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Motor Trades Association of Australia

Mr John Cosgrove
Presiding Commissioner
Impact of Competition Policy Reforms on
Rural and Regional Australia Inquiry
Productivity Commission
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Dear Commissioner

I write in response to the draft report of the Commission's inquiry into the Impact of Competition Policy Reforms on Rural and Regional Australia. I note that the Commission is specifically seeking comment on *"the extent of availability of motor spirit through the terminals of the major oil companies on a commercial basis, and its effectiveness in improving the competitiveness of independently owned petroleum retailers and reducing petrol prices in country Australia"*.

Before addressing that issue though I would like to make some general comments about MTAA and also about the petroleum market.

The Motor Trades Association of Australia (MTAA) is the national peak body for the whole of the retail, service and repair sectors of the Australian automotive industry. The Association is a federation of the Motor Trades Associations and the Automobile Chambers of Commerce in each state and territory as well as the Service Station Association Ltd (SSA Ltd). The retail motor trades constitute the major part of the Australian automotive industry. This involves the sale, service and repair of the nation's vehicle fleet, as well as the retailing of petroleum products, through approximately 8,000 service station sites nationwide, to fuel those vehicles.

MTAA, through its Allied Trade Association the Australian Service Station Association (ASSA), represents the interests of the various Service Station Divisions of the Motor Trades Associations and Automobile Chambers of Commerce who themselves represent service station operators throughout the country. MTAA's interest in your inquiry arises primarily from that constituency.

As you are aware the Government last year announced a number of measures which it said would "reform" the petroleum industry. These measures included repeal of the *Petroleum Retail Marketing Franchise Act 1980* (the Franchise Act) and the *Petroleum Retail Marketing Sites Act 1980* (the Sites Act), the removal of price surveillance on petrol and diesel and the completion and introduction of a code of conduct for the industry, known as OilCode. The Government also announced that it had secured agreement from the major oil companies that

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customers for bulk fuel supply would be able to directly access terminals for supply – the so-called open access arrangement.

As your draft report states price surveillance of petrol and diesel was removed on 1 August 1998. Retail price monitoring is now said to be undertaken by the Australian Automobile Association and the Australian Institute of Petroleum across approximately 100 towns each month. It is difficult to understand exactly what rational purpose this so-called price monitoring is designed to serve. The prices posted are the monthly high and low and average prices, and for country towns the difference from the metropolitan price. There is no reference to the wholesale price of fuel and with the data presented only on a monthly ex post facto basis it provides little, if any, sensible information to the consumer. It also serves to highlight, in an uninformed manner, the apparent differences between city and country prices – which we would argue is as much a factor of very low (unsustainably so) prices in the metropolitan areas than of unreasonably high prices in country areas.

Repeal of the petroleum legislation is not supported by MTAA and its Member Associations. However the Association has indicated that it would be willing to consider repeal of the Franchise Act on the completion and mandating under the Trade Practices Act of an agreed OilCode. Negotiations on that code of conduct are continuing and while much progress has been made, the final content of the Code has not yet been agreed. The Government has however indicated that all petroleum suppliers will be covered by the Code, not just the oil majors. This is an important aspect of the Code as for many years the independent marketers have had an advantage in the market as they have not been subject to the two petroleum Acts.

The Petroleum Retail Marketing Sites Act limits the number of sites that the four major oil companies can operate either directly or by commission agency arrangement. Repeal of the Sites Act, with no alternative arrangements in place, will allow the oil majors to control the retail pricing at, potentially, all of their sites. This would provide the oil majors with access to both the wholesale and the retail margin for fuel. MTAA does not believe that such an outcome would be in the best interests of either consumers or existing service station operators. Competition in the retail petroleum industry will be best served by their being a diverse range of operators in the retail sector.

The legislation to repeal the Franchise Act and the Sites Act is currently being considered by the Senate. Indeed the Senate Rural and Regional Affairs and Transport Legislation Committee recently tabled its report on its inquiry into the provisions of the Petroleum Retail Legislation Repeal Bill and recommended among other things that repeal of the Sites Act be delayed for two years. MTAA's view is that unless issues relating to access to terminals and vertical integration in the market are addressed the Sites Act must remain in place.

