

  
Chris Ryan  
Managing Counsel, Downstream