



8 January 2014

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601
adjudication@acc.gov.au

Dear Dr Chadwick

Notification of Exclusive Dealing

We act for Puma Energy (Australia) Holdings Pty Ltd and its related bodies corporate Neumann Petroleum Pty Limited and Australian Fuel Distributors Pty Ltd ("AFD") (collectively "Puma").

On behalf of Puma, we enclose:

- (a) a Form G Notification of Exclusive Dealing in relation to the Puma's requirement for petrol station licensees to acquire convenience store products from certain suppliers nominated by Puma from time to time; and
- (b) a cheque for \$300 payable to the Australian Competition and Consumer Commission.

The purpose of the conduct is to ensure that petrol stations that are licenced to operate a convenience store from Puma's retail sites offer a competitive and competitively-priced range of products to consumers. Puma therefore considers that the conduct described in the Notification involves a number of public benefits and no discernible public detriments.

Puma notes that the proposed conduct is similar to the conduct set out in Notification N95771, which was lodged by AFD on 20 April 2012. Puma Energy (Australia) Holdings Pty Ltd acquired AFD in 2013, and now wishes to extend the notified conduct to its other operations.

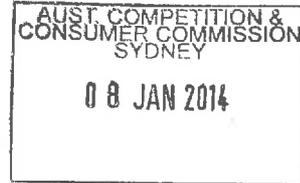
If the Commission has any questions in relation to the enclosed Notification or requires any further information, Puma would be pleased to assist.

Yours sincerely

A handwritten signature in blue ink that reads "King & Wood Mallesons".

Wayne Leach
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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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

- N97186 • Puma Energy (Australia) Holdings Pty Ltd;
N97187 • Neumann Petroleum Pty Limited Pty Ltd; and
N97188 • Australian Fuel Distributors Pty Ltd

(collectively “Puma”).

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

Fuel distributor and operator of regional petrol and service station sites, including operating convenience store businesses from service station sites.

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

Wayne Leach
Partner
King & Wood Mallesons
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

2. Notified arrangement

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

The acquisition of retail goods and products to be sold from the convenience store business at Puma's service station sites but excluding petroleum and fuel products (the "**Products**").

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

Puma wishes to implement a system for the operation of its convenience stores which would require the operator (a licensee to be appointed by Puma) to purchase the Products from suppliers nominated by Puma from time to time, unless Puma consents in writing to other suppliers being used.

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)

Persons who will be granted a licence to operate convenience store businesses from Puma's existing service station sites (the "**Licensees**").

- (b) Number of those persons:

- (i) At present time:

Nil.

- (ii) Estimated within the next year:
(Refer to direction 6)

Approximately 200.

- (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:
(Refer to direction 7)

The Applicants have their own buying group and agreements with other suppliers with the expectation that the Licensees should be able to buy the Products at more competitive prices than they would otherwise be able to on a standalone basis.

The competitive pricing the Applicants have been able to negotiate for Products through the buying group is based on expected volumes of Products being purchased by Licensees. Accordingly, the Applicants wish to minimise the risk of "leakage" (ie. purchases being made outside of the buying group) to ensure the continuity of the competitive pricing based on volume discounts.

As part of the system devised by the Applicants for the operation of their convenience store businesses located at service station sites, this is intended to result in the increased ability of the Licensees to:

- i. sell to the end consumer at more competitive prices;
- ii. select appropriate Products for sale; and
- iii. ensure continuity of supply.

It will also result in an increased ability for Puma to ensure consistency in quality across its network of service station sites.

Puma's system is also devised so as to relieve the Licensee from having to spend large amounts of time and effort negotiating with individual suppliers resulting in less competitive supply terms than available under Puma's system.

In a competitive retail environment, where a majority of convenience stores located at service station sites are operated by, or backed by, larger businesses (for example, the major petroleum companies, or supermarkets), it can be difficult for smaller players to compete. They are increasingly being squeezed out of the market.

The individual Licensees' businesses would have little bargaining power in negotiating independently with Puma's nominated suppliers. This could result in higher prices as a result of being unable to take advantage of volume discounts. In some cases supply may be withheld altogether, or strictly limited. By being able to purchase the Products through buying groups or other suppliers which Puma has already negotiated with, a Licensee is more able to compete with the larger businesses. This increased competition would benefit consumers in the form of lower prices. The subsequent higher volume of sales which would likely result would also both allow Licensees to potentially take advantage of additional volume

discounts, as well as expand their businesses to include a greater range of products and services.

If Licensees were left to negotiate with suppliers individually, this could result in their businesses being unable to compete in the market, and putting them out of business. This would give those stores operated, or backed, by larger businesses, an increased share of the market.

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

See above.

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):
(Refer to direction 8)

In regard to the supply of the Products to the Licensees, the relevant market is the market for the supply of wholesale convenience store products and services in Australia. There are a number of buying groups and wholesalers in this market such as New Sunrise, Luck 7, BP Buying Group, Coles Express and Night Owl.

In regard to the supply of the Products by the Licensees, the relevant market involves the supply of grocery and convenience store products in 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:
(Refer to direction 9)

Puma is not aware of any public detriments.

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

The purpose of the proposed conduct is to increase competition as described in section 4(a) above.

7. Further information

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

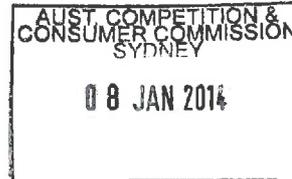
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Partner
King & Wood Mallesons
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Telephone: 02 9296 2237
Email: wayne.leach@au.kwm.com

Dated..... 8/1/14

Signed by/on behalf of the applicant
Wayne Leach
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Wayne Leach
Partner
King & Wood Mallesons



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 the 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 *Competition and Consumer Act 2010* 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.