

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:

N97264 Sanzone Nominees Pty Ltd trading as BP Henley Brook
ABN: 22 159 951 439

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

Retailing of petroleum and related products.

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

BP Henley Brook
Cnr Gnangara Rd & Henley Brook Ave
Ellenbrook 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 **BP** 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 **BP** service station (the **Promotion**). Approximately 65 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 **BP** and IGA who wish to purchase products from IGA stores in WA and/or motor fuels from participating service stations of **BP**.

(b) Number of those persons:

(i) At present time:

A maximum of 150 IGA stores and 75 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 **BP** 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 (75 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 **BP** 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 **BP** to compete against these retailers.
- There are only a small number of **BP** 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

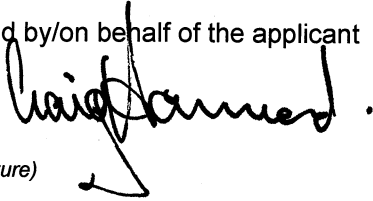
7. Further information

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

Craig Hammond
53 Erindale Road
Balcatta WA 6021
Ph: 0439 393 588

Dated

Signed by/on behalf of the applicant



(Signature)

(Full Name)

CRAIG HAMMOND

(Organisation)

SANZONE NOMINEES P/L

(Position in Organisation)

OPERATIONS MANAGER

