



Service Station Association Ltd.

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9th September 2009

The Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Sir,

**Re: Trade Practices Amendment (Guaranteed Lowest Prices – Blacktown Amendment) Bill 2009**

Thank you for providing the Service Station Association with the opportunity to comment on this draft bill. As the SSA represents the interests of many small business petrol retailers operating in Australia, we are particularly interested in this Bill and the impact it may have on our industry were it to become law.

The industry participants we represent are particularly disadvantaged by the type of market activity this Bill strives to eliminate or at least moderate. The underlying characteristic is of course, market power. The market power of large retailers is manifold, but in the context of this Bill, can be condensed into two basic elements – financial might and geographic diversity. Their financial might compared to that of the small retailers this Bill would protect cannot be underestimated and at times defies comprehension. However, it is universally accepted that diversity of competition is essential if consumers are to enjoy proper competition, and small independent retailers are an essential ingredient in that mix. Therefore, regulators need to be mindful of the need to adjust the settings of instruments such as the Trade Practices Act as they discharge their duties.

In petrol retailing, small independent operators are in decline, brought about by the huge distortion in market power between them and the supermarkets and the multi-national oil companies. The reduction in the number of service stations has accelerated since the supermarkets entered the industry to the extent that many smaller communities no longer have a petrol outlet to service their needs. In short, there is also a community service issue involved here, not just the long term maintenance of competition.

The large industry participants have large and widespread networks of outlets. It is common practice for them to vary the price at which they sell their petrol to suit the nature of competition at each location. It is the norm, and has been for quite some time, that the large retailers will set

lower prices in more competitive areas and higher prices where competition is absent. The key point here is that the price is determined by the competitive nature of the market, not by the socio-economic status of the area. For example, the lower north shore of Sydney maintains a competitive price structure even though it has a very high socio-economic status. It exists because of diversity of competition in the region.

Large retailers are able to take advantage of areas of ineffective competition to set higher prices that are then used to subsidize lower prices in the more competitive areas. Small independent operators are unable to do that, and so become collateral damage in the competitive jungle that is petrol retailing. Consumers benefit from the contribution the independents make to creating that competitive environment; however, that benefit is rarely returned to the small independents. That is because, when deep discounting occurs, the superior buying power of the large retailers simply prices the independent operators out of the market. This situation is commonplace in petrol retailing.

It is our understanding that this Bill is intended to rectify the excesses of geographical price discrimination and to bring about a more uniform pattern of discounting that would result in more consumers having access to discounts than currently exists. We support the concept in that the survival of independent service station operators is vital for consumers and is in the national interest.

We are, however, unsure about whether the exact structure of this Bill is the most appropriate one to achieve this desired outcome. There is always a need to guard against unintended consequences when considering measures of this type and we are unsure of just how it might work. We would be interested to examine other industries and other jurisdictions, for example, to determine if such schemes in reality achieve the objectives without adverse consequences.

Finally, we are concerned that compliance may be unworkable and that the cost of ensuring compliance may present too great a burden for the benefits to outweigh the disadvantages.

In summary, we support the intentions of this Bill, but believe that more examination of the issues raised above needs to happen which may result in a modified Bill being prepared.

Yours faithfully,

Ron Bowden  
Chief Executive Officer