

Undertaking to the Australian Competition and Consumer Commission

Given under section 87B of the *Competition and
Consumer Act 2010* (Cth) by **Mobil Oil Australia
Pty Ltd**

1) Person giving the Undertaking

- 1.1. This Undertaking is given to the Australian Competition and Consumer Commission (ACCC) by Mobil Oil Australia Pty Ltd ACN 004 052 984 (**Mobil Oil Australia**).

2) Background

- 2.1. Mobil Oil Australia carries on a fuels refining and wholesale business in Australia. Mobil Oil Australia is ultimately owned by Exxon Mobil Corporation, a corporation incorporated in the United States.
- 2.2. Prior to 2004, Mobil Oil Australia carried on a fuel retailing business in Australia. From 2004 to 2010, Mobil Oil Australia supplied wholesale fuels to Strasburger Enterprises (Properties) Pty Ltd (**SEP**), which operated fuel retailing assets around Australia owned or leased by Mobil Oil Australia. In 2009, Mobil Oil Australia unsuccessfully endeavoured to sell its interests in fuel retailing assets in Australia to Caltex. In October 2010, Mobil Oil Australia sold all of its interests in fuel retailing assets in Australia to 7-Eleven Australia Pty Ltd and Peregrine Corporation.
- 2.3. The ACCC has been conducting an investigation into arrangements for the supply in Australia of electronic retail petrol price information (the **Oil PriceWatch service**) between Informed Sources (Australia) Pty Ltd ACN 003 714 332 (**Informed Sources**) and Mobil Oil Australia, and as between Informed Sources and other companies.
- 2.4. Mobil Oil Australia understands the ACCC is concerned that subscription to the Oil PriceWatch service by Mobil Oil Australia and other companies may have facilitated non-rivalrous behaviour in the retail sale of petrol in Melbourne in the period between 2009 and May 2012.
- 2.5. Mobil Oil Australia ceased to subscribe to the Oil PriceWatch service in October 2010.
- 2.6. While Mobil Oil Australia does not accept that its previous subscription, or the subscription of others, to the Oil PriceWatch service had any adverse effect on competition in any relevant market in Australia, Mobil Oil Australia has voluntarily and without admission offered to provide this Undertaking to address the concerns raised by the ACCC.

3) Commencement of this Undertaking

Commencement

- 3.1. This Undertaking comes into effect when:
- (a) this Undertaking is executed by Mobil Oil Australia; and
 - (b) this Undertaking so executed is accepted by the ACCC,
- (the **Commencement Date**).

4) Undertaking

- 4.1. Subject to clause 5.1, Mobil Oil Australia undertakes, for the purposes of s 87B of the *Competition and Consumer Act 2010*, that, for a period of five years from the Commencement Date it will not, and it will ensure that its related entities will not, subscribe to, or enter into any contract or arrangement for the acquisition by it of:
- (a) the Oil PriceWatch service in Australia; or
 - (b) any similar electronic retail petrol price information exchange service operating in Australia, which:
 - (i) informs the subscriber, or otherwise enables the subscriber to determine, that other subscribers will have access to electronic retail petrol price information which the subscriber provides to the service; and
 - (ii) makes the subscriber's receipt of or access to electronic retail petrol price information provided by other subscribers to the operator of the service, conditional upon the subscriber providing electronic retail petrol price information to the service.

5) Review of Undertaking

- 5.1. If:
- (a) Mobil Oil Australia is unable to comply with its obligations under this Undertaking; or
 - (b) legislative provisions are enacted that prohibit the conduct identified in clause 4.1(a) or 4.1(b) of this Undertaking; or
 - (c) Mobil Oil Australia or the ACCC believes that it is necessary to seek some variation due to changed circumstances (including any material change in the markets in which fuel is retailed),
- then Mobil Oil Australia and the ACCC agree that they will review the Undertaking and negotiate in good faith variation or withdrawal of all or any of the terms of the Undertaking in light of such circumstances.

6) Information

- 6.1. For the purposes of monitoring compliance with this Undertaking the ACCC may make reasonable inquiries of Mobil Oil Australia in respect of its compliance with this Undertaking and Mobil Oil Australia will respond to such inquiries within a reasonable period of time.

7) Disclosure of the Undertaking

- 7.1. Mobil Oil Australia acknowledges that the ACCC may:
- (a) make this Undertaking publicly available; and
 - (b) publish this Undertaking on its public section 87B Undertakings Register; and
 - (c) from time to time publicly refer to this Undertaking.

8) Obligation to procure

- 8.1. Where the performance of an obligation under this Undertaking requires a related body corporate of Mobil Oil Australia to take or refrain from taking some action, Mobil Oil Australia will procure that related body corporate to take or refrain from taking that action, as the case may be.

Executed as an Undertaking

Executed by Mobil Oil Australia Pty Ltd ACN 004 052 984 pursuant to section 127(1) of the Corporations Act 2001 by:

Signature of director



Name of director (print)

Kim E MacMillan

Date

18/8/14

Signature of a company secretary



Name of company secretary (print)

Helen Stogdale

Date

18/8/2014

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* on:

Date

And signed on behalf of the Commission:

Chairman



Date

19/8/2014