Service station operators are concerned about the impact that some of those reforms will have on their businesses and particularly on those in rural and regional Australia and the communities that they service. Although these proposed reforms were not announced under the umbrella of the National Competition Policy (NCP) reforms, because of the nature of the proposed reforms and the perceived beneficiaries of them, the reforms are seen by many, including some of MTAA's members, as the Government imposing NCP reforms on the industry. They are thus often spoken of in the same breath as NCP reforms such as those affecting gas, electricity and telecommunications.

It is believed by many that these reforms will result in the closure of service stations in country areas resulting in the further decline of the level of services and employment in country towns. It is also likely that the outcome of the proposed government measures will be that service station outlets will be concentrated on major highways and larger towns with many motorists having to travel long distances for fuel supplies.

Lower country prices is often cited by the major oil companies as the reason why, in particular, the Sites Act must be repealed. The Sites Act does not regulate prices. Lower country prices could be achieved if the oil majors competed at wholesale; something which they do not currently do. Repeal of the Sites Act which would provide the oil majors with access to the retail margin will not over time result in lower prices to consumers. The oil majors, by their own admission, wish to increase their profitability. Allowing the companies access to the retail margin will most certainly increase their profitability; but at the expense of motorists who will face, over time, higher prices.

Much has been made of the oil companies commitments about "access" to terminals and it is on this point that the Commission is seeking specific comment. Let us be clear about what the "access" regime does and does not do. Importantly and most tellingly, it excludes parties with existing contracts. Thus franchisees and other branded retailers with existing supply contracts cannot gain access to oil company terminals. For those retailers the "reforms" have no meaning. I must make it clear that those retailers sell the bulk of fuel at retail. We would estimate that only a very limited percentage of retailers (approximately seven per cent) would be eligible to employ the so-called "open access" arrangements. Open access arrangements may well be in place for mining companies, transport companies, farmers and other bulk buyers of fuel but these have virtually no impact on motorists and the ability of their retailers to provide them with cheaper fuel. It should also be remembered that the terms of retailers contracts prevent them from "shopping around" for their fuel supplies and they are tied to buying 100 per cent of their fuel from their supplier on terms dictated by the supplier.

We would suggest that the impact of the highly constrained access arrangements, to which the majors have so willing committed themselves, on motorists and on petrol prices has been negligible.

The entry of Woolworths to the retail petrol market has been welcomed by many including the ACCC as being the catalyst for lower prices in country areas. While MTAA does not oppose the entry of Woolworths into the retail petroleum market, we do question the impact of that entry on existing service station operators. There is, I think, no doubt that in areas where Woolworths has opened a retail petroleum outlet retail prices have fallen. However, the cost to the local service station operators has been high. Their retail margins have been reduced, their turnover has fallen and in many cases they have had to reduce the number of their employees. In other cases, the service station operator has had no choice but to close the business. For them and their communities the cost of the Woolworths entry has been particularly high. As Woolworths increases its presence in the market the "cost" for retailers will increase.

The question which ultimately must be answered is whether the short term pain (that is the loss of employment and services) from the Government's so-called reforms to the petroleum industry and the entry of Woolworths to the retail petrol market is likely to be outweighed by benefits – that is, presumably, lower retail prices. Our view is that the answer to that is no. In the short term there may well be some gains, but as the smaller operators are squeezed out of the market and the majors (including Woolworths) increase their market share, prices will inevitably rise. In the meantime many country towns will have suffer a further loss of services and employment; perhaps not in this instance as a direct result of NCP reform, but certainly as a result of an apparent willingness to hand over control of the petroleum market to large, mainly multinational companies.

Many of the issues which I have referred to above have been covered in much greater detail in MTAA submissions to various parliamentary and other inquiries (including for example the Industry Commission Inquiry into the Petroleum Industry, the House of Representatives inquiry into fair trading matters, the ACCC inquiry into petroleum products declaration and more recently the Senate inquiry into the repeal of the petroleum legislation). Copies of MTAA submissions to those inquiries are available on request.

If you require any additional information please do not hesitate to contact me.

Yours sincerely

Michael Delaney

MICHAEL DELANEY
Executive Director

13 July 1999