

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:

N99869 WA05 Pty Ltd trading as Better Choice Augusta (ABN: 49 146 292 471)

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

Motor fuel and related product supplier.

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

PO Box 8551, Perth BC, Western Australia 6849

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 WA05 Pty Ltd from its Better Choice Augusta service station (located at 64-66 Blackwood Avenue, Augusta Western Australia WA 6290) to consumers, 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 the Better Choice Augusta service station (the **Promotion**). For the purpose of the Promotion, Better Choice Augusta will be one of the three participating service stations.

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 Better Choice Augusta and IGA who wish to purchase products from IGA stores in WA and/or motor fuels from participating service station of Better Choice Augusta.

(b) Number of those persons:

(i) At present time:

A maximum of **200** IGA stores and Better Choice Augusta will participate in the proposed conduct in Western Australia. 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 participate in the Promotion will benefit from lower fuel prices;
- the proposed conduct is likely to increase the ability of Better Choice Augusta 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; and
- 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 anti-competitive 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 1 service station is involved 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 service station they may choose;

- the proposed conduct will not affect the ability of consumers to purchase groceries from whichever supermarkets they may choose;
- the participating Better Choice Augusta service station will continue to provide fuel independently of the proposed conduct; and
- 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 Better Choice Augusta to compete against these retailers.
- There is only three **service stations, including Better Choice Augusta is participating in the Promotion**. 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:**

See discussions 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:

Mr Anura Bandara
Director Finance
WA05 Pty Ltd trading as Better Choice Augusta.
PO Box 8551
Perth BC Western Australia 6849

Tel: (08) 9328 6800

Dated 30/08/2017

Signed on behalf of the applicant:

A handwritten signature in black ink that reads "BERGER" is written over a horizontal line. The signature is enclosed within a hand-drawn oval.

DORON BERGER
Managing Director
WA05 Pty Ltd trading as Better Choice Augusta.

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 *Trade Practices Act 1974* 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.